

**TAX DEPOSITION QUESTIONS: 13. 26 U.S.C. 6020(b): SUBSTITUTE FOR RETURNS****13. 26 U.S.C. 6020(b): SUBSTITUTE FOR RETURNS****Introduction**

**Ex-IRS agents testify about agent training courses conducted by IRS that fraudulently and deceptively train them to create "Substitute Returns" under 26 USC 6020(b). There is NO legal authority for IRS agents to create "Substitute Returns" for American citizens who choose not to file a individual Form 1040. "Substitute Returns" become the vehicle of IRS fraud for unlawful tax assessments, fraudulent penalties and even criminal prosecution by DOJ.**

**Findings and Conclusions**

**With the following series of questions, we intend to prove that when an American stands up for his rights by choosing not to file tax returns, the IRS has to violate the law and produce a fraudulent assessment to create a liability.**

- **The IRS has NO legal authority to create a "substitute return" for a citizen who chooses not file an individual income tax return.**
- **Without a signed tax return from a citizen, no individual income tax may be legally "assessed" against a citizen by an IRS agent.**
- **26 U.S.C. Section 6020(b) "Substitute Returns" is NOT applicable to individual income taxes – only business related taxes.**
- **IRS has propagated the tax fraud by willfully utilizing deceptive training methods and materials for their agents.**
- **Although there is no legal authority, IRS Agents are fraudulently trained by the IRS to create "Substitute Returns" for individual income taxes. Substitute Returns are used routinely in the normal course of an agent's workload.**
- **IRS has put their agents at significant legal risk, civilly and criminally, for acting outside the scope of their delegated statutory authority.**
- **U.S. Citizens have been falsely convicted of tax "crimes" based directly on assessment documents fraudulently certified by IRS agents as lawful evidence of proper assessments and presented to U.S. District Courts.**

***Bottom Line:*** ex-IRS Agents have publicly sworn under oath about deceptive training practices for IRS agents and have presented irrefutable documentation that they have NO legal authority to assess an individual income tax unless a return is first filed and signed by a citizen.

**Section Summary****Witnesses:**

- John Turner
- Irwin Schiff
- Joe Bannister




[Transcript](#)



[Acrobat version of this section including questions and evidence](#) (large: 8.25 Mbytes)

## Further Study On Our Website:

- [Why Assessments and Substitute for Returns are Illegal Under the I.R.C. Against Natural Persons, Form #05.011 \(OFFSITE LINK\) - SEDM](#)
-  [Legislative history of 26 U.S.C. §6020\(b\)](#)
- ["Substitute For Return" definition and authorities](#)
- [Great IRS Hoax](#) book:
  - Section 5.5.8: If You Don't File, the IRS Can't File a Substitute Return For You Under 26 U.S.C. §6010(b)
- [Tax Fraud Prevention Manual](#) book (OFFSITE LINK):
  - Section 2.9.5: The "Substitute for Return"

Under affidavit ([Exhibit 190](#)), John Turner, a former IRS revenue officer, submits training materials that comprise two of the many lessons he studied during his initial training to become a Revenue Officer during Revenue Officer Phase One training. Designated as ([Exhibit 191](#)), the first lesson is entitled, "Lesson 23 Section IRC 6010(b). The next 16 questions will arise from an inspection of this lesson.

13.1.. On page 23-1, under REFERENCES, "Circular E" is listed. Would you agree, besides the Circular E, there are no other reference materials listed? (WTP #301)

-  [Click here to see IRS revenue officer training materials page 23-1 evidence](#) (WTP Exhibit 191a)

13.2 . "Circular E", more fully known as Circular E, Employer's Tax Guide, is also designated by IRS as Publication 15. Would you also agree that "Circular E" deals essentially with employer withholding requirements and Form 941, Employer's Quarterly Federal Tax Return? ([Exhibit 193](#)) (WTP #302)

-  [Click here to see IRS Publication 15, Circular E](#) (WTP Exhibit 193)



13.3. In Lesson 23, page 23-1, under CONTENTS, three types of tax returns are listed: Employment Tax Returns, The Partnership Return, and Excise Tax Returns. Would you agree that Income Tax Returns are not included? (WTP #303)

-  [Click here to see IRS revenue officer training materials page 23-1 evidence](#) (WTP Exhibit 191a)

13.4. In Lesson 23, page 23-1, under INTRODUCTION, would you agree that the purpose of this Lesson 23 is to instruct the revenue officer trainee about how to deal with situations involving the occasional taxpayer who refuses to voluntarily file returns, using an important administrative tool referred to as 6020(b) procedure? (WTP #304)

-  [Click here to see IRS revenue officer training materials page 23-1 evidence](#) (WTP Exhibit 191a)



13.5. Would you agree that in Lesson 23, Figure 23-1 on page 23-2 is a reprint of [Internal Revenue Code Section 6020 \(b\)](#) and the Regulation at Section 301.6020-1? ([Exhibit 191b](#), page 23-2; [Exhibit 161](#), Title 26 Internal Revenue Code, Section 6020(b); [Exhibit \\_\\_\\_](#) IR Regulation 301.6020-1). (WTP #305)

-  [Click here to see IRS revenue officer training materials page 23-2 evidence](#) (WTP Exhibit 191b)
- [Click here to see 26 U.S.C. 6020\(b\)](#) (WTP Exhibit 161)
-  [Click here to see 26 CFR 301.6020-1](#) (WTP Exhibit 305c)

13.6. Lesson 23, Figure 23-2, page 23-3, contains a reprint of Delegation Order 182. Would you agree that the Order lists revenue agents and revenue officers as having delegated authority to execute returns under the authority of [6020\(b\)](#)? (Exhibit 191c, page 23-3). (WTP #306)

-  [Click here to see IRS revenue officer training materials page 23-3 evidence](#) (WTP Exhibit 191c)

13.7. Would you agree that the Internal Revenue Manual restricts the broad delegation of Delegation Order No. 182 to employment, excise, and partnership taxes? (WTP #307)

-  [Click here to see IRS revenue officer training materials page 23-3 evidence](#) (WTP Exhibit 191c)
-  [Click here to see IRS revenue officer training materials page 23-4 evidence](#) (WTP Exhibit 191d)
- [Click here to see Delegation Order No. 182 \(Rev. 7\)](#) (WTP Exhibit 194)
- [Click here to see IRM Part 1.2.2.5.3](#)





13.8. Would you agree that the Secretary has recognized that the delegation authority of [D.O. No. 182](#) is restricted to employment, excise, and partnership taxes *because of constitutional issues*?

-  [Click here to see IRS revenue officer training materials page 23-3 evidence](#) (WTP Exhibit 191c)

13.9. Is it true that the Internal Revenue Manual lists the following tax returns:

- **Form 940**, Employer's Annual Federal Unemployment Tax Return;
- **Form 941**, Employers Quarterly Federal Tax Return;
- **Form 942**, Employer's Quarterly Tax Return for Household Employees;
- **Form 943**, Employer's Annual Tax Return for Agricultural Employees;
- **Form 720**, Quarterly Federal Excise Tax Return;
- **Form 2290**, Federal Use Tax Return on Highway Motor Vehicles;
- **Form CT-1**, Employer's Annual Railroad Retirement Tax Return;
- **Form 1065**, U.S. Partnership Return of Income-


as being the only forms appropriate for action under [6020\(b\)](#)? (WTP #309)

-  [Click here to see IRS revenue officer training materials page 23-3 evidence](#) (WTP Exhibit 191c)
-  [Click here to see IRS revenue officer training materials page 23-4 evidence](#) (WTP Exhibit 191d)
- [Click here to see IRM 5.18.2.3](#) (WTP Exhibit 196) or on the IRS Website at [IRM 5.18.2.3](#)
-  [Click here to see IRM 5.1.11.9](#)
-  [Click here to see IRM 5.1.11.6.10](#) or on the IRS Website at [IRM 5.1.11.6.10 \(replacement version of IRM Section 5.1.11.9\)](#)




13.10. Would you agree that Form 1040, U.S. Individual Income Tax Return is NOT included in [IRM 5.18.2.3](#) as a return appropriate for action under [6020\(b\)](#)? (WTP #310)

- [Click here to see IRM 5.18.2.3](#) (WTP Exhibit 196) or on the IRS website at [IRM 5.18.2.3](#)







13.11. Is it true that when recommending assessments under [6020\(b\)](#) the revenue officer will prepare all the necessary returns? (Exhibit 191d, page 23-4; Exhibit 161, [IRS Section 6020\(b\)\(1\)](#)) (WTP #311)

-  [Click here to see revenue officer training materials page 23-4 evidence](#) (WTP Exhibit 191d)
- [Click here to see 26 U.S.C. Section 6020\(b\)\(1\)](#) (WTP Exhibit 161)

13.12. Would you agree that the balance of Lesson 23 IRS SECTION 6020(b) for Revenue Officer Phase One training explains the [6020\(b\)](#) procedures for computing the tax for Employment, Excise, and Partnership returns? (WTP #312)

-  [Click here to see IRS revenue officer training materials page 23-5 evidence](#) (WTP Exhibit 191e)
-  [Click here to see IRS revenue officer training materials page 23-7 evidence](#) (WTP Exhibit 191g)
-  [Click here to see IRS revenue officer training materials page 23-9 evidence](#) (WTP Exhibit 191i)

13.13. Would you agree that Lesson 23 IRS SECTION 6020(b) does *not* contain any references to preparing 1040 series income tax returns under [6020\(b\)](#)? (WTP #313)

-  [Click here to see IRS revenue officer training materials page 23-1 evidence](#) (WTP Exhibit 191a)
-  [Click here to see IRS revenue officer training materials page 23-2 evidence](#) (WTP Exhibit 191b)
-  [Click here to see IRS revenue officer training materials page 23-3 evidence](#) (WTP Exhibit 191c)
-  [Click here to see IRS revenue officer training materials page 23-5 evidence](#) (WTP Exhibit 191e)
-  [Click here to see IRS revenue officer training materials page 23-7 evidence](#) (WTP Exhibit 191g)
-  [Click here to see IRS revenue officer training materials page 23-9 evidence](#) (WTP Exhibit 191i)


13.14. Would you agree that Lesson 23 IRS SECTION 6020(b) makes the statement that the revenue officer trainee,

*"You have already studied audit referrals as a means to enforce compliance on income tax returns?"*  
(Exhibit 191c, page 23-3)

(WTP #314)






-  [Click here to see IRS revenue officer training materials page 23-3 evidence](#) (WTP Exhibit 191c)

13.15. Would you agree that the trainee is told that by the end of the lesson he will be able to identify situations when action under [IRS Section 6020\(b\)](#) is appropriate? (WTP #315)







-  [Click here to see IRS revenue officer training materials page 23-1 evidence](#) (WTP Exhibit 191a, under **OBJECTIVES**)

13.16. If the revenue officer is expected to identify situations when action under [IRC 6020\(b\)](#) is appropriate, logic then, would hold that this necessarily implies that the revenue officer would also be expected to identify situations when action under [IRC 6020\(b\)](#) would not be appropriate. Would you agree that Lesson 23 IRS SECTION 6020(b) made it clear that it is not appropriate to use [6020\(b\)](#) for income tax, Form 1040 non-filers? (Exhibit 191, Lesson 23 in its entirety; Exhibit 194, D.O. Order No. 182 (Rev. 7) [IRM Part 1.2.2.5.3](#)) (WTP 316)

-  [Click here to see IRS revenue officer training materials page 23-1 evidence](#) (WTP Exhibit 191a)

-  [Click here to see IRS revenue officer training materials page 23-2 evidence](#) (WTP Exhibit 191b)
-  [Click here to see IRS revenue officer training materials page 23-3 evidence](#) (WTP Exhibit 191c)
-  [Click here to see IRS revenue officer training materials page 23-5 evidence](#) (WTP Exhibit 191e)
-  [Click here to see IRS revenue officer training materials page 23-7 evidence](#) (WTP Exhibit 191g)
-  [Click here to see IRS revenue officer training materials page 23-9 evidence](#) (WTP Exhibit 191i)
- [Click here to see Delegation Order No. 182 \(Rev. 7\)](#) (WTP Exhibit 194)

13.17. Is it true that there are no training instructions within Lesson 23 that pertain to using [6020\(b\)](#) to prepare and assess Form 1040, U.S. Individual Income Tax Return? (Exhibit 191 in its entirety) (WTP #317)

-  [Click here to see IRS revenue officer training materials page 23-1 evidence](#) (WTP Exhibit 191a)
-  [Click here to see IRS revenue officer training materials page 23-2 evidence](#) (WTP Exhibit 191b)
-  [Click here to see IRS revenue officer training materials page 23-3 evidence](#) (WTP Exhibit 191c)
-  [Click here to see IRS revenue officer training materials page 23-5 evidence](#) (WTP Exhibit 191e)
-  [Click here to see IRS revenue officer training materials page 23-7 evidence](#) (WTP Exhibit 191g)
-  [Click here to see IRS revenue officer training materials page 23-9 evidence](#) (WTP Exhibit 191i)


13.18. Is it true that Lesson 23 points to Lesson 25 REFERRALS for instructions on dealing with *income tax* nonfilers? (Exhibit 191c, page 23-3 "You have already studied audit referrals as a means to enforce compliance on income tax returns.")

-  [Click here to see IRS revenue officer training materials page 23-3 evidence](#) (WTP Exhibit 191c)


13.19. The language of [IRC 6020\(b\)\(1\)](#) is very broad,

*"...if any person fails to make any return..."*


Does the IRS purport that there are ways (plural) to resolve cases for nonfilers with different situations, different types of taxes and different types of tax returns? (Under WHY THIS LESSON IS IMPORTANT) (WTP #319)

-  [Click here to see IRS revenue officer training materials page 25-1 evidence.](#) Look under WHY THIS LESSON IS IMPORTANT (WTP Exhibit 192a)


13.20. Does the IRS make a distinction in the procedures for dealing with nonfilers of income tax returns as opposed to employment, partnership and excise tax returns? (Under WHY THIS LESSON IS IMPORTANT) (WTP #320)

-  [Click here to see IRS revenue officer training materials page 25-1 evidence.](#) Look under WHY THIS LESSON IS IMPORTANT (WTP Exhibit 192a)


13.21. Is it true that IRS uses "6020(b) procedures" to enforce compliance of nonfilers of employment, excise, and partnership returns, and uses "Referral to Exam" procedures to enforce compliance of income tax nonfilers? (Under WHY THIS LESSON IS IMPORTANT) (WTP #321)

-  [Click here to see IRS revenue officer training materials page 25-1 evidence.](#) Look under WHY THIS LESSON IS IMPORTANT (WTP Exhibit 192a)

13.22. Do you agree that the stated focus of Lesson 25 REFERRALS is the referral process? (Second paragraph under WHY THIS LESSON IS IMPORTANT) (WTP #322)

-  [Click here to see IRS revenue officer training materials page 25-1 evidence.](#) Look under WHY THIS LESSON IS IMPORTANT (WTP Exhibit 192a)

13.23. Do you agree that an objective of Lesson 25 is for the trainee to be able to select which cases should be referred to the Examination Division? (Under LESSON OBJECTIVES) (WTP #323)

-  [Click here to see IRS revenue officer training materials page 25-1 evidence.](#) Look under WHY THIS LESSON IS IMPORTANT (WTP Exhibit 192a)

13.24. Do you recall that Lesson 23 IRC SECTION 6020(b) made it clear that the revenue officer is not to use 6020(b) for enforcing compliance of income tax nonfilers, but instead is to use the referral process instead? (Exhibit 191c, Lesson 23, page 23-3)

-  [Click here to see IRS revenue officer training materials page 23-3 evidence.](#) (WTP Exhibit 192c)

13.25. In Lesson 25, the reference materials to be used for the lesson are listed under REFERENCES, and the lone item listed is IRM 52(10)0. DO you agree that there is no reference to any statute or any internal revenue code section? (Exhibit 192b, page 25-2) (WTP #325)

-  [Click here to see IRS revenue officer training materials page 25-2 evidence.](#) (WTP Exhibit 192b)

13.26. In Lesson 25, page 25-3, under OBJECTIVES, would you agree that the trainee is told that after completing this lesson he will be able to select those cases which should be referred to the Examination Division? (Exhibit 192c, page 25-3) (WTP #326)




-  [Click here to see IRS revenue officer training materials page 23-3 evidence.](#) (WTP Exhibit 192c)


13.27. Lesson 25 pages 25-4 through 25-9 contain instructions, with examples, showing the trainee how to complete referral forms. This section of the lesson on the subject of making referrals to Exam under income tax non-filers concluded with the statement:

*"Remember: Refusal to file cases involving Forms 940, 941, 942, 943, 720, 1065, 2290, or CT-1 will not be referred to Exam. These returns should be prepared under authority of IRC Section 6020(b)."*











-  [Click here to see IRS revenue officer training materials page 25-4 thru 25-9 evidence.](#) (WTP Exhibit 192d)

Clearly, IRC section 6020(b) is to be utilized to enforce compliance of specified business master file returns. In this lesson, is there mention anywhere of the statute that authorizes IRS preparation of Form 1040 U.S. Individual Income Tax Returns? (Exhibit 192, Lesson 25 in its entirety) (WTP #328)




-  [Click here to see IRS revenue officer training materials page 25-1 evidence.](#) Look under WHY THIS LESSON IS IMPORTANT (WTP Exhibit 192a)
-  [Click here to see IRS revenue officer training materials page 25-2 evidence.](#) (WTP Exhibit 192b)
-  [Click here to see IRS revenue officer training materials page 25-3 evidence.](#) (WTP Exhibit 192c)

-  [Click here to see IRS revenue officer training materials page 25-3 evidence.](#) (WTP Exhibit 192b)

13.28. [IRC 6020\(b\)\(1\)](#) is written in very broad language and if taken literally it seems to give authorization to IRS to make any return for any person who fails to make one. However, we have seen how the statute is, in fact, restricted in its application. Revenue officers, and specified other IRS employees do have delegated authority to make returns under [6020\(b\)](#). But, we have seen that the delegated authority limits the types of returns that can be prepared under [6020\(b\)](#). We have seen that the exclusion includes income tax returns, corporate or individual. Since [6020\(b\)](#) does not permit preparation of income tax returns, and, since the SFR program is merely a program, with no basis in law, what is the authority for IRS to make an income tax return when a citizen fails to make his own? (None)

-  [Click here to see IRS revenue officer training materials page 23-1 evidence](#) (WTP Exhibit 191a)
-  [Click here to see IRS revenue officer training materials page 23-2 evidence](#) (WTP Exhibit 191b)
-  [Click here to see IRS revenue officer training materials page 23-3 evidence](#) (WTP Exhibit 191c)
-  [Click here to see IRS revenue officer training materials page 23-5 evidence](#) (WTP Exhibit 191e)
-  [Click here to see IRS revenue officer training materials page 23-7 evidence](#) (WTP Exhibit 191g)
-  [Click here to see IRS revenue officer training materials page 23-9 evidence](#) (WTP Exhibit 191i)
-  [Click here to see IRS revenue officer training materials page 25-1 evidence.](#) Look under WHY THIS LESSON IS IMPORTANT (WTP Exhibit 192a)
-  [Click here to see IRS revenue officer training materials page 25-2 evidence.](#) (WTP Exhibit 192b)
-  [Click here to see IRS revenue officer training materials page 25-3 evidence.](#) (WTP Exhibit 192c)
-  [Click here to see IRS revenue officer training materials page 25-3 evidence.](#) (WTP Exhibit 192b)
- [Click here for IRM Part 5.1, Chapter 11 Delinquent Return Accounts](#) (WTP Exhibit 197) or IRS website at [IRM Part 5.1, Chapter 11 Delinquent Return Accounts](#)
- [Click here for IRM Part 5, Chapter 18 Liability Determination](#) (WTP Exhibit 198) or IRS website at [IRM Part 5, Chapter 18 Liability Determination](#)
- [Click here for IRM Part 4, Chapter 23, Section 11](#) (WTP Exhibit 200) or IRS website at [IRM Part 4, Chapter 23, Section 11](#)
- [Click here for IRM Part 4, Chapter 4, Sect. 9 Delinquent & Substitute Return Processing](#) (WTP Exhibit 201) or IRS website at [IRM Part 4, Chapter 4, Sect. 9 Delinquent & Substitute Return Processing](#)
- [Click here for Handbook 4.3.20 Frivolous Nonfilers, Title 26 and its regulations](#) (WTP Exhibit 199) (outdated)
- [Click here for Handbook 4.12.2 Frivolous Nonfilers, Title 26 and its regulations](#) or IRS website at [Handbook 4.12.2 Frivolous Nonfilers; Title 26 and its regulations](#) (current)

13.29. It is well settled in law that government employees need proper delegate authority to operate in their capacities. Do IRS employees have delegated authority to make "Substitute for Returns"? (No) (Exhibit 195, IRS letter dated Nov. 2, 1993) (WTP #330)

-  [Click here to see IRS revenue officer training materials page 23-3 evidence](#) (WTP Exhibit 191c)
-  [Click here to see IRS revenue officer training materials page 23-3 evidence.](#) (WTP Exhibit 192c)
-  [Click here to see IRS revenue officer training materials page 25-3 evidence.](#) (WTP Exhibit 192b)

13.30 It is well settled in law that government employees need proper delegated authority to operate in their capacities. Do IRS employees have delegated authority to make "Substitute for Returns"? (No)

-  [Click here for IRS letter dated November 2, 1993](#) (WTP Exhibit 195)

Phase One Revenue Officer training material, Lesson 23 IRC SECTION 6020(B) clearly demonstrates how and why 6020(b), in spite of its language, is not able to allow IRS to make proper, legally valid, 1040 income tax returns for nonfilers.






Yet, another IRM claims that IRS does have authority for income tax returns under 6020(b). Exhibit [202](#) IRM 5480, states, "SCCB prepares Forms 1040 under authority of Internal Revenue Code 6020(b)..."

Since both manuals cannot both be correct, how can this be rectified? ANSWER. It cannot be rectified.

For BMF returns under 6020(b), IRS employees complete the return with all necessary data. The returns include an employee's signature where the taxpayer would normally sign. 6020(b) returns also disclose the computed tax liability.

With IMF returns (income tax) done via SFR procedures, income information is never disclosed on the return, tax liability is not disclosed on the return, and there is never a signature by an employee on a 1040 return.




What this really implies is that bona fide "constitutional issues" are involved with the income tax, so IRS cannot use the same procedures as they do with BMF returns.

-  [Click here for additional evidence #30b](#)
-  [Click here for additional evidence #30c](#)
-  [Click here for additional evidence #30d](#)
-  [Click here for additional evidence #30e](#)
-  [Click here for additional evidence #30f](#)

### 13.31. Additional Material on IRS Agent "Pocket Commission" Hearing Testimony:

Summary: Pocket Commissions are the identification badge used by Treasury IRS Revenue Agents to establish their legal authority with the public. As the testimony and evidence shows these agents do NOT have legal authority to seize property or otherwise "enforce" the income tax laws on ordinary Americans.

In addition to the testimony, the following evidence is offered:

-  [Click here to see Copy Dept. Of Treasury Pocket Commission](#) (WTP Exhibit 331a)
-  [Click here to see IRM 1.16.4, Ch 3](#) (WTP Exhibit 331b) (outdated) or IRS website at [IRM 1.16.6](#)
-  [Click here to see IRS Agent Standard Position Description](#) (WTP Exhibit 331c)

### CONCLUSIONS:

Phase One Revenue Officer training material, Lesson 23 [IRC SECTION 6020\(b\)](#) clearly demonstrates how and why [6020\(b\)](#), in spite of its language, is not able to allow IRS to make proper, legally valid, 1040 income tax returns for nonfilers. Yet, another IRM claims that IRS does have authority for income tax returns under [6020\(b\)](#). IRM 5480, states, "SCCB prepares Forms 1040 under authority of Internal Revenue Code 6020(b)..." Since both manuals cannot both be correct, how can this be rectified? It cannot be rectified. For BMF returns under [6020\(b\)](#), IRS employees complete the return with all necessary data. [6020\(b\)](#) returns also disclose the computed tax liability. With IMF returns (income tax) done via SFR procedures, income information is never disclosed on the return, tax liability is not disclosed on the return, and there is never a signature by an employee on a 1040 return. What this means is that "constitutional



issues" are involved with the income tax, so IRS cannot use the same procedures as they do with BMF returns.

*Copyright Family Guardian Fellowship*

*Last revision: January 09, 2007 05:25 AM*

**This private system is NOT subject to monitoring**

## SECTION 13-26 USC 6020(b) SUBSTITUTE FOR RETURNS SUMMARY

This line of inquiry covers 26 USC Section 6020(b), Substitute Returns.

This is the IRS section the purportedly facilitates the preparation of a income tax return by the IRS if one is NOT filed.

Specifically, ex-IRS Revenue Agent John Turner and ex-IRS Joseph Banister go through a series of compelling exhibits showing official and fraudulent IRS training that Agent Turner received during his career as a Revenue Agent.

Agent Joe Banister concurs with the findings and provides his own testimony to bolster the charge that IRS has lied to its own employees about their legal authority to enforce and collect this tax.

As the details unfold we shall see that IRS agents have NO legal authority to prepare a “dummy return” under 6020(b) and furthermore that 6020(b) does not even apply to individual income taxes.

The documentation and testimony will show how IRS Agents are schooled in “enforcement” of the “law” but important legal details are deceptively and fraudulently omitted from the IRS training materials.

One must ask, how can IRS agents be taught about this legal procedure, yet the training materials are void of direct references to either Title 26 (Individual Income Taxes), Form 1040, or any other regulation specifically related to individual income taxes?

The testimony in this section goes even further in that direct proof of the absence of legal authority for IRS agents to enforce the income tax laws or seize property is revealed.

Do not lose the significance of this testimony. Ex-IRS Agents are appearing under oath and testifying that they in fact, do NOT have the legal authority to create a “substitute return” or assess any tax if you do not file.

Furthermore, we are being given prima facie evidence that the IRS uses deception in its agent training classes to trick agents into acting outside the law in the normal course of their jobs.

Consider how many of the People have assessed a tax that was generated without proper legal authority.

Consider how many People have been sent to federal prison for failure to file a return and convicted using evidence that was fraudulently certified to the court as bona fide proof of a tax owed?

**Copyright Family Guardian Fellowship**

*Last revision: April 17, 2006 08:43 AM*

**This private system is NOT subject to monitoring**

## Embedded Secure Document

The file *http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Sect13SubstReturns-Transcript.pdf*

is a secure document that has been embedded in this document. Double click the pushpin to view.



## Sovereignty Education and Defense Ministry (SEDM) FORM INDEX

### **TABLE OF CONTENTS:**

1. **SEQUENTIAL CATEGORIZED INDEX OF SEDM FORMS**
  - 1 General
  - 2 Affidavits
  - 3 Discovery
  4. Tax withholding, collection, and reporting
  5. Memorandums of Law
  6. Emancipation
  7. Response Letters
    - 7.1 General
    - 7.2 Federal
    - 7.3 State
2. **SITUATIONAL INDEX OF FORMS**
  - 2.1 Applying for a job and dealing with employers
  - 2.2 Changing your citizenship and domicile with state and federal governments
  - 2.3 General purpose
  - 2.4 Litigation
  - 2.5 Opening financial accounts or making investments without withholding or a number
  - 2.6 Responding to federal and state collection notices
  - 2.7 Withdrawing cash from financial institutions
  - 2.8 Quitting Social Security and Functioning Without an SSN
3. **ELECTRONIC FORMS COMPILATIONS**
4. **OTHER FORMS SITES**
  - 4.1 General Forms
  - 4.2 Tax Forms
  - 4.3 Legal Forms

















This page contains a listing of all the free forms available on our website that may prove useful in various situations relating to sovereignty and taxes. The forms are arranged either by form number or by their use, to make finding them easier. The forms are provided in Adobe Acrobat format and may be viewed by downloading and installing the latest FREE Adobe Acrobat Reader from the link below:

<http://www.adobe.com/products/acrobat/readstep2.html>

Most of our forms are also FILLABLE from within the Acrobat Reader as well! Simply click on the fill-in box provided for each field, fill in the data, and save your copy of the form as a completed template. Then you can reuse the completed form again in the future so as to save you time in responding to tax collection notices. This is a very handy feature.













### **1. SEQUENTIAL CATEGORIZED INDEX OF SEDM FORMS**

Section 5, the Memorandums of Law section, contains memorandums of law that you can attach to your pleadings and correspondence with opposing counsel during a legal dispute. Most of these memorandums of law end with a series of admissions relating to the subjects discussed in the memorandum, making them ideal for use as a discovery device during litigation as well.

Form #	Format	Title	Circumstances where used	Related Resources/Information	Date of Last Revision
<b>1. GENERAL</b>					
<a href="#">01.001</a>	PDF 	SEDM Articles of Mission	Our Mission Statement		11/29/2005
<a href="#">01.002</a>	PDF 	SEDM Member Agreement	Use this form to join the organization. You cannot use or view or obtain our materials without being a Member.	<a href="#">Member Agreement</a>	11/11/2005
<a href="#">01.003</a>	PDF 	Fax Cover Sheet	Use this sheet to record your questions for comments to SEDM and then fax it to us.		4/13/2005
<a href="#">01.004</a>	PDF 	Famous Quotes about Rights and Liberty	Useful on any occasion		10/25/2005
<a href="#">01.005</a>	HTML	Proof of Mailing	Useful to provide proof of what you mailed and when. OFFSITE LINK		10/15/2005
<b>2. AFFIDAVITS</b>					
<a href="#">02.001</a>	PDF 	Affidavit of Citizenship, Domicile, and Tax Status	Attach to an application for a financial account or job withholding form. Establishes and explains your status as a "national" and not a "citizen" under federal law.	1. <a href="#">Why you are a "national" or a "state national" and not a "U.S. citizen"</a> 2. <a href="#">Why "domicile" and income taxes are voluntary</a>	4/12/2006
<a href="#">02.002</a>	PDF 	Affidavit of Material Facts	Use this enclosure with a state response letter to establish citizenship and taxpayer status in a narrative format. Includes check marks in front of each item so that it can be reused again and made into a "Notice of Default" against a tax collection agency.	1. <a href="#">Federal Response Letters</a> 2. <a href="#">State Response Letters</a>	9/25/2005
<a href="#">02.003</a>	PDF 	Affidavit of Duress: Member Deposition	Members may use this if government attempts to compel them to attend a deposition which might either incriminate them or the SEDM ministry.		10/13/2006
<a href="#">02.004</a>	PDF 	Affidavit of Corporate Denial	Use this form to remove or destroy the jurisdiction of federal courts and the IRS to enforce any federal law against you.	1. <a href="#">Federal Jurisdiction</a> 2. <a href="#">Why your Government is Either A Thief or You Are a Federal Employee for Federal Income Tax Purposes</a>	1/29/2006
<b>3. DISCOVERY</b>					
<a href="#">03.001</a>	ZIP file 	Amplified Deposition Transcript	Use this transcript as a way to provide an amplified deposition transcript if the opposing U.S. Attorney insists that you did not answer some of the questions at a previous deposition. Scan in the original transcript, convert to text, and past into chapter 4 of this document.		2/20/2006
<a href="#">03.002</a>	HTML	Handling and Getting a Due Process Hearing	This article shows how to fill out IRS form 12153 to maximize your chances of getting an in-person due process hearing.		NA
<a href="#">03.003</a>	PDF 	Admissions relating to alleged liability	Use this in your response to IRS notices as a way to establish what your liability is. Can be used in conjunction with Form 0001 above.	<a href="#">Master File Decoder</a> <a href="#">Correcting Erroneous IRS form W-2's</a>	9/30/2005
<a href="#">03.004</a>	PDF 	Deposition Agreement	Use this agreement when the government is attempting to depose an SEDM member. It ensures a fair hearing and equal opportunity to ask questions or each other.	<a href="#">Member Agreement</a> (requires use of this form)	4/12/2006
<a href="#">03.005</a>	PDF 	Deposition Handout	Members may use this form to give to any government attorney or employee who has subpoenaed them to give oral testimony under <a href="#">Federal Rule of Civil Procedure Rule 30</a> in relation to their involvement in this Ministry.	<a href="#">Federal Rule of Civil Procedure Rule 30</a> (OFFSITE LINK)	4/12/2006
<a href="#">03.006</a>	PDF 	SSA Form SSA-L996: Social Security Number Request for Extract or Photocopy	Use this form to obtain a copy of any Social Security records that the SSA is maintaining connected to your all caps name.	1. <a href="#">Socialism: The new American Civil Religion</a> 2. <a href="#">Social Security: Mark of the Beast</a> (OFFSITE LINK)	4/12/2006
<a href="#">03.007</a>	PDF 	Bureau of Public Debt FOIA	Use this form to obtain records of public debt issued in the name of an SSN, TIN, or SS Card Number. This constitutes proof that your application to SSA makes you into surety for federal debt.		11/17/2006
<a href="#">03.008</a>	PDF 	IRS Due Process Meeting Handout	Mail this form in advance of an IRS Audit or meeting and demand proof of authority on the record from the agent. Also bring it along with you to the due process meeting and demand that proof of jurisdiction be provided on the record using this form.	<a href="#">Nontaxpayer's Audit Defense Manual</a>	12/13/2006
<b>4. TAX WITHHOLDING, COLLECTION, AND REPORTING</b> (Please read  <a href="#">Federal and State Tax Withholding Options for Private Employers</a> )					
<a href="#">04.001</a>	HTML	IRS form W-8BEN	Provide to financial institutions and private employers to stop withholding and reporting of earnings.	<a href="#">About IRS form W-8BEN</a>	4/13/2005
<a href="#">04.002</a>	HTML	IRS form 56	Send this in to change your IRS status so that you aren't a fiduciary for an artificial entity or business	<a href="#">About IRS form 56</a>	4/13/2005
<a href="#">04.003</a>	HTML	IRS form 1098	Send in a corrected version of this report to zero out erroneous reports of mortgage interest payments "effectively connected with a trade or business".	<a href="#">Correcting Erroneous IRS form 1098's</a>	4/13/2005
<a href="#">04.004</a>	HTML	IRS form 1099	Send in a corrected version of this report to zero out erroneous reports of income "effectively connected with a trade or business".	<a href="#">Correcting Erroneous IRS form 1099's</a>	4/13/2005
<a href="#">04.005</a>	HTML	IRS form W-2	Send in to correct erroneous W-2 reports sent in by private employs with whom you have a W-8 on file and/or did not authorize withholding.	<a href="#">Correcting Erroneous IRS form W-2's</a>	4/13/2005

<a href="#">04.006</a>	PDF 	Demand for Verified Evidence of "Trade or Business" Activity: Information Return	Use this form in the case where someone you work for or with is trying wants to fill out an Information Return against you, and you are not engaged in a "trade or business". This prevents you from having false or erroneous Information Returns filed against you by educating companies and financial institutions about their proper use.	<a href="#">The "Trade or Business" Scam</a>	3/17/2006
<a href="#">04.007</a>	PDF 	Certification of Federally Privileged Status	Use this form with your private employer to get certification that you are not a federal "employee" or privileged "public official"	<a href="#">The "Trade or Business" Scam</a>	3/17/2006
<a href="#">04.008</a>	PDF 	Demand for Verified Evidence of "Trade or Business" Activity: Currency Transaction Report (CTR)	Use this form in the case where you are trying to withdraw \$10,000 or more from a financial institution in cash, and they want to fill out a Currency Transaction Report (CTR), Treasury form 8300, on the transaction. Typically, banks are not subject to federal legislative jurisdiction AND the CTR's can only be completed on those who are engaged in a "trade or business", which few Americans are.	<a href="#">The "Trade or Business" scam</a>	1/23/2006
<a href="#">04.009</a>	PDF 	Tax Withholding and Reporting: What the Law Says	Present this form to private companies who you work for as a private employee, in order to educate them about what the law requires in the case of payroll withholding.	1. <a href="#">Federal and State Withholding Options for Private Employers</a> (OFFSITE LINK) 2. <a href="#">Federal Tax Withholding</a>	4/30/2006
<a href="#">04.010</a>	PDF 	IRS Form 1042	Send in a corrected version of this report to zero out erroneous reports of gross income for those nonresident aliens who are not engaged in a " <a href="#">trade or business</a> ".	<a href="#">Correcting Erroneous IRS form 1042's</a>	11/15/2006
<a href="#">04.011</a>	PDF 	IRS Form 1098 Lender Letter	Send this form to lenders and mortgage companies who are wrongfully filing IRS form 1098's against you as a nonresident alien not engaged in a " <a href="#">trade or business</a> " to get them to stop filing the false reports so that you don't have to correct them later.	<a href="#">Correcting Erroneous IRS form 1098's</a>	11/15/2006
<b>5. MEMORANDUMS OF LAW</b>					
<a href="#">05.001</a>	PDF 	The Trade or Business Scam	Attach to your letters and correspondence to explain why you have no reportable income	1. <a href="#">Demand for Verified Evidence of Trade or Business Activity: CTR</a> 2. <a href="#">Demand for Verified Evidence of Trade or Business Activity: Information Return</a>	9/4/2006
<a href="#">05.002</a>	PDF 	Why Domicile and Income Taxes are Voluntary	Attach to your letters and correspondence to explain why you have no reportable income	<a href="#">Sovereignty Forms and Instructions: Cites by Topic, "Domicile"</a> (OFFSITE LINK)	10/9/2005
<a href="#">05.003</a>	PDF 	Requirement for Consent	Attach to your letters and correspondence to explain why you aren't obligated to follow the I.R.C. because it isn't "law" for you	<a href="#">Declaration of Independence</a> (OFFSITE LINK)	9/6/2006
<a href="#">05.004</a>	PDF 	Political Jurisdiction	Attach to legal pleadings in order to ensure that the court does not challenge or undermine your choice of citizenship or domicile. Establishes that any court which attempts to do this is involving itself in "political questions", which is a violation of the separation of powers doctrine.		9/25/2006
<a href="#">05.005</a>	PDF 	Federal Tax Withholding	For use in those seeking new employment or who wish to terminate employment tax withholding. Use in conjunction with the <a href="#">Federal and State Tax Withholding Options for Private Employers</a> book. This is an abbreviated version of what appears in chapter 16 for management types who have little patience and a short attention span, which is most bosses.	<a href="#">Federal and State Tax Withholding Options for Private Employers</a> (OFFSITE LINK) <a href="#">Income Tax Withholding and Reporting</a>	3/23/2006
<a href="#">05.006</a>	PDF 	Why you are a "national" or "state national" and not a "U.S. citizen"	For use in obtaining a passport, for job applications, and to attach to court pleadings in which you are declaring yourself to be a "national" and a "nonresident alien".	<a href="#">Citizenship and Sovereignty Seminar</a> <a href="#">Developing Evidence of Citizenship Seminar</a>	8/23/2006
<a href="#">05.007</a>	PDF 	Reasonable Belief About Tax Liability	For use by those: 1. Establishing a reasonable belief about liability. 2. Corresponding with the IRS. 3. Being criminally prosecuted for failure to file or tax evasion.	<a href="#">Great IRS Hoax</a> <a href="#">Federal and State Tax Withholding Options for Private Employers</a> (OFFSITE LINK)	9/6/2006
<a href="#">05.008</a>	PDF 	Why Your Government is Either A Thief or You are a "Public Official" for Income Tax Purposes	Use this as an attachment to prove why Subtitle A of the Internal Revenue Code, in context of employment withholding and earnings on a 1040, are connected mainly with federal employment.		3/23/2006
<a href="#">05.009</a>	PDF 	Legal Requirement to File Federal Income Tax Returns	Use this as an attachment in response to a CP-518 IRS letter, or as part of a brief in response to criminal prosecution for "Willful Failure to File" under <a href="#">26 USC §7203</a> .	<a href="#">Reasonable Belief About Tax Liability</a>	3/4/2006
<a href="#">05.010</a>	PDF 	Why Penalties are Illegal for Anything But Federal Employees, Contractors, and Agents	Use this as an attachment in response to an IRS penalty collection notice to prove that you aren't responsible to pay the assessed penalty. Make sure you also follow the guidelines relating to SSNs in our article entitled " <a href="#">About SSNs/ TINs on Tax Correspondence</a> "	<a href="#">26 U.S.C. §6671(b)</a> (OFFSITE LINK) <a href="#">Sovereignty Forms and Instructions, Cites by Topic, "Bill of Attainder"</a> (OFFSITE LINK)	1/26/2006
<a href="#">05.011</a>	PDF 	Why Assessments and Substitute for Returns are Illegal Under the I.R.C. Against Natural Persons	Use this as an attachment in response to an IRS or state "Notice of Proposed Assessment" or 90-day letter to show that the proposed assessment is illegal. Make sure you also attach IRS form 4852's and corrected 1099's to zero out illegal reports of taxable income using the links provided at the beginning of the memorandum.	<a href="#">Sovereignty Forms and Instructions, Cites by Topic, "assessments"</a> (OFFSITE LINK)	1/8/2006

<a href="#">05.012</a>	PDF 	About SSNs and TINs on Government Forms and Correspondence	Use this form whenever you are filling out paperwork that asks for an SSN and the recipient won't accept the paperwork because you said "None" on the SSN block. The questions at the end will stop all such frivolous challenges by recipients of the forms you submit, if they have even half a brain.	<a href="#">Wrong Party Notice</a> <a href="#">About IRS form W-8BEN</a>	3/4/2006
<a href="#">05.013</a>	PDF 	Who are "taxpayers" and who Needs a "Taxpayer Identification Number"?	Attach this to financial account applications, job applications, etc. Shows why you don't need SSNs or TINs on government correspondence.	<a href="#">"Taxpayer" v. "Nontaxpayer", Which One are You?</a> (OFFSITE LINK)	10/9/2005
<a href="#">05.014</a>	PDF 	The Meaning of the Words "includes" and "including"	Rebuttal to the most popular IRS lie and deception. Attach to response letters or legal pleading.	1. <a href="#">Rebutted Version of IRS The Truth About Frivolous Tax Arguments</a> 2. <a href="#">Statutory Interpretation: General Principles and Recent Trends</a> (OFFSITE LINK)	10/8/2006
<a href="#">05.015</a>	PDF 	Commercial Speech	Helpful to those facing injunctions.	<a href="#">Freedom of Speech and Press: Exceptions to the First Amendment</a> (OFFSITE LINK)	7/24/2006
<a href="#">05.016</a>	PDF 	Socialism: The New American Civil Religion	Proves that government has become a false god and an idol in modern society in violation of the First Amendment.	1. <a href="#">Family Guardian: Communism and Socialism</a> (OFFSITE LINK) 2. <a href="#">Social Security: Mark of the Beast</a> (OFFSITE LINK) 3. <a href="#">The Law</a> (OFFSITE LINK)	7/29/2006
<a href="#">05.017</a>	PDF 	Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction	Explains how federal agencies, courts, and the law profession unlawfully use "presumption" as a means to enlarge federal or government jurisdiction.	<a href="#">Sovereignty Forms and Instructions, Cites by Topic, "presumption"</a> (OFFSITE LINK)	6/30/2006
<a href="#">05.018</a>	PDF 	Federal Jurisdiction	Explains choice of law in deciding federal jurisdiction in the context of federal income tax trials.		9/25/2006
<a href="#">05.019</a>	PDF 	Court Sanctions, Contempts, and Defaults	Describes circumstances under which court sanctions and contempt of court may lawfully be imposed in federal court.	1. <a href="#">Federal Rule of Civil Procedure Rule 11</a> (OFFSITE LINK) 2. <a href="#">Federal Rule of Civil Procedure Rule 37(b)</a> (OFFSITE LINK)	2/17/2006
<a href="#">05.020</a>	PDF 	Nonresident Alien Position	Describes and defends the Nonresident Alien Position that is the foundation of this website.	<a href="#">About IRS Form W-8BEN</a>	10/26/2006
<a href="#">05.021</a>	PDF 	Silence as a Weapon and a Defense in Legal Discovery	Describes how to use your constitutional rights to prevent incriminating yourself or prejudicing your Constitutional rights. Also describes how to respond to such tactic.	<a href="#">Federal Rule of Civil Procedure Rule 8(d)</a> (OFFSITE LINK)	7/17/2006
<a href="#">05.022</a>	PDF 	Requirement for Reasonable Notice	Describes the requirement for reasonable notice and how you can find out what laws you are required to obey based on how they are noticed by the government.	<a href="#">Federal Register Act</a> (OFFSITE LINK) <a href="#">Administrative Procedures Act</a> (OFFSITE LINK)	8/15/2006
<a href="#">05.023</a>	PDF 	Government Conspiracy to Destroy the Separation of Powers	Describes historical efforts by the government to break down the separation of powers and destroy our God-given rights.	<a href="#">Separation of Powers Doctrine</a>	9/5/2006
<a href="#">05.024</a>	PDF 	Apostille of Documents	Describes how to get your documents apostilled by the Secretary of State of your State for international use. This is useful for form 06.005 below.	<a href="#">State legal resources</a> (OFFSITE LINK. find a state secretary of state)	8/18/2006
<a href="#">05.025</a>	PDF 	Government Burden of Proof	Describes the burden of proof imposed upon the government whenever enforcement actions are employed.		8/28/2006
<a href="#">05.026</a>	PDF 	How the Government Defrauds You Out of Legitimate Deductions for the Market Value of Your Labor	Describes how to lawfully and legally deduct the entire market value of your labor from your earnings on a federal or state tax return.	<a href="#">Is the Income Tax a Form of Slavery?</a> (OFFSITE LINK)	10/14/2006
<a href="#">05.027</a>	PDF 	Meaning of the word "Frivolous"	Describes the meaning of the word "frivolous", how it is abused by the government and legal profession, and how to prevent such abuses		10/3/2006
<a href="#">05.028</a>	PDF 	Laws of the Bible	Index and authorities on all the moral laws of the Bible, and how to apply them to the practical affairs of daily secular life.	<a href="#">Holy Bible</a> (OFFSITE LINK)	10/13/2006
<a href="#">05.029</a>	PDF 	Unlicensed Practice of Law	Those wishing to lawfully help or assist others in the practice of law, including in arguing before courts of law, may attach this to Litigation Tool 3.003 in order to prove that they have authority to do so.	<a href="#">Litigation Tool 3.003: Motion for Non-Bar Counsel</a>	12/14/2006
<b>6. EMANCIPATION</b>					
<a href="#">06.001</a>	PDF 	Why You Aren't Eligible for Social Security	Use this form to apply for a driver's license without a Slave Surveillance Number. Most states require applications who are eligible for Social Security to provide a number. This pamphlet proves you aren't eligible and therefore don't need one.	<a href="#">Social Security: Mark of the Beast</a> (OFFSITE LINK)	9/22/2005
<a href="#">06.002</a>	PDF 	Resignation of Compelled Social Security Trustee	Allows a person to legally and permanently quit Social Security. Used with permission from original author.	1. <a href="#">Social Security: Mark of the Beast</a> (OFFSITE LINK) 2. <a href="#">Socialism: The New American Civil Religion</a> 3. <a href="#">About IRS form 56</a>	9/24/2005
<a href="#">06.003</a>	PDF 	Sovereignty Forms and Instructions Book	Free forms and instructions which help you achieve and defend personal sovereignty and the sovereignty of God in the practical affairs of your life. Also available in online version. This is an OFFSITE resource and we are not responsible for the content.	<a href="#">Online version of this book</a> (OFFSITE LINK)	2/21/2006
<a href="#">06.004</a>	PDF 	Enumeration of Inalienable Rights	Use this form to litigate in court to defend your rights. Gives you standing without the need to quote federal statutes that you are not subject to anyway as a nonresident alien.	<a href="#">Constitution Annotated</a>	4/24/2006

<a href="#">06.005</a>		Legal Notice of Change in Domicile/ Citizenship Records and Divorce from the United States	This form completely divorces the government and changes your status to that of a "stateless person" and a "transient foreigner" not subject to civil court jurisdiction and a "nontaxpayer". After filing this form, you can also use it to rebut tax collection notices.	1. <a href="#">Why you are a "national" or a "state national" and not a "U.S. citizen"</a> 2. <a href="#">Why Domicile and Income Taxes are Voluntary</a>	8/6/2006
<b>7. RESPONSE LETTERS</b>					
<b>7.1 GENERAL</b>					
<a href="#">07.011</a>		Payment Delinquency and Copyright Violation Notice	Use this form to respond to state or federal tax collection notices. It can be used in connection with the <a href="#">Change of Address Attachment Affidavit</a> .		9/8/2005
<a href="#">07.012</a>		Wrong Party Notice	Send this notice if the state or IRS collection notice you received was delivered to a person with an all caps name or with any kind of identifying number.	<a href="#">About SSNs and TINs on Government Forms and Correspondence</a>	10/4/2005
<a href="#">07.013</a>		1098 Interest: Request for Filing Response	Send this form attached to a letter in which you respond to a state or IRS notice requesting you to file based on their receipt of an IRS form 1098, which is the form used by mortgage companies to report receipt of payments on a mortgage.	<a href="#">The "trade or business" scam</a>	1/20/2006
<a href="#">07.014</a>		Legal notice to cease and desist illegal enforcement activities	Use this form to officially notify the government collection agency that they are engaging in unlawful activity, are personally liable, and may not impose any provision of law against you without first proving you are a "taxpayer" with other than information hearsay returns.		8/1/2006
<a href="#">07.015</a>		Third Party Tax Debt Collector Attachment	Use this form as an attachment to any correspondence you send a private debt collector in connection with any tax collection activity they are undertaking against you.		11/1/2006
<b>7.2 FEDERAL</b>					
<a href="#">07.021</a>		Demand for Verified Evidence of Lawful Federal Assessment	Used in response to an IRS collection notice to request verified evidence validating the assessment connected to the amounts alleged to be owed.	1. <a href="#">Master File Decoder</a> 2. <a href="#">Why Penalties are Illegal for Anything But Federal Employees, Contractors, and Agents</a>	4/12/2006
<a href="#">07.022</a>		Assessment Response: Federal	Systematic way to respond to a federal penalty or tax assessment notice that is improper or illegal.	1. <a href="#">Why Assessments and Substitute for Returns are Illegal Under the I.R.C. Against Natural Persons</a> 2. <a href="#">Why Penalties are Illegal for Anything But Federal Employees, Contractors, and Agents</a>	7/28/2006
<a href="#">07.023</a>		Substitute for Federal Form 1040NR	Use this to respond to an IRS demand for a return to be filed.		10/5/2006
<b>7.3 STATE</b>					
<a href="#">07.031</a>		Demand for Verified Evidence of Lawful State Assessment	Used in response to an State collection notice to request verified evidence validating the assessment connected to the amounts alleged to be owed.	1. <a href="#">Master File Decoder</a> 2. <a href="#">Why Penalties are Illegal for Anything But Federal Employees, Contractors, and Agents</a>	4/12/2006
<a href="#">07.032</a>		Assessment Response: State	Systematic way to respond to a state penalty or tax assessment notice that is improper or illegal.	1. <a href="#">Why Assessments and Substitute for Returns are Illegal Under the I.R.C. Against Natural Persons</a> 2. <a href="#">Why Penalties are Illegal for Anything But Federal Employees, Contractors, and Agents</a>	4/13/2006
<a href="#">07.033</a>		Substitute for State Nonresident Tax Return	Use this to respond to a state demand for a return to be filed.		8/11/2006

## 2. SITUATIONAL INDEX OF FORMS

Locate the situation you are in and then find forms relative to that specific situation in the subsections below. For further information pertinent to each situation, see:

- Our [Situational References Page](#) in the [Liberty University, item 5.1](#).
- [Subject Index](#) (OFFSITE LINK)- Family Guardian

### 2.1. Applying for a job and Dealing with Employers

About IRS form W-8BEN: [FORM 04.001](#) - this is the ONLY withholding form a nontaxpayer can use. The W-4 leads to BIG trouble and violation of law  
Affidavit of Citizenship, Domicile, and Tax Status: [FORM 02.001](#)  
[Demand for Verified Evidence of "Trade or Business" Activity: Information Return: FORM 04.006](#)- Use this form in the case where someone you work for or with may or definitely will file a fraudulent Information Return against you, and you are not engaged in a "trade or business". This prevents you from having false or erroneous Information Returns filed against you by educating companies and financial institutions about their proper use. Information Returns include



Federal Forms W-2, 1042-S, 1098, and 1099.

Federal Tax Withholding: [FORM 05.005](#)-brief pamphlet to hand to private employer to educate him about his withholding duties

[Federal and State Withholding Options for Private Employers](#)-lots of useful forms at the end of the document. Mainly for employees. Too long and may scare away private employers. Section 23.13, FORM 13 in that book is very useful to attach to your job application

[Letter to Government Employer Stopping Withholding](#) (OFFSITE LINK)

[Letter to Commercial Employer Stopping Withholding](#) (OFFSITE LINK)

[Payroll Withholding Attachment](#) (OFFSITE LINK)

[Substitute IRS Form W-8BEN](#) (OFFSITE LINK)

Who are "taxpayers" and who needs a "Taxpayer Identification Number": [FORM 05.013](#) - short pamphlet you can attach to a job application to prove that you don't need to deduct or withhold and aren't a "taxpayer"

## **2.2. Changing your Citizenship and Domicile with State and Federal Governments**

[Change of Address Form Attachment](#) (OFFSITE LINK)

[Legal Notice of Change in Domicile/Citizenship Records and Divorce from the United States](#) (OFFSITE LINK)

[Passport Amendment Request](#) (OFFSITE LINK)

[Voter Registration Attachment](#) (OFFSITE LINK)

## **2.3. General purpose**

[Attachment to Government Form that Asks for Social Security Number](#) (OFFSITE LINK)

Famous Quotes About Rights and Liberty: [FORM 01.003](#)

Proof of Mailing: [FORM 01.005](#) (OFFSITE LINK)

SEDM Fax Cover Sheet: [FORM 01.004](#)

SEDM Member Agreement: [FORM 01.001](#)

## **2.4. Litigation**

[SEDM Litigation Tools Page, Section 2](#)

## **2.5. Opening financial accounts or making investments without withholding or a number**

About SSNs/TINs on Government Forms and Correspondence: [FORM 05.012](#)- attach to account application to prove why you don't need a number

Affidavit of Citizenship, Domicile, and Tax Status: [FORM 02.001](#)

IRS Form W-8BEN: [FORM 04.001](#)

[IRA Rollover Attachment](#) (OFFSITE LINK)

[Letter to remove SSN and tax withholding from account](#) (OFFSITE LINK)

[Legal Address Inquiry Letter Response](#) (OFFSITE LINK)

[Substitute IRS Form W-9](#) (OFFSITE LINK)

Who are "taxpayers" and who needs a "Taxpayer Identification Number": [FORM 05.013](#)-attach to account application to prove why you don't need a number

## **2.6. Responding to federal and state collection notices**

[Federal letter and notice index](#) -index of all federal tax collection notices and letters and their responses

[State letter and notice index](#) - index of all state tax collection notices and letters and their responses

Admissions relating to alleged liability: [FORM 03.004](#)

Affidavit of Material Facts: [FORM 02.002](#)

Demand for Verified Evidence of Lawful Federal Assessment: [FORM 03.001](#)

Demand for Verified Evidence of Lawful State Assessment: [FORM 03.002](#)

IRS Form W-8BEN: [FORM 04.001](#)

IRS Form 4852: [FORM 04.002](#)

IRS Form 1098: [FORM 04.003](#)

IRS Form 1099: [FORM 04.004](#)

IRS Form 56: [FORM 04.004](#)

Legal Requirement to File Federal Income Tax Returns: [FORM 05.009](#)

[Test for Federal Tax Professionals](#) (OFFSITE LINK)

[Test for State Tax Professionals](#) (OFFSITE LINK)

The Meaning of the Words "includes" and "including": [FORM 05.014](#) - attach responses to prove the IRS is lying about the use of the word "includes" in determining the meaning of definitions within the I.R.C.

Who are "taxpayers" and who needs a "Taxpayer Identification Number": [FORM 05.013](#)-attach to account application to prove why you don't need a number

Why Penalties are Illegal for Anything But Federal Employees, Contractors, and Agents: [FORM 05.010](#)

Why Assessments and Substitute for Returns are Illegal Under the I.R.C. Against Natural Persons: [FORM 05.011](#)

[Writing Effective Response Letters](#)-SEDM article

Wrong Party Notice: [FORM 07.002](#) - use this form to explain why the TIN or SSN or the name on a collection notice are wrong. IRS cannot use any SSN, TIN, or all caps name to address you without assuming that you are a federal "employee"

## **2.7. Withdrawing cash from financial institutions**

Demand for Verified Evidence of "Trade or Business" Activity: CTR: [FORM 03.003](#) -use this if they try to violate the law by preparing a Currency Transaction Report for your withdrawal

## **2.8. Quitting Social Security and Functioning Without an SSN**

Resignation of Compelled Social Security Trustee: [FORM 06.002](#) - quit Social Security completely and get all your money back

Why You Aren't Eligible for Social Security: [FORM 06.001](#) -use this to get a state driver's license without a Social Security Number

Wrong Party Notice: [FORM 07.002](#) - use this form to explain why the TIN or SSN or the name on a collection notice are wrong. IRS cannot use any SSN, TIN, or all caps name to address you without assuming that you are a federal "employee"

## **3. ELECTRONIC FORMS COMPILATIONS**

1. [American Jurisprudence Pleading and Practice CD-ROM](#) (OFFSITE LINK)-Excellent!
2. [American Jurisprudence Legal Forms 2d CD](#) (OFFSITE LINK)-Excellent!
3. [Superforms](#)- tax forms

## **4. OTHER FORMS SITES**

NOTE: All of the links below are offsite links. We have no relationship with any of these parties.

### **4.1 General Forms**

1. [Sovereignty Forms and Instructions: Forms](#)- Family Guardian
2. [Common Law Venue: Forms Page](#)

### **4.2 Tax Forms**

1. [Federal Forms and Publications](#)- Family Guardian. Includes modified versions of most Federal Forms
2. [Internal Revenue Service: Forms and Publications](#)- WARNING: The forms from the IRS are designed to prejudice your rights and destroy your privacy. They ask for information that you aren't obligated by law to provide. You are much better off using the altered and "improved" versions of their forms posted on the Family Guardian website in link #2 above.
3. [State Tax Forms](#)
4. [State Income Taxes](#)
5. [1040.com](#)-tax forms

### 4.3 Legal Forms

1. [ContractStore](#)
2. [CourtTV Legal Forms](#)
3. [E-Z Legal forms](#)
4. [FindForms.com](#)
5. [Free Legal Forms](#) -Pre-Paid Legal Services
6. [HotDocs](#) -legal forms preparation software
7. [Law Forms USA](#)
8. [Law Guru](#) -legal forms archive
9. [Lectric Law Library: General Forms](#)
10. [Legal Forms On Demand](#)
11. [Legal Kits](#)
12. [LegalZoom](#)
13. [LexisOne Free Legal Forms](#) -requires HotDocs installed, in most cases
14. [U.S. Court Forms](#)
15. [U.S. Legal Forms](#)
16. [Versus Law U.S. Legal forms](#)

**Copyright Sovereignty Education and Defense Ministry (SEDM)**

[Home](#) [About](#) [Contact](#)

# Returns prepared for or executed by Secretary

26 USC 6020(b)

						United States Statutes at Large				
1954 Code	1939 Code	Date Enacted	PL.#	Cong.	Sess.	Vol.	Part	Page	Chap.	Act Section
1	<b>6020(b)</b>		n/a	43	1	18	1/3	610	1&2	R.S. 3176
2		*1926, Feb. 26	No. 20	69	1	44	2/3	112	27	1103

**VIP Level 3 — P.O. Box 463, Owensville, Ohio, Postal Zone 45160**

**Subpart D—Miscellaneous Provisions**

Sec. 6020. Returns prepared for or executed by Secretary.

Sec. 6021. Listing by Secretary of taxable objects owned by non-residents of internal revenue districts.

**SEC. 6020. RETURNS PREPARED FOR OR EXECUTED BY SECRETARY.**

(a) **PREPARATION OF RETURN BY SECRETARY.**—If any person shall fail to make a return required by this title or by regulations prescribed thereunder, but shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the Secretary or his delegate may prepare such return, which, being signed by such person, may be received by the Secretary or his delegate as the return of such person.

→ (b) **EXECUTION OF RETURN BY SECRETARY.**—

(1) **AUTHORITY OF SECRETARY TO EXECUTE RETURN.**—If any person fails to make any return (other than a declaration of estimated tax required under section 6015 or 6016) required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary or his delegate shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

(2) **STATUS OF RETURNS.**—Any return so made and subscribed by the Secretary or his delegate shall be prima facie good and sufficient for all legal purposes.

**SEC. 6021. LISTING BY SECRETARY OF TAXABLE OBJECTS OWNED BY NONRESIDENTS OF INTERNAL REVENUE DISTRICTS.**

Whenever there are in any internal revenue district any articles subject to tax, which are not owned or possessed by or under the care or control of any person within such district, and of which no list has been transmitted to the Secretary or his delegate, as required by law or by regulations prescribed pursuant to law, the Secretary or his delegate shall enter the premises where such articles are situated, shall make such inspection of the articles as may be necessary and make lists of the same, according to the forms prescribed. Such lists, being subscribed by the Secretary or his delegate, shall be sufficient lists of such articles for all purposes.

**SUBCHAPTER B—DETERMINATION OF TAX LIABILITY**

**SEC. 3611. RETURNS EXECUTED BY TAXPAYER.**

When not otherwise provided for—

(a) **PREPARATION.**—

(1) **BY TAXPAYER.**—It shall be the duty of any person made liable to any special tax or other tax imposed by law, to make a list or return, verified by oath, to the collector or a deputy collector of the district where located, of the articles or objects, including the quantity of goods, wares, and merchandise, made or sold and charged with a tax, the several rates and aggregate amount, according to the forms and regulations to be prescribed by the Commissioner, with the approval of the Secretary, for which such person is liable.

(2) **BY COLLECTOR OR DEPUTY COLLECTOR.**—If any person liable to pay any tax, or owning, possessing, or having the care or management of property, goods, wares, and merchandise, articles or objects liable to pay any tax shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles, and objects liable to pay any tax, or any business or occupation liable to pay any tax as aforesaid, then, and in that case, it shall be the duty of the collector or deputy collector to make such list or return, which, being distinctly read, consented to, and signed and verified by oath by the person so owning, possessing, or having the care and management as aforesaid, may be received as the list of such person.

(b) **TIME FOR FILING.**—The list or return required under subsection (a) shall be made—

(1) **SPECIAL TAXES.**—In the case of a special tax, on or before the 31st day of July in each year, and

(2) **OTHER TAXES.**—In other cases before the day on which the taxes accrue.

(c) **DELINQUENCY.**—In case no annual list or return has been rendered by such person to the collector or deputy collector as required by law, and the person shall be absent from his or her residence or place of business at the time the collector or a deputy collector shall call for the annual list or return, it shall be the duty of such collector or deputy collector to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum addressed to such person, requiring him or her to render to such collector or deputy collector the list or return required by law within ten days from the date of such note or memorandum, verified by oath.

**SEC. 3612. RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR.**

→ (a) **AUTHORITY OF COLLECTOR.**—If any person fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise.

(b) **AUTHORITY OF COMMISSIONER.**—In any such case the Commissioner may, from his own knowledge and from such information as he can obtain through testimony or otherwise—

(1) **TO MAKE RETURN.**—Make a return, or

(2) **TO AMEND COLLECTOR'S RETURN.**—Amend any return made by a collector or deputy collector.

→ (c) **LEGAL STATUS OF RETURNS.**—Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

Failure to obey summons, proceedings on.

30 June, 1864, c. 173, s. 14, v. 13, p. 226.

13 July, 1866, c. 184, s. 9, v. 14, p. 101.

24 Dec., 1872, c. 13, s. 1, v. 17, p. 401.

SEC. 3175. Whenever any person summoned under the two preceding sections neglects or refuses to obey such summons, or to give testimony, or to answer interrogatories as required, the collectors may apply to the judge of the district court or to a commissioner of the circuit court of the United States for the district within which the person so summoned resides for an attachment against him as for a contempt. It shall be the duty of the judge or commissioner to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge or commissioner shall have power to make such order as he shall deem proper not inconsistent with existing laws for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

When collector may enter premises and make returns.

30 June, 1864, c. 173, s. 14, v. 13, p. 226.

13 July, 1866, c. 184, s. 9, v. 14, p. 101.

24 Dec., 1872, c. 13, s. 2, v. 17, p. 402.

*In re Chadwick*, 1 Low., 489.

SEC. 3176. The collector or any deputy collector in every district shall enter into and upon the premises, if it be necessary, of every person therein who has taxable property and who refuses or neglects to render any return or list required by law, or who renders a false or fraudulent return or list, and make, according to the best information which he can obtain, including that derived from the evidence elicited by the examination of the collector, and on his own view and information, such list or return, according to the form prescribed, of the objects liable to tax, owned or possessed or under the care or management of such person, and the Commissioner of Internal Revenue shall assess the tax thereon, including the amount, if any, due for special tax, and in case of any return of a false or fraudulent list or valuation, he shall add one hundred per centum to such tax; and in case of a refusal or neglect, except in cases of sickness or absence, to make a list or return, or to verify the same as aforesaid, he shall add fifty per centum to such tax. In case of neglect occasioned by sickness or absence as aforesaid, the collector may allow such further time for making and delivering such list or return as he may deem necessary, not exceeding thirty days. The amount so added to the tax shall, in all cases, be collected at the same time and in the same manner as the tax; and the list or return so made and subscribed by such collector or deputy collector shall be held good and sufficient for all legal purposes.

Officers may enter premises where taxable articles are kept.

30 June, 1864, c. 173, ss. 37, 38, v. 13, p. 238.

SEC. 3177. Any collector, deputy collector, or inspector may enter, in the day-time, any building or place where any articles or objects subject to tax are made, produced, or kept, within his district, so far as it may be necessary, for the purpose of examining said articles or objects. And any owner of such building or place, or person having the agency or superintendence of the same, who refuses to admit such officer, or to suffer him to examine such article or articles, shall, for every such refusal, forfeit five hundred dollars. And when such premises are open at night, such officers may enter them while so open, in the performance of their official duties. And if any person shall forcibly obstruct or hinder any collector, deputy collector, or inspector, in the execution of any power and authority vested in him by law, or shall forcibly rescue or cause to be rescued any property, articles, or objects after the same shall have been seized by him, or shall attempt or endeavor so to do, the person so offending, excepting in cases otherwise provided for, shall, for every such offense, forfeit and pay the sum of five hundred dollars, or double the value of the property so rescued, or be imprisoned for a term not exceeding two years, at the discretion of the court.

Returns to show whether amounts are valued in coin or currency.

10 Mar., 1866, c. 15, ss. 3, 4, v. 14, p. 5.

24 Dec., 1872, c. 13, s. 1, v. 17, p. 401.

SEC. 3178. All persons required to make returns or lists of objects charged with an internal tax shall declare therein whether the several rates and amounts are stated according to their values in legal-tender currency or according to their values in coined money; and in case of neglect or refusal so to declare to the satisfaction of the collector receiving such returns or lists, such officer shall make returns or lists for such persons so neglecting or refusing, as in cases of persons neglecting or refusing to make the returns or lists required by law, and the Commissioner shall assess the tax thereon, and add thereto the amount of pen-

value objects of  
taxation.

respectively reside, owning, possessing, or having the care or management of any property, goods, wares, and merchandise, articles or objects liable to pay any duty, stamp, or tax, including all persons liable to pay a license or other duty, under the provisions of this act, and to make a list of the owners, and to value and enumerate the said objects of taxation respectively, by reference to any lists of assessment or collection taken under the laws of the respective states, to any other records or documents, to the written list, schedule, or return required to be made out and delivered to the assistant assessor, and by all other lawful ways and means, in the manner prescribed by this act, and in conformity with the regulations and instructions before mentioned.

Assistant as-  
sessor to make  
lists where own-  
ers neglect, but  
disclose.

SEC. 13. *And be it further enacted*, That if any person liable to pay any duty or tax, or owning, possessing, or having the care or management of property, goods, wares, and merchandise, articles or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles and objects liable to pay any duty or tax, or any business or occupation liable to pay any license, as aforesaid, then, and in that case, it shall be the duty of the officer to make such list or return, which being distinctly read, consented to, and signed and verified by oath or affirmation by the person so owning, possessing, or having the care and management as aforesaid, may be received as the list of such person.

Persons absent  
when assessors  
call, to send in  
list.

SEC. 14. *And be it further enacted*, That in case any person shall be absent from his or her residence or place of business at the time an assistant assessor shall call to receive the annual list or return, it shall be the duty of such assistant assessor to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post-office, a note or memorandum, addressed to such person, requiring him or her to present to such assessor the list or return required by law within ten days from the date of such note or memorandum, verified by oath or affirmation. And if any person, on being notified or required as aforesaid, shall refuse or neglect to give such list or return within the time required as aforesaid, or if any person shall not deliver a monthly or other list or return without notice at the time required by law, or if any person shall deliver or disclose to any assessor or assistant assessor any list, statement, or return, which, in the opinion of the assessor, is false or fraudulent, or contains any understatement or undervaluation, it shall be lawful for the assessor to summon such person, his agent, or other person having possession, custody, or care of books of account containing entries relating to the trade or business of such person, or any other persons as he may deem proper, to appear before such assessor and produce such book, at a time and place therein named, and to give testimony or answer interrogatories under oath or affirmation respecting any objects liable to duty or tax as aforesaid, or the lists, statements, or returns thereof, or any trade, business, or profession liable to any tax or license as aforesaid. Such summons may be served by any assistant assessor of the district. In case any person so summoned shall neglect or refuse to obey such summons according to its exigency, or to give testimony, or to answer interrogatories as required, it shall be lawful for the assessor, upon affidavit proving the facts, to apply to the judge of the district court, or a commissioner authorized to perform the duties of such judge at chambers, for an attachment against such person as for a contempt. It shall be the duty of such judge or commissioner to hear such application, and, if satisfactory proof be made, to issue an attachment directed to some proper officer for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case, and upon such hearing the judge or commissioner shall have power to make such order as he shall deem proper to enforce obedience to the requirements of

If persons neg-  
lect to make  
lists, or make  
false ones, asses-  
sor to summon,  
&c.

Penalty for re-  
fusal to obey  
summons, &c.

Arrest for con-  
tempt.



sions of the preceding sections of this act; and the commissioner of internal revenue, subject to the approval of the Secretary of the Treasury, shall make all necessary rules and regulations for ascertaining the weight of all cotton to be assessed, and for appropriately marking the same, and generally for carrying into effect the foregoing provisions. And the Secretary of the Treasury is authorized to appoint all necessary inspectors, weighers, and markers of cotton, whose compensation shall be determined by the commissioner of internal revenue, and paid in the same manner as inspectors of tobacco are paid.

Rules and regulations.

Appointment of inspectors, weighers, and markers, &c.

SEC. 9. *And be it further enacted,* That the act entitled "An act to provide internal revenue to support the government, to pay interest on the public debt, and for other purposes," approved June thirty, eighteen hundred and sixty-four, as amended by the act of March third, eighteen hundred and sixty-five, be, and the same is hereby, amended as follows, viz:

Amendments to act of 1864, ch. 173.

That section five be amended by adding thereto the following: And any inspector, or revenue agent, or any special agent appointed by the Secretary of the Treasury, who shall demand or receive any compensation, fee, or reward, other than such as are provided by law for, or in regard to, the performance of his official duties, or shall be guilty of any extortion or wilful oppression in the discharge of such duties, shall, upon conviction thereof in any circuit or district court of the United States having jurisdiction thereof, be subject to a fine of not exceeding one thousand dollars, or to imprisonment for not exceeding one year, or both, at the discretion of the court, and shall be dismissed from office, and shall be forever disqualified from holding any office under the government of the United States. And one half of the fine so imposed shall be for the use of the United States, and the other half for the use of the person, to be ascertained by the judgment of the court, who shall first give the information whereby any such fine may be imposed.

Section 5  
Penalty upon inspectors, &c for extortion or oppression.

Fine; imprisonment, dismissal from office; disqualification, &c

One half of fine to the United States and one half to informer.

That section eight be amended by striking out of said section all after the words "until an appointment filling the vacancy shall be made."

Section 8.

That section fourteen be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: That in case any person shall be absent from his or her residence or place of business at the time an assistant assessor shall call for the annual list or return, and no annual list or return has been rendered by such person to the assistant assessor as required by law, it shall be the duty of such assistant assessor to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum, addressed to such person, requiring him or her to render to such assistant assessor the list or return required by law within ten days from the date of such note or memorandum, verified by oath or affirmation. And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such list or return within the time required as aforesaid, or if any person without notice, as aforesaid, shall not deliver a monthly or other list or return at the time required by law, or if any person shall deliver or disclose to any assessor or assistant assessor any list, statement, or return which, in the opinion of the assessor, is false or fraudulent, or contains any understatement or undervaluation, it shall be lawful for the assessor to summon such person, his agent, or other person having possession, custody, or care of books of account containing entries relating to the trade or business of such person, or any other person he may deem proper, to appear before such assessor and produce such book, at a time and place therein named, and to give testimony or answer interrogatories under oath or affirmation respecting any objects liable to tax as aforesaid, or the lists, statements, or returns thereof, or any trade, business, or profession liable to any tax as aforesaid. And the assessor may summon, as aforesaid, any person residing or found within the State in which his district is situated. And when the person in-

Section 14.

Assistant assessors when to notify persons to render lists.

If persons neglect to render lists, or render false lists, assessor may summon them to appear, produce books, &c.

Assessor may summon witnesses.

If persons do not reside, &c., in State, assessor may enter any district where, &c., and make examination. Summons how served.

Certificate of service to be evidence.

Description of books. Penalty for neglecting, &c. to obey summons, &c.

Attachment for contempt, &c.

Assessors to enter premises, take views, and make up lists.

100 per cent to be added to tax for false lists, and 50 per cent for neglect, &c. Further time.

Amount added, how to be collected.

Section 19. Assessors to advertise when taxes may be paid; to post notices. Appeals.

tended to be summoned does not reside and cannot be found within such State, the assessor may enter any collection district where such person may be found, and there make the examination hereinbefore authorized. And to this end he shall there have and may exercise all the power and authority he has or may lawfully exercise in the district for which he is commissioned. The summons authorized by this section shall in all cases be served by an assistant assessor of the district where the person to whom it is directed may be found, by an attested copy delivered to such person in hand or left at his last and usual place of abode, allowing such person at the rate of one day for each twenty-five miles he may be required to travel, computed from the place of service to the place of examination; and the certificate of service signed by such assistant assessor shall be evidence of the facts it states on the hearing of an application for an attachment; and when the summons requires the production of books, it shall be sufficient if such books are described with reasonable certainty. In case any person so summoned shall neglect or refuse to obey such summons, or to give testimony, or to answer interrogatories as required, it shall be lawful for the assessor to apply to the judge of the district court or to a commissioner of the circuit court of the United States for the district within which the person so summoned resides for an attachment against such person as for a contempt. It shall be the duty of such judge or commissioner to hear such application, and, if satisfactory proof be made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge or commissioner shall have power to make such order as he shall deem proper, not inconsistent with the provisions of existing laws for the punishment of contempts, to enforce obedience to the requirements of the summons and punish such person for his default or disobedience. It shall be the duty of the assessor or assistant assessor of the district within which such person shall have taxable property to enter into and upon the premises, if it be necessary, of such person so refusing or neglecting, or rendering a false or fraudulent list or return, and to make, according to the best information which he can obtain, including that derived from the evidence elicited by the examination of the assessor, and on his own view and information, such list or return, according to the form prescribed, of the property, goods, wares, and merchandise, and all articles or objects liable to tax, owned or possessed or under the care or management of such person, and assess the tax thereon, including the amount, if any, due for special or income tax; and in case of the return of a false or fraudulent list or valuation, he shall add one hundred per centum to such tax; and in case of a refusal or neglect, except in cases of sickness or absence, to make a list or return, or to verify the same as aforesaid, he shall add fifty per centum to such tax; and in case of neglect occasioned by sickness or absence as aforesaid, the assessor may allow such further time for making and delivering such list or return as he may judge necessary, not exceeding thirty days; and the amount so added to the tax shall, in all cases, be collected by the collector at the same time and in the same manner as the tax; and the list or return so made and subscribed by such assessor or assistant assessor shall be taken and reputed as good and sufficient for all legal purposes.

That section nineteen be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: That the assessor for each collection district shall give notice by advertisement in one newspaper published in each county within said district, and if there be none published in the district, then in a newspaper published in a collection district adjoining thereto, and shall post notices in at least four public places within each assessment district, and shall mail a copy of such notice to each postmaster in his district, to be posted in his office, stating the time and place within said collection district when and where appeals will

for; and from the time set for said transfer, his office and that of his assistants shall cease.

Commissioner of internal revenue to make certain assessments, &c., for deficiencies in returns of distilled spirits;

1868, ch. 186, § 20.  
Vol. xv. p. 183, deposits, &c., in banking business;

1864, ch. 173, § 110.  
Vol. xiii. p. 277.

Upon certain distilled spirits sold without a stamp;

1867, ch. 169, §§ 5, 14.

Vol. xiv. pp. 472, 481.

on tobacco, &c.;

1868, ch. 186, § 60.

1872, ch. 315, § 31.

*Ante*, p. 249, on legacies and successions, assessments to be certified to, and collected by, collectors.

All special taxes after, &c., to be paid by stamps.

Stamps to be procured, and provisions of former laws to apply.

1868, ch. 186, §§ 26, 101.

Vol. xv. pp. 137, 165.

Penalty for not keeping conspicuously in place of business stamps denoting payment of special tax;

in cases of willful neglect or refusal.

Proviso.

SEC. 2. That the commissioner of internal revenue is hereby authorized and required thereafter to make the inquiries, determinations, and assessments of the following taxes, to wit:

For deficiencies imposed by the provisions of section twenty of an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July twentieth, eighteen hundred and sixty-eight, as amended by subsequent acts.

Semi-annually, upon the deposits, capital, and circulation of each person, bank, association, company, or corporation engaged in the business of banking, imposed by the provisions of section one hundred and ten of an act entitled "An act to provide internal revenue to support the government and to pay interest on the public debt, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four, as amended and supplemented by subsequent acts.

Upon articles provided for in section five, and in the first proviso of section fourteen, of an act entitled "An act to amend existing laws relating to internal revenue, and for other purposes," approved March second, eighteen hundred and sixty-seven.

Upon tobacco, snuff, and cigars, provided for in section sixty of an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July twentieth, eighteen hundred and sixty-eight, as amended by section thirty-one of an act entitled "An act to reduce duties on imports and to reduce internal taxes, and for other purposes," approved June sixth, eighteen hundred and seventy-two.

Upon legacies and successions, and of all other internal-revenue taxes liable to be assessed, or accruing under the provisions of former acts; and the said commissioner shall certify such assessments, when made, to the proper collectors, respectively, who shall proceed to collect and account for taxes so certified in the same manner as assessments on lists are now collected and accounted for.

SEC. 3. That all special taxes imposed by law, accruing after April thirty, eighteen hundred and seventy-three, including the tax on stills, or worms, shall be paid by stamps denoting the tax, and the commissioner of internal revenue is hereby authorized and required to procure appropriate stamps for the payment of such taxes; and the provisions of sections twenty-six and one hundred and one of an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July twentieth, eighteen hundred and sixty-eight, and all other provisions of law relating to the preparation and issue of stamps for distilled spirits, fermented liquors, tobacco, and cigars, so far as applicable, are hereby extended, so as to include such stamps, and the commissioner of internal revenue shall have authority to make all needful rules and regulations relative thereto. Every person engaged in any business, avocation, or employment, who is thereby made liable to a special tax, except tobacco peddlers, shall place and keep conspicuously in his establishment or place of business all stamps denoting the payment of said special tax; and any person who shall through negligence, fail to so place and keep said stamp, shall, upon conviction, be sentenced to pay a penalty equal to the special tax for which his business rendered him liable, and the costs of prosecution; but in no case shall said penalty be less than ten dollars. And where the failure to comply with the foregoing provision of law shall be through willful neglect or refusal, then the penalty shall be double the amount above prescribed: *Provided*, That nothing contained in this section shall change, or in any way affect, the liability of any person for exercising or carrying on any trade, business, or profession, or doing any act for the exercising, carrying on, or doing of which a special tax is imposed by law, without the payment thereof.

## REVENUE ACT OF 1926.

## RECORDS, STATEMENTS, AND SPECIAL RETURNS

Records, etc.  
Taxpayers to keep prescribed records, etc.

Any person may be required to make returns, etc.

Returns without oath if tax under \$10.

Officers authorized to administer oaths.

Returns.  
R. S., sec. 3176, p. 610, amended.

Returns by collector if none or a false one made by the taxpayer.  
Vol. 43, p. 339, amended.

By Commissioner.

Legal effect.

Extension allowed to returns, except income, for sickness, etc.

Assessment of tax by Commissioner.

Additional tax imposed.

Exception if failure not willful.

Increased rate for fraudulent returns.

Collection, etc., of added tax.

SEC. 1102. (a) Every person liable to any tax imposed by this Act, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

(c) The Commissioner, with the approval of the Secretary, may by regulation prescribe that any return required by any internal revenue law (except returns required under income or estate tax laws) to be under oath may, if the amount of the tax covered thereby is not in excess of \$10, be signed or acknowledged before two witnesses instead of under oath.

(d) Any oath or affirmation required by the provisions of this Act or regulations made under authority thereof may be administered by any officer authorized to administer oaths for general purposes by the law of the United States or of any State, Territory, or possession of the United States, wherein such oath or affirmation is administered, or by any consular officer of the United States.

SEC. 1103. Section 3176 of the Revised Statutes, as amended, is amended to read as follows:

"SEC. 3176. If any person, corporation, company, or association fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise. In any such case the Commissioner of Internal Revenue may, from his own knowledge and from such information as he can obtain through testimony or otherwise, make a return or amend any return made by a collector or deputy collector. Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

"If the failure to file a return (other than a return under Title II of the Revenue Act of 1924 or Title II of the Revenue Act of 1926) or a list is due to sickness or absence, the collector may allow such further time, not exceeding 30 days, for making and filing the return or list as he deems proper.

"The Commissioner of Internal Revenue shall determine and assess all taxes, other than stamp taxes, as to which returns or lists are so made under the provisions of this section. In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner of Internal Revenue or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

"The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax."

the time of yeasting, the gravity and temperature of the beer at the time of yeasting, and on every day thereafter its quantity, gravity and temperature at the hour of twelve meridian; also the time when any fermenting tub is emptied of ripe mash or beer, the number of gallons of spirits distilled, the number of gallons placed in warehouse, and the proof thereof, and the number of gallons sold or removed, with the proof thereof, and the name, place of business and residence of the person to whom sold; and every fermenting tub shall be emptied at the end of the fermenting period, and shall remain empty for a period of twenty-four hours. On the first, eleventh, and twenty-first days of each month, or within five days thereafter, respectively, every distiller shall render to the assistant assessor an account in duplicate, taken from his books, stating the quantity and kind of materials used for the production of spirits each day, and the number of wine gallons and of proof gallons of spirits produced and placed in warehouse. And the distiller or the principal manager of the distillery shall make and subscribe the following oath, to be attached to said return: —

Fermenting tubs, when to be emptied, and how long to remain empty.  
Accounts in duplicate from books to be rendered to assistant assessor tri-monthly, and on what days

“ I, ———, distiller, (or principal manager, as the case may be,) of the distillery at ———, do solemnly swear that, since the date of the last return of the business of said distillery, dated ——— day of ——— to ——— day of ———, both inclusive, there was produced in said distillery, and withdrawn and placed in warehouse, the number of wine gallons and proof gallons of spirits, and there were actually mashed and used in said distillery, and consumed in the production of spirits therein, the several quantities of grain, sugar, molasses, and other materials, respectively, hereinbefore specified, and no more.”

Oath to return.

The said book shall always be kept at the distillery, and be always open to the inspection of any revenue officer, and, when filled up, shall be preserved by the distiller for a period not less than two years thereafter, and whenever required shall be produced for the inspection of any revenue officer. If any false entry shall be made in either of said books, or any entry required to be made therein shall be omitted therefrom, for every such false entry made, or omission, the distiller shall forfeit and pay a penalty of one thousand dollars. And if any such false entry shall be made, or any entry shall be omitted therefrom with intent to defraud or to conceal from the revenue officers any fact or particular required to be stated and entered in either of said books, or to mislead in reference thereto, or if any distiller as aforesaid shall omit or refuse to provide either of said books, or shall cancel, obliterate, or destroy any part of either of such books, or any entry therein, with intent to defraud, or shall permit the same to be done, or such books, or either of them, be not produced when required by any revenue officer, the distillery, distilling apparatus, and the lot or tract of land on which it stands, and all personal property of every kind and description on said premises used in the business there carried on, shall be forfeited to the United States. And any person making such false entry or omitting to make any entry hereinbefore required to be made, with the intent aforesaid, or who shall cause or procure the same to be done, or who shall fraudulently cancel, obliterate, or destroy any part of said books, or any entry therein, or who shall wilfully fail to produce such books or either of them, on conviction, shall be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than two years.

Book to be kept at distillery and open to inspection, and preserved after being filled up.

Penalty for false entries, or omitting to make entries;

for omitting or refusing to provide books or destroying them or any entry therein, with intent to defraud, or not producing books when required.

→ SEC. 20. *And be it further enacted,* That on receipt of the distiller's first return in each month, the assessor shall inquire and determine whether said distiller has accounted in his returns for the preceding month for all the spirits produced by him; and to determine the quantity of spirits thus to be accounted for, the whole quantity of materials used for the production of spirits shall be ascertained; and forty-five gallons of mash or beer brewed or fermented from grain shall represent not less

Assessor to determine each month whether distiller has accounted for all spirits produced by him  
How determined  
See Vol. xvi. p. 42.

See Vol xvi.  
p. 42

If return is deficient, distiller to be assessed for deficiency, and at what rate.

Return not to be for less than eighty per cent of producing capacity of distillery.

Storekeeper of distillery warehouse to have charge of distillery.

his duties.

Daily account, and of what.

Penalty upon distiller and persons employed in distillery for using material, or removing spirits in absence of storekeeper.

Distillers when deemed to have commenced producing distilled spirits, &c.;

desiring to suspend work to give notice.

Assistant assessor to fasten doors of furnaces, &c.

Locks, seals, &c how furnished.

Report to be made to assessor and transmitted to the commissioner

Distiller not to carry on business in that place again until after notice to assistant assessor, who shall re-

than one bushel of grain, and seven gallons of mash or beer brewed or fermented from molasses shall represent not less than one gallon of molasses. In case the return of the distiller shall have been less than the quantity thus ascertained, the distiller or other person liable shall be assessed for such deficiency at the rate of fifty cents for every proof gallon, together with the special tax of four dollars for every cask of forty proof gallons, and the collector shall proceed to collect the same as in cases of other assessments for deficiencies; but in no case shall the quantity of spirits returned by the distiller, together with the quantity so assessed, be for a less quantity of spirits than eighty per centum of the producing capacity of the distillery, as estimated under the provisions of this act.

SEC. 21. *And be it further enacted*, That the storekeeper assigned to any distillery warehouse shall also have charge of the distillery connected therewith; and, in addition to the duties required of him as a storekeeper in charge of a warehouse, shall keep in a book to be provided for that purpose, and in the manner to be prescribed by the commissioner of internal revenue, a daily account of all the meal and vegetable productions or other substances brought into said distillery, or on said premises, to be used for the purpose of producing spirits, from whom purchased, and when delivered at said distillery, the kind and quantity of all fuel used, and from whom purchased, and of all repairs made on said distillery, and by whom and when made, the names and places of residence of all persons employed in or about the distillery, of the materials put into the mash tub or otherwise used for the production of spirits, the time when any fermenting tub is emptied of ripe mash or beer, recording the same by the number painted on said tub, and of all spirits drawn off from the receiving cistern, and the time when the same were drawn off. Any distiller or person employed in any distillery who shall use, cause, or permit to be used any material for the purpose of making mash, wort, or beer, or for the production of spirits, or shall remove any spirits in the absence of the storekeeper or person designated to act as said storekeeper, shall forfeit and pay double the amount of taxes on the spirits so produced, distilled, or removed, and, in addition thereto, be liable to a penalty of one thousand dollars.

SEC. 22. *And be it further enacted*, That every distiller, at the hour of twelve meridian, on the third day after that on which his bond shall have been approved by the assessor, shall be deemed to have commenced and thereafter to be continuously engaged in the production of distilled spirits in his distillery, except in the intervals when he shall have suspended work, as hereinafter authorized or provided. Any distiller desiring to suspend work in his distillery may give notice in writing to the assistant assessor of his division, stating when he will suspend work; and on the day mentioned in said notice said assistant assessor shall, at the expense of the distiller, proceed to fasten securely the door of every furnace of every still or boiler in said distillery, by locks and otherwise, and shall adopt such other means as the commissioner of internal revenue shall prescribe to prevent the lighting of any fire in such furnace or under such stills or boilers. The locks and seals, and other materials required for such purpose, shall be furnished to the assessor of the district by the commissioner of internal revenue, to be duly accounted for by said assessor. Such notice by any distiller, and the action taken by the assistant assessor in pursuance thereof, shall be immediately reported to the assessor of the district, and by him transmitted to the commissioner of internal revenue. No distiller, after having given such notice, shall, after the time stated therein, carry on the business of a distiller on said premises until he shall have given another notice in writing to said assessor, stating the time when he will resume work; and at the time so stated for resuming work the assistant assessor shall attend at the distillery to remove said locks and other fastenings; and thereupon, and not before, work may be re-

care or management of any theatre, opera, circus, museum, or other public exhibition of dramatic or operatic representations, plays, performances, musical entertainments, feats of horsemanship, acrobatic sports, or other shows which are opened to the public for pay, but not including occasional concerts, school exhibitions, lectures, or exhibitions of works of art, shall be subject to and pay a duty of two per centum on the gross amount of all receipts derived by such person, firm, company, or corporation from such representations, plays, performances, exhibitions, shows, or musical entertainments.

Theatres, operas, &c.

SEC. 109. *And be it further enacted*, That any person, firm, company, or corporation owning or possessing, or having the care or management of, any railroad, canal, steamboat, ship, barge, canal-boat, or other vessel, or any ferry, toll-road or bridge, as enumerated and described in section one hundred and two [three] of this act; or carrying on or doing an express business; or engaged in the business of insurance, as hereinbefore described; or owning or having the care and management of any telegraph line, or owning, possessing, leasing, or having the control or management of any circus, theatre, opera, or museum, shall within twenty days after the end of each and every month, make a list or return in duplicate to the assistant assessor of the district, stating the gross amount of their receipts, respectively, for the month next preceding, which return shall be verified by the oath or affirmation of such owner, possessor, manager, agent, or other proper officer, in the manner and form to be prescribed from time to time by the commissioner of internal revenue; and shall also pay to the collector the full amount of duties which have accrued on such receipts for the month aforesaid. And in case of neglect or refusal to make said lists or return for the space of ten days after such return should have been made as aforesaid, the assessor or assistant assessor shall proceed to estimate the amount received and the duties payable thereon, and shall add thereto ten per centum, as hereinbefore provided in other cases of delinquency, to make return for purposes of assessment; and for the purpose of making such assessment, or of ascertaining the correctness of any such return, the books of any such person, firm, company, or corporation shall be subject to the inspection of the assessor or assistant assessor on his demand or request therefor. And in case of neglect or refusal to pay the duties, with the addition aforesaid, when the same have been ascertained, for the space of ten days after the same shall have become payable, the owner, possessor, or person having the management as aforesaid, shall pay, in addition, ten per centum on the amount of such duties and addition; and for any attempt knowingly to evade the payment of such duties, the said owner, possessor, or person having the care or management as aforesaid, shall be liable to pay a penalty of one thousand dollars for every such attempt, to be recovered as provided in this act for the recovery of penalties. And all provisions of this act in relation to liens and collections by distraint, not incompatible herewith, shall apply to this section and the objects therein embraced.

Persons having charge of railroads, &c., to make monthly returns to assessors, and pay duties monthly.

Post, p. 479.

Proceedings in case of neglect or refusal.

BANKS AND BANKING.

Banks and banking.

SEC. 110. *And be it further enacted*, That there shall be levied, collected, and paid a duty of one twenty-fourth of one per centum each month upon the average amount of the deposits of money, subject to payment by check or draft, or represented by certificates of deposit or otherwise, whether payable on demand or at some future day, with any person, bank, association, company or corporation engaged in the business of banking; and a duty of one twenty-fourth of one per centum each month as aforesaid, upon the average amount of the capital of any bank, association, company, or corporation, or person engaged in the business of banking beyond the amount invested in United States bonds; and a duty of

Duty on deposits;

on capital.

one twelfth of one per centum each month upon the average amount of circulation issued by any bank, association, corporation, company, or person, including as circulation all certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the vault of the bank, or redeemed and on deposit for said bank; and an additional duty of one sixth of one per centum, each month, upon the average amount of such circulation, issued as aforesaid, beyond the amount of ninety per centum of the capital of any such bank, association, corporation, company, or person, and upon any amount of such circulation, beyond the average amount of the circulation that had been issued as aforesaid by any such bank, association, corporation, company, or person, for the six months preceding the first day of July, eighteen hundred and sixty-four. And on the first Monday of August next, and of each month thereafter, a true and accurate return of the amount of circulation, of deposit, and of capital as aforesaid, for the previous month, shall be made and rendered in duplicate by each of such banks, associations, corporations, companies, or persons to the assessor of the district in which any such bank, association, corporation, or company may be located, or in which such person may reside, with a declaration annexed thereto, and the oath or affirmation of such person, or of the president or cashier of such bank, association, corporation, or company, in such form and manner as may be prescribed by the commissioner of internal revenue, that the same contains a true and faithful statement of the amount of circulation, deposits, and capital as aforesaid, subject to duty as aforesaid, and shall transmit the duplicate of said return to the commissioner of internal revenue, and within twenty days thereafter shall pay to the said commissioner of internal revenue the duties hereinbefore prescribed upon the said amount of circulation, of deposits, and of capital, as aforesaid, and for any refusal or neglect to make or to render such return and payment as aforesaid, any such bank, association, corporation, company, or person so in default shall be subject to and pay a penalty of two hundred dollars, besides the additional penalty and forfeitures in other cases provided in this act; and the amount of circulation, deposit, and capital, as aforesaid, in default of the proper return, shall be estimated by the assessor or assistant assessor of the district as aforesaid, upon the best information he can obtain; and every such penalty, together with the duties as aforesaid, may be recovered for the use of the United States in any court of competent jurisdiction. And in the case of banks with branches, the duty herein provided for shall be imposed upon the circulation of each branch, severally, and the amount of capital of each branch shall be considered to be the amount allotted to such branch; and so much of an act entitled "An act to provide ways and means for the support of the government," approved March three, eighteen hundred and sixty-three, as imposes any tax on banks, their circulation, capital, or deposits, other than is herein provided, is hereby repealed: *Provided*, That this section shall not apply to associations which are taxed under and by virtue of the act "to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof;" nor to any savings-bank having no capital stock, and whose business is confined to receiving deposits and loaning the same on interest for the benefit of the depositors only, and which do no other business of banking: *And provided, further*, That any bank ceasing to issue notes for circulation, and which shall deposit in the treasury of the United States, in lawful money, the amount of its outstanding circulation, to be redeemed at par, under such regulations as the Secretary of the Treasury may prescribe, shall be exempt from any tax upon such circulation.

Duty on circulation.

Monthly returns.

Monthly payments.

Branch-banks.

1863, ch. 73, § 7.  
Vol. xii. p. 712.

1863, ch. 53.  
Vol. xii. p. 665.

[Clause stricken out, *post*, p. 479.]

What banks exempt.



## CITES BY TOPIC: Substitute For Return (SFR)

[Master File Decoder Program](#): identifies illegal Substitute For Returns in your IRS Individual Master File.


---

[26 U.S.C. §6020: Returns prepared for or executed by the Secretary](#)

---

 [Internal Revenue Manual Cites on Substitute for Returns \(SFRs\) \(180 Kbytes\)](#)

---

 [Legislative History of 26 U.S.C. §6020\(b\)](#): The statute that allegedly authorizes Substitute for Returns. The history of that legislation shows that assessment authority only exists for taxes that have a liability statute, which Subtitle A taxes DO NOT.

---

[Tax Deposition Questions, Section 13: 26 U.S.C. §6020\(b\) Substitute for Return](#): Copious evidence of IRS' lack of authority to assess you with a Subtitle A income tax liability.

---

["assessment" defined](#): Authority of IRS to make an assessment on you for Subtitle A income taxes. In most cases, they have NO authority!

---

 [Government Accounting Offices \(GAO\) Report # GAO/GGD-00-60R IRS' Substitute for Return \(SFR\) Program](#)-very revealing!

---

 [IRS Letter on Substitute for Returns](#)- Hot!

---

[Internal Revenue Manual section 5.1.11.6.10: IRC 6020\(b\) Authority \(05-27-1999\)](#):

*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 943, Employer's Annual Tax Return for Agricultural Employees*

*D. Form 720, Quarterly Federal Excise Tax Return*

*E. Form 2290, Heavy Vehicle Use Tax Return*

*F. Form CT-1, Employer's Annual Railroad Retirement Tax Return*

*G. Form 1065, U.S. Return of Partnership Income.*

2. Pursuant to IRM 1.2.2.97, Delegations of Authority, Order Number 182 (rev. 7), dated 5/5/1997, revenue officers GS-09 and above, and Collection Support Function managers GS-09 and above, have the authority to prepare and execute returns under IRC 6020(b).

**NOTE:** Do you see any of the following forms in the list above: 1040, 1040EZ, 1040A, 1040NR?

**[Internal Revenue Manual section 5.1.11.6.10.2: Preparation and Approval of 6020\(b\) Returns:](#)**

**5.1.11.6.10.2 (05-27-1999)**

**Preparation and Approval of 6020(b) Returns**

1. ICS now provides revenue officers the ability to prepare returns and letters on their ICS laptop. Compliance Territory Managers are encouraged to fully utilize the ICS 6020(b) program. However at local management option, and with the concurrence of the Compliance Services, Case Processing, Territory Manager, the Field Support Function may perform all phases of the IRC 6020(b) clerical and review process. This includes signing of returns and submitting them for routine processing.
2. Use Form 5604, Section 6020(b) Action Sheet, to prepare returns under the authority of IRC 6020(b). The revenue officer should fully document their ICS history with a complete explanation of the basis for the assessment(s). The explanation should include information such as wages paid, income tax withheld, FTD's or payments, and any calculations or other information they used to establish the correct liability for each tax period. This information is important because it could be utilized later should the taxpayer request an appeal, file suit, or file Form 911 with the Taxpayer Advocate office.
3. Attach a copy of the ICS history documentation that explains the basis for the assessment(s) to Form 5604. This will eliminate the need for the revenue officer to complete the "basis for assessment" section on Form 5604.
4. 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.
5. 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 Del Ret 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. If a "final" return is prepared under IRC 6020(b), be sure to indicate it as "final" under " date last wages paid" .
- E. The inflation factor is not applicable if the Del Ret module is BEFORE the LPS module data.

### **Example:**

Do not calculate the inflation factor if the LPS is 200206 and the delinquent period is 199912.

- 6. Use the following procedure for preparing Partnership returns:

### **Note:**

Do not prepare a Partnership return under the provisions of IRC 6020(b) if Revenue Procedure 84–35 applies to a small partnership (10 or less partners) that meets "reasonable cause" provisions for failure to file and you have verified that each partner has individually and fully reported his share of partnership income (see section 11.7.1 for Del Ret closing actions).

- A. For Form 1065, complete the name, address, and EIN portion of the form along with the number of schedule K-1s that will be attached. If you know the gross receipts, then also complete lines 1a, 1c, and 8. These lines should all contain the same amount. This is all that is completed on Form 1065.
- B. Schedule K-1 should also be completed and attached to Form 1065. A Schedule K-1 is completed for each known partner. Partners can be individuals, other partnerships, trusts, S-Corporations, or Corporations. On all cases, complete the Partners identifying number, name, address, and zip code, as well as the Partnership's identifying number, name, address, and zip code.
- C. If the revenue officer does not know what the Partnership's income was for the tax year, then do not complete any thing else on the Schedule K-1.
- D. If the revenue officer knows what the Partnership's income was for the tax year (line 8 on Form 1065), then complete line 1 on Schedule K-1. If the revenue officer knows what each partner's distribution of income percentage is, then prepare each K-1 appropriately. If the distribution of income percentage is unknown, then divide the distribution of income equally among the partners, and reflect that amount on the K-1. Example: \$100,000 total distributive income (Line 8 from the Form 1065) and four partners. Then \$25,000 will be reported on each partner's K-1.
- E. Partnerships don't pay tax, but instead pass through income and deductions to their partners, who then report it on their income tax returns. Therefore, it is important to know that the main objective of ensuring the Form 1065 and Schedule K-1 is filed, either voluntarily by the Partnership or under IRC 6020(b) authority, is to ensure that the partners have accurately reported their share of the Partnership income. It is important for the revenue officer to appropriately follow up on each partner's filing requirements for the delinquent tax year. If appropriate, revenue officers should consider a referral to Exam, Form 3449, if partners failed to report Partnership income. If potential fraud exists, then the revenue officer

should follow 6.2 of this section, Referrals to Criminal Investigation.

7. Prepare a return for the current tax period if that period becomes delinquent during the IRC 6020(b) process.
8. Prepare the tax returns in sets. A completed set includes an original and one copy of each return for each tax period.
9. Mail Letter 1085 or 1616 along with the original returns and all applicable enclosures, to the taxpayer. ICS macros should contain Letters 1085, and L1616 (used for Partnership returns). Retain a copy of the letter and tax returns in the case file.
10. Should a taxpayer file bankruptcy after a letter 1085 or 1616 has been mailed, immediately inform Insolvency and provide them with copies of the proposed returns. Unless instructed otherwise, continue 6020(b) processing.

#### [Internal Revenue Manual section 5.1.11.6.5: Automated Substitute for Returns \(05-27-2003\):](#)

##### 5.1.11.6.5 (05-27-2003)

##### *Automated Substitute for Returns (ASFR)*

1. *The Automated Substitute for Return (ASFR) system prepares Substitute for Returns and assessments for individuals who fail to file after notified. ASFR uses Information Return Master File (IRMF) information to calculate taxable income.*
2. *ASFR is authorized to prepare an individual's income tax return on their behalf under Section 6020(b) of the IRC. The automated process is located in the campuses.*
3. *Referrals to ASFR can be made from Automated Collection System (ACS) when the Del Ret is un-resolved after the final Del Ret notice. Revenue officers may also refer Del Rets to ASFR processing if it meets specific criteria.*
4. *Del Rets may be referred to ASFR for processing only if there are no unresolved (Status 22,24,26) taxpayer delinquent accounts (Bal Due) associated with the taxpayer and the case meets certain Selection Code criteria.*
5. *IMF Del Rets referrals to ASFR must meet all of the following criteria:*
  - A. *The Del Ret Selection Code is 12, 13, 14, 15, 28, 29, 71, 72, 73, 74, 75, 76, 77, or case is refund hold account - any selection code is acceptable.*
  - B. *the tax year is no older than six years prior to the current year*
  - C. *there is no current or pending TC 530 on the account*
  - D. *there are no unresolved Bal Due modules*
  - E. *there are no open 420s or 520s on the account*
6. *Use "**Option K, Transfer to ASFR (IMF only)**" to close the ICS Del Ret module and systemically refer the case to ASFR processing. If Bal Dues are resolved by continuous levy (status 60 with the agreement locator number of XX08), do not use Option K to assign the Del Ret to ASFR. Instead, prepare Form 4844 to request that the Campus open a control base for the delinquent years using CC ACTON, category code "SFR", status code "B".*
7. *Infrequently, the revenue officer may receive a Bal Due after the related Del Ret is sent for ASFR processing. The case will fail ASFR and ASFR will re-T-sign the case back to the field. The Del Ret status will be identified as ASFR by TSIGN 8000 and the TC 150 \$0 posted to the module.*
8. *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.*
9. *If a return is secured for a period referred to ASFR, attach Form 3210, transmittal, to the face of the return(s). Annotate Form 3210 with the following: "Route SB return(s) to the Brookhaven NY campus, Attn.: ASFR Unit". Submit through normal area channels. Route W & I cases to the appropriate ASFR site as determined by the DLN of the TC 150 \$0. Retain*

*a copy of the return in the case file.*

---

**Internal Revenue Manual section 25.6.5.4.8.19: Substitute For Return (SFR):**

1. When a taxpayer fails to file a return as prescribed by law, they are sent a series of notices advising them of the delinquency condition. If the taxpayer does not respond to the notices, a final notice is sent informing them that the Service is authorized to prepare a substitute return unless they file a correct signed return within the period allowed by the notice. The ASER is based on the receipt of the taxpayers return and not the SFR assessment

---

**Internal Revenue Manual section 25.6.5.4.8.19.1: SFR and ASFR:**

1. The SFR program and its automated version (ASFR) were developed to deal with taxpayers who have not filed personal income tax returns voluntarily and for whom income information is available to substantiate a significant income tax liability without costly field investigation. The purpose of the program is to assess the correct tax liability by either:
    - A. Securing a voluntary income tax return from the taxpayer.
    - B. Computing tax, interest, and penalties based upon the IRP documents submitted by payers or other internally available information.
  2. A TC 290 accompanied by a DLN with a blocking series of 540-549 or 640-649, indicates an SFR assessment. Also, a TC 150 which shows tax class 2, document code 10 and blocking series 00-299 in the DLN is an SFR assessment.
- 

**26 CFR 301.6020-1(b):** Returns prepared or executed by district directors or other internal revenue officers.

*TITLE 26--INTERNAL REVENUE  
CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY-- (Continued)  
PART 301--PROCEDURE AND ADMINISTRATION*

*(b) Execution of returns -*

*(1) In general. If any person required by any internal revenue law or by the regulations prescribed thereunder to make a return (other than a declaration of estimated tax required under section 6015 or 6016) fails to make such return at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the **district director or other authorized internal revenue officer or employee shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.***

*(2) Status of returns. **Any return made in accordance with subparagraph (1) of this paragraph and subscribed by the district director or other authorized internal revenue officer or employee shall be prima facie good and sufficient for all legal purposes.***

*(3) Deficiency procedures. For deficiency procedures in the case of income, estate, and gift taxes, see sections 6211 to 6216, inclusive, and Sec. 01.6211-1 to 301.6215-1, inclusive.*

---

**[Internal Revenue Manual Section 4.4.9: Delinquent Returns Processing](#)**

---

**[26 CFR 301.7701-9](#): Secretary or his delegate***TITLE 26--INTERNAL REVENUE**CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY-- (Continued) Discovery of**Liability and Enforcement of Title**Sec. 301.7701-9 Secretary or his delegate.*

*(a) The term 'Secretary or his delegate' means the Secretary of the Treasury, or any officer, employee, or agency of the Treasury Department duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform the function mentioned or described in the context, and the term 'or his delegate' when used in connection with any other official of the United States shall be similarly construed.*

*(b) In any case in which a function is vested by the Internal Revenue Code of 1954 or any other statute in the Secretary or his delegate, and Treasury regulations or Treasury decisions approved by the Secretary or his delegate provide that such function may be performed by the Commissioner, assistant commissioner, regional commissioner, assistant regional commissioner, district director, director of a regional service center, or by a designated officer or employee in the office of any such officer, such provision in the regulations or Treasury decision shall constitute a delegation by the Secretary of the authority to perform such function to the designated officer or employee. If such authority is delegated to any officer or employee performing services under the supervision and control of the Commissioner, such provision in the regulations or Treasury decision shall constitute a delegation by the Secretary to the Commissioner of the authority to perform such function and a redelegation thereof by the Commissioner to the designated officer or employee.*

*(c) An officer or employee, including the Commissioner, authorized by regulations or Treasury decision to perform a function shall have authority to redelegate the performance of such function to any officer or employee performing services under his supervision and control, unless such power to so redelegate is prohibited or restricted by proper order or directive. The Commissioner may also redelegate authority to perform such function to other officers or employees under his supervision and control and, to the extent he deems proper, may authorize further redelegation of such authority.*

*(d) The Commissioner may prescribe such limitations as he deems proper on the extent to which any officer or employee under his supervision and control shall perform any such function, but, in the case of an officer or employee designated in regulations or Treasury decision as authorized to perform such function, such limitations shall not render invalid any performance by such officer or employee of the function which, except for such limitations, such officer or employee is authorized to perform by such regulations or Treasury decision in effect at the time the function is performed.*

## THE GREAT IRS HOAX: WHY WE DON'T OWE INCOME TAX



[Go to Home Page](#)

[Back](#) [GO TO THE TAX AREA ON THE FAMILY GUARDIAN WEBSITE](#)

[Back](#) [GO TO SOVEREIGNTY FORMS AND INSTRUCTIONS AREA](#)

*WATCH OUR FREE MOVIE ONLINE! [CLICK HERE!](#)*

### **["Who is John Galt?"](#)**

Welcome to our free download page. The *Great IRS Hoax: Why We Don't Owe Income Tax* is an **amazing** documentary that exposes the lie that the IRS and our tyrannical government "servants" have foisted upon us all these years:

*"That we are liable for IRC Subtitle A income tax as American Nationals living in the 50 states of the Union with earnings from within the 50 states of the Union that does not originate from the government."*

Through a detailed and very thorough analysis of both enacted law and IRS behavior unrefuted by any of the 100,000 people who have downloaded the book, including present and former (after they learn the truth!) employees of the Treasury and IRS, it reveals why [Subtitle A of the Internal Revenue Code](#) is private law/[special law](#) that one only becomes subject to by engaging in an excise taxable activity such as a "[trade or business](#)", which is a type of federal employment and agency that puts people under federal jurisdiction who would not otherwise be subject. It proves using the government's own laws and publications and court rulings that for everyone in states of the Union who has not availed themselves of this excise taxable privilege of federal employment/agency, [Subtitle A of the I.R.C.](#) is not "[law](#)" and does not require the average American domiciled in states of the Union to pay a "[tax](#)" to the federal government. The book also explains how [Social Security](#) is the de facto mechanism by which "[taxpayers](#)" are recruited, and that the program is illegally administered in order to illegally expand federal jurisdiction into the states using private law. This book does not challenge or criticize the constitutionality of any part of the [Internal Revenue Code](#) nor any [state revenue code](#), but simply proves that these codes are being misrepresented and illegally enforced by the IRS and state revenue agencies against persons who are not their proper subject. This book might just as well be called *The Emperor Who Had No Clothes* because of the massive and blatant [fraud](#) that it exposes on the part of our public servants.



**"But Dad, the emperor is naked!"**

Five years of continuous research by the author(s) and their readers went into writing this very significant and incredible book. This book is *very different* from most other tax books because:

1. The book is written in part by our tens of thousands of readers and growing...***THAT'S YOU!*** We invite and frequently receive good new ideas and materials from legal researchers and ordinary people like YOU, and when we get them, we add them to the book after we research and verify them for ourselves to ensure their accuracy. Please keep your excellent ideas coming, because this is a team effort, guys!
2. *We use words right out of the government's own mouth, in most cases, as evidence of most assertions we make.* If the government calls the research and processes found in this book [frivolous](#), they would have to call the Supreme Court, the Statutes at Large, the Treasury Regulations (26 C.F.R.) and the U.S. Code frivolous, because everything derives from these sources.
3. Ever since the first version was published back in Nov. 2000, we have invited, and even *begged*, the government continually and repeatedly, both on our website and in our book and in correspondence with the IRS and the Senate Finance Committee ([click here to read our letter to Senator Grassley](#) under "Political Activism"), and in the [We The People Truth in Taxation Hearings](#) to provide a signed affidavit on government stationery along with supporting evidence that disproves *anything* in this book. We have even promised to post the government's rebuttal on our web site *unedited* because we are more interested in the truth than in our own agenda. Yet, some ***criminal public servants*** have consistently and steadfastly refused their legal duty under the [First Amendment Petition Clause](#) to answer our concerns and questions, thereby [hiding from the truth](#) and obstructing justice in violation of [18 U.S.C. Chapter 73](#). By their failure to answer they have defaulted and admitted to the complete truthfulness of this book pursuant to [Federal Rule of Civil Procedure 8\(d\)](#). If the "court of public opinion" really were a court, and if the public really were *fully educated* about the law as it is the purpose of this book to bring about, the IRS and our federal government would have been convicted long ago of the following crimes by their own treasonous words and actions thoroughly documented in this book ([click here for more details](#)):
  - o [Establishment of the U.S. government as a "religion"](#) in violation of [First Amendment](#) (see section 4.3.2 of this book and our article entitled: [Our Government has Become Idolatry and a False Religion](#))
  - o Obstruction of justice under [18 U.S.C. Chapter 73](#)
  - o Conspiracy against rights under [18 U.S.C. §241](#)
  - o Extortion under [18 U.S.C. §872](#).
  - o Wrongful actions of Revenue Officers under [26 U.S.C. §7214](#)
  - o Engaging in monetary transactions derived from unlawful activity under [18 U.S.C. §1957](#)
  - o Mailing threatening communications under [18 U.S.C. §876](#)
  - o False writings and fraud under [18 U.S.C. §1018](#)
  - o Taking of property without due process of law under [26 CFR §601.106\(f\)\(1\)](#)
  - o Fraud under [18 U.S.C. §1341](#)
  - o Continuing financial crimes enterprise (RICO) under [18 U.S.C. §225](#)
  - o Conflict of interest of federal judges under [28 U.S.C. §455](#)
  - o Treason under [Article III](#), Section 3, Clause 1 of the U.S. Constitution
  - o Breach of [fiduciary duty](#) in violation of 26 CFR 2635.101, Executive order order 12731, and Public Law 96-303
  - o Peonage and obstructing enforcement under [Thirteenth Amendment](#), [18 U.S.C. §1581](#) and [42 U.S.C. §1994](#)
  - o Bank robbery under [18 U.S.C. §2113](#) ( in the case of fraudulent notice of levies)
4. We keep the level of the writing to where a person of average intelligence and no legal background can understand and substantiate the claims we are making for himself.
5. We show you how and where to go to substantiate every claim we make and we encourage you to check the facts for yourself so you will believe what we say is absolutely accurate and truthful.
6. All inferences made are backed up by extensive legal research and justification, and therefore tend to be more convincing and authoritative and understandable than most other tax books. We assume up front that you will



question *absolutely every assertion* that we make because we encourage you to do exactly that, so we try to defend every assertion in advance by answering the most important questions that we think will come up. We try to reach *no* unsubstantiated conclusions whatsoever and we avoid the use of personal opinions or anecdotes or misleading IRS publications. Instead, we always try to back up our conclusions with evidence or an authoritative government source such as a court cite or a regulation or statute or quotes from the authors of the law themselves, and we verify every cite so we don't destroy our credibility with irrelevant or erroneous data or conclusions. Frequent corrections and feedback from our 100,000 readers (and growing) also helps considerably to ensure continual improvements in the accuracy and authority and credibility of the document.

7. Absolutely everything in the book is consistent with itself and we try very hard not to put the reader into a state of "cognitive dissonance", which is a favorite obfuscation technique of our public dis-servants and legal profession. No part of this book conflicts with any other part and there is complete "cognitive unity". Every point made supports and enhances every other point. If the book is truthful, then this must be the case. A true statement cannot conflict with itself or it simply can't be truthful.
8. With every point we make, we try to answer the question of "why" things are the way they are so you can understand our reasoning. We don't flood you with a bunch of rote facts to memorize without explaining why they are important and how they fit in the big picture so you can decide for yourself whether you think it is worth your time to learn them. That way you can learn to think strategically, like most lawyers do.
9. We practice exactly what we preach and what we put in the book is based on lessons learned actually doing what is described. That way you will believe what we say and see by our example that we are very sincere about everything that we are telling you. Since we aren't trying to sell you anything, then there *can't* be any other agenda than to help you learn the truth and achieve personal freedom.
10. This is also the ONLY book that explains and compares all the major theories and tax honesty groups and sifts the wheat from the chaff to extract the "best of breed" approach from each advocate which has the best foundation in law and can most easily be defended in court.
11. The entire book, we believe, completely, truthfully, and convincingly answers the following very important question:

*"How can we interpret and explain the [Internal Revenue Code](#) in a way that makes it completely lawful and Constitutional, both from the standpoint of current law and from a historical perspective?"*

If you don't have a lot of time to read EVERYTHING, we recommend reading at least the following chapters in the order listed: 1, 3, 4, 5 (these are mandatory).

**[TESTIMONIALS:](#)** [Click here to hear what people are saying about this book!](#)

If you are from the government and think that this book might be encouraging some kind of illegal activity, [click here](#) to find a rebuttal of such an accusation and detailed research on why we are *not* subject to state or federal jurisdiction for anything related to this website or our ministry.

***Please don't call or email us to ask to purchase a hardcopy of the book because we aren't in the publishing business and we DON'T sell ANYTHING, including this book. We emphasize that this is a non-profit CHRISTIAN MINISTRY and NOT a business of any kind. Absolutely no commercial or business activity may be linked to this website or our materials. We don't ever want any of our writings to be classified as commercial speech and thereby subjected to government censorship.***

***You can easily and inexpensively make your own copy of the book at any Kinkos or printing store if you follow the instructions on its cover sheet or at the beginning of the [Table of Contents](#).***

***Our sincere thanks go to our volunteers for offering server space for our Fast Mirror Sites!***







**Why are you here?---WE KNOW! Click here to find out!**






<b><i>FAST MIRROR SITE #1 (PREFERRED)</i></b>	<b><i>SLOW MAIN SERVER (LAST RESORT)</i></b>
<p><b><u>DOWNLOAD</u></b>  <b><u>THE GREAT IRS HOAX:</u></b>  <b><u>WHY WE DON'T OWE INCOME TAX</u></b>                  (last updated 3JAN07,                  ver. 4.29, 14.9Mbytes)</p>	<p><b><u>DOWNLOAD</u></b>  <b><u>THE GREAT IRS HOAX:</u></b>  <b><u>WHY WE DON'T OWE INCOME TAX</u></b>                  (last updated 3JAN07,                  ver. 4.29, 14.9Mbytes)</p>
<p>If you are on a slow dial-up line and can't download our large book, or if you would like this book and other key materials off the Family Guardian Website sent to you on a low-cost CD-ROM by a non-profit volunteer, then please <a href="#">click here</a>.</p>	

- [Click here if you are having trouble downloading or viewing or using the above document](#)
- [Click here for a detailed history of changes since the first release of this document](#)

***NOTE:*** You will need to download and install the free [Adobe Acrobat Reader version 5.0 or higher](#) from the Adobe website at <http://www.adobe.com> in order to view the document. If you don't update to the very latest Acrobat reader, then you may get errors opening or reading the document. We recommend that you also click on the "Show/Hide Navigation Pane" button in the left portion of your screen in order to simplify navigating around in this rather large (2,000+ page) document. Also, if you are having trouble downloading from this page, it may be because we posted a new version of the document and your browser cached the old version of this page so the links don't work. You might want to try hitting the "Refresh Button" in your web browser in order to reload the page so you get the latest version in order to correct this problem.

You can also download selected sections from the table below:

<i>Chapter #</i>	<i>Title</i>	<i>Pages</i>	<i>Size (kbytes)</i>	<i>FAST Mirror Site #1</i>	<i>SLOW Main server</i>
	<b><i>WHOLE DOCUMENT</i></b> <b><i>(last revision 3JAN07, version 4.29!)</i></b>	1,974	19,876		
	Preface and Table of Contents	129	966		
<b><i>I</i></b>	Introduction	115	1,275		

2	U.S. Government Background	128	1,432		
3	Legal Authority for Income Taxes in the United States	173	1,833		
4	Know Your Citizenship Status and Rights!	376	4,424		
5	The Evidence: Why We Aren't Liable to File Returns or Pay Income Tax	539	5,467		
6	History of Federal Government Income Tax Fraud, Racketeering, and Extortion in the U.S.A.	179	1,864		
7	Case Studies	45	420		
8	Resources for Tax Freedom Fighters	9	97		
9	Definitions	14	220		

The *Great IRS Hoax* book draws on works from several prominent sources and authors, such as:

1. The [U.S. Constitution](#).
2. The [Family Constitution](#)
3. Amendments to the U.S. Constitution.
4. The Declaration of Independence.
5. [The United States Code \(U.S.C.\)](#), Title 26 (Internal Revenue Code), both the current version and amended past versions.
6. [U.S. Supreme Court Cases](#).
7. U.S. Tax Court findings.
8. The [Code of Federal Regulations \(CFR\), Title 26](#), both the current version and amended past versions.
9. IRS Forms and Publications (directly from the IRS Website at <http://www.irs.gov>).
10. [U.S. Treasury Department Decisions](#).
11. Federal District Court cases.
12. Federal Appellate (circuit) court cases.
13. Several websites.
14. A book entitled  *Losing Your Illusions*  by Gordon Phillips of Private Arena (<http://privatearena.com/>).

15. A book entitled *IRS Humbug*, by Frank Kowalik.
  16. A book entitled *Federal Mafia*, by Irwin Schiff (<http://paynoincometax.com>).
  17. A book entitled *Constitutional Income*, by Phil Hart (<http://constitutionalincome.com/>).
  18. Case studies of IRS enforcement tactics (<http://www.neo-tech.com/irs-class-action/>).
  19. Case studies of various tax protester groups.
  20. The IRS' own publications about [Tax Protesters](#).
  21. A book entitled *Why No One is Required to File Tax Returns* by William Conklin (<http://www.anti-irs.com>)
  22. [Writings of Thomas Jefferson, the author of the Declaration of Independence](#).
  23. [Department of Justice, Tax Division, Criminal Tax Manual](#)
  24. Several other books mentioned on our [Recommended Reading](#) page.
- 

Below is a complete outline of the content of this very extensive work:

## [PREFACE](#)

*Testimonials*

*Preface*

*Conventions Used Consistently Throughout This Book*

*Table of Contents*

*Table of Authorities*

*Cases*

*Statutes*

*Regulations*

*Other Authorities*

*Index*

*Revision History*

## [1. INTRODUCTION](#)

**1.1 Help! Where can I get help with my tax problem?**

**1.2 Summary of the Purpose of this document**

**1.3 Who Is This Document Intended To Help?**

**1.4 Why Should I Believe This Book or Your Website?**

1.4.1 Mission statement

1.4.2 Motivation and Inspiration

1.4.3 Ministry

1.4.4 Schooling

1.4.5 Criticism

1.4.6 Pricing

1.3.7 Frequently Asked Questions About Us

1.4.7.1 Question 1: Do you file 1040 forms?

1.4.7.2 Question 2: Do you have any court cites favorable to your position?

1.4.7.3 Question 3: Isn't it a contradiction for you to be working for the government on the one hand and criticizing the government on the other hand.

1.4.7.4 Question 4: Isn't it a contradiction to be paid by the very tax dollars from

the government that you tell people not to pay?

1.4.7.5 Question 5: Do you have to quote the Bible so much?

1.4.7.6 Question 6: Aren't you endangering yourself by criticizing government?

1.4.7.7 Question 7: How come I can't select or copy text from the electronic version of this document?

1.4.7.8 Question 8: I'm afraid to act on the contents of this book. What should I do?

## **1.5 Who Is Really Liable for the Income Tax?**

## **1.6 Amazing Facts About the Income Tax**

## **1.7 So if citizens don't need to pay income tax, how could so many people be fooled for so long?**

## **1.8 Our Own Ignorance, Laziness, Arrogance, Disorganization, and Apathy: Public Enemy #1**

## **1.9 Political "Tax" Prisoners**

## **1.10 What Attitude are Christians Expected to Have About This Document?**

1.10.1 Jesus Christ, Son of God, was a tax protester!

1.10.2 The Fifth Apostle Jesus Called and the first "Sinner" Called to Repentance Were Tax Collectors

1.10.3 The FIRST to Be Judged By God Will Be Those Who Took the Mark of the Beast: The Socialist (Social) Security Number

1.10.4 Our obligations as Christians

1.10.5 Civil Disobedience to Corrupt Governments is a Biblical Mandate

1.10.6 Why you can't trust Lawyers and Most Politicians

1.10.7 How can I wake up fellow Christians to the truths in this book?

## **1.11 Common Objections to the Recommendations In This Document**

1.11.1 Why can't you just pay your taxes like everyone else?

1.11.2 What do you mean my question is irrelevant?

1.11.3 How Come my Accountant or Tax Attorney Doesn't Know This?

1.11.4 Why Doesn't the Media Blow the Whistle on This?

1.11.5 Why Won't the IRS and the US Congress Tell Us The Truth?

1.11.6 But how will government function if we don't pay?

1.11.7 What kind of benefits could the government provide without taxes?

1.11.8 I Believe You But I'm Too Afraid to Confront the IRS

1.11.9 The Views Expressed in This Book are Overly Dogmatic or Extreme

## **1.12 Analysis of financial impact of ending federal income taxes**

## **2. U.S. GOVERNMENT BACKGROUND**

### **2.1 Code of Ethics for Government Service**

### **2.2 The Limited Powers and Sovereignty of the United States Government**

### **2.3 Thomas Jefferson on Property Rights and the Foundations of Government**

### **2.4 The Freedom Test**

2.4.1 Are You Free or Do You Just Think You Are?

2.4.2 Key to Answers

2.4.3 Do You Still Think You Are Free?

### **2.5 14 Signposts to Slavery**

### **2.6 The Mind-Boggling Burden to Society of Slavery to the Income Tax**

### **2.7 America: Home of the Slave and Hazard to the Brave**

2.7.1 Karl Marx's Communist Manifesto: Alive and Well In America

- 2.7.2 Public (Government) Schooling
- 2.7.3 The Socialist Plan to Make America Communist
- 2.7.4 IRS Secret Police/KGB in Action!

## **2.8 Sources of Government Tyranny and Oppression**

- 2.8.1 Deception: The religion of Satan and our government
- 2.8.2 Presumption
- 2.8.3 Illegal Acts and Legal Obfuscation
- 2.8.4 Propaganda, and Political Warfare
- 2.8.5 Compelled Income Taxes on Labor (slavery!)
- 2.8.6 The Socialist (Social) Security Number: Mark of the Beast
  - 2.8.6.1 Coercion: The Enumeration At Birth Program
  - 2.8.6.2 Coercion: Denying Benefits for Those who Refuse to Provide Socialist Security Numbers
- 2.8.7 National ID Cards
- 2.8.8 Paper Money
  - 2.8.8.1 What is Money?
  - 2.8.8.2 The Founders Rejected Paper Currency
  - 2.8.8.3 War of Independence Fought Over Paper Money
  - 2.8.8.4 President Thomas Jefferson: Foe of Paper Money
  - 2.8.8.5 Wealth confiscation through inflation
  - 2.8.8.6 The Most Dangerous Man in the Mid South
  - 2.8.8.7 What Type of "Money" Do You Pay Your Taxes With To the IRS?
- 2.8.9 The Federal Reserve
  - 2.8.9.1 The Federal Reserve System Explained
  - 2.8.9.2 Lewis v. United States Ruling
  - 2.8.9.3 Federal Reserve Never Audited
- 2.8.10 Debt
- 2.8.11 Surrendering Freedoms in the Name of Government-Induced Crises
- 2.8.12 Judicial Tyranny
  - 2.8.12.1 Conflict of Interest and Bias of Federal Judges
  - 2.8.12.2 Sovereign Immunity
  - 2.8.12.3 Cases Tried Without Jury
  - 2.8.12.4 Attorney Licensing
  - 2.8.12.5 Protective Orders
  - 2.8.12.6 "Frivolous" Penalties
  - 2.8.12.7 Non-publication of Court Rulings
    - 2.8.12.7.1 Background
    - 2.8.12.7.2 Publication Procedures Have Been Changed Unilaterally
    - 2.8.12.7.3 Publication is Essential to a Legal System Based on Precedent
    - 2.8.12.7.4 Citizens in a Democracy are Entitled to Consistent Treatment From the Courts
    - 2.8.12.7.5 Operational Realities of Non-publication
    - 2.8.12.7.6 Impact of Non-publication Inside the Courts
    - 2.8.12.7.7 Openness

- 2.8.12.7.8 Constitutional Considerations
- 2.8.12.7.9 Opinions Are Necessary, Even in "Insignificant Matters"
- 2.8.12.7.10 Impact on the Legal System in Society
- 2.8.12.7.11 Questions to Ponder

## **2.9 The Social Security Fraud**

- 2.9.1 Social Security is NOT a Contract!
- 2.9.2 Social Security is Voluntary Not Mandatory
- 2.9.3 A Legal Con Game (Forbes Magazine, March 27, 1995)
- 2.9.4 The Legal Ponzi Scheme (Forbes Magazine, October 9, 1995)
- 2.9.5 The Social Security Mess: A Way Out, (Reader's Digest, December 1995)

## **2.10 They Told The Truth!: Amazing Quotes About the U.S. Government**

- 2.10.1 ...About The Internal Revenue Service
- 2.10.2 ...About Social Security
- 2.10.3 ...About The Law
- 2.10.4 ...About Money, Banking & The Federal Reserve
- 2.10.5 ...About the New World Order
- 2.10.6 ...About the "Watchdog Media"
- 2.10.7 ...About Republic v. Democracy
- 2.10.8 ...About Citizens, Politicians and Government
- 2.10.9 ...About Liberty, Slavery, Truth, Rights & Courage

## **2.11 Bill of No Rights|**

## **2.12 Am I A Bad American?-Absolutely Not!**

## **2.13 How to Teach Your Child About Politics**

## **2.14 If Noah Were Alive Today**

## **2.15 Prayer at the Opening of the Kansas Senate**

## **2.16 The Ghost of Valley Forge**

## **2.17 Last Will and Testament of Jesse Cornish**

## **2.18 America?**

## **2.19 Grateful Slave**

## **2.20 Economics 101**

# **3. LEGAL AUTHORITY FOR INCOME TAXES IN THE UNITED STATES**

## **3.1 Quotes from Thomas Jefferson on the Foundations of Law and Government**

## **3.2 Biblical Law: The Foundation of ALL Law**

## **3.3 The Purpose of Law**

## **3.4 Natural Law**

## **3.5 The Law of Tyrants**

## **3.6 Basics of Federal Laws**

- 3.6.1 Precedence of Law
- 3.6.2 Legal Language: Rules of Statutory Construction
- 3.6.3 How Laws Are Made
- 3.6.4 Positive Law
- 3.6.5 Discerning Legislative Intent and Resolving conflicts between the U.S. Code and the Statutes At Large (SAL)

## **3.7 Declaration of Independence**

- 3.7.1 Dysfunctional Government
- 3.7.2 God Given Rights
- 3.7.3 Taxation Without Consent

### **3.8 U.S. Constitution**

- 3.8.1 Constitutional Government
- 3.8.2 Enumerated Powers, Four Taxes & Two Rules
- 3.8.3 Constitutional Taxation Protection
- 3.8.4 Colonial Taxation Light
- 3.8.5 Taxation Recapitulation
- 3.8.6 Direct vs. Indirect Taxes
- 3.8.7 Article I, Section 8, Clauses 1 and 3: The Power to Tax and Regulate Commerce
- 3.8.8 Bill of Rights

- 3.8.8.1 1st Amendment: The Right to Petitioner the Government for Redress of Grievances
- 3.8.8.2 4th Amendment: Prohibition Against Unreasonable Search and Seizure Without Probable Cause
- 3.8.8.3 5th Amendment: Compelling Citizens to Witness Against Themselves

- 3.8.8.3.1 Introduction
- 3.8.8.3.2 More IRS Double-Speak/Illogic
- 3.8.8.3.3 The Privacy Act Notice
- 3.8.8.3.4 IRS Deception in the Privacy Act Notice
- 3.8.8.3.5 IRS Fear Tactics to Keep You "Volunteering"
- 3.8.8.3.6 Jesus' Approach to the 5th Amendment Issue
- 3.8.8.3.7 Conclusion

- 3.8.8.4 6th Amendment: Rights of Accused in Criminal Prosecutions
- 3.8.8.5 10th Amendment: Reservation of State's Rights

- 3.8.9 13th Amendment: Abolition of Slavery
- 3.8.10 14th Amendment: Requirement for Due Process to Deprive Of Property
- 3.8.11 16th Amendment: Income Taxes

- 3.8.11.1 Legislative Intent of the 16th Amendment According to President William H. Taft
- 3.8.11.2 Understanding the 16th Amendment
- 3.8.11.3 History of the 16th Amendment
- 3.8.11.4 Fraud Shown in Passage of 16th Amendment
- 3.8.11.5 What Tax Is Parent To The Income Tax?
- 3.8.11.6 Income Tax DNA - Government Lying, But Not Perjury?
- 3.8.11.7 More Government Lying, Still Not Perjury?
- 3.8.11.8 There Can Be No Unapportioned Direct Tax
- 3.8.11.9 The Four Constitutional Taxes
- 3.8.11.10 Oh, What Tangled Webs We Weave...
- 3.8.11.11 Enabling Clauses

### **3.9 U.S. Code (U.S.C.) Title 26: Internal Revenue Code (IRC)**

- 3.9.1 Word Games: Deception Using Definitions
  - 3.9.1.1 "citizen" (undefined)
  - 3.9.1.2 "Compliance" (undefined)



- 3.9.1.3 "Domestic corporation" (in 26 U.S.C. §7701(a)(4))
- 3.9.1.4 "Employee" (in 26 U.S.C. §7701)
- 3.9.1.5 "Foreign corporation" (in 26 U.S.C. §7701(a)(5))
- 3.9.1.6 "Employer" (in 26 U.S.C. §3401)
- 3.9.1.7 "Gross Income"(26 U.S.C. Sec. 71-86)
- 3.9.1.8 "Includes" and "Including" (26 U.S.C. §7701(c))
- 3.9.1.9 "Income"
- 3.9.1.10 "Individual" (never defined)
- 3.9.1.11 "Levy" (in 26 U.S.C. §7701(a)(21))
- 3.9.1.12 "Liable" (undefined)
- 3.9.1.13 "Must" means "May"
- 3.9.1.14 "Nonresident alien" (26 U.S.C. . §7701(b)(1)(B))
- 3.9.1.15 "Person" (26 U.S.C. . §7701(a)1)
- 3.9.1.16 "Personal services" (not defined)
- 3.9.1.17 "Required"
- 3.9.1.18 "Shall" actually means "May"
- 3.9.1.19 "State" (in 26 U.S.C. §7701)
- 3.9.1.20 "Tax" (not defined)
- 3.9.1.21 "Taxpayer" (in 26 U.S.C. §7701)
- 3.9.1.22 "Taxpayer" (in 26 U.S.C. §7701)
- 3.9.1.23 "United States" (in 26 U.S.C. §7701)
- 3.9.1.24 "U.S. Citizen"
- 3.9.1.25 "Voluntary" (undefined)
- 3.9.1.26 "Wages" (in 26 U.S.C. . §3401(a))
- 3.9.1.27 "Withholding agent" (in 26 U.S.C. §7701)

- 3.9.2 26 USC Sec. 1: Tax Imposed
- 3.9.3 26 USC Sec. 61: Gross Income
- 3.9.4 26 USC Sec. 63: Taxable Income Defined
- 3.9.5 26 USC Sec. 861: Source Rules and Other Rules Relating to FOREIGN INCOME
- 3.9.6 26 USC Sec. 871: Tax on nonresident alien individuals
- 3.9.7 26 USC Sec. 872: Gross income
- 3.9.8 26 USC Sec. 3405: Employer Withholding
- 3.9.9 26 USC Sec. 6702: Frivolous Income Tax Return
- 3.9.10 26 USC Sec. 7201: Attempt to Evade or Defeat Tax
- 3.9.11 26 USC Sec. 7203: Willful Failure to File Return, Supply Information, or Pay Tax
- 3.9.12 26 USC Sec. 7206: Fraud and False Statements

### **3.10 U.S. Code Title 18: Crimes and Criminal Procedure**

- 3.10.1 18 U.S.C. 6002-6003

### **3.11 U.S. Code Title 5, Sections 551 through 559: Administrative Procedures Act**

### **3.12 Code of Federal Regulations (CFR) Title 26**

- 3.12.1 How to Read the Income Tax Regulations
- 3.12.2 Types of Federal Tax Regulations
  - 3.12.2.1 Treasury Regulations
  - 3.12.2.2 "Legislative" and "interpretive" Regulations
  - 3.12.2.3 Procedural Regulations
- 3.12.3 You Cannot Be Prosecuted for Violating an Act Unless You Violate It's Implementing Regulations
- 3.12.4 Part 1, Subchapter N of the 26 Code of Federal Regulations
- 3.12.5 26 CFR Sec. 1.861-8(a): Taxable Income

- 3.12.6 26 CFR Sec. 1.861-8T(d)(2)(ii)(A): Exempt income
- 3.12.7 26 CFR Sec. 1.861-8T(d)(2)(iii): Income Not Exempt from Taxation
- 3.12.8 26 CFR Sec. 1.861-8(f)1: Determination of Taxable Income
- 3.12.9 26 CFR Sec. 1.863-1: Determination of Taxable Income
- 3.12.10 26 CFR Sec. 31: Employment Taxes and Collection of Income Taxes at the Source
- 3.12.11 26 CFR Sec. 31.3401(c)-1: Employee

### **3.13 Treasury Decisions and Orders**

- 3.13.1 Treasury Delegation of Authority Order 150-37: Always Question Authority!
- 3.13.2 Treasury Decision Number 2313: March 21, 1916

### **3.14 Supreme Court Cases Related To Income Taxes in the United States**

- 3.14.1 1818: U.S. v. Bevans (16 U.S. 336)
- 3.14.2 1883: Butchers' Union Co. v. Crescent City Co. (111 U.S. 746)
- 3.14.3 1894: Caha v. United States (152 U.S. 211)
- 3.14.4 1895: Pollack v. Farmer's Loan and Trust Company (157 U.S. 429, 158 U.S. 601)
- 3.14.5 1900: Knowlton v. Moore (178 U.S. 41)
- 3.14.6 1901: Downes v. Bidwell (182 U.S. 244)
- 3.14.7 1906: Hale v. Henkel (201 U.S. 43)
- 3.14.8 1911: Flint v. Stone Tracy Co. (220 U.S. 107)
- 3.14.9 1914: Weeks v. U.S. (232 U.S. 383)
- 3.14.10 1916: Brushaber vs. Union Pacific Railroad (240 U.S. 1)
- 3.14.11 1916: Stanton v. Baltic Mining (240 U.S. 103)
- 3.14.12 1918: Peck v. Lowe (247 U.S. 165 )
- 3.14.13 1920: Evens v. Gore (253 U.S. 245)
- 3.14.14 1920: Eisner v. Macomber (252 U.S. 189)
- 3.14.15 1922: Bailey v. Drexel Furniture Co. (259 U.S. 20)
- 3.14.16 1924: Cook v. Tait (265 U.S. 47)
- 3.14.17 1930: Lucas v. Earl (281 U.S. 111)
- 3.14.18 1935: Railroad Retirement Board v. Alton Railroad Company (295 U.S. 330)
- 3.14.19 1938: Hassett v. Welch (303 U.S. 303)
- 3.14.20 1945: Hooven & Allison Co. v. Evatt (324 U.S. 652)
- 3.14.21 1959: Flora v. U.S. (362 U.S. 145)
- 3.14.22 1960: U.S. v. Mersky (361 U.S. 431)
- 3.14.23 1961: James v. United States (366 US 213, p. 213, 6L Ed 2d 246)
- 3.14.24 1970: Brady v. U.S. (379 U.S. 742)
- 3.14.25 1974: California Bankers Association v. Shultz (416 U.S. 25)
- 3.14.26 1975: Garner v. U.S. (424 U.S. 648)
- 3.14.27 1976: Fisher v. United States (425 U.S. 391)
- 3.14.28 1978: Central Illinois Public Service Co. v. United States (435 U.S. 21)
- 3.14.29 1985: U.S. v. Doe (465 U.S. 605)
- 3.14.30 1991: Cheek v. United States (498 U.S. 192)
- 3.14.31 1992: United States v. Burke (504 U.S. 229, 119 L Ed 2d 34, 112 S Ct. 1867)
- 3.14.32 1995: U.S. v. Lopez (000 U.S. U10287)

### **3.15 Federal District and Circuit Court Cases**

- 3.15.1 Commercial League Assoc. v. The People, 90 Ill. 166
- 3.15.2 Jack Cole Co. vs. Alfred McFarland, Sup. Ct. Tenn 337 S.W. 2d 453
- 3.15.3 1916: Edwards v. Keith 231 F 110, 113
- 3.15.4 1925: Sims v. Ahrens, 271 SW 720
- 3.15.5 1937: Stapler v. U.S., 21 F. Supp. AT 739
- 3.15.6 1937: White Packing Co. v. Robertson, 89 F.2d 775, 779 the 4th Circuit Court
- 3.15.7 1939: Graves v. People of State of New York (306 S.Ct. 466)

- 3.15.8 1943: Helvering v. Edison Brothers' Stores, 8 Cir. 133 F2d 575
- 3.15.9 1946: Lauderdale Cemetary Assoc. v. Mathews, 345 PA 239, 47 A. 2d 277, 280
- 3.15.10 1947: McCutchin v. Commissioner of IRS, 159 F2d 472 5th Cir. 02/07/1947
- 3.15.11 1952: Anderson Oldsmobile , Inc. vs Hofferbert, 102 F. Supp. 902
- 3.15.12 1955: Oliver v. Halstead, 196 VA 992, 86 S.E. 2d 858
- 3.15.13 1958: Lyddon Co. vs. U.S., 158 Fed. Supp 951
- 3.15.14 1960: Commissioner of IRS v. Duberstein, 80 5. Ct. 1190
- 3.15.15 1962: Simmons v. United States, 303 F.2d 160
- 3.15.16 1969: Conner v. U.S. 303 F. Supp. 1187 Federal District Court, Houston
- 3.15.17 1986: U.S. v. Stahl, 792 F.2d 1438

### **3.16 IRS Publications**

### **3.17 Topical Legal Discussions**

- 3.17.1 Uncertainty of the Federal Tax Laws
- 3.17.2 Reasonable Cause
- 3.17.3 The Collective Entity Rule
- 3.17.4 Due Process
  - 3.17.4.1 What is Due Process of Law?
  - 3.17.4.2 Due process principles and tax collection
  - 3.17.4.3 Substantive Rights and Essentials of Due Process
- 3.17.5 There's No Duty To Convert Money Into Income
- 3.17.6 What's Income and Why Does It Matter?
- 3.17.7 The President's Role In Income Taxation
- 3.17.8 A Historical Perspective on Income Taxes

## **4. KNOW YOUR CITIZENSHIP STATUS AND RIGHTS!**

### **4.1 Natural Order**

### **4.2 Rights v. Privileges**

- 4.2.1 Rights Defined and Explained
- 4.2.2 What is the Difference Between a "Right" and a "Privilege"?
- 4.2.3 Fundamental Rights: Granted by God and Cannot be Regulated by the Government
- 4.2.4 The Two Classes of Rights: Civil and Political
- 4.2.5 Why we MUST know and assert our rights and can't depend on anyone to help us
- 4.2.6 Why you shouldn't cite federal statutes as authority for protecting your rights

### **4.3 Government**

- 4.3.1 What is government?
- 4.3.2 Biblical view of taxation and government
- 4.3.3 The purpose of government: Protection of the weak from harm and evil
- 4.3.4 Equal protection
- 4.3.5 How government and God compete to provide "protection"
- 4.3.6 Separation of powers doctrine
- 4.3.7 "Sovereign"="Foreign"="Alien"
- 4.3.8 The purpose of income taxes: government protection of the assets of the wealthy
- 4.3.9 Why all man-made law is religious in nature
- 4.3.10 The Unlimited Liability Universe
- 4.3.11 The result of following government's laws instead of God's laws is slavery, servitude, and captivity
- 4.3.12 Government-instituted slavery using "privileges"

- 4.3.13 Our Government has become idolatry and a false religion
- 4.3.14 Socialism is Incompatible with Christianity
- 4.3.15 All Governments are Corporations
- 4.3.16 How public servants eliminate or hide the requirement for "consent" to become "Masters"
  - 4.3.16.1 Rigging government forms to prejudice our rights
  - 4.3.16.2 Misrepresenting the law in government publications
  - 4.3.16.3 Automation
  - 4.3.16.4 Concealing the real identities of government wrongdoers
  - 4.3.16.5 Making it difficult, inconvenient, or costly to obtain information about illegal government activities
  - 4.3.16.6 Ignoring correspondence and/or forcing all complaints through an unresponsive legal support staff that exasperates and terrorizes "customers"
  - 4.3.16.7 Deliberately dumbing down and propagandizing government support personnel who have to implement the law
  - 4.3.16.8 Creating or blaming a scapegoat beyond their control
  - 4.3.16.9 Terrorizing and threatening, rather than helping, the ignorant
- 4.3.17 Why good government demands more than just "obeying the law"

#### **4.4 The Constitution is Supposed to Make You the SOVEREIGN and the Government Your Servant**

- 4.4.1 The Constitution does not bind citizens
- 4.4.2 The Constitution as a Legal Contract
- 4.4.3 How the Constitution is Administered by the Government
- 4.4.4 If the Constitution is a Contract, why don't we have to sign it and how can our predecessors bind us to it without our signature?
- 4.4.5 Authority delegated by the Constitution to Public Servants
- 4.4.6 Voting by Congressman
- 4.4.7 Our Government is a band of robbers and thieves, and murderers!
- 4.4.8 Oaths of Public Office
- 4.4.9 Tax Collectors
- 4.4.10 Oaths of naturalization given to aliens
- 4.4.11 Oaths given to secessionists and corporations
- 4.4.12 Oaths of soldiers and servicemen
- 4.4.13 Treaties
- 4.4.14 Government Debts
- 4.4.15 Our rulers are a secret society!
- 4.4.16 The agenda of our public servants is murder, robbery, slavery, despotism, and oppression

#### **4.5 The U.S.A. is a Republic, Not a Democracy**

- 4.5.1 Republican mystery
- 4.5.2 Military Intelligence
- 4.5.3 Sovereign power
- 4.5.4 Government's purpose
- 4.5.5 Who holds the sovereign power?
- 4.5.6 Individually-held God-given unalienable Rights
- 4.5.7 A republic's covenant
- 4.5.8 Divine endowment
- 4.5.9 Democracies must by nature be deceptive to maintain their power
- 4.5.10 Democratic disabilities
- 4.5.11 Collective self-destruction
- 4.5.12 The "First" Bill of Rights
- 4.5.13 The mandate remains
- 4.5.14 What shall we do?

#### 4.5.15 Sorry, Mr. Franklin, "We're All Democrats Now"

- 4.5.15.1 Introduction
- 4.5.15.2 Transition to Democracy
- 4.5.15.3 Current Understanding
- 4.5.15.4 Democracy Subverts Liberty and Undermines Prosperity
- 4.5.15.5 Foreign Affairs and Democracy
- 4.5.15.6 Foreign Policy, Welfare, and 9/11
- 4.5.15.7 Paying for Democracy
- 4.5.15.8 Confusion Regarding Democracy
- 4.5.15.9 The Way Out

#### 4.5.16 Summary

### **4.6 The Three Definitions of "United States"**

### **4.7 Two Political Jurisdictions: "National government" vs "General/federal government"**

### **4.8 The Federal Zone**

### **4.9 Police Powers**

### **4.10 "Resident", "Residence" and "Domicile"**

### **4.11 Citizenship**

- 4.11.1 Introduction
- 4.11.2 Sovereignty
- 4.11.3 "Citizens" v. "Nationals"
- 4.11.4 Two Classes and Four Types of American Citizens
- 4.11.5 Federal citizens

- 4.11.5.1 Types of citizenship under federal law
- 4.11.5.2 History of federal citizenship
- 4.11.5.3 Constitutional Basis of federal citizenship
- 4.11.5.4 The voluntary nature of citizenship: Requirement for "consent" and "intent"
- 4.11.5.5 How you unknowingly volunteered to become a "citizen of the United States" under federal statutes
- 4.11.5.6 Presumptions about "citizen of the United States" status
- 4.11.5.7 Privileges and Immunities of U.S. citizens
- 4.11.5.8 Definitions of federal citizenship terms
- 4.11.5.9 Further study

#### 4.11.6 State Citizens/Nationals

4.11.7 Citizenship and all political rights are exercised are INVOLUNTARILY exercised and therefore CANNOT be taxable and cannot be called "privileges"

- 4.11.7.1 Voting
- 4.11.7.2 Paying taxes
- 4.11.7.3 Jury Service
- 4.11.7.4 Citizenship

#### 4.11.8 "Nationals" and "U.S. Nationals"

- 4.11.8.1 Legal Foundations of "national" Status
- 4.11.8.2 Voting as a "national" or "state national"
- 4.11.8.3 Serving on Jury Duty as a "national" or "state national"
- 4.11.8.4 Summary of Constraints Applying to "national" status
- 4.11.8.5 Rebutted arguments against those who believe people born in the states of the Union are not "nationals"

#### 4.11.8.6 Sovereign Immunity of American Nationals

4.11.9 Rights Lost by Becoming a Federal Citizen

4.11.10 How do we lose our sovereignty and become U.S. citizens?

4.11.11 Expatriation

4.11.11.1 Definition

4.11.11.2 Right of expatriation

4.11.11.3 Compelled expatriation as a punishment for a crime

4.11.11.4 Amending your citizenship status to regain your rights: Don't expatriate!

4.11.12 How the Government Has Obfuscated the Citizenship Issue to Unwittingly Make Us All "U.S. citizens"

4.11.13 Duties and Responsibilities of Citizens

4.11.14 Citizenship Summary

### **4.12 Two of You**

### **4.13 Contracts**

### **4.14 Our rights**

4.14.1 No forced participation in Labor Unions or Occupational Licenses

4.14.2 Property Rights

4.14.3 No IRS Taxes

4.14.4 No Gun Control

4.14.5 Motor Vehicle Driving

4.14.6 Church Rights

4.14.7 No Marriage Licenses

4.14.7.1 REASON #1: The Definition of Marriage License Demands that we not Obtain One To Marry

4.14.7.2 REASON #2: When You Marry With a Marriage License, You Grant the State Jurisdiction Over Your Marriage

4.14.7.3 REASON #3: When You Marry With a Marriage License, You Place Yourself Under a Body of Law Which is Immoral

4.14.7.4 REASON #4: The Marriage License Invades and Removes God-Given Parental Authority

4.14.7.5 REASON #5: When You Marry with a Marriage License, You Are Like a Polygamist

4.14.7.6 When does the State Have Jurisdiction Over a Marriage?

4.14.7.7 History of Marriage Licenses in America

4.14.7.8 What Should We Do?

### **4.15 Sources of government authority to interfere with your rights**

### **4.16 A Citizens Guide to Jury Duty**

4.16.1 Jury Power in the System of Checks and Balances:

4.16.2 A Jury's Rights, Powers, and Duties:

4.16.3 Jurors Must Know Their Rights:

4.16.4 Our Defense - Jury Power:

### **4.17 The Buck Act of 1940**

4.17.1 The united States of America

4.17.2 The "SHADOW" States of the Buck Act

#### **4.18 Conflicts of Law: Violations of God's Laws by Man's Laws**

#### **4.19 How Do We Assert Our First Amendment Rights and How Does the Government Undermine Them?**

#### **4.20 The Solution**



### **5. THE EVIDENCE: WHY WE AREN'T LIABLE TO FILE RETURNS OR PAY INCOME TAX**

#### **5.1 Introduction to Federal Taxation**

- 5.1.1 The Power to Create is the Power to Tax
- 5.1.2 You Don't Pay "Taxes" to the IRS: You are instead subsidizing socialism
- 5.1.3 Lawful Subjects of Constitutional Taxation within States of the Union
- 5.1.4 Direct Taxes Defined
- 5.1.5 The Internal Revenue Code subtitle A is an indirect excise tax
- 5.1.6 What type of Tax Are You Paying the IRS--Direct or Indirect?
- 5.1.7 The Income Tax: Constitutional or Unconstitutional?
- 5.1.8 Taxable persons and objects within the I.R.C. Subtitle A
- 5.1.9 The "Dual" nature of the Internal Revenue Code
- 5.1.10 Brief History of Court Rulings Which Establish Income Taxes on Citizens outside the "federal zone" as "Direct Taxes"
- 5.1.11 The "Elevator Speech" version of the federal income tax fraud

#### **5.2 Federal Jurisdiction to Tax**

- 5.2.1 Territorial Jurisdiction
- 5.2.2 Sovereignty: Key to Understanding Federal Jurisdiction
- 5.2.3 Dual Sovereignty
- 5.2.4 The TWO sources of federal jurisdiction: "Domicile" and "Contract"
- 5.2.5 "Public" v. "Private" employment: You really work for Uncle Sam and not Your Private Employer If You Receive Federal Benefits
- 5.2.6 Social Security: The legal vehicle for extending Federal Jurisdiction into the states using Private/contract law
- 5.2.7 Oaths of Allegiance: Source of ALL government jurisdiction over people
- 5.2.8 How Does the Federal Government Acquire Jurisdiction Over an Area?
- 5.2.9 Limitations on Federal Taxation Jurisdiction
- 5.2.10 "United States" in the Internal Revenue Code means "federal zone"
- 5.2.11 "State" in the Internal Revenue Code mans a "federal State" and not a Union State
- 5.2.12 "foreign" means outside the federal zone and "foreign income" means outside the country in the context of the Internal Revenue Code
- 5.2.13 Background on State v. Federal Jurisdiction
- 5.2.14 Constitutional Federal Taxes under the I.R.C. apply to Imports (duties), Foreign Income of Aliens and Corporations, and Domiciliaries Living Abroad
- 5.2.15 "Employee" in the Internal Revenue Code mans appointed or elected government officers
- 5.2.16 The 50 States are "Foreign Countries" and "foreign states" with Respect to the Federal Government
- 5.2.17 You're not a "citizen" under the Internal Revenue Code
- 5.2.19 Rebutted DOJ and Judicial Lies Regarding Federal Jurisdiction

#### **5.3 Know Your Proper Filing Status by Citizenship and Residency!**

- 5.3.1 "Taxpayer" v. "Nontaxpayer"
- 5.3.2 A "return" is NOT a piece of paper within the I.R.C., it's a kickback of a federal payment
- 5.3.3 Summary of Federal Income Tax Filing Status by Citizenship and Residency.
- 5.3.4 What's Your Proper Federal Income Tax Filing Status?
- 5.3.5 Summary of State and Federal Income Tax Liability by Domicile and Citizenship

- 5.3.6 How to Revoke Your Election to be Treated as a U.S. Resident and Become a Nonresident
- 5.3.7 What Are the Advantages and Consequences of Filing as a Nonresident Citizen?
- 5.3.8 Tactics Useful for Employees of the U.S. Government

## 5.4 The Truth About "Voluntary" Aspect of Income Taxes

5.4.1 The true meaning of "voluntary"

5.4.2 "Law" or "Contract"?

5.4.2.1 Public v. Private law

5.4.2.2 Why and how the government deceives you into believing that "private law" is "public law" in order to PLUNDER and ENSLAVE you unlawfully

5.4.2.3 Comity

5.4.2.4 Positive Law

5.4.2.5 Justice

5.4.2.6 Invisible consent: The Tool of Tyrants

5.4.3 Understanding Administrative Law

5.4.4 The three methods for exercising our Constitutional right to contract

5.4.5 Federalism

5.4.6 The Internal Revenue Code is not Public or Positive Law, but Private Law

5.4.6.2 Proof that the I.R.C. is not Positive Law

5.4.6.3 The "Tax Code" is a state-sponsored Religion, not a law

5.4.6.4 How you were duped into signing up to the contract and joining the state-sponsored religion and what the contract says

5.4.6.5 Modern tax trials are religious "inquisitions" and not valid legal processes

5.4.6.6 How to skip out of "government church worship services"

5.4.7 No Taxation Without Consent

5.4.8 Why "domicile" and income taxes are voluntary

5.4.8.1 Definition

5.4.8.2 "Domicile"="allegiance" and "protection"

5.4.8.3 Domicile is a First Amendment choice of political affiliation

5.4.8.4 "Domicile" and "residence" compared

5.4.8.5 Choice of Domicile is a voluntary choice

5.4.8.6 Divorcing the "state": Persons with no domicile

5.4.8.7 You can only have one Domicile and that place and government becomes your main source of protection

5.4.8.8 Affect of domicile on citizenship and synonyms for domicile

5.4.8.9 It is idolatry for Christians to have an earthly domicile

5.4.8.10 Legal presumptions about domicile

5.4.8.11 How the government interferes with your ability to voluntarily choose a domicile

5.4.8.12 Domicile on government forms

5.4.8.13 The Driver's License Trap: How the state manufactures privileged "residents"

5.4.9 The IRS is NOT authorized to perform enforcement actions

5.4.10 I.R.C. Subtitle A is voluntary for those with no domicile in the District of Columbia and no federal employment

5.4.11 The money you send to the IRS is a Gift to the U.S. government

5.4.12 Taxes paid on One's Own Labor are Slavery

5.4.13 The word "shall" in the tax code actually means "may"

5.4.14 Constitutional Due Process Rights in the Context of Income Taxes



- 5.4.14.1 What is Due Process of Law?
- 5.4.14.2 Violation of Due Process using "Presumptions"
- 5.4.14.3 Substantive Rights and Essentials of Due Process Background
- 5.4.14.4 Due Process principles and tax collection
  
- 5.4.15 IRS has NO Legal Authority to Assess You With an Income Tax Liability
- 5.4.16 IRS Has No Legal Authority to Assess Penalties on Subtitle A Income Taxes
- 5.4.17 No Implementing Regulations Authorizing Collection of Subtitles A through C income Taxes on Natural Persons
- 5.4.18 No Implementing Regulations for "Tax Evasion" or "Willful Failure to File" Under 26 U.S. C. §§7201 or 7203!
- 5.4.19 The "person" addressed by criminal provisions of the IRC isn't you!
- 5.4.20 The Secretary of the Treasury Has NO delegated Authority to Collect Income Taxes in the 50 States!
- 5.4.21 The Department of Justice has NO Authority to Prosecute IRC Subtitle A Income Tax Crimes!
- 5.4.22 The federal courts can't sentence you to federal prison for Tax crimes if you are a "U.S. citizen" and the crime was committed outside the federal zone
- 5.4.23 You Don't Have to Provide a Social Security Number on Your Tax Return
- 5.4.24 Your private employer Isn't authorized by law to act as a federal "withholding agent"
- 5.4.25 The money you pay to government is an illegal bribe to public officials
- 5.4.26 How a person can "volunteer" to become liable for paying income tax?
- 5.4.27 Popular illegal government techniques for coercing "consent"
  - 5.4.27.1 Deceptive language and words of art
  - 5.4.27.2 Fraudulent forms and publications
  - 5.4.27.3 Political propaganda
  - 5.4.27.4 Deception of private companies and financial institutions
  - 5.4.27.5 Legal terrorism
  - 5.4.27.6 Coercion of federal judges
  - 5.4.27.7 Manipulation, licensing, and coercion of CPA's, Payroll clerks, Tax Preparers, and Lawyers

## **5.5 Why We Aren't Liable to *File* Tax Returns or Keep Records**

- 5.5.1 It's illegal and impossible to "file" your own tax return
- 5.5.2 Why God says you can't file tax returns
- 5.5.3 You're Not a "U.S. citizen" If You File Form 1040, You're an "Alien"!
- 5.5.4 You're NOT the "individual" mentioned at the top of the 1040 form if you are a "U.S. citizen" Residing in the "United States"\*\*\*!
- 5.5.5 No Law Requires You to Keep Records
- 5.5.6 Federal courts have NO statutory authority to enforce criminal provisions of the Internal Revenue Code outside the federal zone
- 5.5.7 Objections to filing based on Rights
- 5.5.8 Do We Have to Sign the 1040 Form Under Penalty of Perjury?
  - 5.5.8.1 Definitions
  - 5.5.8.2 Exegesis
  - 5.5.8.3 Conclusion
  - 5.5.8.4 Social Comment
  
- 5.5.9 1040 and Especially 1040NR Tax Forms Violate the Privacy Act and Therefore Need Not Be Submitted
  - 5.5.9.1 IRS Form 1040

5.5.9.2 IRS Form 1040NR

5.5.9.3 Analysis and Conclusions

5.5.10 If You Don't File, the IRS Can't File a Substitute for Return for You Under 26 U.S.C. §6020  
(b)

## 5.6 Why We Aren't Liable to Pay Income Tax

5.6.1 There's No Statute Making Anyone Liable to Pay Subtitle A Income Taxes!

5.6.2 Your income isn't taxable because it is "notes" and "obligations" of the U.S. government

5.6.3 Constitutional Constraints on Federal Taxing Power

5.6.4 Exempt Income

5.6.5 The Definition of "income" for the purposes of the Internal Revenue Code

5.6.6 Gross Income

5.6.7 You Don't Earn "Wages" So Your Earnings Can't be Taxed

5.6.8 Employment Withholding Taxes are Gifts to the U.S. Government!

5.6.9 The Deficiency Notices the IRS Sends to Individuals are Actually Intended for Businesses!

5.6.10 The Irwin Schiff Position

5.6.11 The Federal Employee Kickback Position

5.6.12 You don't have any taxable sources of income

5.6.13 The "trade or business" scam

5.6.13.1 Introduction

5.6.13.2 Proof IRC Subtitle A is an Excise tax only on activities in connection with a "trade or business"

5.6.13.3 Synonyms for "trade or business"

5.6.13.4 I.R.C. requirements for the exercise of a "trade or business"

5.6.13.5 Willful IRS deception in connection with a "trade or business"

5.6.13.6 Proving the government deception yourself

5.6.13.7 How the "scheme" is perpetuated

5.6.13.8 False IRS presumptions that must be rebutted

5.6.13.9 Why I.R.C. Subtitle A income taxes are "indirect" and Constitutional

5.6.13.10 The scam is the basis for all income reporting used to enforce income tax collection

5.6.13.11 How the scam affects you and some things to do about it

5.6.13.12 Other important implications of the scam

5.6.13.13 Further study

5.6.14 The Nonresident Alien Position

5.6.14.1 Why all people born in states of the Union are "nonresident aliens" under the tax code

5.6.14.2 Tax Liability and Responsibilities of Nonresident Aliens

5.6.14.3 How "Nonresident Alien Nontaxpayers" are tricked into becoming "Resident Alien Taxpayers"

5.6.14.4 Withholding on Nonresident Aliens

5.6.14.5 Overcoming Deliberate Roadblocks to Using the Nonresident Alien Position

5.6.14.5.1 The deception that scares people away from claiming nonresident alien status

5.6.14.5.2 Tricks Congress Pulled to Undermine the Nonresident Alien Position

5.6.14.5.3 How to Avoid Jeopardizing Your Nonresident Citizen or Nonresident Alien Status

5.6.14.5.4 "Will I Lose My Military Security Clearance or Social Security Benefits by Becoming a Nonresident Alien or a 'U.S."

national'?"

#### 5.6.14.6 Rebutted Objections to the Nonresident Alien Position

5.6.14.6.1 Tax, Accounting, and Legal Profession Objections

5.6.14.6.2 Objections of friends and family

5.6.14.6 How To Correct Government Records to Reflect Your True Status as a Nonresident Alien

5.6.15 All compensation for your personal labor is deductible from "gross income" on your tax return

5.6.15.1 Why One's Own Labor is not an article of Commerce and cannot produce "profit" in the Context of oneself

5.6.15.2 Why Labor is Property

5.6.15.3 Why the Cost of Labor is Deductible from Gross Receipts in Computing Tax

5.6.16 IRS Has no Authority to Convert a Tax Class 5 "gift" into a Tax Class 2 liability

5.6.17 The "Constitutional Rights Position"

5.6.18 The Internal Revenue Code was Repealed in 1939 and we have no tax law

5.6.19 Use of the term "State" in Defining State Taxing Jurisdiction

5.6.20 Why you aren't an "exempt" individual

## 5.7 Flawed Tax Arguments to Avoid

5.7.1 Summary of Flawed Arguments

5.7.2 Rebutted Version of the IRS Pamphlet "The Truth About Frivolous Tax Arguments"

5.7.3 Rebutter Version of Congressional Research Service Report 97-59A entitled "Frequently Asked Questions Concerning the Federal Income Tax"

5.7.4 Rebutter Version of Dan Evans "Tax Resister FAQ"

5.7.5 The "861 Source" Position

5.7.5.1 Introduction and definitions

5.7.5.2 The Basics of the Law

5.7.5.3 English vs. Legalese

5.7.5.4 Sources of Income

5.7.5.5 Determining Taxable Income

5.7.5.6 Specific Taxable Sources

5.7.5.6.1 Sources "within" the United States: Income Originating Inside the District of Columbia

5.7.5.6.2 Sources "without" the United States: Income Originating Inside the 50 states, territories and possessions, and Foreign Nations

5.7.5.7 Operative Sections

5.7.5.8 Summary of the 861 position

5.7.5.9 Why Hasn't The 861 Issue Been Challenged in Court Already?

5.7.5.10 Common IRS (and DOJ) objections to the 861/source issue with rebuttal

5.7.5.10.1 "We are all taxpayers. You can't get out of paying income tax because the law says you are liable."

5.7.5.10.2 IRC Section 861 falls under Subchapter N, Part I, which deals only with FOREIGN Income

- 5.7.5.10.3 "Section 861 says all income is taxable"
- 5.7.5.10.4 The Sixteenth Amendment says "from whatever source derived"...this means the source doesn't matter!
- 5.7.5.10.5 "The courts have consistently ruled against th 861 issue"
- 5.7.5.10.6 "You are misunderstanding and misapplying the law and you're headed for harm"
- 5.7.5.10.7 "Commissioner v. Glenshaw Glass Co. case makes the source of income irrelevant and taxes all 'sources'"
- 5.7.5.10.8 Frivolous Return Penalty Assessed by the IRS for those Using the 861 Position
- 5.7.5.10.9 The income tax is a direct, unapportioned tax on income, not an excise tax, so you still are liable for it

5.7.5.11 Why the 861 argument is subordinate to the jurisdictional argument

## **5.8 Considerations Involving Government Employment Income**

### **5.9 So What Would Have to Be Done To the Constitution To Make Direct Income Taxes Legal?**

### **5.10 Abuse of Legal Ignorance and Presumption: Weapons of tyrants**

- 5.10.1 Application of "innocent until proven guilty" maxim of American Law
- 5.10.2 Role of Law and Presumption in Proving Guilt
- 5.10.3 Statutory Presumptions that Injure Rights are Unconstitutional
- 5.10.4 Purpose of Due Process: To completely remove "presumption" from legal proceedings
- 5.10.5 Application of "Expressio unius est exclusio alterius" rule
- 5.10.6 Scams with the Word "includes"
- 5.10.7 Guilty Until Proven Innocent: False Presumptions of Liability Based on Treacherous Definitions
- 5.10.8 Purpose of Vague Laws is to Chain you to IRS Control
- 5.10.9 Why the "Void for Vagueness Doctrine" of the U.S. Supreme Court Should be Invoked By The Courts to Render the Internal Revenue Code Unconstitutional

### **5.11 Other Clues and Hints At The Correct Application of the IRC**

- 5.11.1 On the Record
- 5.11.2 Section 306
- 5.11.3 Strange Links
- 5.11.4 Following Instructions
- 5.11.5 Treasury Decision 2313
- 5.11.6 Other Clues
- 5.11.7 5 U.S.C., Section 8422: Deductions of OASDI for Federal Employees

### **5.12 How Can I Know When I've Discovered the Truth About Income Taxes?**

### **5.13 How the Government exploits our weaknesses to manufacture "taxpayers"**

### **5.14 Federal income taxes within territories and possessions of the United States**

### **5.15 Congress has made you a Political "tax prisoner" and a "feudal serf" in your own country!**

### **5.16 The Government's Real Approach Towards Tax Law**



## **[6. HISTORY OF FEDERAL GOVERNMENT INCOME TAX FRAUD, RACKETEERING AND EXTORTION IN THE U.S.A.](#)**

### **6.1 How Scoundrels Corrupted Our Republican Form of Government**

### **6.2 General Evolution**

### **6.3 The Laws of Tyranny**

### **6.4 Presidential Scandals Related to Income Taxes and Socialism**

6.4.1 1925: William H. Taft's Certiorari Act of 1925

6.4.2 1933: FDR's Great American Gold Robbery

6.4.2.1 Money Background

6.4.2.2 The Trading With the Enemy Act: Day the President Declared War on His Own People!

6.4.2.3 FDR's Gold Robbery Scam

6.4.2.4 FDR Defends the Federal Damn Reserve

6.4.3 1935: FDR's Socialist (Social) Security Act of 1935

6.4.3.1 FDR's Pep-Talk to Congress, January 17, 1935

6.4.3.2 FDR and the Birth of Social Security: Destroying Rugged Individuality

6.4.4 1937: FDR's Stacking of the Supreme Court

6.4.5 1943: FDR's Executive Order 9397: Bye-Bye Privacy and Fourth Amendment!

## **6.5 History of Congressional Cover-Ups and Tax Code Obfuscation**

6.5.1 No Taxation Without Representation!

6.5.2 The Corruption of Our Tax System by the Courts and the Congress: Downes v. Bidwell, 182 U.S. 244, 1901

6.5.3 Why the Lawyers in Congress Just Love the Tax Code

6.5.4 Elements of the IRS Cover-Up/Conspiracy to Watch For

6.5.5 IRS Form 1040: Conspiracy by Congress to Violate Rights

6.5.6 Whistleblower Retaliation, Indifference, and Censorship

6.3.6.1 We the People Truth In Taxation Hearing, February 27-28, 2002

6.3.6.2 We the People Efforts: April 5, 2001 Senate Hearing

6.3.6.3 Cover-Up of Jan. 20, 2002: Congress/DOJ/IRS/ Renege on a Written Agreement to Hold a Truth in Taxation Hearing with We The People Under First Amendment

6.5.7 Cover-Up of 2002: 40 U.S.C. §255 Obfuscated

6.5.8 Cover-Up of 1988: Changed Title of Part I, Subchapter N to Make it Refer Only to Foreign Income

6.5.9 Cover-Up of 1986: Obfuscation of 26 U.S.C. §931

6.5.10 Cover-Up of 1982: Footnotes Removed from IRC Section 61 Pointing to Section 861

6.5.11 Cover-Up of 1978: Confused IRS Regulations on "Sources"

6.5.12 Cover-Up of 1954: Hiding of Constitutional Limitations On Congress' Right To Tax

6.5.13 1952: Office of Collector of Internal Revenue Eliminated

6.5.14 Cover-Up of 1939: Removed References to Nonresident Aliens from the Definition of "Gross Income"

6.5.15 1932: Revenue Act of 1932 imposes first excise income tax on federal judges and public officers

6.5.16 1918: "Gross income" first defined in the Revenue Act of 1918

6.5.17 1911: Judicial Code or 1911

6.5.18 1909: Corporate Excise Tax of 1909

6.5.19 1872: Office of the Assessor of Internal Revenue Eliminated

6.5.20 1862: First Tax on "Officers" of the U.S. Government

## **6.6 Treasury/IRS Cover-Ups, Obfuscation, and Scandals**

6.6.1 Elements of the IRS Cover-Up/Conspiracy to Watch For

6.6.2 26 CFR 1.0-1: Publication of Internal Revenue Code WITHOUT Index

- 6.6.3 Official/Qualified Immunity and Anonymity
- 6.6.4 Church Censorship, Manipulation, and Castration by the IRS
- 6.6.5 IRS Form W-4 Scandals

- 6.5.5.1 Fraud on the W-4 Form
  - 6.5.5.2 Unconstitutional IRS/Treasury Regulations

- 6.6.6 Illegal Treasury Regulation 26 CFR 301.6331-1
- 6.6.7 IRS Form 1040: Irrational Conspiracy to Violate Rights
- 6.6.8 IRS Form W-4 Scandals

- 6.6.8.1 Fraud on the W-4 Form
  - 6.6.8.2 Unconstitutional IRS/Treasury Regulations Relating to the W-4
  - 6.6.8.3 Line 3a of W-4 modifies and obfuscates 26 U.S.C. 3402(n)

#### 6.6.9 Whistleblower Retaliation

- 6.6.9.1 IRS Historian Quits-Then Gets Audited
  - 6.6.9.2 IRS Raided the Save-A-Patriot Fellowship

#### 6.6.10 IRS has NO Delegated Authority to Impose Penalties or Levies or Seizures for Nonpayment of Subtitle A Personal Income Taxes

- 6.6.10.1 What Particular Type of Tax is Part 301 of IRS Regulations?
  - 6.6.10.2 Parallel Table of Authorities 26 CFR to 26 U.S.C.

- 6.6.11 Service of Illegal Summons
- 6.6.12 IRS Publication 1: Taxpayer rights...Oh really?
- 6.6.13 Cover-Up of March 2004: IRS Removed List of Return Types Authorized for SFR from IRM Section 5.1.11.9
- 6.6.14 Cover-Up of Jan. 2002: IRS Removed the Internal Revenue Manual (IRM) from their Website Search Engine
- 6.6.15 W-8 Certificate of Foreign Status Form Removed from the IRS Website December 2000 and replaced with W-8 BEN
- 6.6.16 Cover-Up of 1999: IRS CID Agent Joe Banister Terminated by IRS For Discovering the Truth About Voluntary Nature of Income Taxes
- 6.6.17 Cover-Up of 1995: Modified Regulations to Remove Pointers to Form 2555 for IRC Section 1 Liability for Federal Income Tax
- 6.6.18 Cover-Up of 1993--HOT!!: IRS Removed References in IRS Publication 515 to Citizens Not Being Liable for Tax and Confused New Language

### **6.7 Department of State (DOS) Scandals Related to Income Taxes**

### **6.8 Department of Justice Scandals Related to Income Taxes**

- 6.8.1 Prosecution of Dr. Phil Roberts: Political "Tax" Prisoner
- 6.8.2 Fraud on The Court: Demjanuk v. Petrovsky, 10 F.3d 338

### **6.9 Judicial Conspiracy to Protect the Income Tax**

- 6.9.1 Abuse of "Case Law"
- 6.9.2 The Federal Mafia Courts Stole Your Seventh Amendment Right to Trial by Jury!
- 6.9.3 You Cannot Obtain Declaratory Judgments in Federal Income Tax Trials Held In Federal Courts
- 6.9.4 The Changing Definition of "Direct, Indirect, and Excise Taxes"

- 6.9.4.1 Definition of terms and legal framework
- 6.9.4.2 The Early Supreme Court View of Direct vs. Indirect/Excise Taxes Prior to Passage of the 16th Amendment 1913
- 6.9.4.3 Common Manifestations of the Judicial Conspiracy
- 6.9.4.4 Judicial Conspiracy Following Passage of 16th Amendment in 1913
- 6.9.4.5 The Federal District Court Conspiracy to Protect the Income Tax
- 6.9.4.6 State Court Rulings

- 6.9.5 2003: Federal Court Ban's Irwin Schiff's Federal Mafia Tax book
- 6.9.6 2002: Definition for "Acts of Congress" removed from Federal Rules of Criminal Procedure
- 6.9.7 1992: William Conklin v. United States
- 6.9.8 1986: 16th Amendment: U.S. v. Stahl, 792 F.2d 1438 (1986)
- 6.9.9 1938: O'Malley v. Woodrough, 307 U.S. 277
- 6.9.10 1924: Miles v. Graham, 268 U.S. 601
- 6.9.11 1915: Brushaber v. Union Pacific Railroad, 240 U.S. 1
- 6.9.12 Conclusions

## **6.10 Legal Profession Scandals**

- 6.10.1 Legal Dictionary Definitions of "United States"
- 6.10.2 The Taxability of Wages and Income Derived from "Labor" Rather than "Profit" as Described in CLE Materials

## **6.11 Social Security Chronology**

## **6.12 Conclusion: The Duck Test**

# **7. CASE STUDIES**

## **7.1 An Epidemic of Non-Filers**

### **7.2 Individuals**

- 7.2.1 Joseph Banister: Former IRS Criminal Investigative Division (CID) Agent
- 7.2.2 Gaylon Harrell
- 7.2.5 Fred Allnut
- 7.2.6 Lloyd Long

### **7.3 Employers**

- 7.3.1 Arrow Custom Plastics Ends Withholding

# **8. RESOURCES FOR TAX FRAUD FIGHTERS**

## **8.1 Websites**

## **8.2 Books and Publications**

## **8.3 Legal Resources**

# **9. DEFINITIONS**



Copyright © 1997 United Feature Syndicate, Inc.  
Redistribution in whole or in part prohibited

[Copyright Family Guardian Fellowship](#)

*Last revision: January 03, 2007 04:42 PM*

[Home](#) [About](#) [Contact](#)


This private system is NOT subject to monitoring  
[Please read our DISCLAIMER](#)





# TAX FRAUD PREVENTION MANUAL

The *Tax Fraud Prevention Manual* builds upon the research and findings of the [Great IRS Hoax: Why We Don't Owe Income Tax](#) book to help you deal administratively with the government and legal profession in defending your rights. It shows exactly how tax fraud on the part of the government, the legal profession, and private industry are perpetrated and gives you sources of legal evidence which will help you both prove it and oppose it administratively. The book accomplishes its goal by applying the truths found in both the law itself and [The Great IRS Hoax](#) book in a practical and systematic way to help you prevent violations of law and procedure and constitutional rights. This book contains detailed information intended to:

1. Show you how to ensure that everyone, including you, fully complies with all laws that apply to "[nontaxpayers](#)", while also maximizing your sovereignty and liberty.
2. Provides evidence useful in defending your constitutional and legal rights by challenging the government, legal profession, financial institutions, and private employers when they illegally assert authority or perform unlawful tax collection or withholding actions.
3. Show you how to develop and maintain a good administrative record that will help immunize you from prosecution by malicious public servants.
4. Familiarize you with federal and state tax collection procedure.
5. Give you a systematic and organized approach for responding to government tax collection notices and administrative actions.
6. Teach you the basics of tax litigation.
7. Explain the detailed history of the IRS. You can't win unless you understand your enemy.
8. Help keep budding freedom fighters out of legal trouble by analyzing and explaining the flaws and defects in the various "patriot myths" and "theories" that have developed over the years. This will prevent you from discrediting yourself or the freedom community and keep you on the right track with good, solid arguments and legal defenses for every point and process in the book.
9. Provide an attractive book that is useful both as a learning tool and a well-organized and thoroughly indexed reference tool.
10. Accelerate your study and learning about freedom, sovereignty, and taxes by providing copious internet hyperlinks that take you straight to the sources of government information upon which its conclusions are based so that you can quickly see the supporting evidence for yourself and form your own independent conclusions.

 [Click here](#) if you would like to read the preface of the book.

This book:

1. Is only for use by those who are in deed and in fact a "[nontaxpayer](#)", and have made that decision independently based on your reading of the [Great IRS Hoax](#) book chapters 3 through 5 and our [Member Agreement](#).
2. Is not intended to help you minimize, reduce, or eliminate an existing tax liability. Instead, it shows how to preserve and defend your status as a nontaxpayer by preventing others from violating the law in their interactions with you.
3. Is not a book about how to *litigate* against the government or the IRS, but mainly about how to deal with them administratively. The authors are working on a book about how to litigate against the government that will be called *Tax and Privacy Litigation Manual* which is anticipated to be available in 2006.
4. Does not address filing of tax returns, tax statements, or any other commercial activity. [Click here](#) (OFFSITE LINK) for free details on how to do that.
5. Does not directly address detailed steps necessary to achieve and maintain personal sovereignty and separate oneself from  [a corrupted socialist government](#) and  [corrupted legal profession](#). If you want detailed forms and procedures that might help you achieve personal sovereignty, the two free resources below should be helpful. We are not responsible for the content of these publications and user assumes all responsibility for the consequences of reading these free materials:

[Sovereignty Forms and Instructions](#) (OFFSITE LINK)

 [Sovereignty Forms and Instructions Electronic Book](#) (OFFSITE LINK)

The book is made available in Adobe Acrobat 5.0 or later format. It is electronically searchable, and you can navigate to any section using the bookmarks organized as a table of contents on the left of the screen. If you want a printed copy, simply download it and then follow the instructions on the front cover which describe how to make a printed copy at any Kinkos or other duplicating store.

[Get](#)  
**[Tax Fraud Prevention Manual](#)**  
**(Last Updated 30OCT06, Ver. 1.05**  
**5.4 Mbytes, 708 pages)**

[Click here if you are having trouble downloading or viewing or using the above document](#)

[Click here for a detailed history of changes since the first release of this document](#)

**NOTE:** You will need to download and install the free [Adobe Acrobat Reader version 5.0 or higher](#) from the Adobe website at <http://www.adobe.com> in order to view the document. If you don't update to the very latest Acrobat reader, then you may get errors opening or reading the document. We recommend that you also click on the "Show/Hide Navigation Pane" button in the left portion of your screen in order to simplify navigating around in this rather large (690 + page) document.

The [Tax Fraud Prevention Manual](#) draws on works from several prominent sources and authors, such as:

1. The [U.S. Constitution](#).
2. Amendments to the U.S. Constitution.
3. The Declaration of Independence.
4. [The United States Code \(U.S.C.\)](#), Title 26 (Internal Revenue Code), both the current version and amended past versions.
5. [U.S. Supreme Court Cases](#).
6. U.S. Tax Court findings.
7. The [Code of Federal Regulations \(CFR\), Title 26](#), both the current version and amended past versions.
8. IRS Forms and Publications (directly from the IRS Website at <http://www.irs.gov>).
9. [U.S. Treasury Department Decisions](#).
10. Federal District Court cases.
11. Federal Appellate (circuit) court cases.
12. [Great IRS Hoax book](#)-Family Guardian Fellowship
13. [Federal and State Withholding Options for Private Employers book](#)-Family Guardian Fellowship
14. Several websites.
15. Case studies of IRS enforcement tactics (<http://www.neo-tech.com/irs-class-action/>).
16. Case studies of various tax honesty groups.
17. The IRS' own publications about [Tax Protesters](#).
18. A book entitled *Why No One is Required to File Tax Returns* by William Conklin (<http://www.anti-irs.com>)
19. [Writings of Thomas Jefferson, the author of the Declaration of Independence](#).
20. [Department of Justice, Tax Division, Criminal Tax Manual](#)

---

Below is a complete outline of the content of this very extensive work.

 [PREFACE](#)

**Testimonials**  
**Preface**  
**Conventions Used Consistently Throughout This Book**  
**Table of Contents**  
**Table of Authorities**

**Cases**  
**Statutes**  
**Regulations**  
**Other Authorities**

**Index**  
**Revision History**

**1. INTRODUCTION**

## **1.1 Summary of the Purpose of this document**

## **1.2 Who Is This Document Intended To Educate and Help?**

## **1.3 Why Christians can't remain passive and must commit themselves to reform and action**

## **1.4 Why Should I Believe This Book or Your Website?**

### 1.4.1 Mission statement

### 1.4.2 Motivation and Inspiration

### 1.4.3 Ministry

### 1.4.4 Schooling

### 1.4.5 Criticism

### 1.4.6 Pricing

### 1.4.7 Frequently Asked Questions About Us

#### 1.4.7.1 Question 1: Do you file 1040 forms?

#### 1.4.7.2 Question 2: Do you have any court cites favorable to your position?

#### 1.4.7.3 Question 3: Isn't it a contradiction for you to be working for the government on the one hand and criticizing the government on the other hand.

#### 1.4.7.4 Question 4: Isn't it a contradiction to be paid by the very tax dollars from the government that you tell people not to pay?

#### 1.4.7.5 Question 5: Do you have to quote the Bible so much?

#### 1.4.7.6 Question 6: Aren't you endangering yourself by criticizing government?

#### 1.4.7.7 Question 7: How come I can't select or copy text from the electronic version of this document?

#### 1.4.7.8 Question 8: I'm afraid to act on the contents of this book. What should I do?

## **2. IRS STRATEGIES AND TACTICS: KNOW YOUR OPPONENT**

### **2.1 IRS Origins and Mission**

#### 2.1.1. Short History of the IRS

##### 2.1.1.1 Organic Act

##### 2.1.1.2 Internal Taxation

##### 2.1.1.3 Background and Evolution of Present Organization

##### 2.1.1.4 Reorganization Plan No. 1 of 1952 and Other Changes

#### 2.1.2 Service Organization

#### 2.1.3 The Internal Revenue Service ("IRS") is NOT an Organization within the Department of the Treasury

#### 2.1.4 If Not an Organization within the U.S. Department of the Treasury, then What Exactly Is the IRS?

#### 2.1.5 By What Legal Authority, if Any, Has the IRS Established Offices Inside the 50 States of the Union?

#### 2.1.6 Can IRS Legally Show "Department of Treasury" on their Outgoing Mail?

#### 2.1.7 Does the IRS use the Treasury Seal?

#### 2.1.8 Why Does IRS Form 1040 Not Require a Notary Public to Notarize a Taxpayer's Signature?

#### 2.1.9 IRS Mission Statement and Authority

#### 2.1.10 IRS is a Terrorist Organization by the Government's Own Definition

#### 2.1.11 The U.S. Department of Justice Does Not Have Power of Attorney to Represent IRS in Federal Court

#### 2.1.12 Internal Revenue districts include only the federal zone and not states of the Union

#### 2.1.13 IRS Agents are NOT federal "employees": They are "independent consultants"

### **2.2 Jurisdiction and Authority of IRS Agents**

### **2.3 IRS Fails First Time Audit**

### **2.4 IRS Lies and Obfuscation**

#### 2.4.1 Fraudulent/Inaccurate/Deceptive IRS Publications and Internal Revenue Manual

#### 2.4.2 "Plausible Deniability"

#### 2.4.3 IRS Frivolous Response to the 861/source Issue

#### 2.4.4 Just the Facts

#### 2.4.5 "Taxes are what we pay for a civilized society. "

#### 2.4.6 Income Taxes are Voluntary

### **2.5 A Message for Employees of the Internal Revenue Service**

### **2.6 IRS Doctoring of Tax Returns (Fraud) and IMF**

### **2.7 Telephone Support Games**

### **2.8 District Office Games**

### **2.9 Tax Terrorism and "Misenforcement"**

2.9.1 What To Do When the IRS Comes Knocking

2.9.2 Anonymous Harassment

2.9.3 IRS' "Alien" Destruction

2.9.4 Encouraging Employer Withholding "Misrepresentation"

2.9.5 Fraudulent Assessments

2.9.5.1 The "Substitute for Return"

2.9.5.2 Falsification of IMF and BMF records: The chief IRS tool of illegal extortion

2.9.5.3 The 23C Assessment Form

2.9.6 Taxpayer Penalties and Interest

2.9.7 Employer Penalties and Interest

2.9.7.1 Removal of Penalty

2.9.7.2 Erroneous Written Advice from IRS

2.9.7.3 Interest Rates for Overpayment or Underpayment of Taxes

2.9.7.4 Interest Reduced

2.9.7.5 26 U.S.C. 6682 Penalties: Underreporting of income by an Employer

2.9.8 Notice of Deficiency

2.9.9 Examination Meeting

2.9.10 Massive Violations of the Fair Debt Collection Practices Act (FDCPA)

2.9.11 Violation of Due Process of Law

2.9.11.1 The IRS Publication 1 reveals your rights).. oh, really?

2.9.11.2 The Continuing search for Due Process of Law

2.9.11.3 Tax Court Arrogance

2.9.11.4 The Missing Statutory Authority

2.9.11.5 A New Direction

2.9.11.6 IRS Presumptions and Due Process

2.9.11.7 The Examination Process

2.9.11.8 A Caseworker Shared this with Us

2.9.11.9 IRS Hiding of Evidence

2.9.12 Referral and Request for Technical Advice

2.9.13 Subpoena of Clients, Friends, and Relatives

2.9.14 Assets Search: IRS Electronic Robbery

2.9.15 Unwanted Confiscation/Search of Taxpayer Records

2.9.16 Prosecution for Willful Failure to File

2.9.17 Tax Court

2.9.17.1 Aiello v. Commissioner

2.9.17.2 Williams v. Commissioner

2.9.17.3 Solomon v. Commissioner

2.9.18 Appeals

2.9.19 Litigation Tactics

2.9.19.1 Stacking the Deck During Jury Service

2.9.20 Tax Levies

2.9.20.1 Who is subject to Tax Levy?

2.9.20.2 Military Retirement Pay is Exempt from Tax Levy

2.9.21 Seizure of Property

2.9.22 Auctions of Taxpayer Property

**2.10 Secret Law**

**2.11 IRS (and Congressional) Hypocrisy and Arrogance**

**2.12 Statistics On IRS Behavior**

- 2.12.1 Audits
- 2.12.2 Collection activity
- 2.12.3 Federal Tax Prosecutions
- 2.12.4 Criminal Enforcement

## **2.13 Documentation of IRS Rules and Procedures**

### **3. RESPONDING TO IRS AND STATE TAX CORRESPONDENCE**

#### **3.1 Importance of Responding Promptly and Properly**

#### **3.2 Getting prepared**

- 3.2.1 Organizing your Casefile
- 3.2.2 Minimizing the physical size of your casefile
- 3.2.3 Finding out who to write and their contact information
- 3.2.4 Learning how to use a Word Processing Program
- 3.2.5 Getting educated
- 3.2.6 IMPORTANT: Maintain an electronic copy of your entire administrative record on CD or DVD

#### **3.3 How to Write a Response Letter**

- 3.3.1 IMPORTANT: Understand and avoid all presumptions!
- 3.3.2 Organization and Mandatory elements
- 3.3.3 Stick to facts and evidence and be very rational and organized
- 3.3.4 Attaching government forms to your response: Watch out!
- 3.3.5 Electronically modifying government tax forms
- 3.3.6 Attaching Exhibits
- 3.3.7 The Jurat Statement/Authentication
- 3.3.8 Proof of Mailing/Delivery
- 3.3.9 Things you SHOULDNT do in response letters
- 3.3.10 Submitting Powers of Attorney

#### **3.4 Response Letter Follow-Up**

- 3.4.1 Getting your response letter noticed by the recipient.
- 3.4.2 Notices of Fault and opportunity to cure
- 3.4.3 Using Notices of Default
- 3.4.4 What to do when IRS ignores you

#### **3.5 Income Tax Withholding and Reporting**

- 3.5.1 Background on the W-2 form
- 3.5.2 Legal authority for Withholding
- 3.5.3 Authority for W-4 Withholding Agreements
  - 3.5.3.1 Presidential delegation of authority to the Secretary of Treasury
  - 3.5.3.2 Delegation of authority from the Secretary to the Fiscal Assistant Secretary
  - 3.5.3.3 Delegation of authority from the Fiscal Assistant Secretary to the Commissioner, Financial Management Service
  - 3.5.3.4 Delegation of Authority to the IRS for collection under the Treasury Financial Manual
  - 3.5.3.5 IRS Publication 15, Employer's Circular E
  - 3.5.3.6 Treasury Financial Manual
  - 3.5.3.7 31 CFR Part 215: Withholding of District of Columbia, State, City and County Income or Employment Taxes by Federal Agencies
  - 3.5.3.8 District of Columbia Code
- 3.5.4 Further information on employer withholding

#### **3.6 Tax Enforcement**

- 3.6.1 Federal enforcement authority
- 3.6.2 State enforcement authority
- 3.6.3 Primer on state tax liens

### **3.7 State Response letter reference**

- 3.7.1 General State Income Tax Scheme
- 3.7.2 Example: How California illegally imposes personal income taxes
- 3.7.3 Summary of State taxation laws
- 3.7.4 Detailed State taxation information

- 3.7.4.1 Alabama
- 3.7.4.2 Alaska
- 3.7.4.3 Arizona
- 3.7.4.4 Arkansas
- 3.7.4.5 California
- 3.7.4.6 Colorado
- 3.7.4.7 Connecticut
- 3.7.4.8 Delaware
- 3.7.4.9 Florida
- 3.7.4.10 Georgia
- 3.7.4.11 Hawaii
- 3.7.4.12 Idaho
- 3.7.4.13 Illinois
- 3.7.4.14 Indiana
- 3.7.4.15 Iowa
- 3.7.4.16 Kansas
- 3.7.4.17 Kentucky
- 3.7.4.18 Louisiana
- 3.7.4.19 Maine
- 3.7.4.20 Maryland
- 3.7.4.21 Massachusetts
- 3.7.4.22 Michigan
- 3.7.4.23 Minnesota
- 3.7.4.24 Mississippi
- 3.7.4.25 Missouri
- 3.7.4.26 Montana
- 3.7.4.27 Nebraska
- 3.7.4.28 Nevada
- 3.7.4.29 New Hampshire
- 3.7.4.30 New Jersey
- 3.7.4.31 New Mexico
- 3.7.4.32 New York
- 3.7.4.33 North Carolina
- 3.7.4.34 North Dakota
- 3.7.4.35 Ohio
- 3.7.4.36 Oklahoma
- 3.7.4.37 Oregon
- 3.7.4.38 Pennsylvania
- 3.7.4.39 Rhode Island
- 3.7.4.40 South Carolina
- 3.7.4.41 South Dakota
- 3.7.4.42 Tennessee
- 3.7.4.43 Texas
- 3.7.4.44 Utah
- 3.7.4.45 Vermont
- 3.7.4.46 Virginia
- 3.7.4.47 Washington
- 3.7.4.48 West Virginia
- 3.7.4.49 Wisconsin
- 3.7.4.50 Wyoming

### **3.8 Using Our Canned Response Letters as a Starting Point**

### **3.9 IRS Notice and Letter Index**

## **4. FLAWED TAX ARGUMENTS TO AVOID**

### **4.1 "16th Amendment Never Ratified"**

### **4.2 "Wages" are not taxable or are not "income"**

- 4.3 Only federal workers are subject to the Internal Revenue Code
- 4.4 Workers need not submit accurate tax forms
- 4.5 United States Citizens are not liable for federal income taxes
- 4.6 The Internal Revenue Code only applies within the "federal zone"
- 4.6 Federal income taxes, Form 1040, and the nation's tax laws only apply to federal officers, federal employees, and elected officials of the national government
- 4.8 There is no law that imposes an obligation to pay federal income taxes or file federal income tax returns
- 4.9 Income from sources not connected with the conduct of a trade or business with the United States government is not subject to income tax
- 4.10 Only federal employees or federal officeholders need to complete Form W-4
- 4.11 "Nontaxpayers" being eligible to reduce their tax liability
- 4.12 Foreign earned income exclusion theory
- 4.13 Seeking Administrative Remedies
- 4.14 Claiming that Federal Courts Do Not Have Jurisdiction for Cases involving Title 26
- 4.15 We don't earn "money" and therefore can't earn "income"

4.15.1 Adverse Federal Decisions:

4.15.2 Adverse State Decisions:

- 4.16 Misapplication of the Non-Resident Alien Position
- 4.17 Not a Person
- 4.18 Filing 1099s against IRS Agents
- 4.19 Notice of Levy
- 4.20 Title 26 is not positive law
- 4.21 "Federal income taxes" are contractual
- 4.22 The IRS is a Delaware corporation
- 4.23 The International Monetary Fund (IMF) Argument
- 4.24 The Form 1040 is Really a Codicil to a Will
- 4.25 Land Patents
- 4.26 The UCC Draft Argument
- 4.27 Abuse of the CFR Parallel Table of Authorities and Rules
- 4.28 The Flag Issue
- 4.29 Common Law Court
- 4.30 "Nom de Guerre"
- 4.31 District Court's are "non-judicial"
- 4.32 Misconceptions About Citizenship
- 4.33 The "Straw Man" Sight Drafts
- 4.34 The "Manufacturer's Certificate of Origin" Argument
- 4.35 Due process principles and tax collection
- 4.36 Executive Order No. 1110
- 4.37 Subtitle A of the Internal Revenue Code describes a "direct, unapportioned tax"
- 4.38 Expatriation to escape taxation or government jurisdiction

## **5. REBUTTED GOVERNMENT LIES AND PROPAGANDA**

### **5.1 Popular argumentation techniques of tax honesty opponents**

5.1.1 Abuse of the rules of statutory construction and interpretation

5.1.1.1 "Expressio unius est exclusio alterius"

5.1.1.2 "Ejusdem generis"

5.1.2 Deception using "Words of art"

5.1.3 Presumption in court rulings

5.1.4 Misapplying case law

5.1.5 Presumption in interactions with IRS and tax professionals

5.1.6 Avoiding discussion of hot topics

5.1.7 Abuse of the rules of evidence during litigation

5.1.8 Making cases unpublished during litigation

5.1.9 Abusing the word "frivolous"

5.1.10 Personalizing discussions

5.1.11 False or misleading IRS publications and telephone support

5.1.12 Negative Peer pressure

5.1.13 Publicizing bad court rulings

5.1.14 Promoting insecurity, uncertainty, and lack of confidence if truth is revealed

## 5.2 Congressional Research Service Report 97-59A, "Frequently Asked Questions Concerning the Federal Income Tax"

- 5.2.1 What Specific Limitations on the Power of Congress to Tax Are Found in the Constitution?
- 5.2.2 Is the Federal Income Tax A Direct or Indirect Tax?
- 5.2.3 What Does the Court Mean When it States That the Income Tax is in the Nature of an Excise Tax?
- 5.2.4 Was the Sixteenth Amendment Properly Ratified

*5.2.4.1 Did the President sign the resolution which became the Sixteenth Amendment?*

*5.2.4.2 Do clerical errors in the ratifying resolutions of the various state legislatures negate the ratification of the Sixteenth Amendment?*

- 5.2.5 Do Taxpayers Have the Right, under the Fifth Amendment, Not to Answer Questions on Their Tax Returns?
- 5.2.6 Is Title 26 of the United States Code (Internal Revenue) Law?
- 5.2.7 Are Wages Taxable as Income?
- 5.2.8 Do We Have a Voluntary Tax System?
- 5.2.9 Do the Internal Revenue Service's Collection and Auditing Procedures Violate the Fourth Amendment?
- 5.2.10 Do Such Aspects of the Federal Income Tax as Graduated Rates, Deductions, and Exemptions Violate the Equal (Protection Guarantees of the the Constitution)?
- 5.2.11 Has the Withholding Act Been Repealed (Victory Tax Act Questions)?
- 5.2.12 When was the Internal Revenue Service Established and Where Does it Get Its Power to Tax?
- 5.2.13 Does the Internal Revenue Service Have Authority to Operate Outside the District of Columbia (Seat of Government Act Question)?
- 5.2.14 What Is the Liberty Amendment
- 5.2.15 Is the Federal Telephone Excise Tax Used to Fund the Military?
- 5.2.16 Does Withholding on Wages Constitute Involuntary Servitude in Violation of the Thirteenth Amendment?
- 5.2.17 Are Not Individuals Who Are Too Young to Vote or Who Are Residents of the District of Columbia Unconstitutionally Subjected to Taxation Without Representation?
- 5.2.18 What Is Meant by the Term United States in the Context of the Internal Revenue Code?
- 5.2.19 May Congress Tax Occupations of Common Law Right?
- 5.2.20 What is Meant by the Term "includes"?
- 5.2.21 Do the IRC Source of Income Rules Exempt the Income of U.S. Citizens?
- 5.2.22 What Is the Frivolous Income Tax Penalty?

## 5.3 IRS Report: "The Truth About Frivolous Tax Arguments"

### 5.3.1 GENERAL NOTES

#### 5.3.2 I. Frivolous Tax Arguments In General

##### 5.3.2.1 A. The Voluntary Nature of the Federal Income Tax System

*5.3.2.1.1. 1. Contention: The filing of a tax return is voluntary*

*5.3.2.1.2 2. Contention: Payment of tax is voluntary*

*5.3.2.1.3 3. Contention: Taxpayers can reduce their federal income tax liability by filing a "zero return"*

*5.3.2.1.4 4. Contention: The IRS must prepare federal tax returns for a person who fails to file*

##### 5.3.2.2 B. The Meaning of Income: Taxable Income and Gross Income

*5.3.2.2.1 1. Contention: Wages, tips, and other compensation received for personal services are not income*

*5.3.2.2.2 2. Contention: Only foreign-source income is taxable*

*5.3.2.2.3 3. Contention: Federal Reserve Notes are not income*

##### 5.3.2.3 C. The Meaning of Certain Terms Used in the Internal Revenue Code

*5.3.2.3.1 1. Contention: Taxpayer is not a "citizen" of the United States, thus not subject to federal income tax laws*

*5.3.2.3.2 2. Contention: The "United States" consists only of the District of Columbia, federal territories, and federal enclaves*

*5.3.2.3.3 3. Contention: Taxpayer is not a "person" as defined by the Internal Revenue Code, thus is not subject to the federal income tax laws.*



5.3.2.3.4 4. *Contention: The only "employees" subject to the federal income tax are employees of the federal government*

#### 5.3.2.4 D. Constitutional Amendment Claims

5.3.2.4.1 1. *Contention: Taxpayers can refuse to pay income taxes on religious or moral ground by invoking the First Amendment*

5.3.2.4.2 2. *Contention: Federal income taxes constitute a "taking" of property without due process of law, violating the Fifth Amendment*

5.3.2.4.3 3. *Contention: Taxpayers do not have to file returns or provide financial information because the protection against self-incrimination found in the Fifth Amendment*

5.3.2.4.4 4. *Contention: Compelled compliance with the federal income tax laws is a form of servitude in violation of the Thirteenth Amendment*

5.3.2.4.5 5. *Contention: The Sixteenth Amendment to the United States Constitution was not properly ratified, thus the federal income tax laws are unconstitutional*

5.3.2.4.6 6. *Contention: The Sixteenth Amendment does not authorize direct non-apportioned federal income tax on United States citizens.*

#### 5.3.2.5 E. Fictional Legal Bases

5.3.2.5.1 1. *Contention: The Internal Revenue Service is not an agency of the United States*

5.3.2.5.2 2. *Contention: Taxpayers are not required to file a federal income tax return, because the instructions and regulations associated with the form 1040 do not display an OMB control number as required by the Paperwork Reduction Act*

5.3.2.5.3 3. *Contention: African Americans can claim a special tax credit as reparations for slavery and other oppressive treatment*

5.3.2.5.4 4. *Contention: Taxpayers are entitled to a refund of the Social Security taxes paid over their lifetime.*

5.3.2.5.5 5. *Contention: An "untaxing" package or trust provides a way of legally and permanently avoiding the obligation to file federal income tax returns and pay federal income taxes*

5.3.2.5.6 6. *Contention: A "corporation sole" can be established and used for the purpose of avoiding federal income taxes*

#### 5.3.2.2.6 F. "Untaxing" Packages or "Untaxing" Trusts

5.3.2.6.1 1. *Contention: An "untaxing" package or trust provides a way of legally and permanently avoiding the obligation to file federal income tax returns and pay federal income taxes.*

### 5.3.3 II. Frivolous Arguments In Collection Due Process Cases

#### 5.3.3.1 A. Invalidity of the Assessment

5.3.3.1.1 1. *Contention: A tax assessment is invalid because the taxpayer did not get a Form 23C*

5.3.3.1.2 2. *Contention: A tax assessment is invalid because the assessment was made from a substitute return prepared pursuant to section 6020(b), which is not a valid return*

#### 5.3.3.2 B. Invalidity of the Statutory Notice of Deficiency

5.3.3.2.1 1. *Contention: A statutory notice of deficiency is invalid because it was not signed by the Secretary of the Treasury or by someone with delegated authority*

5.3.3.2.2 2. *Contention: A notice of federal tax lien is invalid because it is unsigned*

#### 5.3.3.3 C. Invalidity of Notice of Federal Tax Lien

5.3.3.3.1 1. *Contention: A notice of federal tax lien is invalid because it is unsigned*

5.3.3.3.1.2 2. *Contention: A notice of federal tax lien is invalid because it was filed*

by someone without delegated authority

#### 5.3.3.4 D. Invalidity of Collection Due Process Notice

5.3.3.4.1 1. Contention: A collection due process notice (Letter 1058, LT-11 or LT-3172) is invalid because it is not signed by the Secretary or his delegate

5.3.3.4.2 2. Contention: A collection due process notice is invalid because no certificate of assessment is attached

#### 5.3.3.5 E. Verification Given as Required by I.R.C. 6330(c)(1)

5.3.3.5.1 1. 1. Contention: Verification requires the production of certain documents

#### 6.3.3.6 F. Invalidity of Statutory Notice and Demand

6.3.3.6.1 1. Contention: No notice and demand, as required by I.R.C. 6303, was ever received by taxpayer

5.3.3.5.1.2 2. Contention: A notice and demand is invalid because it is not signed, it is not the correct form (such as Form 17), or because no certificate of assessment is attached

#### 5.3.3.7 G. Tax Court Authority

5.3.3.7.1 1. Contention: The Tax Court does not have the authority to decide legal issues

#### 5.3.3.8 H. Challenged to the Authority of IRS Employees

5.3.3.8.1 1. Contention: Revenue Officers are not authorized to seize property in satisfaction of unpaid taxes

5.3.3.8.1 2. Contention: IRS employees lack credentials. For example, they have no pocked commission or the wrong color identification badge

#### 5.3.3.9 I. Use of Unauthorized Representatives

5.3.3.9.1 1. Contention: Taxpayers are entitled to be represented at hearings, such as collections

#### 5.3.3.10 J. No Authorization Under I.R.C. 7401 to Bring Action

5.3.3.10.1 1. Contention: The Secretary has not authorized an action for the collection of taxes and penalties or the Attorney General has not directed an action be commenced for the collection of taxes and penalties

### 5.3.4 III. Penalties for Pursuing Frivolous Tax Arguments

#### 5.3.5 Questions Which Easily Expose the IRS Fraud

5.3.5.1 Federal jurisdiction

5.3.5.2 Who are "taxpayers"

5.3.5.3 Taxable "activities" and "taxable income"

5.3.5.4 How One "volunteers" to participate in the Municipal Donation Program called the Internal [to the District of Columbia] Revenue Code (I.R.C.)

## 5.4 IRS' Version of "Why Do I Have To Pay Taxes? " with Rebuttal

## **6. FEDERAL TAX LITIGATION FUNDAMENTALS**

### **6.1 Quotations on Trial by Jury**

### **6.2 Why the Federal Courts are too Corrupted to Try the Issues Raised in This Book**

### **6.3 Federal Judicial Process**

#### 6.3.1 How Do Federal Judges Get Selected?

- 6.3.2 The Role of the Courts
- 6.3.3 An Adversarial System
- 6.3.4 Fees and the Costs of Litigation
- 6.3.5 Procedural Rules for Conducting Litigation
- 6.3.6 Civil Cases
- 6.3.7 Criminal Cases

#### **6.4 Authorities on Jurisdiction of Federal Courts**

- 6.4.1 Federal Crimes
- 6.4.2 Territorial Jurisdiction
- 6.4.3 Government of Men
- 6.4.4 Affect of Emergency Powers on Jurisdiction
- 6.4.5 Types of Courts
- 6.4.6 Article I Legislative and Article IV Territorial Courts: "United States District Courts"
- 6.4.7 Article III Constitutional District Courts: "District Court(s) of the United States"
- 6.4.8 Statutory Authority of United States Courts
- 6.4.9 Examples of Federal Courts Exceeding their Federal Zone Jurisdiction
- 6.4.10 Flawed Arguments About the Federal Courts
- 6.4.11 Exclusive Federal Jurisdiction

#### **6.5 History of Federal Territorial Jurisdiction**

#### **6.6 Basis for Claims/Redress Against the Government Involving Wrongful Taking of Taxes**

- 6.6.1 Elements of a Civil or Criminal Claim
- 6.6.2 Tax Case Elements and Procedure
- 6.6.3 Summary of Relevant Statutes that Form the Basis of a Claim
- 6.6.4 Elements of a Civil or Criminal Claim
- 6.6.5 26 U.S.C 7214: Crimes of Agents and Revenue Officers
- 6.6.6 Court Case Cite that sets a Precedent Vis a Vis the IRS Income Tax Fraud
- 6.6.7 Statute of Limitations for Criminal Violations of the Tax Code (26 U.S.C. §6531)

#### **6.7 Tax Litigation Venues/Courts: "Forum Shopping"**

- 6.7.1 IRS
- 6.7.2 U.S. Tax Court
- 6.7.3 U.S. District Court
- 6.7.4 U.S. Court of Appeals/Circuit Courts
- 6.7.5 U.S. Court of Federal Claims
- 6.7.6 U.S. Supreme Court

#### **6.8 Proper Service of Legal Process on the U.S. Government**

#### **6.9 Legal etiquette and research**

- 6.9.1 Courtroom etiquette
- 6.9.2 Compulsory Production of Documents
- 6.9.3 Case and Code Citations
  - 6.9.3.1 Cases
  - 6.9.3.2 Codes
  - 6.9.3.3 Rules of Citation
  - 6.9.3.4 Sources for Abbreviations
- 6.9.4 How the Shepardize
  - 6.9.4.1 Introduction
  - 6.9.4.2 Analysis Codes
  - 6.9.4.3 Definitions
  - 6.9.4.4 Procedure to Shepardize
  - 6.9.4.5 Interpreting the Citation Information You Find
    - 6.9.4.5.1 Parallel Citations
    - 6.9.4.5.2 History letters
    - 6.9.4.5.3 Treatment Letters

- 6.9.4.5.4 Headnote Numbers
- 6.9.4.5.5 Docket Numbers
- 6.9.4.5.6 Divisions Within a Citator

- 6.9.4.6 Shepardizing Statutes
- 6.9.4.7 Research Steps
- 6.9.4.8 Update Service
- 6.9.4.9 Case Name Citators
- 6.9.4.10 Research Example
- 6.9.4.11 Headnote Numbers-An Example

## **6.10 How the Federal Judiciary Stole the Right to Petition**

- 6.10.1 Introduction
- 6.10.2 The History of Judicial Arrogance to Four Central Aspects of the Petition Clause
  - 6.10.2.1 Aspect One: The Right of Petition for Redress vs Sovereign Immunity
  - 6.10.2.2 Aspect Two: Judicially Created Personal and Official Immunity
  - 6.10.2.3 Aspect Three: Political Persecution for Exercising Petition Rights
  - 6.10.2.4 Aspect Four: The Judicial Contempt for Petitioning to Redress Grievances with Government in Federal Court
- 6.10.3 The Duel Meaning of the Petition Clause: Procedural vs. Substantive
- 6.10.4 The Judiciary is Organized to Substantive Redress of Constitutional Grievances and Reasonable Explanation of Unredressability
- 6.10.5 Conclusion

## **7. RESOURCES FOR TAX FRAUD FIGHTERS**

- 7.1 Websites**
- 7.2 Books and Publications**
- 7.3 Legal Resources**

## **8. DEFINITIONS**

**WARNING:** The contents of this book is subject to the terms of our [Disclaimer](#). Please read and heed.

**Copyright Sovereignty Education and Defense Ministry (SEDM)**

[Home](#) [About](#) [Contact](#)

**AFFIDAVIT OF JOHN TURNER**

The undersigned, being duly sworn, deposes and states that:

1. My name is John Turner.
2. My mailing address is P.O. Box 612, Paradise, California 95967.
3. Currently I consult in federal tax matters.
4. I am enrolled to practice before the Internal Revenue Service.
5. I was employed by Internal Revenue Service (IRS) for nearly ten years, from October 1987 through April 1997, as a revenue officer in the Collection Division.
6. IRS gave me substantial training so that I might be fully equipped to carry out my duties as a revenue officer. The training was on going and took place in various formats, on a variety of subjects, in various locales, on a regular basis.
7. At the very beginning of my career, before I was commissioned, I completed a training session entitled "Revenue Officer, Phase One". Phase One lasted approximately 6 weeks and was scheduled during October and November 1987.
8. During the Phase One training I received many "hand outs", ie., materials for the purpose of my initial training and education for the revenue officer position. These "lessons" covered a wide array of subjects, including training on liens, levy, assessment, and summons to name a few.
9. One of the lessons in the Phase One training was entitled, LESSON 23 IRC SECTION 6020(B).
10. Another lesson included in the Phase One training was entitled LESSON 25 REFERRALS.

11. I have retained those original "hand outs" representing Lesson 23 IRC Section 6020(b) and Lesson 25 Referrals. I have made photocopies of these two lessons and avow that the copies of these lessons submitted for the purposes of this hearing in Washington D.C., February 27 and 28, 2002, organized and convened by the We the People Foundation, are photocopies of those original training documents. I further avow that no alterations or changes have been made to the text or substance of these copies. Except for occasional highlighting of some words the original documents remain in the condition that I received them in 1987.

12. During my career I was given many papers that had some connection with my official duties. Often I received IRS Memorandums which communicated some sort of changes that I needed to be made aware of. Submitted herein, are four "IRS Memorandums", with attachments. The Memorandums are listed as follows:

March 1, 1988	Subject: Substitute for Return Program
December 12, 1988	Subject: Substitute for Return Program
December 23, 1988	Subject: Substitute for Return (SFR) Cases – Joint Filing Issue
March 16, 1989	Subject: Substitute for Returns and Joint Filing Status


The Memorandums listed above were given to me because I needed to be familiar with the issues discussed in those Memorandums in my capacity as a revenue officer. I have retained these specific Memorandums originally distributed to me during 1988 and 1989. For the purposes of this hearing in Washington D.C., February 27 and 28, 2002, I have submitted true copies of those Memorandums.

13. Revenue Officers are subject to annual evaluations of their performance on the job. During my tenure with IRS, I was given "Revenue Officer Elements and Standards" and "SPD No. 91448E, Standard Position Description". These documents are for the use of the revenue officer and his manager. "Revenue Officer Elements and Standards" spells out the elements and criteria for meeting the elements required of the job. "SPD No. 91448E" provides the general description of duties, responsibilities, and skills required of the revenue officer position. Both of these documents were provided to me while working as a revenue officer. Submitted herein for the purposes of the hearing on February 27 and 28, 2002, are true copies of those two documents.

14. Revenue Officers, when commissioned, are issued pocket commissions to be used for identification purposes to verify that they are authorized to investigate tax matters. In November 1987, on completion of Phase One Revenue Officer training, I was issued a pocket commission, dated 11/25/87. Upon my resignation on April 17, 1997, I surrendered my commission to my supervisor as required. Submitted for the purposes of the hearing in Washington D.C. on February 27 and 28, 2002, I submit a color photocopy of my pocket commission. The photograph includes both the outside jacket and the inside of the commission.

15. FURTHER AFFIANT SAITH NOT.

Dated this 23 day of February, 2002.

  
\_\_\_\_\_  
John Turner

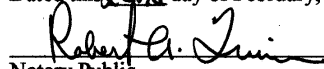
P.O. Box 612  
Paradise, CA 95967

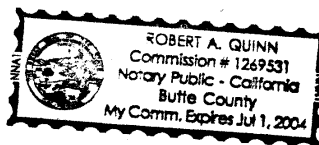
STATE OF CALIFORNIA }

COUNTY OF BUTTE }

BEFORE ME, the undersigned authority, appeared John Turner who, upon oath, states that he is the maker of the foregoing Affidavit and that the statements and averments therein are true and correct to the best of his knowledge and belief.

Dated this 23rd day of February, 2002.

  
\_\_\_\_\_  
Notary Public



Lesson 23  
IRC SECTION 6020(B)

REFERENCES

Circular E

CONTENTS

Introduction  
Objectives  
Authority  
The First Contact  
Preparation of the Returns  
Employment Tax Returns  
The Partnership Return  
Excise Tax Returns  
The Administrative Process  
Final Actions  
Summary

INTRODUCTION

The goal of the Collection Division is to promote voluntary compliance with the tax laws by firm and fair practice. Occasionally, you will meet taxpayers who refuse to file their tax returns voluntarily. In this lesson, you will learn how to deal with some of these situations.

The 6020(b) procedure is an important administrative tool that you will use to manage your TDI inventory.

OBJECTIVES

At the end of this lesson, you will be able to:

- 23-1. Identify situations when action under IRC section 6020(b) is appropriate.
- 23-2. Discuss various sources of information necessary to prepare returns.
- 23-3. Correctly prepare Form 5604 and returns under IRC section 6020(b).





Department of the Treasury  
Internal Revenue Service

**Publication 15**

(Rev. January 2002)  
Cat. No. 10000W

# Circular E, Employer's Tax Guide

**(Including 2002 Wage  
Withholding and Advance  
Earned Income Credit  
Payment Tables)**



**Get forms and other information  
faster and easier by:**

**Computer** • [www.irs.gov](http://www.irs.gov) or **FTP** • [ftp.irs.gov](ftp://ftp.irs.gov)

**FAX** • 703-368-9694 (from your fax machine)



[www.irs.gov/elec\\_svs/efile-bus.html](http://www.irs.gov/elec_svs/efile-bus.html)

## Contents

Changes To Note .....	1
Calendar .....	2
Important Reminders .....	3
General Information .....	6
1. Employer Identification Number (EIN) .....	6
2. Who Are Employees? .....	6
3. Family Employees .....	7
4. Employee's Social Security Number (SSN) .....	8
5. Wages and Other Compensation .....	8
6. Tips .....	11
7. Supplemental Wages .....	12
8. Payroll Period .....	12
9. Withholding From Employees' Wages .....	13
10. Advance Earned Income Credit (EIC) Payment .....	15
11. Depositing Taxes .....	17
12. Filing Form 941 .....	22
13. Reporting Adjustments on Form 941 .....	23
14. Federal Unemployment (FUTA) Tax .....	26
15. Special Rules for Various Types of Services and Payments .....	28
16. How To Use the Income Tax Withholding and Advance Earned Income Credit (EIC) Payment Tables .....	32
<b>Tables:</b>	
2002 Income Tax Withholding Tables:	
Percentage Method .....	34-35
Wage Bracket Method .....	36-55
2002 Advance EIC Payment Tables:	
Percentage Method .....	56-57
Wage Bracket Method .....	58-61
<b>Index</b> .....	62
<b>Form 7018-A (order blank)</b> .....	63
<b>Quick and Easy Access to Tax Help and Forms</b> .....	64

## Changes To Note

**Social security and Medicare tax for 2002.** The social security wage base for 2002 is \$84,900. There is no wage base limit for Medicare tax. The tax rate remains 6.2% for social security and 1.45% for Medicare tax.

**Redesignation of Estimated Income Tax Payments as Employment Tax Deposits.** If you determine that your income tax liability for your current tax year will be lower than the amount of estimated income tax payments you have already made, you may redesignate estimated income tax payments as employment tax deposits. You may use these redesignated payments to satisfy deposit liabilities for income tax withholding and social security, Medicare, railroad retirement and Federal unemployment taxes. To make this redesignation, call 1-866-562-5227. Be certain that your redesignation of these payments does not result in an underpayment of the estimated income tax for the tax year. You may be subject to a penalty for an underpayment of estimated income tax.

---

## Calendar

The following is a list of important dates. Also see **Pub. 509**, Tax Calendars for 2002.

***Note:** If any date shown below falls on a Saturday, Sunday, or Federal holiday, use the next business day. A statewide legal holiday delays a filing due date only if the IRS office where you are required to file is located in that state. For any due date, you will meet the "file" or "furnish" requirement if the form is properly addressed and mailed First-Class or sent by an IRS designated private delivery service on or before the due date. See **Private Delivery Services** on page 5 for more information on IRS designated private delivery services.*

### By January 31

**Furnish Forms 1099 and W-2.** Furnish each employee a completed **Form W-2**, Wage and Tax Statement. Furnish each recipient a completed Form 1099 (e.g., **Form 1099-R**, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., and **Form 1099-MISC**, Miscellaneous Income).

**File Form 940 or 940-EZ.** File **Form 940** or **Form 940-EZ**, Employer's Annual Federal Unemployment (FUTA) Tax Return. However, if you deposited all the FUTA tax when due, you have ten additional days to file.

**File Form 945.** File **Form 945**, Annual Return of Withheld Federal Income Tax, to report any nonpayroll income tax withheld in 2001. See **Nonpayroll Income Tax Withholding** on page 4 for more information.

### By February 15

**Request new Form W-4 from exempt employees.** Ask for a new **Form W-4**, Employee's Withholding Allowance Certificate, from each employee who claimed exemption from withholding last year.

### On February 16

**Exempt Forms W-4 expire.** Any Form W-4 previously given to you claiming exemption from withholding has

expired. Begin withholding for any employee who previously claimed exemption from withholding, but has not given you a new Form W-4 for the current year. If the employee does not give you a new Form W-4, withhold tax as if he or she is single, with zero withholding allowances. (See section 9.)

### By February 28

**File Forms 1099 and 1096.** File Copy A of all Forms 1099 with **Form 1096**, Annual Summary and Transmittal of U.S. Information Returns, with the IRS. For electronically filed returns, see **By March 31** below.

**File Forms W-2 and W-3.** File Copy A of all Forms W-2 with **Form W-3**, Transmittal of Wage and Tax Statements, with the Social Security Administration (SSA). For electronically filed returns, see **By March 31** below.

**File Form 8027.** File **Form 8027**, Employer's Annual Information Return of Tip Income and Allocated Tips, with the Internal Revenue Service. (See section 6.) For electronically filed returns, see **By March 31** below.

### By March 31

**File electronic Forms 1099, W-2, and 8027.** File Copy A of electronic (not magnetic media) Forms 1099 with the IRS and W-2 with the Social Security Administration. File electronic (not magnetic media) Form 8027 with the IRS.

### By April 30, July 31, October 31, and January 31

**Deposit FUTA taxes.** Deposit Federal unemployment (FUTA) tax due if it is more than \$100.

**File Form 941.** File **Form 941**, Employer's Quarterly Federal Tax Return, and **deposit** any undeposited income, social security, and Medicare taxes. You may pay these taxes with Form 941 if your total tax liability for the quarter is less than \$2,500 and the taxes are paid in full with a timely filed return. If you deposited all taxes when due, you have 10 additional days from the due dates above to file the return.

### Before December 1

**New Forms W-4.** Remind employees to submit a new Form W-4 if their withholding allowances have changed or will change for the next year.

### On December 31

**Form W-5 expires.** **Form W-5**, Earned Income Credit Advance Payment Certificate, expires. Eligible employees who want to receive advance payments of the earned income credit next year must give you a new Form W-5.

**Employer Responsibilities:** The following list provides a brief summary of your basic responsibilities. Because the individual circumstances for each employer can vary greatly, their responsibilities for withholding, depositing, and reporting employment taxes can differ. Each item in this list has a page reference to a more detailed discussion in this publication.

<b>New Employees:</b>	<b>Page</b>	<b>Quarterly (By April 30, July 31, October 31, and January 31):</b>	<b>Page</b>
<input type="checkbox"/> Verify work eligibility of employees . . . . .	3	<input type="checkbox"/> Deposit FUTA tax in an authorized financial institution if undeposited amount is over \$100 . . . . .	27
<input type="checkbox"/> Record employees' names and SSNs from social security cards . . . . .	3	<input type="checkbox"/> File Form 941 (pay tax with return if not required to deposit) . . . . .	22
<input type="checkbox"/> Ask employees for 2002 Form W-4 . . . . .	13		
<b>Each Payday:</b>		<b>Annually (See Calendar for due dates):</b>	
<input type="checkbox"/> Withhold Federal income tax based on each employee's Form W-4 . . . . .	32	<input type="checkbox"/> Remind employees to submit a new Form W-4 if they need to change their withholding. . . . .	13
<input type="checkbox"/> Withhold employee's share of social security and Medicare taxes . . . . .	15	<input type="checkbox"/> Ask for a new Form W-4 from employees claiming exemption from income tax withholding . . . . .	13
<input type="checkbox"/> Include advance earned income credit in paycheck if employee requested it on Form W-5 . . . . .	15	<input type="checkbox"/> Reconcile Forms 941 with Forms W-2 and W-3 . . . . .	23
<input type="checkbox"/> Deposit:		<input type="checkbox"/> Furnish each employee a Form W-2 . . . . .	2
• Withheld income tax		<input type="checkbox"/> File Copy A of Forms W-2 and the transmittal Form W-3 with the SSA. . . . .	2
• Withheld and employer social security taxes		<input type="checkbox"/> Furnish each recipient a Form 1099 (e.g., Forms 1099-R and 1099-MISC). . . . .	2
• Withheld and employer Medicare taxes . . . . .	17	<input type="checkbox"/> File Forms 1099 and the transmittal Form 1096 . . . . .	2
<b>Note:</b> Due date of deposit depends on your deposit schedule (monthly or semiweekly).		<input type="checkbox"/> File Form 940 or 940-EZ . . . . .	27
		<input type="checkbox"/> File Form 945 for any nonpayroll income tax withholding . . . . .	4

## Important Reminders

### Electronic Filing

**Form 940** and **Form 941** may now be filed electronically. For more information, visit the IRS Web Site at [www.irs.gov/elec\\_svcs/efile-bus.html](http://www.irs.gov/elec_svcs/efile-bus.html) or call 1-800-829-1040.

### Electronic Deposit Requirement

You must make electronic deposits of all depository taxes (such as employment tax, excise tax, and corporate income tax) using the Electronic Federal Tax Payment System (EFTPS) in 2002 if:

- The total deposits of such taxes in 2000 were more than \$200,000 or
- You were required to use EFTPS in 2001.

If you are required to use EFTPS and fail to do so, you may be subject to a 10% penalty. If you are not required to use EFTPS, you may participate voluntarily. To get more information or to enroll in EFTPS, call 1-800-555-4477 or 1-800-945-8400.

See section 11 for more information.

## Hiring New Employees

**Eligibility for employment.** You must verify that each new employee is legally eligible to work in the United States. This will include completing the Immigration and Naturalization Service (INS) **Form I-9**, Employment Eligibility Verification. You can get the form from INS offices or by calling 1-800-870-3676. Contact the INS at 1-800-375-5283, or visit the INS Web Site at [www.ins.usdoj.gov](http://www.ins.usdoj.gov) for further information.

**New hire reporting.** You are required to report any new employee to a designated state new hire registry. Many states accept a copy of Form W-4 with employer information added. Call the Office of Child Support Enforcement at 202-401-9267 or access its Web Site at [www.acf.dhhs.gov/programs/cse/newhire](http://www.acf.dhhs.gov/programs/cse/newhire) for more information.

**Income tax withholding.** Ask each new employee to complete the 2002 Form W-4. (See section 9.)

**Name and social security number.** Record each new employee's name and number from his or her social security card. Any employee without a social security card should apply for one. (See section 4.)

## Paying Wages, Pensions, or Annuities

**Income tax withholding.** Withhold tax from each wage payment or supplemental unemployment compensation

plan benefit payment according to the employee's Form W-4 and the correct withholding rate. (If you have nonresident alien employees, see section 9.) Withhold from periodic pension and annuity payments as if the recipient is married claiming three withholding allowances, unless he or she has provided **Form W-4P**, Withholding Certificate for Pension or Annuity Payments, either electing no withholding or giving a different number of allowances, marital status, or an additional amount to be withheld. Do not withhold on direct rollovers from qualified plans. See section 9 and **Pub. 15-A**, Employer's Supplemental Tax Guide. Pub. 15-A includes information on withholding on pensions and annuities.

## Information Returns

You may have to file information returns to report certain types of payments made during the year. For example, you must file **Form 1099-MISC**, Miscellaneous Income, to report payments of \$600 or more to persons not treated as employees (e.g., independent contractors) for services performed for your trade or business. For details about filing Forms 1099 and for information about required electronic or magnetic media filing, see the **2002 General Instructions for Forms 1099, 1098, 5498, and W-2G** for general information and the separate specific instructions for each information return you file (for example, **2002 Instructions for Forms 1099-MISC**). Do not use Forms 1099 to report wages and other compensation you paid to employees; report these on Form W-2. See the separate **Instructions for Forms W-2 and W-3** for details about filing Form W-2 and for information about required magnetic media filing. If you file 250 or more Forms W-2 or 1099, you must file them on magnetic media or electronically.

**Information reporting call site.** The IRS operates a centralized call site to answer questions about reporting on Forms W-2, W-3, 1099, and other information returns. If you have questions related to reporting on information returns, call 1-866-455-7438.

## Nonpayroll Income Tax Withholding

Nonpayroll income tax withholding must be reported on **Form 945**, Annual Return of Withheld Federal Income Tax. Form 945 is an annual tax return and the return for 2001 is due January 31, 2002. Separate deposits are required for payroll (Form 941) and nonpayroll (Form 945) withholding. Nonpayroll items include:

- Pensions, annuities, and IRAs.
- Military retirement.
- Gambling winnings.
- Indian gaming profits.
- Voluntary withholding on certain government payments.
- Backup withholding.

All income tax withholding reported on Forms 1099 or W-2G must be reported on Form 945. All income tax withholding reported on Form W-2 must be reported on Form 941, 943, or Schedule H (Form 1040).

**Note:** *Because distributions to participants from some nonqualified pension plans and deferred compensation plans are treated as wages and are reported on Form W-2, income tax withheld must be reported on Form 941, not Form 945. However, because distributions from such plans to a beneficiary or estate of a deceased employee are not wages and are reported on Forms 1099-R, income tax withheld must be reported on Form 945.*

For details on depositing and reporting nonpayroll income tax withholding, see the separate **Instructions for Form 945**.

**Backup withholding.** You generally must withhold 30% of certain taxable payments if the payee fails to furnish you with his or her correct taxpayer identification number (TIN). This withholding is referred to as backup withholding.

Payments subject to backup withholding include interest, dividends, patronage dividends, rents, royalties, commissions, nonemployee compensation, and certain other payments you make in the course of your trade or business. In addition, transactions by brokers and barter exchanges and certain payments made by fishing boat operators are subject to backup withholding.

**Note:** *Backup withholding does not apply to wages, pensions, annuities, IRAs (including simplified employee pension (SEP) and SIMPLE retirement plans), section 404(k) distributions from an employee stock ownership plan (ESOP), medical savings accounts, long-term care benefits, or real estate transactions.*

You can use **Form W-9**, Request for Taxpayer Identification Number and Certification, to request payees to furnish a TIN and to certify that the number furnished is correct. You can also use Form W-9 to get certifications from payees that they are not subject to backup withholding or that they are exempt from backup withholding. The **Instructions for the Requester of Form W-9** includes a list of types of payees who are exempt from backup withholding. For more information, see **Pub. 1679**, A Guide to Backup Withholding.

## Recordkeeping

Keep all records of employment taxes for at least 4 years. These should be available for IRS review. Records should include:

- Your employer identification number.
- Amounts and dates of all wage, annuity, and pension payments.
- Amounts of tips reported.
- Records of allocated tips.
- The fair market value of in-kind wages paid.
- Names, addresses, social security numbers, and occupations of employees and recipients.

- Any employee copies of Form W-2 that were returned to you as undeliverable.
- Dates of employment.
- Periods for which employees and recipients were paid while absent due to sickness or injury and the amount and weekly rate of payments you or third-party payers made to them.
- Copies of employees' and recipients' income tax withholding allowance certificates (Forms W-4, W-4P, W-4S, and W-4V).
- Dates and amounts of tax deposits you made and acknowledgment numbers for deposits made by EFTPS.
- Copies of returns filed, including 941 TeleFile Tax Records and confirmation numbers.
- Records of fringe benefits provided, including substantiation.

## Change of Address

To notify the IRS of a new business mailing address or business location, file **Form 8822**, Change of Address.

## Private Delivery Services

You can use certain private delivery services designated by the IRS to mail tax returns and payments. If you mail by the due date using any of these services, you are considered to have filed on time. The most recent list of designated private delivery services was published in October 2001. The list includes only the following:

- Airborne Express (Airborne): Overnight Air Express Service, Next Afternoon Service, Second Day Service.
- DHL Worldwide Express (DHL): DHL "Same Day" Service, DHL USA Overnight.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2 Day.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The private delivery service can tell you how to get written proof of the mailing date.



*Private delivery services cannot deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box address.*

## Telephone Help

**Tax questions.** You can call the IRS with your tax questions. Check your telephone book for the local number or call 1-800-829-1040.

**Help for people with disabilities.** Telephone help is available using TTY/TDD equipment. You may call 1-800-829-4059 with your tax question or to order forms and publications. You may also use this number for assistance with unresolved tax problems.

**Recorded tax information (TeleTax).** The TeleTax service provides recorded tax information on topics that answer many individual and business Federal tax questions. You can listen to up to three topics on each call you make. Touch-tone service is available 24 hours a day, 7 days a week. TeleTax topics are also available using a personal computer (connect to **www.irs.gov**).

A list of employment tax topics is provided below. Select, by number, the topic you want to hear and call 1-800-829-4477. For the directory of all topics, listen to topic 123.

## TeleTax Topics

Topic No.	Subject
751	Social security and Medicare withholding rates
752	Form W-2—Where, when, and how to file
753	Form W-4—Employee's Withholding Allowance Certificate
754	Form W-5—Advance earned income credit
755	Employer identification number (EIN)—How to apply
756	Employment taxes for household employees
757	Form 941—Deposit requirements
758	Form 941—Employer's Quarterly Federal Tax Return
759	Form 940 and 940-EZ—Deposit requirements
760	Form 940 and 940-EZ—Employer's Annual Federal Unemployment Tax Return
761	Tips—Withholding and reporting
762	Independent contractor vs. employee

## Unresolved Tax Issues

If you have attempted to deal with an IRS problem unsuccessfully, you should contact the Taxpayer Advocate. The Taxpayer Advocate independently represents your interests and concerns within the IRS by protecting your rights and resolving problems that have not been fixed through normal channels.

While Taxpayer Advocates cannot change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that your case is given a complete and impartial review.

Your assigned personal advocate will listen to your point of view and will work with you to address your concerns. You can expect the advocate to provide:

- A "fresh look" at a new or on-going problem.
- Timely acknowledgement.
- The name and phone number of the individual assigned to your case.

- Updates on progress.
- Timeframes for action.
- Speedy resolution.
- Courteous service.

When contacting the Taxpayer Advocate, you should provide the following information:

- Your name, address, and employer identification number.
- The name and telephone number of an authorized contact person and the hours he or she can be reached.
- The type of tax return and year(s)
- A detailed description of the problem.
- Previous attempts to solve the problem and the office that had been contacted.
- A description of the hardship you are facing (if applicable).

You may contact a Taxpayer Advocate by calling a toll-free number, **1-877-777-4778**. Persons who have access to TTY/TDD equipment may call 1-800-829-4059 and ask for Taxpayer Advocate assistance. If you prefer, you may call, write, or fax the Taxpayer Advocate office in your area. See **Pub. 1546**, The Taxpayer Advocate Service of the IRS, for a list of addresses and fax numbers.

---

## General Information

This publication explains your tax responsibilities as an employer. It explains the requirements for withholding, depositing, reporting, and paying employment taxes. It explains the forms you must give your employees, those your employees must give you, and those you must send to the IRS and SSA. This guide also has tax tables you need to figure the taxes to withhold for each employee for 2002.

Additional employment tax information is available in **Pub. 15-A**, Employer's Supplemental Tax Guide. Pub. 15-A includes specialized information supplementing the basic employment tax information provided in this publication. **Pub. 15-B**, Employer's Tax Guide to Fringe Benefits, contains information about the employment tax treatment and valuation of various types of noncash compensation.

Most employers must withhold (except FUTA), deposit, report, and pay the following employment taxes—

- Income tax.
- Social security and Medicare taxes.
- Federal unemployment tax (FUTA).

There are exceptions to these requirements. See section 15, **Special Rules for Various Types of Services and Payments**. Railroad retirement taxes are explained in the **Instructions for Form CT-1**.

**Federal Government employers.** The information in this guide applies to Federal agencies except for the rules

requiring deposit of Federal taxes only at Federal Reserve banks or through the FedTax option of the Government On-Line Accounting Link Systems (GOALS). See the **Treasury Financial Manual (I TFM 3-4000)** for more information.

**State and local government employers.** Employee wages are generally subject to Federal income tax withholding, but not Federal unemployment (FUTA) tax. In addition, wages, with certain exceptions, are subject to social security and Medicare taxes. See section 15 for more information on the exceptions.

You can get information on reporting and social security coverage from your local IRS office. If you have any questions about coverage under a section 218 (Social Security Act) agreement, contact the appropriate state official. To find out the State Social Security Administrator, contact the National Conference of State Social Security Administrators Web Site at **www.ncsssa.org**.

---

## 1. Employer Identification Number (EIN)

If you are required to report employment taxes or give tax statements to employees or annuitants, you need an EIN.

The EIN is a nine-digit number the IRS issues. The digits are arranged as follows: 00-0000000. It is used to identify the tax accounts of employers and certain others that have no employees. **Use your EIN on all the items you send to the IRS and SSA.** For more information, get **Pub. 1635**, Understanding Your EIN.

If you have not asked for an EIN, request one on **Form SS-4**, Application for Employer Identification Number. Form SS-4 has information on how to apply for an EIN by mail or by telephone.

You should have only one EIN. If you have more than one and are not sure which one to use, please check with the Internal Revenue Service office where you file your return. Give the numbers you have, the name and address to which each was assigned, and the address of your main place of business. The IRS will tell you which number to use.

If you took over another employer's business, do not use that employer's EIN. If you do not have your own EIN by the time a return is due, write "Applied for" and the date you applied in the space shown for the number.

See **Depositing without an EIN** on page 21 if you must make a deposit and you do not have an EIN.

---

## 2. Who Are Employees?

Generally, employees are defined either under common law or under special statutes for certain situations.

**Employee status under common law.** Generally, a worker who performs services for you is your employee if you can control what will be done and how it will be done. This is so even when you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed. See **Pub. 15-A**, Employer's Supplemental Tax Guide, for more infor-

mation on how to determine whether an individual providing services is an independent contractor or an employee.

Generally, people in business for themselves are not employees. For example, doctors, lawyers, veterinarians, construction contractors, and others in an independent trade in which they offer their services to the public are usually not employees. However, if the business is incorporated, corporate officers who work in the business are employees.

If an employer-employee relationship exists, it does not matter what it is called. The employee may be called an agent or independent contractor. It also does not matter how payments are measured or paid, what they are called, or if the employee works full or part time.

**Statutory employees.** If someone who works for you is not an employee under the common law rules discussed above, do not withhold Federal income tax from his or her pay. Although the following persons may not be common law employees, they may be considered employees by statute for social security, Medicare, and FUTA tax purposes under certain conditions.

- 1) An agent (or commission) driver who delivers food, beverages (other than milk), laundry, or dry cleaning for someone else.
- 2) A full-time life insurance salesperson.
- 3) A homemaker who works by guidelines of the person for whom the work is done, with materials furnished by and returned to that person or to someone that person designates.
- 4) A traveling or city salesperson (other than an agent-driver or commission-driver) who works full time (except for sideline sales activities) for one firm or person getting orders from customers. The orders must be for items for resale or use as supplies in the customer's business. The customers must be retailers, wholesalers, contractors, or operators of hotels, restaurants, or other businesses dealing with food or lodging.

See Pub. 15-A for details on statutory employees.

**Statutory nonemployees.** Direct sellers and qualified real estate agents are by law considered nonemployees. They are instead treated as self-employed for all Federal tax purposes, including income and employment taxes. See Pub. 15-A for details.

**Treating employees as nonemployees.** You will be liable for social security and Medicare taxes and withheld income tax if you do not deduct and withhold them because you treat an employee as a nonemployee. See Internal Revenue Code section 3509 for details.

**Relief provisions.** If you have a reasonable basis for not treating a worker as an employee, you may be relieved from having to pay employment taxes for that worker. To get this relief, you must file all required information returns (Form 1099-MISC) on a basis consistent with your treatment of the worker. You (or your predecessor) must not have treated any worker holding a substantially similar position as an employee for any periods beginning after 1977.

**IRS help.** If you want the IRS to determine whether a worker is an employee, file **Form SS-8**, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding.

---

## 3. Family Employees

**Child employed by parents.** Payments for the services of a child under age 18 who works for his or her parent in a trade or business are not subject to social security and Medicare taxes if the trade or business is a sole proprietorship or a partnership in which each partner is a parent of the child. If these services are for work other than in a trade or business, such as domestic work in the parent's private home, they are not subject to social security and Medicare taxes until the child reaches age 21. However, see **Covered services of a child or spouse** below. Payments for the services of a child under age 21 who works for his or her parent whether or not in a trade or business are not subject to Federal unemployment (FUTA) tax. Although not subject to FUTA tax, the wages of a child may be subject to income tax withholding.

**One spouse employed by another.** The wages for the services of an individual who works for his or her spouse in a trade or business are subject to income tax withholding and social security and Medicare taxes, but not to FUTA tax. However, the services of one spouse employed by another in other than a trade or business, such as domestic service in a private home, are not subject to social security, Medicare, and FUTA taxes.

**Covered services of a child or spouse.** The wages for the services of a child or spouse are subject to income tax withholding as well as social security, Medicare, and FUTA taxes if he or she works for:

- 1) A corporation, even if it is controlled by the child's parent or the individual's spouse,
- 2) A partnership, even if the child's parent is a partner, unless each partner is a parent of the child,
- 3) A partnership, even if the individual's spouse is a partner, or
- 4) An estate, even if it is the estate of a deceased parent.

**Parent employed by child.** The wages for the services of a parent employed by his or her child in a trade or business are subject to income tax withholding and social security and Medicare taxes. Social security and Medicare taxes do not apply to wages paid to a parent for services not in a trade or business, but they do apply to domestic services if:

- 1) The parent cares for a child who lives with a son or daughter and who is under age 18 or requires adult supervision for at least 4 continuous weeks in a calendar quarter due to a mental or physical condition, and
- 2) The son or daughter is a widow or widower, divorced, or married to a person who, because of a

physical or mental condition, cannot care for the child during such period.

Wages paid to a parent employed by his or her child are not subject to FUTA tax, regardless of the type of services provided.

---

## 4. Employee's Social Security Number (SSN)

You are required to get each employee's name and SSN and to enter them on Form W-2. (This requirement also applies to resident and nonresident alien employees.) You should ask your employee to show you his or her social security card. The employee is required to show the card if it is available. You may, but are not required to, photocopy the social security card if the employee provides it. If you do not provide the correct employee name and SSN on Form W-2, you may owe a penalty.

Any employee without a social security card can get one by completing **Form SS-5**, Application for a Social Security Card. You can get this form at Social Security Administration (SSA) offices or by calling 1-800-772-1213. Form SS-5 can also be obtained from the SSA Web Site at [www.ssa.gov](http://www.ssa.gov). The employee must complete and sign Form SS-5; it cannot be filed by the employer. If your employee applied for an SSN but does not have it when you must file Form W-2, enter "Applied for" on the form. When the employee receives the SSN, file **Form W-2c**, Corrected Wage and Tax Statement, to show the employee's SSN and furnish a copy to the employee.

**Note:** Record the name and number of each employee exactly as they are shown on the employee's social security card. If the employee's name is not correct as shown on the card (for example, because of marriage or divorce), the employee should request a new card from the SSA. Continue to use the old name until the employee shows you the new social security card with the new name.

If your employee was given a new social security card to show his or her correct name and number after an adjustment to his or her alien residence status, correct your records and show the new information on Form W-2. If you filed Form W-2 for the same employee in prior years under the old name and SSN, file Form W-2c to correct the name and number. Use a separate Form W-2c to correct each prior year and furnish a copy of each Form W-2c to the employee. Advise the employee to contact the local SSA office no earlier than 9 months after the Form W-2c is filed to ensure that the records were updated.

**IRS individual taxpayer identification numbers (ITINs) for aliens.** A resident or nonresident alien may request an ITIN for tax purposes if he or she does not have and is not eligible to get an SSN. Possession of an ITIN does not change an individual's employment or immigration status under U.S. law. Do not accept an ITIN in place of an SSN for employee identification or for work.



*An individual with an ITIN who later becomes eligible to work in the United States must obtain an SSN.*

**Verification of social security numbers.** The Social Security Administration (SSA) offers employers and authorized reporting agents two methods for verifying employee SSNs. Both methods match employee names and SSNs.

- **Telephone verification.** To verify up to five names and numbers, call 1-800-772-6270. To verify up to 50 names and numbers, contact your local social security office.
- **Large volume verification.** The **Enumeration Verification Service (EVS)** may be used to verify more than 50 employee names and SSNs. Preregistration is required for EVS or for requests made on magnetic media. For more information, call the EVS information line at 410-965-7140 or visit SSA's Web Site for Employers at [www.ssa.gov/employer](http://www.ssa.gov/employer).

---

## 5. Wages and Other Compensation

Wages subject to Federal employment taxes include all pay you give an employee for services performed. The pay may be in cash or in other forms. It includes salaries, vacation allowances, bonuses, commissions, and fringe benefits. It does not matter how you measure or make the payments. Also, compensation paid to a former employee for services performed while still employed is wages subject to employment taxes. See section 6 for a discussion of tips and section 7 for a discussion of supplemental wages. Also, see section 15 for exceptions to the general rules for wages. **Pub. 15-A**, Employer's Supplemental Tax Guide, provides additional information on wages and other compensation. **Pub. 15-B**, Employer's Tax Guide to Fringe Benefits, provides information on other forms of compensation, including:

- Accident and health benefits
- Achievement awards
- Adoption assistance
- Athletic facilities
- De minimis (minimal) benefits
- Dependent care assistance
- Educational assistance
- Employee discounts
- Employee stock options
- Group-term life insurance coverage
- Lodging on your business premises
- Meals
- Moving expense reimbursements
- No-additional-cost services
- Retirement planning services
- Transportation (commuting) benefits



- Tuition reduction
- Working condition benefits

**Employee business expense reimbursements.** A reimbursement or allowance arrangement is a system by which you substantiate and pay the advances, reimbursements, and charges for your employees' business expenses. How you report a reimbursement or allowance amount depends on whether you have an accountable or a nonaccountable plan. If a single payment includes both wages and an expense reimbursement, you must specify the amount of the reimbursement.

These rules apply to all ordinary and necessary employee business expenses that would otherwise qualify for a deduction by the employee.

**Accountable plan.** To be an accountable plan, your reimbursement or allowance arrangement must require your employees to meet all three of the following rules.

- 1) They must have paid or incurred deductible expenses while performing services as your employees.
- 2) They must adequately account to you for these expenses within a reasonable period of time.
- 3) They must return any amounts in excess of expenses within a reasonable period of time.

Amounts paid under an accountable plan are not wages and are not subject to income tax withholding and payment of social security, Medicare, and Federal unemployment (FUTA) taxes.

If the expenses covered by this arrangement are not substantiated or amounts in excess of expenses are not returned within a reasonable period of time, the amount is treated as paid under a nonaccountable plan. This amount is subject to income tax withholding and payment of social security, Medicare, and FUTA taxes for the first payroll period following the end of the reasonable period.

A reasonable period of time depends on the facts and circumstances. Generally, it is considered reasonable if your employees receive the advance within 30 days of the time they incur the expense, adequately account for the expenses within 60 days after the expenses were paid or incurred, and they return any amounts in excess of expenses within 120 days after the expense was paid or incurred. Also, it is considered reasonable if you give your employees a periodic statement (at least quarterly) that asks them to either return or adequately account for outstanding amounts and they do so within 120 days.

**Nonaccountable plan.** Payments to your employee for travel and other necessary expenses of your business under a nonaccountable plan are wages and are treated as supplemental wages and subject to income tax withholding and payment of social security, Medicare, and FUTA taxes. Your payments are treated as paid under a nonaccountable plan if:

- 1) Your employee is not required to or does not substantiate timely those expenses to you with receipts or other documentation or

- 2) You advance an amount to your employee for business expenses and your employee is not required to or does not return timely any amount he or she does not use for business expenses.

See section 7 for more information on supplemental wages.

**Per diem or other fixed allowance.** You may reimburse your employees by travel days, or miles, or some other fixed allowance. In these cases, your employee is considered to have accounted to you if the payments do not exceed rates established by the Federal Government. The 2001 standard mileage rate for auto expenses was 34.5 cents per mile. The rate for 2002 is 36.5 cents per mile. The government per diem rates for meals and lodging in the continental United States are listed in **Pub. 1542**, Per Diem Rates. Other than the amount of these expenses, your employees' business expenses must be substantiated (for example, the business purpose of the travel or the number of business miles driven).

If the per diem or allowance paid exceeds the amounts specified, you must report the excess amount as wages. This excess amount is subject to income tax withholding and payment of social security, Medicare, and FUTA taxes. Show the amount equal to the specified amount (i.e., the nontaxable portion) in box 12 of Form W-2 using code L.

**Wages not paid in money.** If in the course of your trade or business you pay your employees in a medium that is neither cash nor a readily negotiable instrument, such as a check, you are said to pay them "in kind." Payments in kind may be in the form of goods, lodging, food, clothing, or services. Generally, the fair market value of such payments at the time they are provided is subject to income tax withholding and social security, Medicare, and FUTA taxes.

However, noncash payments for household work, agricultural labor, and service not in the employer's trade or business are exempt from social security, Medicare, and FUTA taxes. Withhold income tax on these payments only if you and the employee agree to do so. However, noncash payments for agricultural labor, such as commodity wages, are treated as cash payments subject to employment taxes if the substance of the transaction is a cash payment.

**Moving expenses.** Reimbursed and employer-paid qualified moving expenses (those that would otherwise be deductible by the employee) are not includible in an employee's income unless you have knowledge that the employee deducted the expenses in a prior year. Reimbursed and employer-paid nonqualified moving expenses are includible in income and are subject to employment taxes and income tax withholding. For more information on moving expenses, see **Pub. 521**, Moving Expenses.

**Meals and lodging.** The value of meals is not taxable income and is not subject to income tax withholding and social security, Medicare, and FUTA taxes if the meals are furnished for the employer's convenience and on the employer's premises. The value of lodging is not subject to income tax withholding and social security, Medicare, and FUTA taxes if the lodging is furnished for the employer's convenience, on the employer's premises, and as a condition of employment.

“For the convenience of the employer” means that you have a substantial business reason for providing the meals and lodging other than to provide additional compensation to the employee. For example, meals you provide at the place of work so an employee is available for emergencies during his or her lunch period are generally considered to be for your convenience.

However, whether meals or lodging are provided for the convenience of the employer depends on all the facts and circumstances. A written statement that the meals or lodging are for your convenience is not sufficient.

**50% test.** If over 50% of the employees who are provided meals on an employer’s business premises receive these meals for the convenience of the employer, all meals provided on the premises are treated as furnished for the convenience of the employer. If this 50% test is met, the value of the meals is excludable for all employees and is not subject to income tax withholding or employment taxes.

For more information, see **Pub. 15-B**, Employer’s Tax Guide to Fringe Benefits.

**Health insurance plans.** If you pay the cost of an accident or health insurance plan for your employees, which may include an employee’s spouse and dependents, your payments are not wages and are not subject to social security, Medicare, and FUTA taxes, or income tax withholding. Generally, this exclusion applies to qualified long-term care insurance contracts. However, the cost of health insurance benefits must be included in the wages of S corporation employees who own more than 2% of the S corporation (2% shareholders).

**Archer medical savings accounts.** Your contributions to an employee’s medical savings account (Archer MSA) are not subject to social security, Medicare, or FUTA taxes, or income tax withholding if it is reasonable to believe at the time of payment of the contributions that they will be excludable from the income of the employee. To the extent that it is **not** reasonable to believe they will be excludable, your contributions are subject to these taxes. Employee contributions to their Archer MSAs through a payroll deduction plan must be included in wages and are subject to social security, Medicare, and FUTA taxes, and income tax withholding.

**Medical care reimbursements.** Generally, medical care reimbursements paid for an employee under an employer’s self-insured medical reimbursement plan are not wages and are not subject to social security, Medicare, and FUTA taxes, or income tax withholding. See Pub. 15-B for an exception for highly compensated employees.

**Fringe benefits.** You generally must include fringe benefits in an employee’s gross income (but see **Nontaxable fringe benefits** next). The benefits are subject to income tax withholding and employment taxes. Fringe benefits include cars you provide, flights on aircraft you provide, free or discounted commercial flights, vacations, discounts on property or services, memberships in country clubs or other social clubs, and tickets to entertainment or sporting events. In general, the amount you must include is the amount by which the fair market value of the benefits is more than the sum of what the employee paid for it plus any amount the law excludes. There are other special rules

you and your employees may use to value certain fringe benefits. See Pub. 15-B for more information.

**Nontaxable fringe benefits.** Some fringe benefits are not taxable if certain conditions are met. See Pub. 15-B for details. Examples are:

- 1) Services provided to your employees at no additional cost to you.
- 2) Qualified employee discounts.
- 3) Working condition fringes that are property or services the employee could deduct as a business expense if he or she had paid for it. Examples include a company car for business use and subscriptions to business magazines.
- 4) Minimal value fringes (including an occasional cab ride when an employee must work overtime, local transportation benefits provided because of unsafe conditions and unusual circumstances, and meals you provide at eating places you run for your employees if the meals are not furnished at below cost).
- 5) Qualified transportation fringes subject to specified conditions and dollar limitations (including transportation in a commuter highway vehicle, any transit pass, and qualified parking).
- 6) Qualified moving expense reimbursement. See page 9 for details.
- 7) The use of on-premises athletic facilities if substantially all the use is by employees, their spouses, and their dependent children.
- 8) Qualified tuition reduction, which an educational organization provides its employees for education. For more information, see **Pub. 520**, Scholarships and Fellowships.

However, do not exclude the following fringe benefits from the income of highly compensated employees unless the benefit is available to employees on a nondiscriminatory basis.

- No-additional-cost services (item 1 above).
- Qualified employee discounts (item 2 above).
- Meals provided at an employer operated eating facility (included in item 4 above).
- Reduced tuition for education (item 8 above).

For more information, including the definition of a highly compensated employee, see Pub. 15-B.

**When fringe benefits are treated as paid.** You may choose to treat certain noncash fringe benefits as paid by the pay period, or by the quarter, or on any other basis you choose as long as you treat the benefits as paid at least once a year. You do not have to make a formal choice of payment dates or notify the IRS of the dates you choose. You do not have to make this choice for all employees. You may change methods as often as you like, as long as you treat all benefits provided in a calendar year as paid by December 31 of the calendar year. See Pub. 15-A for more information, including a discussion of the special account-

ing rule for fringe benefits provided during November and December.

**Valuation of fringe benefits.** Generally, you must determine the value of fringe benefits no later than January 31 of the next year. Prior to January 31, you may reasonably estimate the value of the fringe benefits for purposes of withholding and depositing on time.

**Withholding on fringe benefits.** You may add the value of fringe benefits to regular wages for a payroll period and figure withholding taxes on the total, or you may withhold Federal income tax on the value of the fringe benefits at the flat 27% supplemental wage rate.

You may choose not to withhold income tax on the value of an employee's personal use of a vehicle you provide. You must, however, withhold social security and Medicare taxes on the use of the vehicle. See Pub. 15-A for more information on this election.

**Depositing taxes on fringe benefits.** Once you choose payment dates for fringe benefits (discussed above), you must deposit taxes in the same deposit period you treat the fringe benefits as paid. To avoid a penalty, deposit the taxes following the general deposit rules for that deposit period.

If you determine by January 31 that you overestimated the value of a fringe benefit at the time you withheld and deposited for it, you may claim a refund for the overpayment or have it applied to your next employment tax return (see **Valuation of fringe benefits** above). If you underestimated the value and deposited too little, you may be subject to the failure to deposit penalty. See section 11 for information on deposit penalties.

If you deposited the required amount of taxes but withheld a lesser amount from the employee, you can recover from the employee the social security, Medicare, or income taxes you deposited on his or her behalf, and included in the employee's Form W-2. However, you must recover the income taxes before April 1 of the following year.

**Sick pay.** In general, sick pay is any amount you pay, under a plan you take part in, to an employee who is unable to work because of sickness or injury. These amounts are sometimes paid by a third party, such as an insurance company or employees' trust. In either case, these payments are subject to social security, Medicare, and FUTA taxes. Sick pay becomes exempt from these taxes after the end of 6 calendar months after the calendar month the employee last worked for the employer. The payments are also subject to income tax. See Pub. 15-A for more information.

---

## 6. Tips

Tips your employee receives from customers are generally subject to withholding. Your employee must report cash tips to you by the 10th of the month after the month the tips are received. The report should include tips you paid over to the employee for charge customers and tips the employee received directly from customers. No report is required for months when tips are less than \$20. Your employee reports the tips on **Form 4070**, Employee's Report of Tips to Employer, or on a similar statement. The

statement must be signed by the employee and must show the following:

- The employee's name, address, and SSN.
- Your name and address.
- The month or period the report covers.
- The total tips.

Both Forms 4070 and **4070-A**, Employee's Daily Record of Tips, are included in **Pub. 1244**, Employee's Daily Record of Tips and Report to Employer.

You must collect income tax, employee social security tax, and employee Medicare tax on the employee's tips. You can collect these taxes from the employee's wages or from other funds he or she makes available. (See **Tips treated as supplemental wages** in section 7 for further information.) Stop collecting the employee social security tax when his or her wages and tips for tax year 2002 reach \$84,900; collect the income and employee Medicare taxes for the whole year on all wages and tips. You are responsible for the employer social security tax on wages and tips until the wages (including tips) reach the limit. You are responsible for the employer Medicare tax for the whole year on all wages and tips. File Form 941 to report withholding on tips.

If, by the 10th of the month after the month you received an employee's report on tips, you do not have enough employee funds available to deduct the employee tax, you no longer have to collect it. If there are not enough funds available, withhold taxes in the following order:

- 1) Withhold on regular wages and other compensation.
- 2) Withhold social security and Medicare taxes on tips.
- 3) Withhold income tax on tips.

Show these tips and any uncollected social security and Medicare taxes on Form W-2 and on lines 6c, 6d, 7a, and 7b of Form 941. Report an adjustment on line 9 of Form 941 for the uncollected social security and Medicare taxes. Enter the amount of uncollected social security and Medicare taxes in box 12 of Form W-2 with codes A and B. (See section 13 and the **Instructions for Forms W-2 and W-3**.)

If an employee reports to you in writing \$20 or more of tips in a month, the tips are subject to FUTA tax.

**Note:** *You are permitted to establish a system for electronic tip reporting by employees. See Regulations section 31.6053-1.*

**Allocated tips.** If you operate a large food or beverage establishment, you must report allocated tips under certain circumstances. However, do not withhold income, social security, or Medicare taxes on allocated tips.

A large food or beverage establishment is one that provides food or beverages for consumption on the premises, where tipping is customary, and where there are normally more than 10 employees on a typical business day during the preceding year.

The tips may be allocated by one of three methods—hours worked, gross receipts, or good faith agreement. For information about these allocation methods, including the requirement to file Forms 8027 on magnetic media if 250 or

more forms are filed, see the separate **Instructions for Form 8027**.

**Tip Rate Determination and Education Program.** Employers may participate in the Tip Rate Determination and Education Program. The program consists of two voluntary agreements developed to improve tip income reporting by helping taxpayers to understand and meet their tip reporting responsibilities. The two agreements are the **Tip Rate Determination Agreement (TRDA)** and the **Tip Reporting Alternative Commitment (TRAC)**. To find out more about this program, or to identify the IRS Tip Coordinator for your state, call the IRS at 1-800-829-1040. To get more information about TRDA or TRAC agreements, access the IRS Web Site at [www.irs.gov](http://www.irs.gov) and search for Market Segment Understanding (MSU) agreements.

---

## 7. Supplemental Wages

Supplemental wages are compensation paid in addition to the employee's regular wages. They include, but are not limited to, bonuses, commissions, overtime pay, payments for accumulated sick leave, severance pay, awards, prizes, back pay and retroactive pay increases for current employees, and payments for nondeductible moving expenses. Other payments subject to the supplemental wage rules include taxable fringe benefits and expense allowances paid under a nonaccountable plan. How you withhold on supplemental payments depends on whether the supplemental payment is identified as a separate payment from regular wages.

### **Supplemental wages combined with regular wages.**

If you pay supplemental wages with regular wages but do not specify the amount of each, withhold income tax as if the total were a single payment for a regular payroll period.

**Supplemental wages identified separately from regular wages.** If you pay supplemental wages separately (or combine them in a single payment and specify the amount of each), the income tax withholding method depends partly on whether you withhold income tax from your employee's regular wages:

- 1) If you **withheld** income tax from an employee's regular wages, you can use one of the following methods for the supplemental wages:
  - a) Withhold a flat 27% (no other percentage allowed).
  - b) Add the supplemental and regular wages for the most recent payroll period this year. Then figure the income tax withholding as if the total were a single payment. Subtract the tax already withheld from the regular wages. Withhold the remaining tax from the supplemental wages.
- 2) If you **did not withhold** income tax from the employee's regular wages, use method **b** above. (This would occur, for example, when the value of the employee's withholding allowances claimed on Form W-4 is more than the wages.)

Regardless of the method you use to withhold income tax on supplemental wages, they are subject to social security, Medicare, and FUTA taxes.

**Example 1.** You pay John Peters a base salary on the 1st of each month. He is single and claims one withholding allowance. In January of 2002, he is paid \$1,000. Using the wage bracket tables, you withhold \$58 from this amount. In February 2002, he receives salary of \$1,000 plus a commission of \$2,000, which you include in regular wages. You figure the withholding based on the total of \$3,000. The correct withholding from the tables is \$394.

**Example 2.** You pay Sharon Warren a base salary on the 1st of each month. She is single and claims one allowance. Her May 1, 2002, pay is \$2,000. Using the wage bracket tables, you withhold \$208. On May 14, 2002, she receives a bonus of \$2,000. Electing to use supplemental payment method **b**, you:

- 1) Add the bonus amount to the amount of wages from the most recent pay date ( $\$2,000 + \$2,000 = \$4,000$ ).
- 2) Determine the amount of withholding on the combined \$4,000 amount to be \$664 using the wage bracket tables.
- 3) Subtract the amount withheld from wages on the most recent pay date from the combined withholding amount ( $\$664 - \$208 = \$456$ ).
- 4) Withhold \$456 from the bonus payment.

**Example 3.** The facts are the same as in Example 2, except that you elect to use the flat rate method of withholding on the bonus. You withhold 27% of \$2,000, or \$540, from Sharon's bonus payment.

**Tips treated as supplemental wages.** Withhold income tax on tips from wages or from other funds the employee makes available. If an employee receives regular wages and reports tips, figure income tax as if the tips were supplemental wages. If you have not withheld income tax from the regular wages, add the tips to the regular wages. Then withhold income tax on the total. If you withheld income tax from the regular wages, you can withhold on the tips by method **a** or **b** above.

**Vacation pay.** Vacation pay is subject to withholding as if it were a regular wage payment. When vacation pay is in addition to regular wages for the vacation period, treat it as a supplemental wage payment. If the vacation pay is for a time longer than your usual payroll period, spread it over the pay periods for which you pay it.

---

## 8. Payroll Period

The payroll period is a period of service for which you usually pay wages. When you have a regular payroll period, withhold income tax for that time period even if your employee does not work the full period.

When you do not have a regular payroll period, withhold the tax as if you paid wages for a daily or miscellaneous

payroll period. Figure the number of days (including Sundays and holidays) in the period covered by the wage payment. If the wages are unrelated to a specific length of time (e.g., commissions paid on completion of a sale), count back the number of days from the payment period to the latest of:

- 1) The last wage payment made during the same calendar year,
- 2) The date employment began, if during the same calendar year, or
- 3) January 1 of the same year.

When you pay an employee for a period of less than 1 week, and the employee signs a statement under penalties of perjury that he or she is not working for any other employer during the same week for wages subject to withholding, figure withholding based on a weekly payroll period. If the employee later begins to work for another employer for wages subject to withholding, the employee must notify you within 10 days. You then figure withholding based on the daily or miscellaneous period.

---

## 9. Withholding From Employees' Wages

### Income Tax Withholding

To know how much income tax to withhold from employees' wages, you should have a **Form W-4**, Employee's Withholding Allowance Certificate, on file for each employee. Ask all new employees to give you a signed Form W-4 when they start work. Make the form effective with the first wage payment. If a new employee does not give you a completed Form W-4, withhold tax as if he or she is single, with no withholding allowances.

You may establish a system to electronically receive Form W-4 from your employees. See Regulations section 31.3402(f)(5)-1(c) for more information.

A Form W-4 remains in effect until the employee gives you a new one. If an employee gives you a Form W-4 that replaces an existing Form W-4, begin withholding no later than the start of the first payroll period ending on or after the 30th day from the date you received the replacement Form W-4. For exceptions, see **Exemption from income tax withholding, Sending certain Forms W-4 to the IRS, and Invalid Forms W-4** later.

The amount of income tax withholding must be based on marital status and withholding allowances. Your employees may not base their withholding amounts on a fixed dollar amount or percentage. However, the employee may specify a dollar amount to be withheld **in addition** to the amount of withholding based on filing status and withholding allowances claimed on Form W-4.

Employees may claim **fewer** withholding allowances than they are entitled to claim. They may wish to claim

fewer allowances to ensure that they have enough withholding or to offset other sources of taxable income that are not subject to adequate withholding.

**Note:** A Form W-4 that makes a change for the next calendar year will not take effect in the current calendar year.

See **Pub. 505**, Tax Withholding and Estimated Tax, for detailed instructions for completing Form W-4. Along with Form W-4, you may wish to order Pub. 505 and **Pub. 919**, How Do I Adjust My Tax Withholding?

When you receive a new Form W-4, do not adjust withholding for pay periods before the effective date of the new form. Also, do not accept any withholding or estimated tax payments from your employees in addition to withholding based on their Form W-4. If they require additional withholding, they should submit a new Form W-4 and, if necessary, pay estimated tax by filing **Form 1040-ES**, Estimated Tax for Individuals.

**Exemption from income tax withholding.** Generally, an employee may claim exemption from income tax withholding because he or she had no income tax liability last year and expects none this year. See the Form W-4 instructions for more information. However, the wages are still subject to social security and Medicare taxes.

A Form W-4 claiming exemption from withholding is valid for only one calendar year. To continue to be exempt from withholding in the next year, an employee must file a new Form W-4 by February 15 of that year. If the employee does not give you a new Form W-4, withhold tax as if the employee is single with zero withholding allowances.

**Withholding on nonresident aliens.** In general, if you pay wages to nonresident aliens, you must withhold income tax (unless excepted by regulations), social security, and Medicare taxes as you would for a U.S. citizen. However, income tax withholding from the wages of nonresident aliens is subject to the special rules shown in **Form W-4** below. You must also give a Form W-2 to the nonresident alien and file it with the SSA. The wages are subject to FUTA tax as well. However, see **Pub. 515**, Withholding of Tax on Nonresident Aliens and Foreign Entities, and **Pub. 519**, U.S. Tax Guide for Aliens, for exceptions to these general rules.

**Form W-4.** When completing Form W-4, nonresident aliens are required to:

- Not claim exemption from income tax withholding.
- Request withholding as if they are single, regardless of their actual marital status.
- Claim only one allowance (if the nonresident alien is a resident of Canada, Mexico, Japan, or Korea, he or she may claim more than one allowance).
- Request an additional income tax withholding amount, depending on the payroll period, as follows:

<b>Payroll Period</b>	<b>Additional Withholding</b>
Weekly	7.60
Biweekly	15.30
Semimonthly	16.60
Monthly	33.10
Quarterly	99.40
Semiannually	198.80
Annually	397.50
Daily or Miscellaneous (each day of the payroll period)	1.50

**Note:** *Nonresident alien students from India are not subject to the additional income tax withholding requirement.*

**Nonwage withholding.** In some cases, an Internal Revenue Code section or a U.S. treaty provision will exempt payments to a nonresident alien from wages. These payments are not subject to regular income tax withholding. Form W-2 is not required in these cases. Instead, the payments are subject to withholding at a flat 30% or lower treaty rate, unless exempt from tax because of a Code or U.S. tax treaty provision.

Report these payments and any withheld tax on **Form 1042-S**, Foreign Person's U.S. Source Income Subject to Withholding. Form 1042-S is sent to the IRS with **Form 1042**, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons. You may have to make deposits of the withheld income tax, using **Form 8109**, Federal Tax Deposit Coupon, or EFTPS (see page 20). See Pub. 515 and the **Instructions for Form 1042-S** for more information.

**Sending certain Forms W-4 to the IRS.** Generally, you must send to the IRS copies of certain Forms W-4 received during the quarter from employees still employed by you at the end of the quarter. Send copies when the employee claims (a) more than 10 withholding allowances or (b) exemption from withholding and his or her wages would normally be more than \$200 per week. Send the copies to the IRS office where you file your Form 941. You are not required to send any other Forms W-4 unless the IRS notifies you in writing to do so.

Send in Forms W-4 that meet either of the above conditions each quarter with Form 941. Complete boxes 8 and 10 on any Forms W-4 you send in. You may use box 9 to identify the office responsible for processing the employee's payroll information. Also send copies of any written statements from employees in support of the claims made on Forms W-4. Send these statements even if the Forms W-4 are not in effect at the end of the quarter. You can send them to the IRS more often if you like. If you do so, include a cover letter giving your name, address, EIN, and the number of forms included. In certain cases, the IRS may notify you in writing that you must submit specified Forms W-4 more frequently, separate from your Form 941.

**Note:** *Please make sure that the copies of Form W-4 you send to the IRS are clear and legible.*

If your Forms 941 are filed on magnetic media, this Form W-4 information also should be filed with the IRS on magnetic media. (See **Filing Form W-4 on magnetic media** below.) Magnetic media filers of Form 941 may send paper Forms W-4 to the IRS with a cover letter if they are unable to file them on magnetic media. If you file Form 941 by TeleFile, send your paper Forms W-4 to the IRS with a cover letter.

**Note:** Any Form W-4 you send to the IRS without a Form 941 should be mailed to the "Return without payment" address on the back of Form 941.

Base withholding on the Forms W-4 that you send in unless the IRS notifies you in writing to do otherwise. If the IRS notifies you about a particular employee, base withholding on the number of withholding allowances shown in the IRS notice. The employee will get a similar notice directly from the IRS. If the employee later gives you a new Form W-4, follow it only if (a) exempt status is not claimed or (b) the number of withholding allowances is equal to or lower than the number in the IRS notice. Otherwise, disregard it and do not submit it to the IRS. Continue to follow the IRS notice.

If the employee prepares a new Form W-4 explaining any difference with the IRS notice, he or she may either submit it to the IRS or to you. If submitted to you, send the Form W-4 and an explanation to the IRS office shown in the notice. Continue to withhold based on the notice until the IRS tells you to follow the new Form W-4.

**Filing Form W-4 on magnetic media.** Form W-4 information may be filed with the IRS on magnetic media. If you wish to file on magnetic media, you must submit **Form 4419**, Application for Filing Information Returns Magnetically/Electronically, to request authorization. See **Pub. 1245**, Specifications for Filing Form W-4, Employee's Withholding Allowance Certificate, Magnetically or Electronically. To get more information about magnetic media filing, call the IRS Martinsburg Computing Center at 304-263-8700.

**Invalid Forms W-4.** Any unauthorized change or addition to Form W-4 makes it invalid. This includes taking out any language by which the employee certifies that the form is correct. A Form W-4 is also invalid if, by the date an employee gives it to you, he or she indicates in any way that it is false. An employee who files a false Form W-4 may be subject to a \$500 penalty.

When you get an invalid Form W-4, do not use it to figure withholding. Tell the employee it is invalid and ask for another one. If the employee does not give you a valid one, withhold taxes as if the employee were single and claiming no withholding allowances. However, if you have an earlier Form W-4 for this worker that is valid, withhold as you did before.

**Amounts exempt from levy on wages, salary, and other income.** If you receive a Notice of Levy on Wages, Salary, and Other Income (Forms 668-W, 668-W(c), or 668-W(c)(DO)), you must withhold amounts as described in the instructions for these forms. **Pub. 1494**, Table for Figuring Amount Exempt From Levy on Wages, Salary, and Other Income (Forms 668-W(c) and 668-W(c)(DO)) 2002, shows the exempt amount.

## Social Security and Medicare Taxes

The Federal Insurance Contributions Act (FICA) provides for a Federal system of old-age, survivors, disability, and hospital insurance. The old-age, survivors, and disability insurance part is financed by the social security tax. The hospital insurance part is financed by the Medicare tax. Each of these taxes is reported separately.

Generally, you are required to withhold social security and Medicare taxes from your employees' wages and you must also pay a matching amount of these taxes. Certain types of wages and compensation are not subject to social security taxes (see sections 5 and 15 for details). Generally, employee wages are subject to social security and Medicare taxes regardless of the employee's age or whether he or she is receiving social security benefits. (If the employee reported tips, see section 6.)

**Tax rates and the social security wage base limit.** These taxes have different tax rates and only the social security tax has a wage base limit. The wage base limit is the maximum wage that is subject to the tax for the year. Determine the amount of withholding for social security and Medicare taxes by multiplying each payment by the employee tax rate. There are no withholding allowances for social security and Medicare taxes.

The employee tax rate for social security is 6.2% (amount withheld). The employer tax rate for social security is also 6.2% (12.4% total). The 2001 wage base limit was \$80,400. For 2002, the wage base limit is \$84,900.

The employee tax rate for Medicare is 1.45% (amount withheld). The employer tax rate for Medicare tax is also 1.45% (2.9% total). There is no wage base limit for Medicare tax; all covered wages are subject to Medicare tax.

**Successor employer.** If you received all or most of the property used in the trade or business of another employer, or a unit of that employer's trade or business, you may include the wages the other employer paid to your employees when you figure the annual wage base limit for social security. See Regulations section 31.3121(a)(1)-1(b) for more information. Also see Rev. Proc. 96-60, 1996-2 C.B. 399, for the procedures used in filing returns in a predecessor-successor situation.

**Example:** Early in 2001, you bought all the assets of a plumbing business from Mr. Martin. Mr. Brown, who had been employed by Mr. Martin and received \$2,000 in wages before the date of purchase, continued to work for you. The wages you paid Mr. Brown are subject to social security taxes on the first \$78,400 (\$80,400 less \$2,000). Medicare tax is due on all wages you pay him during the calendar year.

**International social security agreements.** The United States has social security agreements with many countries that eliminate dual taxation and dual coverage. Compensation subject to social security and Medicare taxes may be exempt under one of these agreements. You can get more information and a list of agreement countries from SSA at [www.ssa.gov/international](http://www.ssa.gov/international) or see **Pub. 15-A**, Employer's Supplemental Tax Guide.

## Part-Time Workers

For income tax withholding and social security, Medicare, and Federal unemployment (FUTA) tax purposes, there are no differences among full-time employees, part-time employees, and employees hired for short periods. It does not matter whether the worker has another job or has the maximum amount of social security tax withheld by another employer. Income tax withholding may be figured the same way as for full-time workers. Or it may be figured by the part-year employment method explained in Pub. 15-A.

---

## 10. Advance Earned Income Credit (EIC) Payment

An employee who is eligible for the earned income credit (EIC) and has a qualifying child is entitled to receive EIC payments with his or her pay during the year. To get these payments, the employee must provide to you a properly completed **Form W-5**, Earned Income Credit Advance Payment Certificate, using either the paper form or using an approved electronic format. You are required to make advance EIC payments to employees who give you a completed and signed Form W-5. You may establish a system to electronically receive Form W-5 from your employees. See Announcement 99-3 (1999-1 C.B. 324) for information on electronic requirements for Form W-5.

Certain employees who do not have a qualifying child may be able to claim the EIC on their tax return. However, they **cannot** get advance EIC payments.

For 2002, the advance payment can be as much as \$1,503. The tables that begin on page 56 reflect that limit.

**Form W-5.** Form W-5 states the eligibility requirements for receiving advance EIC payments. On Form W-5, an employee states that he or she expects to be eligible to claim the EIC and shows whether he or she has another Form W-5 in effect with any other current employer. The employee also shows the following:

- Whether he or she has a qualifying child.
- Whether he or she will file a joint return.
- If the employee is married, whether his or her spouse has a Form W-5 in effect with any employer.

An employee may have only one certificate in effect with a current employer at one time. If an employee is married and his or her spouse also works, each spouse should file a separate Form W-5.

**Length of effective period.** Form W-5 is effective for the first payroll period ending on or after the date the employee gives you the form (or the first wage payment made without regard to a payroll period). It remains in effect until the end of the calendar year unless the employee revokes it or files another one. Eligible employees must file a new Form W-5 each year.

**Change of status.** If an employee gives you a signed Form W-5 and later becomes ineligible for advance EIC payments, he or she must revoke Form W-5 within 10 days after learning about the change of circumstances. The

employee must give you a new Form W-5 stating that he or she is no longer eligible for or no longer wants advance EIC payments.

If an employee's situation changes because his or her spouse files a Form W-5, the employee must file a new Form W-5 showing that his or her spouse has a Form W-5 in effect with an employer. This will reduce the maximum amount of advance payments you can make to that employee.

If an employee's spouse has filed a Form W-5 that is no longer in effect, the employee may file a new Form W-5 with you, but is not required to do so. A new form will certify that the spouse does not have a Form W-5 in effect and will increase the maximum amount of advance payments you can make to that employee.

**Invalid Form W-5.** The Form W-5 is invalid if it is incomplete, unsigned, or has an alteration or unauthorized addition. The form has been altered if any of the language has been deleted. Any writing added to the form other than the requested entries is an unauthorized addition.

You should consider a Form W-5 invalid if an employee has made an oral or written statement that clearly shows the Form W-5 to be false. If you receive an invalid form, tell the employee that it is invalid as of the date he or she made the oral or written statement. For advance EIC payment purposes, the invalid Form W-5 is considered void.

You are not required to determine if a completed and signed Form W-5 is correct. However, you should contact the IRS if you have reason to believe it has any incorrect statement.

**How to figure the advance EIC payment.** To figure the amount of the advance EIC payment to include with the employee's pay, you must consider:

- Wages, including reported tips, for the same period. Generally, figure advance EIC payments using the amount of wages subject to income tax withholding. If an employee's wages are not subject to income tax withholding, use the amount of wages subject to withholding for social security and Medicare taxes.
- Whether the employee is married or single.
- Whether a married employee's spouse has a Form W-5 in effect with an employer.

**Note:** If during the year you have paid an employee total wages of at least \$29,201 (\$30,201 if married filing jointly), you must stop making advance EIC payments to that employee for the rest of the year.

Figure the amount of advance EIC to include in the employee's pay by using the tables that begin on page 56. There are separate tables for employees whose spouses have a Form W-5 in effect. See page 33 for instructions on using the advance EIC payment tables. The amount of advance EIC paid to an employee during 2002 cannot exceed \$1,503.

**Paying the advance EIC to employees.** An advance EIC payment is not wages and is not subject to withholding of income, social security, or Medicare taxes. An advance EIC payment does not change the amount of income, social security, or Medicare taxes you withhold from the

employee's wages. You add the EIC payment to the employee's net pay for the pay period. At the end of the year, you show the total advance EIC payments in box 9 on Form W-2. Do not include this amount as wages in box 1.

**Employer's returns.** Show the total payments you made to employees on the advance EIC line of your Form 941. Subtract this amount from your total taxes (see the separate **Instructions for Form 941**). Reduce the amounts reported on line 17 of Form 941 or on appropriate lines of **Schedule B (Form 941)**, Employer's Record of Federal Tax Liability, by any advance EIC paid to employees.

Generally, employers will make the advance EIC payment from withheld income tax and employee and employer social security and Medicare taxes. These taxes are normally required to be paid over to the IRS either through Federal tax deposits or with employment tax returns. For purposes of deposit due dates, advance EIC payments are treated as deposits of these taxes on the day you pay wages (including the advance EIC payment) to your employees. The payments are treated as deposits of these taxes in the following order: (1) Income tax withholding, (2) Withheld employee social security and Medicare taxes, and (3) The employer's share of social security and Medicare taxes.

**Example:** You have 10 employees, each entitled to an advance EIC payment of \$10. The total amount of advance EIC payments you make for the payroll period is \$100. The total amount of income tax withholding for the payroll period is \$90. The total employee and employer social security and Medicare taxes for the payroll period is \$122.60 (\$61.30 each).

You are considered to have made a deposit of \$100 advance EIC payment on the day you paid wages. The \$100 is treated as if you deposited the \$90 total income tax withholding and \$10 of the employee social security and Medicare taxes. You remain liable for depositing the remaining \$112.60 of the social security and Medicare taxes (\$51.30 + \$61.30 = \$112.60).

**Advance EIC payments more than taxes due.** For any payroll period, if the total advance EIC payments are more than the total payroll taxes (withheld income tax and both employee and employer shares of social security and Medicare taxes), you may choose either to:

- 1) Reduce each employee's advance payment proportionally so that the total advance EIC payments equal the amount of taxes due or
- 2) Elect to make full payment of the advance EIC and treat the excess as an advance payment of employment taxes.

**Example:** You have 10 employees who are each entitled to an advance EIC payment of \$10. The total amount of advance EIC payable for the payroll period is \$100. The total employment tax for the payroll period is \$90 (including income tax withholding and social security and Medicare taxes). The advance EIC payable is \$10 more than the total employment tax. The \$10 excess is 10% of the advance EIC payable (\$100). You may—



- 1) Reduce each employee's payment by 10% (to \$9 each) so the advance EIC payments equal your total employment tax (\$90) or
- 2) Pay each employee \$10, and treat the excess \$10 as an advance payment of employment taxes. Attach a statement to Form 941 showing the excess advance EIC payments and the pay period(s) to which the excess applies.

**U.S. territories.** If you are in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the U.S. Virgin Islands, consult your local tax office for information on the EIC. You cannot take advance EIC payments into account on Form 941-SS.

## Required Notice to Employees

You must notify employees who have no income tax withheld that they may be able to claim a tax refund because of the EIC. Although you do not have to notify employees who claim exemption from withholding on **Form W-4**, Employee's Withholding Allowance Certificate, about the EIC, you are encouraged to notify any employees whose wages for 2001 were less than \$32,121 that they may be eligible to claim the credit for 2001. This is because eligible employees may get a refund of the amount of EIC that is more than the tax they owe. For example, an employee who had no tax withheld in 2001 and owes no tax, but is eligible for a \$791 EIC, can file a 2001 tax return to get a \$791 refund.

You will meet this notification requirement if you issue the IRS Form W-2 with the EIC notice on the back of Copy B, or a substitute Form W-2 with the same statement. You may also meet the requirement by providing **Notice 797**, Possible Federal Tax Refund Due to the Earned Income Credit (EIC), or your own statement that contains the same wording.

If a substitute Form W-2 is given on time but does not have the required statement, you must notify the employee within 1 week of the date the substitute Form W-2 is given. If Form W-2 is required but is not given on time, you must give the employee Notice 797 or your written statement by the date Form W-2 is required to be given. If Form W-2 is not required, you must notify the employee by February 7, 2002.

---

## 11. Depositing Taxes

In general, you must deposit income tax withheld and both the employer and employee social security and Medicare taxes (minus any advance EIC payments) by mailing or delivering a check, money order, or cash to a financial institution that is an authorized depository for Federal taxes. However, some taxpayers are required to deposit using the Electronic Federal Tax Deposit System (EFTPS). See **How To Deposit** on page 20 for information on electronic deposit requirements for 2002.

**Payment with return.** You may make a payment with Form 941 instead of depositing if:

- You accumulate less than a \$2,500 tax liability (reduced by any advance earned income credit) during the quarter (line 13 of Form 941), and you pay in full with a timely filed return. (However, if you are unsure that you will accumulate less than \$2,500, deposit under the appropriate rules so that you will not be subject to failure to deposit penalties.) Or
- You are a monthly schedule depositor (defined below) and make a payment in accordance with the **Accuracy of Deposits Rule** discussed on page 19. This payment may be \$2,500 or more.

***Caution:** Only monthly schedule depositors are allowed to make this payment with the return.*

**Separate deposit requirements for nonpayroll (Form 945) tax liabilities.** Separate deposits are required for nonpayroll and payroll income tax withholding. **Do not** combine deposits for Forms 941 and 945 tax liabilities. Generally, the deposit rules for nonpayroll liabilities are the same as discussed below, except that the rules apply to an annual rather than a quarterly return period. Thus, the \$2,500 threshold for the deposit requirement discussed above applies to Form 945 on an annual basis. See the separate **Instructions for Form 945** for more information.

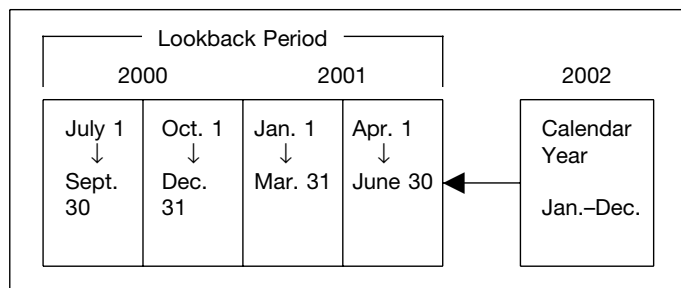
## When To Deposit

There are two deposit schedules—**monthly** or **semi-weekly**—for determining when you deposit social security, Medicare, and withheld income taxes. These schedules tell you when a deposit is due after a tax liability arises (e.g., when you have a payday). Prior to the beginning of each calendar year, you must determine which of the two deposit schedules you are required to use. The deposit schedule you must use is based on the total tax liability you reported on Form 941 during a four-quarter **lookback period** discussed below. Your deposit schedule is **not** determined by how often you pay your employees or make deposits (see **Application of Monthly and Semi-weekly Schedules** on page 19).

These rules do not apply to Federal unemployment (FUTA) tax. See section 14 for information on depositing FUTA tax.

**Lookback period.** Your deposit schedule for a calendar year is determined from the total taxes (not reduced by any advance EIC payments) reported on your Forms 941 (line 11) in a four-quarter lookback period. The lookback period begins July 1 and ends June 30 as shown in Table 1 below. If you reported \$50,000 or less of taxes for the lookback period, you are a monthly schedule depositor; if you reported more than \$50,000, you are a semiweekly schedule depositor.

**Table 1. Lookback Period for Calendar Year 2002**



**Adjustments and the lookback rule.** Determine your tax liability for the four quarters in the lookback period based on the tax liability as **originally** reported on Form 941. If you made adjustments to correct errors on previously filed Forms 941, these adjustments do not affect the amount of tax liability for purposes of the lookback rule. If you report adjustments on your current Form 941 to correct errors on prior Forms 941, include these adjustments as part of your tax liability for the current quarter. If you filed Form 843 to claim a refund for a prior period overpayment, your tax liability does not change for either the prior period or the current period for purposes of the lookback rule.

**Example:** An employer originally reported a tax liability of \$45,000 for the four quarters in the lookback period ending June 30, 2001. The employer discovered during January 2002 that the tax during one of the lookback period quarters was understated by \$10,000 and corrected this error with an adjustment on the 2002 first quarter return. This employer is a monthly schedule depositor for 2002 because the lookback period tax liabilities are based on the amounts originally reported, and they were less than \$50,000. The \$10,000 adjustment is part of the 2002 first quarter tax liability.

### Monthly Deposit Schedule

You are a monthly schedule depositor for a calendar year if the total taxes on Form 941 (line 11) for the four quarters in your lookback period were \$50,000 or less. Under the monthly deposit schedule, deposit Form 941 taxes on payments made during a month by the 15th day of the following month.

Monthly schedule depositors should **not** file Form 941 on a monthly basis. Do not file **Form 941-M**, Employer's Monthly Federal Tax Return, unless you are instructed to do so by an IRS representative.

**New employers.** During the first calendar year of your business, your tax liability for each quarter in the lookback period is considered to be zero. Therefore, you are a monthly schedule depositor for the first calendar year of your business (but see the **\$100,000 Next-Day Deposit Rule** on page 19).

### Semiweekly Deposit Schedule

You are a semiweekly schedule depositor for a calendar year if the total taxes on Form 941 (line 11) during your

lookback period were more than \$50,000. Under the semiweekly deposit schedule, deposit Form 941 taxes on payments made on Wednesday, Thursday, and/or Friday by the following Wednesday. Deposit amounts accumulated on payments made on Saturday, Sunday, Monday, and/or Tuesday by the following Friday.

**Table 2. Semiweekly Deposit Schedule**

IF the payday falls on a . . .	THEN deposit taxes by the following . . .
Wednesday, Thursday, and/or Friday	Wednesday
Saturday, Sunday, Monday, and/or Tuesday	Friday

**Deposit period.** The term **deposit period** refers to the period during which tax liabilities are accumulated for each required deposit due date. For monthly schedule depositors, the deposit period is a calendar month. The deposit periods for semiweekly schedule depositors are Wednesday through Friday and Saturday through Tuesday.

**Semiweekly deposit period spanning two quarters.** If you have more than one pay date during a semiweekly period, and the pay dates fall in different calendar quarters, you will need to make separate deposits for the separate liabilities. For example, if you have a pay date on Saturday, March 30, 2002 (first quarter), and another pay date on Tuesday, April 2, 2002 (second quarter), two separate deposits would be required even though the pay dates fall within the same semiweekly period. Both deposits would be due Friday, April 5, 2002 (three banking days from the end of the semiweekly deposit period).

#### Summary of Steps To Determine Your Deposit Schedule

1. Identify your lookback period (see Table 1).
2. Add the total taxes (line 11 of Form 941) you reported during the lookback period.
3. Determine if you are a monthly or semiweekly schedule depositor:

If the total taxes you reported in the lookback period were . . .	Then you are a . . .
\$50,000 or less	Monthly Schedule Depositor
More than \$50,000	Semiweekly Schedule Depositor

### Example of Monthly and Semiweekly Schedules

Rose Co. reported Form 941 taxes as follows:

2001 Lookback Period		2002 Lookback Period	
3rd Quarter 1999	\$12,000	3rd Quarter 2000	\$12,000
4th Quarter 1999	\$12,000	4th Quarter 2000	\$12,000
1st Quarter 2000	\$12,000	1st Quarter 2001	\$12,000
2nd Quarter 2000	\$12,000	2nd Quarter 2001	\$15,000
	\$48,000		\$51,000

Rose Co. is a monthly schedule depositor for 2001 because its tax liability for the four quarters in its lookback period (third quarter 1999 through second quarter 2000) was not more than \$50,000. However, for 2002, Rose Co. is a semiweekly schedule depositor because the total taxes exceeded \$50,000 for the four quarters in its lookback period (third quarter 2000 through second quarter 2001).

## Deposits on Banking Days Only

If a deposit is required to be made on a day that is not a banking day, the deposit is considered timely if it is made by the close of the next banking day. In addition to Federal and state bank holidays, Saturdays and Sundays are treated as nonbanking days. For example, if a deposit is required to be made on a Friday and Friday is not a banking day, the deposit will be considered timely if it is made by the following Monday (if that Monday is a banking day).

**Semiweekly schedule depositors** have at least 3 banking days to make a deposit. That is, if any of the 3 weekdays after the end of a semiweekly period is a banking holiday, you will have one additional banking day to deposit. For example, if a semiweekly schedule depositor accumulated taxes for payments made on Friday and the following Monday is not a banking day, the deposit normally due on Wednesday may be made on Thursday (allowing 3 banking days to make the deposit).

## Application of Monthly and Semiweekly Schedules

The terms “monthly schedule depositor” and “semiweekly schedule depositor” do **not** refer to how often your business pays its employees or even how often you are required to make deposits. The terms identify which set of deposit rules you must follow when an employment tax liability arises. The deposit rules are based on the dates wages are paid; **not** on when tax liabilities are accrued.

**Monthly schedule example.** Spruce Co. is a monthly schedule depositor with seasonal employees. It paid wages each Friday. During March it paid wages but did not pay any wages during April. Under the monthly deposit schedule, Spruce Co. must deposit the combined tax liabilities for the four March paydays by April 15. Spruce Co. does not have a deposit requirement for April (due by May 15) because no wages were paid and, therefore, it did not have a tax liability for April.

**Semiweekly schedule example.** Green Inc., which has a semiweekly deposit schedule, pays wages once each month on the last day of the month. Although Green

Inc. has a semiweekly deposit schedule, it will deposit just once a month because it pays wages only once a month. The deposit, however, will be made under the semiweekly deposit schedule as follows: Green Inc.’s tax liability for the July 31, 2002 (Wednesday) payday must be deposited by August 7, 2002 (Wednesday). Under the semiweekly deposit schedule, liabilities for wages paid on Wednesday through Friday must be deposited by the following Wednesday.

## \$100,000 Next-Day Deposit Rule

If you accumulate a tax liability (reduced by any advance EIC payments) of \$100,000 or more on any day during a **deposit period**, you must deposit the tax by the next banking day, whether you are a monthly or semiweekly schedule depositor.

For purposes of the \$100,000 rule, do not continue accumulating tax liability after the end of a deposit period. For example, if a semiweekly schedule depositor has accumulated a liability of \$95,000 on a Tuesday (of a Saturday-through-Tuesday deposit period) and accumulated a \$10,000 liability on Wednesday, the \$100,000 next-day deposit rule does not apply. Thus, \$95,000 must be deposited by Friday and \$10,000 must be deposited by the following Wednesday.

In addition, once you accumulate at least \$100,000 in a deposit period, stop accumulating at the end of that day and begin to accumulate anew on the next day. For example, Fir Co. is a semiweekly schedule depositor. On Monday, Fir Co. accumulates taxes of \$110,000 and must deposit this amount on Tuesday, the next banking day. On Tuesday, Fir Co. accumulates additional taxes of \$30,000. Because the \$30,000 is not added to the previous \$110,000 and is less than \$100,000, Fir Co. must deposit the \$30,000 by Friday following the semiweekly deposit schedule.

If you are a monthly schedule depositor and accumulate a \$100,000 tax liability on any day, you become a semiweekly schedule depositor on the next day and remain so for at least the rest of the calendar year and for the following calendar year.

**Example:** Elm Inc. started its business on April 1, 2002. On April 16, it paid wages for the first time and accumulated a tax liability of \$40,000. On April 23, 2002, Elm Inc. paid wages and accumulated a liability of \$60,000, bringing its accumulated tax liability to \$100,000. Because this was the first year of its business, the tax liability for its lookback period is considered to be zero, and it would be a monthly schedule depositor based on the lookback rules. However, since Elm Inc. accumulated a \$100,000 liability on April 23, it became a semiweekly schedule depositor on April 24. It will be a semiweekly schedule depositor for the remainder of 2002 and for 2003. Elm Inc. is required to deposit the \$100,000 by April 24, the next banking day.

## Accuracy of Deposits Rule

You are required to deposit 100% of your tax liability on or before the deposit due date. However, penalties will not be

applied for depositing less than 100% if **both** of the following conditions are met:

- 1) Any deposit shortfall does not exceed the greater of \$100 or 2% of the amount of taxes otherwise required to be deposited and
- 2) The deposit shortfall is paid or deposited by the shortfall makeup date as described below.

#### **Makeup Date for Deposit Shortfall:**

- 1) **Monthly schedule depositor.** Deposit the shortfall or pay it with your return by the due date of the Form 941 for the quarter in which the shortfall occurred. You may pay the shortfall with Form 941 even if the amount is \$2,500 or more.
- 2) **Semiweekly schedule depositor.** Deposit by the earlier of:
  - a) The first Wednesday or Friday that falls on or after the 15th of the month following the month in which the shortfall occurred or
  - b) The due date of Form 941 (for the quarter of the tax liability).

For example, if a semiweekly schedule depositor has a deposit shortfall during July 2002, the shortfall makeup date is August 16, 2002 (Friday). However, if the shortfall occurred on the required October 2 (Wednesday) deposit due date for a September 25 (Wednesday) pay date, the return due date for the September 25 pay date (October 31) would come before the November 15 (Friday) shortfall makeup date. In this case, the shortfall must be deposited by October 31.

## **How To Deposit**

The two methods of depositing employment taxes, including Form 945 taxes, are discussed below. See page 17 for exceptions explaining when taxes may be paid with the tax return instead of deposited.

**Electronic deposit requirement.** You must make electronic deposits of all depository taxes (such as employment tax, excise tax, and corporate income tax) using the Electronic Federal Tax Payment System (EFTPS) in 2002 if:

- The total deposits of such taxes in 2000 were more than \$200,000 or
- You were required to use EFTPS in 2001.

If you are required to use EFTPS and fail to do so, you may be subject to a 10% penalty. If you are not required to use EFTPS, you may participate voluntarily. To get more information or to enroll in EFTPS, call 1-800-555-4477 or 1-800-945-8400.

**Depositing on time.** For deposits made by EFTPS to be on time, you must initiate the transaction at least one business day before the date the deposit is due.

**Making deposits with FTD coupons.** If you are not making deposits by EFTPS, use **Form 8109**, Federal Tax Deposit Coupon, to make the deposits at an authorized financial institution.

For new employers, the IRS will send you a Federal Tax Deposit (FTD) coupon book 5 to 6 weeks after you receive an employer identification number (EIN). (Apply for an EIN on Form SS-4.) The IRS will keep track of the number of FTD coupons you use and **automatically** will send you additional coupons when you need them. If you do not receive your resupply of FTD coupons, call 1-800-829-1040. You can have the FTD coupon books sent to a branch office, tax preparer, or service bureau that is making your deposits by showing that address on **Form 8109-C**, FTD Address Change, which is in the FTD coupon book. (Filing Form 8109-C will not change your address of record; it will change only the address where the FTD coupons are mailed.) The FTD coupons will be preprinted with your name, address, and EIN. They have entry boxes for indicating the type of tax and the tax period for which the deposit is made.

It is very important to clearly mark the correct type of tax and tax period on each FTD coupon. This information is used by the IRS to credit your account.

If you have branch offices depositing taxes, give them FTD coupons and complete instructions so they can deposit the taxes when due.

Please use only your FTD coupons. If you use anyone else's FTD coupon, you may be subject to the failure to deposit penalty. This is because your account will be underpaid by the amount of the deposit credited to the other person's account. See **Deposit Penalties** on page 21 for details.

**How to deposit with an FTD coupon.** Mail or deliver each FTD coupon and a single payment covering the taxes to be deposited to an authorized depository. An authorized depository is a financial institution (e.g., a commercial bank) that is authorized to accept Federal tax deposits. Follow the instructions in the FTD coupon book. Make the check or money order payable to the depository. To help ensure proper crediting of your account, include your EIN, the type of tax (e.g., Form 941), and tax period to which the payment applies on your check or money order.

Authorized depositories must accept cash, a postal money order drawn to the order of the depository, or a check or draft drawn on and to the order of the depository. You may deposit taxes with a check drawn on another financial institution only if the depository is willing to accept that form of payment. Be sure that the financial institution where you make deposits is an authorized depository. Deposits made at an unauthorized institution may be subject to the failure to deposit penalty.

If you prefer, you may mail your coupon and payment to Financial Agent, Federal Tax Deposit Processing, P.O. Box 970030, St. Louis, MO 63197. Make your check or money order payable to **Financial Agent**.

**Depositing on time.** The IRS determines whether deposits are on time by the date they are received by an authorized depository. To be considered timely, the funds must be available to the depository on the deposit due date before the institution's daily cutoff deadline. Contact your local depository for information concerning check clear-

ance and cutoff schedules. However, a deposit received by the authorized depository after the due date will be considered timely if the taxpayer establishes that it was mailed in the United States at least 2 days before the due date.

**Note:** *If you are required to deposit any taxes more than once a month, any deposit of \$20,000 or more must be made by its due date to be timely.*

**Depositing without an EIN.** If you have applied for an EIN but **have not** received it, and you must make a deposit, make the deposit with the IRS. **Do not** make the deposit at an authorized depository. Make it payable to the "United States Treasury" and show on it your name (as shown on Form SS-4), address, kind of tax, period covered, and date you applied for an EIN. Send an explanation with the deposit. **Do not** use **Form 8109-B**, Federal Tax Deposit Coupon, in this situation.

**Depositing without Form 8109.** If you do not have the preprinted Form 8109, you may use Form 8109-B to make deposits. Form 8109-B is an over-the-counter FTD coupon that is not preprinted with your identifying information. You may get this form by calling 1-800-829-1040. Be sure to have your EIN ready when you call.

Use Form 8109-B to make deposits only if—

- You are a new employer and you have been assigned an EIN, but you have not received your initial supply of Forms 8109 or
- You have not received your resupply of preprinted Forms 8109.

**Deposit record.** For your records, a stub is provided with each FTD coupon in the coupon book. The FTD coupon itself will not be returned. It is used to credit your account. Your check, bank receipt, or money order is your receipt.

**How to claim credit for overpayments.** If you deposited more than the right amount of taxes for a quarter, you can choose on Form 941 for that quarter to have the overpayment refunded or applied as a credit to your next return. Do not ask the depository or EFTPS to request a refund from the IRS for you.

## Deposit Penalties

Penalties may apply if you do not make required deposits on time, make deposits for less than the required amount, or if you do not use EFTPS when required. The penalties do not apply if any failure to make a proper and timely deposit was due to reasonable cause and not to willful neglect. For amounts not properly or timely deposited, the penalty rates are:

- 2%** - Deposits made 1 to 5 days late.
- 5%** - Deposits made 6 to 15 days late.
- 10%** - Deposits made 16 or more days late. Also applies to amounts paid within 10 days of the date of the first notice the IRS sent asking for the tax due.

**10%** - Deposits made at an unauthorized financial institution, paid directly to the IRS, or paid with your tax return (but see **Depositing without an EIN** above and **Payment with return** earlier for exceptions).

**10%** - Amounts subject to electronic deposit requirements but not deposited using EFTPS.

**15%** - Amounts still unpaid more than 10 days after the date of the first notice the IRS sent asking for the tax due or the day on which you receive notice and demand for immediate payment, whichever is earlier.

**Order in which deposits are applied.** Beginning in 2002, deposits generally are applied to the most recent tax liability within the quarter. For examples on how the IRS will apply deposits, see Rev. Proc. 2001-58 (2001-50 I.R.B. 579). Before 2002, deposits generally were applied first to the oldest tax liability. However, if you receive a failure-to-deposit penalty notice, you may designate how your payment is to be applied in order to minimize the amount of the penalty. Follow the instructions on the penalty notice you receive. For more information on designating deposits, see Revenue Procedure 99-10 (1999-1 C.B. 272). You can find Rev. Proc. 99-10 on page 11 of Internal Revenue Bulletin 1999-2 at [www.irs.gov](http://www.irs.gov).

**Example:** Cedar Inc. is required to make a deposit of \$1,000 on April 15 and \$1,500 on May 15. It does not make the deposit on April 15. On May 15, Cedar Inc. deposits \$2,000. Under the new rule, which applies deposits to the most recent tax liability, \$1,500 of the deposit is applied to the May 15 deposit and the remaining \$500 is applied to the April deposit. Accordingly, \$500 of the April 15 liability remains undeposited. The penalty on this underdeposit will apply as explained above.

**Trust fund recovery penalty.** If income, social security, and Medicare taxes that must be withheld are not withheld or are not deposited or paid to the United States Treasury, the trust fund recovery penalty may apply. The penalty is the full amount of the unpaid trust fund tax. This penalty may apply to you if these unpaid taxes cannot be immediately collected from the employer or business.

The trust fund recovery penalty may be imposed on all persons who are determined by the IRS to be **responsible** for collecting, accounting for, and paying over these taxes, and who acted **willfully** in not doing so.

A **responsible person** can be an officer or employee of a corporation, a partner or employee of a partnership, an accountant, a volunteer director/trustee, or an employee of a sole proprietorship. A responsible person also may include one who signs checks for the business or otherwise has authority to cause the spending of business funds.

**Willfully** means voluntarily, consciously, and intentionally. A responsible person acts willfully if the person knows the required actions are not taking place.

**Separate accounting when deposits are not made or withheld taxes are not paid.** Separate accounting may be required if you do not pay over withheld employee social security, Medicare, or income taxes; deposit required taxes; make required payments; or file tax returns. In this case, you would receive written notice from the IRS requiring you to deposit taxes in a special trust account for

the U.S. Government. You would also have to file monthly tax returns on **Form 941-M**, Employer's Monthly Federal Tax Return.

## 12. Filing Form 941

Each quarter, all employers who pay wages subject to income tax withholding (including withholding on sick pay and supplemental unemployment benefits) or social security and Medicare taxes must file **Form 941**, Employer's Quarterly Federal Tax Return. However, the following exceptions apply:

- 1) **Seasonal employers who no longer file for quarters when they regularly have no tax liability because they have paid no wages.** To alert the IRS that you will not have to file a return for one or more quarters during the year, mark the Seasonal employer box above line 1 on Form 941. The IRS will mail two Forms 941 to the seasonal filer once a year after March 1. The preprinted label will not include the date the quarter ended. You must enter the date the quarter ended when you file the return. Generally, the IRS will not inquire about unfiled returns if at least one taxable return is filed each year. However, you must mark the Seasonal employer box on every Form 941 you file. Otherwise, the IRS will expect a return to be filed for each quarter.
- 2) **Household employers reporting social security and Medicare taxes and/or withheld income tax.** If you are a sole proprietor and file Form 941 for business employees, you may include taxes for household employees on your Form 941. Otherwise, report social security and Medicare taxes and income tax withholding for household employees on **Schedule H (Form 1040)**, Household Employment Taxes. See **Pub. 926**, Household Employer's Tax Guide, for more information.
- 3) **Employers reporting wages for employees in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or Puerto Rico.** If the employees are not subject to U.S. income tax withholding, use Form 941-SS. Employers in Puerto Rico use Form 941-PR.
- 4) **Agricultural employers reporting social security, Medicare, and withheld income taxes.** Report these on **Form 943**, Employer's Annual Tax Return for Agricultural Employees.

**Form 941 e-file.** The Form 941 e-file program allows a taxpayer to electronically file Form 941 using a personal computer, modem, and commercial tax preparation software. Contact the IRS at 1-800-829-1040 or visit the IRS Web Site at [www.irs.gov/elec\\_sys/efile-bus.html](http://www.irs.gov/elec_sys/efile-bus.html) for more information. See Pub. 1855 for technical specifications.

**941TeleFile.** You may be able to file Form 941 and pay any balance due by phone. If you receive TeleFile materials with your Form 941 package, check page TEL-1 of the

941TeleFile Instructions to see if you qualify for this method of filing. If you have questions related to filing Form 941 using TeleFile, call 1-800-829-8815. This phone number is for 941TeleFile information only and is not the number used to file the return.

**Electronic and magnetic tape filing by reporting agents.** Reporting agents filing Forms 941 for groups of taxpayers can file them electronically or on magnetic tape. See the reporting agent discussion in section 6 of **Pub. 15-A**, Employer's Supplemental Tax Guide, for more information.

**Penalties.** For each whole or part month a return is not filed when required (disregarding any extensions of the filing deadline), there is a penalty of 5% of the unpaid tax due with that return. The maximum penalty is 25% of the tax due. Also, for each whole or part month the tax is paid late (disregarding any extensions of the payment deadline), a penalty of 0.5% per month of the amount of tax generally applies. This penalty is 0.25% per month if an installment agreement is in effect. You must have filed your return on or before the due date of the return to qualify for the reduced penalty. The maximum for this penalty is also 25%. The penalties will not be charged if you have a reasonable cause for failing to file or pay.

Use of a reporting agent or other third-party payroll service provider does not relieve an employer of the responsibility to ensure that tax returns are filed and all taxes are paid or deposited correctly and on time.

**Do not file more than one Form 941 per quarter.** Employers with multiple locations or divisions must file only one Form 941 per quarter. Filing more than one return may result in processing delays and may require correspondence between you and the IRS. For information on making corrections to previously filed returns, see section 13.

**Hints on filing.** Do not report more than one calendar quarter on a return.

Use the preaddressed form mailed to you. If you do not have the form, get one from the IRS in time to file the return when due. If you use a form that is not preaddressed, show your name and EIN on it. Be sure they are exactly as they appeared on earlier returns. See the **Instructions for Form 941** for information on preparing the form.

**Final return.** If you go out of business, you must file a final return for the last quarter in which wages are paid. If you continue to pay wages or other compensation for quarters following termination of your business, you must file returns for those quarters. See the Instructions for Form 941 for details on how to file a final return.

**Note:** *If you are required to file a final Form 941, you are also required to furnish Form W-2 to your employees by the due date of the final Form 941. File Forms W-2 and W-3 with the SSA by the last day of the month that follows the due date of your final Form 941. See the **Instructions for Forms W-2 and W-3** for more information.*

**Filing late Forms 941 for prior years.** If you are filing an original return for a quarter in a prior year and you are using the current year form, you will have to modify Form 941. A form for a particular year generally can be used without modification for any quarter within that year. For

example, a form with any 2002 revision date (e.g., January or October 2002) generally can be used without modification for any quarter of 2002.

In all cases, however, be sure to correctly fill out the "Date quarter ended" section at the top of the form. If you are modifying a form with preprinted information, change the date (the date is shown with the month and year the quarter ends; for example, JUN02 would be for the quarter ending June 30, 2002). Cross out any inapplicable tax rate(s) shown on the form and write in the rate from Table 3 below. You can get tax rates and wage base limits for years not shown in the table from the IRS.



*The instructions on the form may be inappropriate for the year for which you are reporting taxes because of changes in the law, regulations, or procedures. The revision date (found under the form number at the top of the form) will tell you the year for which the form was developed. Contact the IRS if you have any questions.*

**Table 3. Social Security and Medicare Tax Rates (For 3 prior years)**

Calendar Year	Wage Base Limit (each employee)	Tax Rate on Taxable Wages and Tips
2001–Social Security	\$80,400	12.4%
2001–Medicare	All Wages	2.9%
2000–Social Security	\$76,200	12.4%
2000–Medicare	All Wages	2.9%
1999–Social Security	\$72,600	12.4%
1999–Medicare	All Wages	2.9%

**Reconciling Forms W-2, W-3, and 941.** When there are discrepancies between Forms 941 filed with the IRS and Forms W-2 and W-3 filed with the SSA, we must contact you to resolve the discrepancies.

To help reduce discrepancies—

- 1) Report bonuses as wages and as social security and Medicare wages on Forms W-2 and 941.
- 2) Report both social security and Medicare wages and taxes separately on Forms W-2, W-3, and 941.
- 3) Report social security taxes on Form W-2 in the box for social security tax withheld, not as social security wages.
- 4) Report Medicare taxes on Form W-2 in the box for Medicare tax withheld, not as Medicare wages.
- 5) Make sure the social security wage amount for each employee does not exceed the annual social security wage base limit.
- 6) Do not report noncash wages that are not subject to social security or Medicare taxes as social security or Medicare wages.

- 7) If you used an EIN on any Form 941 for the year that is different from the EIN reported on Form W-3, enter the other EIN on Form W-3 in the box for "Other EIN used this year."

To reduce the discrepancies between amounts reported on Forms W-2, W-3, and 941—

- 1) Be sure the amounts on Form W-3 are the total amounts from Forms W-2.
- 2) Reconcile Form W-3 with your four quarterly Forms 941 by comparing amounts reported for—
  - a) Income tax withholding.
  - b) Social security wages, social security tips, and Medicare wages and tips. Form W-3 should include Form 941 adjustments only for the current year (i.e., if the Form 941 adjustments include amounts for a prior year, do not report those prior year adjustments on the current-year Forms W-2 and W-3).
  - c) Social security and Medicare taxes. The amounts shown on the four quarterly Forms 941, including current-year adjustments, should be approximately twice the amounts shown on Form W-3. This is because Form 941 includes both the employer and employee shares of social security and Medicare taxes.
  - d) Advance earned income credit.

Do not report on Form 941 backup withholding or income tax withholding on nonpayroll payments such as pensions, annuities, and gambling winnings. Nonpayroll withholding must be reported on Form 945 (see the separate **Instructions for Form 945** for details). Income tax withholding required to be reported on Forms 1099 or W-2G must be reported on Form 945. Only taxes and withholding properly reported on Form W-2 should be reported on Form 941.

Amounts reported on Forms W-2, W-3, and 941 may not match for valid reasons. If they do not match, you should determine that the reasons are valid. Keep your reconciliation so you will have a record of why amounts did not match in case there are inquiries from the IRS or the SSA.

## 13. Reporting Adjustments on Form 941

There are two types of adjustments: current period adjustments and prior period adjustments to correct errors. See the instructions for Forms 941 and 941c for more information on how to report these adjustments.

### Current Period Adjustments

In certain cases, amounts reported as social security and Medicare taxes on lines 6b, 6d, and 7b of Form 941 must be adjusted to arrive at your correct tax liability (e.g., excluding amounts withheld by a third-party payer or amounts you were not required to withhold). Current period

adjustments are reported on line 9 of Form 941 and include the following:

**Adjustment of tax on tips.** If, by the 10th of the month after the month you received an employee's report on tips, you do not have enough employee funds available to withhold the employee's share of social security and Medicare taxes, you no longer have to collect it. Report the entire amount of these tips on lines 6c (social security tips) and 7a (Medicare wages and tips). Include as an adjustment in the "Other" space on line 9 the total uncollected employee share of the social security and Medicare taxes.

**Adjustment of tax on group-term life insurance premiums paid for former employees.** The employee share of social security and Medicare taxes on group-term life insurance over \$50,000 for a former employee is paid by the former employee with his or her tax return and is not collected by the employer. However, include all social security and Medicare taxes for such coverage on lines 6b and 7b (social security and Medicare taxes), and back out the amount of the employee share of these taxes as an adjustment in the "Other" space on line 9. See Pub. 15-A for more information on group-term life insurance.

**Note:** For the above adjustments, provide a brief supporting statement explaining the nature and amount of the adjustments (see the example of reporting current period adjustments below). Do not use Form 941c as the supporting statement for current period adjustments.

**Adjustment of tax on third-party sick pay.** Report both the employer and employee shares of social security and Medicare taxes for sick pay on lines 6b and 7b of Form 941. Deduct on line 9 the social security and Medicare taxes withheld on sick pay by a third-party payer. Also enter the sick pay tax adjustment in the "Sick Pay" adjustment entry space. No additional statement for this adjustment is required. See section 7 of Pub. 15-B for more information.

**Fractions of cents adjustment.** If there is a small difference between net taxes (line 13) and total deposits (line 14), it may have been caused, all or in part, by rounding to the nearest cent each time you computed payroll. This rounding occurs when you figure the amount of social security and Medicare tax to be withheld from each employee's wages. If you pay your taxes with Form 941 instead of making deposits because your total taxes for the quarter are less than \$2,500, you also may report a fractions-of-cents adjustment.

To determine if you have a fractions-of-cents adjustment, multiply the total wages and tips for the quarter subject to:

- Social security tax (reported on lines 6a and 6c) by 6.2% (.062).
- Medicare tax (reported on line 7a) by 1.45% (.0145).

Compare these amounts (the employee share of social security and Medicare taxes) with the total social security and Medicare taxes actually withheld from employees for the quarter (from your payroll records). The difference, positive or negative, is your fractions-of-cents adjustment. If the actual amount withheld is less, report a negative adjustment in parentheses in the entry space for "Fractions of cents." If the actual amount is more, report a positive adjustment. No supporting statement is required for this adjustment.

**Example of reporting current period adjustments.**

Cedar Inc. was entitled to the following current period adjustments:

- **Third-party sick pay.** Cedar Inc. included taxes of \$2,000 for sick pay on lines 6b and 7b for social security and Medicare taxes. However, the third-party payer of the sick pay withheld and paid the employee share (\$1,000) of these taxes. Cedar Inc. is entitled to a \$1,000 sick pay adjustment (negative).
- **Fractions of cents.** Cedar Inc. determined that the amounts withheld and deposited for social security and Medicare taxes during the quarter were a net \$1.44 more than the employee share of the amount figured on lines 6b, 6d, and 7b (social security and Medicare taxes). This difference was caused by adding or dropping fractions of cents when figuring social security and Medicare taxes for each wage payment. It must report a positive \$1.44 fractions-of-cents adjustment.
- **Life insurance premiums.** Cedar Inc. paid group-term life insurance premiums for policies in excess of \$50,000 for former employees. The former employees must pay the employee share of the social security and Medicare taxes (\$200) on the policies. However, Cedar Inc. must include the employee share of these taxes with the social security and Medicare taxes reported on lines 6b and 7b

**Current Period Adjustment Example**

7	Taxable Medicare wages and tips	7a	\$		×	2.9% (.029) =	7b		
8	Total social security and Medicare taxes (add lines 6b, 6d, and 7b). Check here if wages are not subject to social security and/or Medicare tax	8							
9	Adjustment of social security and Medicare taxes (see instructions for required explanation) Sick Pay \$ (1000.00) ± Fractions of Cents \$ 1.44 ± Other \$ (200.00) =	9					(1198	56)	
10	Adjusted total of social security and Medicare taxes (line 8 as adjusted by line 9—see instructions).	10							
11	<b>Total taxes</b> (add lines 5 and 10)	11							



of Form 941. It is entitled to a negative \$200 adjustment.

Cedar Inc. reported these adjustments on line 9 of Form 941 as shown in the **Current Period Adjustment Example** on page 24. A brief supporting statement was filed with Form 941 explaining the life insurance adjustment.

## Prior Period Adjustments

Generally, you can correct errors on prior quarter Forms 941 by making an adjustment on the Form 941 for the quarter during which the error was discovered. For example, if you made an error in reporting social security tax on your second quarter 2001 Form 941 and discovered the error during January 2002, correct the error by making an adjustment on your first quarter 2002 Form 941.

The adjustment increases or decreases your tax liability for the quarter in which it is reported (the quarter the error is discovered) and is interest free. The net adjustments reported on Form 941 may include any number of corrections for one or more previous quarters, including both overpayments and underpayments.

You are required to provide background information and certifications supporting prior quarter adjustments. File with Form 941 a **Form 941c**, Supporting Statement To Correct Information, or attach a statement that shows:

- What the error was.
- Quarter in which the error was made.
- The amount of the error for each quarter.
- Date on which you found the error.
- That you repaid the employee tax or received from each affected employee a written consent to this refund or credit, if the entry corrects an overcollection.
- If the entry corrects social security and Medicare taxes overcollected in an earlier year, that you received from the employee a written statement that he or she will not claim a refund or credit for the amount.

**Do not file Form 941c or the equivalent supporting statement separately.** The IRS will not be able to process your adjustments on Form 941 without this supporting information. See the instructions for Form 941c for more information.

**Income tax withholding adjustments.** Correct prior quarter income tax withholding errors by making an adjustment on line 4 of Form 941 for the quarter during which you discovered the error.

**Note:** You may make an adjustment to correct income tax withholding errors only for quarters during the **same calendar year**. This is because the employee uses the amount shown on Form W-2 as a credit when filing the income tax return (Form 1040, etc.).

You cannot adjust amounts reported as income tax withheld in a prior calendar year unless it is to correct an **administrative error**. An administrative error occurs if the amount you entered on Form 941 is not the amount you

actually withheld. For example, if the total income tax actually withheld was incorrectly reported on Form 941 due to a mathematical or transposition error, this would be an administrative error. The administrative error adjustment corrects the amount reported on Form 941 to agree with the amount actually withheld from employees.

**Social security and Medicare tax adjustments.** Correct prior quarter social security and Medicare tax errors by making an adjustment on line 9 of Form 941 for the quarter during which you discovered the error. You may report adjustments on the current quarter Form 941 for previous quarters in the current and prior years.

**Reporting prior quarter adjustments on the record of Federal tax liability.** Adjustments to correct errors in prior quarters must be taken into account on either Form 941, line 17, Monthly Summary of Federal Tax Liability, or on **Schedule B (Form 941)**, Employer's Record of Federal Tax Liability.

If the adjustment corrects an **underreported liability** in a prior quarter, report the adjustment on the entry space corresponding to the date the error was discovered. If the adjustment corrects an **overreported liability**, use the adjustment amount as a credit to offset subsequent liabilities until it is used up.

**Example of reporting prior period adjustments:** Elm Co., a monthly schedule depositor, discovered on January 9, 2002, that it overreported social security tax on a prior quarter return by \$5,000. Its total tax liabilities for the first quarter of 2002 were: January—\$4,500, February—\$4,500, and March—\$4,500. Elm Co. completed line 17 of Form 941 as shown in the **Prior Period Adjustment Example** on page 26.

The adjustment for the \$5,000 overreported liability offset the January liability, so the \$4,500 liability was not deposited and a -0- liability was reported on line 17, column (a). The remaining \$500 of the \$5,000 adjustment credit was used to partially offset the liability for February, so only \$4,000 of the \$4,500 liability was deposited and reported on line 17, column (b).

**Note:** Do not make any changes to the record of Federal tax liability for current quarter adjustments. The amounts reported on the record reflect the **actual** amounts you withheld from employees' wages for social security and Medicare taxes. Because the current quarter adjustments make the amounts reported on lines 6b, 6d, and 7b of Form 941 equal the actual amounts you withheld (the amounts reported on the record), no additional changes to the record of Federal tax liability are necessary for these adjustments.

**Filing a claim for overreported prior period liabilities.** If you discover an error on a prior quarter return resulting in a tax overpayment, you may file **Form 843**, Claim for Refund and Request for Abatement, for a refund. This form also can be used to request an abatement of an overassessment of employment taxes, interest, and/or penalties. You must file Form 941c, or an equivalent statement, with Form 843. See the separate **Instructions for Form 843**.

**Collecting underwithheld taxes from employees.** If you withheld no income, social security, or Medicare taxes

## Prior Period Adjustment Example

- **All filers:** If line 13 is less than \$1,000, you need not complete line 17 or Schedule B (Form 941).
- **Semiweekly schedule depositors:** Complete Schedule B (Form 941) and check here . . . . .
- **Monthly schedule depositors:** Complete line 17, columns (a) through (d), and check here . . . . .

17 Monthly Summary of Federal Tax Liability. Do not complete if you were a semiweekly schedule depositor.			
(a) First month liability	(b) Second month liability	(c) Third month liability	(d) Total liability for quarter
- 0 -	4000.00	4500.00	8500.00

**Sign Here**

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature ▶

Print Your Name and Title ▶

Date ▶

For Privacy Act and Paperwork Reduction Act Notice, see back of Payment Voucher. Cat. No. 17001Z Form **941** (Rev. 10-2000)

or less than the right amount from an employee's wages, you can make it up from later pay to that employee. But you are the one who owes the underpayment. Reimbursement is a matter for settlement between you and the employee. Underwithheld income tax must be recovered from the employee *on or before the last day of the calendar year*. There are special rules for tax on tips (see section 6) and fringe benefits (see section 5).

**Refunding amounts incorrectly withheld from employees.** If you withheld more than the right amount of income, social security, or Medicare taxes from wages paid, give the employee the excess. Any excess income tax withholding must be reimbursed to the employee prior to the end of the calendar year. Keep in your records the employee's written receipt showing the date and amount of the repayment. If you do not have a receipt, you must report and pay each excess amount when you file Form 941 for the quarter in which you withheld too much tax.

**Correcting filed Forms W-2 and W-3.** When adjustments are made to correct social security and Medicare taxes because of a change in the wage totals reported for a previous year, you also may need to file **Form W-2c**, Corrected Wage and Tax Statement, and **Form W-3c**, Transmittal of Corrected Wage and Tax Statements.

### Wage Repayments

If an employee repays you for wages received in error, do not offset the repayments against current-year wages unless the repayments are for amounts received in error in the current year.

**Repayment of current-year wages.** If you receive repayments for wages paid during a prior quarter in the current year, report adjustments on Form 941 to recover income tax withholding and social security and Medicare taxes for the repaid wages (as discussed earlier). Report the adjustments on Form 941 for the quarter during which the repayment occurred.

**Repayment of prior year wages.** If you receive repayments for wages paid during a prior year, report an adjustment on the Form 941 for the quarter during which the repayment was made to recover the social security and Medicare taxes. Instead of making an adjustment on Form 941, you may file a claim for these taxes using Form 843. You may not make an adjustment for income tax withholding because the wages were paid during a prior year.

You also must file Forms W-2c and W-3c with the SSA to correct social security and Medicare wages and taxes. **Do not** correct wages (box 1) on Form W-2c for the amount paid in error. Give a copy of Form W-2c to the employee.

***Note:** The wages paid in error in the prior year remain taxable to the employee for that year. This is because the employee received and had use of those funds during that year. The employee is not entitled to file an amended return (Form 1040X) to recover the income tax on these wages. Instead, the employee is entitled to a deduction (or credit in some cases) for the repaid wages on his or her income tax return for the year of repayment.*

## 14. Federal Unemployment (FUTA) Tax

The Federal Unemployment Tax Act (FUTA), with state unemployment systems, provides for payments of unemployment compensation to workers who have lost their jobs. Most employers pay both a Federal and a state unemployment tax. A list of state unemployment tax agencies, including addresses and phone numbers, is available in **Pub. 926**, Household Employer's Tax Guide. Only the employer pays FUTA tax; it is not deducted from the employee's wages. For more information, see the **Instructions for Form 940**.

***Note:** Services rendered after December 20, 2000, to a federally recognized Indian tribal government (or any subdivision, subsidiary, or business wholly owned by such an Indian tribe) are exempt from FUTA tax, subject to the tribe's compliance with state law. For more information, see Announcement 2001-16 and Code section 3309(d). You can find Announcement 2001-16 on page 715 of Internal Revenue Bulletin 2001-8, at [www.irs.gov](http://www.irs.gov).*

Use the following three tests to determine whether you must pay FUTA tax. Each test applies to a different category of employee, and each is independent of the others. If a test describes your situation, you are subject to FUTA tax on the wages you pay to employees in that category during the current calendar year.

### 1) General test.

You are subject to FUTA tax in 2002 on the wages you pay employees who are not farmworkers or

household workers if in the current or preceding calendar year:

- a) You paid wages of \$1,500 or more in any calendar quarter in 2001 or 2002 or
  - b) You had one or more employees for at least some part of a day in any 20 or more different weeks in 2001 or 20 or more different weeks in 2002.
- 2) Household employees test.  
You are subject to FUTA tax only if you paid total cash wages of \$1,000 or more (for all household employees) in any calendar quarter in 2001 or 2002. A household worker is an employee who performs household work in a private home, local college club, or local fraternity or sorority chapter.
- 3) Farmworkers test.  
You are subject to FUTA tax on the wages you pay to farmworkers if:
- a) You paid cash wages of \$20,000 or more to farmworkers during any calendar quarter in 2001 or 2002 or
  - b) You employed 10 or more farmworkers during at least some part of a day (whether or not at the same time) during any 20 or more different weeks in 2001 or 20 or more different weeks in 2002.

**Computing FUTA tax.** For 2001 and 2002, the FUTA tax rate is 6.2%. The tax applies to the first \$7,000 you pay each employee as wages during the year. The \$7,000 is the Federal wage base. Your state wage base may be different. Generally, you can take a credit against your FUTA tax for amounts you paid into state unemployment funds. This credit cannot be more than 5.4% of taxable wages. If you are entitled to the maximum 5.4% credit, the FUTA tax rate after the credit is 0.8%.

**Successor employer.** If you acquired a business from an employer who was liable for FUTA tax, you may be able to count the wages that employer paid to the employees who continue to work for you when you figure the \$7,000 FUTA wage base. See the Instructions for Form 940.

**Depositing FUTA tax.** For deposit purposes, figure FUTA tax quarterly. Determine your FUTA tax liability by multiplying the amount of wages paid during the quarter by .008 (0.8%). Stop depositing FUTA tax on an employee's wages when he or she reaches \$7,000 in wages for the calendar year. If any part of the wages subject to FUTA are exempt from state unemployment tax, you may have to deposit more than the tax using the 0.8% rate. For example, in certain states, wages paid to corporate officers, certain payments of sick pay by unions, and certain fringe benefits, are exempt from state unemployment tax.

If your FUTA tax liability for a quarter is \$100 or less, you do not have to deposit the tax. Instead, you may carry it

forward and add it to the liability figured in the next quarter to see if you must make a deposit. If your FUTA tax liability for any calendar quarter in 2002 is over \$100 (including any FUTA tax carried forward from an earlier quarter), you must deposit the tax by electronic funds transfer (EFTPS) or in an authorized financial institution using **Form 8109**, Federal Tax Deposit Coupon. See section 11 for information on these two deposit methods.

**Note:** You are not required to deposit FUTA taxes for household employees unless you report their wages on **Form 941** or **943**. See **Pub. 926**, *Household Employer's Tax Guide*, for more information.

**When to deposit.** Deposit the FUTA tax by the last day of the first month after the quarter ends.

If your liability for the fourth quarter (plus any undeposited amount from any earlier quarter) is over \$100, deposit the entire amount by the due date of Form 940 or Form 940-EZ (January 31). If it is \$100 or less, you can either make a deposit or pay the tax with your Form 940 or 940-EZ by January 31.

**Table 4. When To Deposit FUTA Taxes**

Quarter	Ending	Due Date
Jan.–Feb.–Mar.	Mar. 31	Apr. 30
Apr.–May–June	June 30	July 31
July–Aug.–Sept.	Sept. 30	Oct. 31
Oct.–Nov.–Dec.	Dec. 31	Jan. 31

**Reporting FUTA tax.** Use **Form 940** or **940-EZ**, Employer's Annual Federal Unemployment (FUTA) Tax Return, to report this tax. The IRS will mail a preaddressed Form 940 or 940-EZ to you if you filed a return the year before. If you do not receive Form 940 or 940-EZ, you can get the form by calling 1-800-TAX-FORM (1-800-829-3676).

**Form 940-EZ requirements.** You may be able to use Form 940-EZ instead of Form 940 if (1) you paid unemployment taxes ("contributions") to only one state, (2) you paid state unemployment taxes by the due date of Form 940 or 940-EZ, and (3) all wages that were taxable for FUTA tax purposes were also taxable for your state's unemployment tax. For example, if you paid wages to corporate officers (these wages are subject to FUTA tax) in a state that exempts these wages from its unemployment taxes, you cannot use Form 940-EZ.

**Household employees.** If you did not report employment taxes for household employees on Form 941 or 943, report FUTA tax for these employees on **Schedule H (Form 1040)**, Household Employment Taxes. See Pub. 926 for more information.

## 15. Special Rules for Various Types of Services and Payments

(Section references are to the Internal Revenue Code unless otherwise noted.)

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	Social Security and Medicare	Federal Unemployment
<b>Aliens, nonresident.</b>	See page 13 and <b>Pub. 515</b> , Withholding of Tax on Nonresident Aliens and Foreign Corporations, and <b>Pub. 519</b> , U.S. Tax Guide for Aliens.		
<b>Aliens, resident:</b> 1. Service performed in the U.S.  2. Service performed outside U.S.	Same as U.S. citizen.  Withhold	Same as U.S. citizen. (Exempt if any part of service as crew member of foreign vessel or aircraft is performed outside U.S.)  Taxable if (1) working for an American employer or (2) an American employer by agreement covers U.S. citizens and residents employed by its foreign affiliates.	Same as U.S. citizen.  Exempt unless on or in connection with an American vessel or aircraft and either performed under contract made in U.S., or alien is employed on such vessel or aircraft when it touches U.S. port.
<b>Cafeteria plan benefits under section 125.</b>	If employee chooses cash, subject to all employment taxes. If employee chooses another benefit, the treatment is the same as if the benefit were provided outside the plan. (See <b>Pub. 15-A</b> for more information.)		
<b>Deceased worker:</b> 1. Wages paid to beneficiary or estate in same calendar year as worker's death. (See <b>Instructions for Form W-2</b> for details.) 2. Wages paid to beneficiary or estate after calendar year of worker's death.	Exempt  Exempt	Taxable  Exempt	Taxable  Exempt
<b>Dependent care assistance programs</b> (limited to \$5,000; \$2,500 if married filing separately).	Exempt to the extent it is reasonable to believe that amounts are excludable from gross income under section 129.		
<b>Disabled worker's wages</b> paid after year in which worker became entitled to disability insurance benefits under the Social Security Act.	Withhold	Exempt, if worker did not perform any service for employer during period for which payment is made.	Taxable
<b>Employee business expense reimbursement:</b> a. Accountable plan. 1. Amounts not exceeding specified government rate for per diem or standard mileage. 2. Amounts in excess of specified government rate for per diem or standard mileage. b. Nonaccountable plan. (See page 9 for details.)	Exempt  Withhold  Withhold	Exempt  Taxable  Taxable	Exempt  Taxable  Taxable
<b>Family employees:</b> 1. Child employed by parent (or partnership in which each partner is a parent of the child). 2. Parent employed by child.  3. Spouse employed by spouse. (See section 3 for more information.)	Withhold  Withhold  Withhold	Exempt until age 18; age 21 for domestic service  Taxable if in course of the son's or daughter's business. For domestic services, see section 3.  Taxable if in course of spouse's business.	Exempt until age 21  Exempt  Exempt
<b>Fishing and related activities.</b>	See <b>Pub. 595</b> , Tax Highlights for Commercial Fishermen.		
<b>Foreign governments and international organizations.</b>	Exempt	Exempt	Exempt

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	Social Security and Medicare	Federal Unemployment
<b>Foreign service by U.S. citizens:</b> 1. As U.S. government employee. 2. For foreign affiliates of American employers and other private employers.	Withhold  Exempt if at time of payment (1) it is reasonable to believe employee is entitled to exclusion from income under section 911 or (2) the employer is required by law of the foreign country to withhold income tax on such payment.	Same as within U.S.  Exempt unless (1) an American employer by agreement covers U.S. citizens employed by its foreign affiliates or (2) U.S. citizen works for American employer.	Exempt  Exempt unless (1) on American vessel or aircraft and work is performed under contract made in U.S. or worker is employed on vessel when it touches U.S. port or (2) U.S. citizen works for American employer (except in a contiguous country with which the U.S. has an agreement for unemployment compensation) or in the U.S. Virgin Islands.
<b>Homeworkers</b> (industrial, cottage industry): 1. Common law employees. 2. Statutory employees. (See page 7 for details.)	Withhold  Exempt	Taxable  Taxable if paid \$100 or more in cash in a year.	Taxable  Exempt
<b>Hospital employees:</b> 1. Interns 2. Patients	Withhold  Withhold	Taxable  Taxable (Exempt for state or local government hospitals.)	Exempt  Exempt
<b>Household employees:</b> 1. Domestic service in private homes. (Farmers see Circular A.)  2. Domestic service in college clubs, fraternities, and sororities.	Exempt (withhold if both employer and employee agree).  Exempt (withhold if both employer and employee agree).	Taxable if paid \$1,300 or more in cash in 2002. Exempt if performed by an individual under age 18 during any portion of the calendar year and is not the principal occupation of the employee.  Exempt if paid to regular student; also exempt if employee is paid less than \$100 in a year by an income-tax-exempt employer.	Taxable if employer paid total cash wages of \$1,000 or more (for <b>all</b> household employees) in any quarter in the current or preceding calendar year.  Taxable if employer paid total cash wages of \$1,000 or more (for <b>all</b> household employees) in any quarter in the current or preceding calendar year.
<b>Insurance for employees:</b> 1. Accident and health insurance premiums under a plan or system for employees and their dependents generally or for a class or classes of employees and their dependents. 2. Group-term life insurance costs. (See <b>Pub. 15-A</b> for more details.)	Exempt (except 2% shareholder-employees of S corporations).  Exempt	Exempt  Exempt, except for the cost of group-term life insurance that is includible in the employee's gross income. (Special rules apply for former employees.)	Exempt  Exempt
<b>Insurance agents or solicitors:</b> 1. Full-time life insurance salesperson.  2. Other salesperson of life, casualty, etc., insurance.	Withhold only if employee under common law. (See page 6.)  Withhold only if employee under common law.	Taxable  Taxable only if employee under common law.	Taxable if (1) employee under common law and (2) not paid solely by commissions.  Taxable if (1) employee under common law and (2) not paid solely by commissions.

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	Social Security and Medicare	Federal Unemployment
<b>Interest on loans with below-market interest rates</b> (foregone interest and deemed original issue discount). (See <b>Pub. 15-A</b> for more information.)	Exempt (but deemed payments of compensation-related loans must be shown on Form W-2).	Exempt, unless loans are compensation related.	Exempt, unless loans are compensation related.
<b>Leave-sharing plans:</b> Amounts paid to an employee under a leave-sharing plan.	Withhold	Taxable	Taxable
<b>Newspaper carriers and vendors:</b> Newspaper carriers under age 18; newspaper and magazine vendors buying at fixed prices and retaining receipts from sales to customers. See Pub 15-A for information on statutory nonemployee status.	Exempt (withhold if both employer and employee voluntarily agree).	Exempt	Exempt
<b>Noncash payments:</b> 1. For household work, agricultural labor, and service not in the course of the employer's trade or business. 2. To certain retail commission salespersons ordinarily paid solely on a cash commission basis.	Exempt (withhold if both employer and employee voluntarily agree). Optional with employer.	Exempt Taxable	Exempt Taxable
<b>Nonprofit organizations.</b>	See <b>Pub. 15-A.</b>		
<b>Partners:</b> Payments to members of general partnership.	Exempt	Exempt	Exempt
<b>Railroads:</b> Payments subject to the Railroad Retirement Act	Withhold	Exempt	Exempt
<b>Religious exemptions.</b>	See <b>Pub. 15-A.</b>		
<b>Retirement and pension plans:</b> 1. Employer contributions to a qualified plan. 2. Elective employee contributions and deferrals to a plan containing a qualified cash or deferred compensation arrangement (e.g., 401(k)). 3. Employer contributions to individual retirement accounts under simplified employee pension plan (SEP). 4. Employer contributions to section 403(b) annuities. 5. Employee salary reduction contributions to a SIMPLE retirement account. 6. Distributions from qualified retirement and pension plans and section 403(b) annuities.  (See <b>Pub. 15-A</b> for information on pensions, annuities, and employer contributions to nonqualified deferred compensation arrangements.)	Exempt  Generally exempt, but see section 402(g) for limitation.  Generally exempt, but see section 402(g) for salary reduction SEP limitation. Generally exempt, but see section 402(g) for limitation.  Exempt  Withhold, but recipient may elect exemption on Form W-4P in certain cases; mandatory 20% withholding applies to an eligible rollover distribution that is not a direct rollover; exempt for direct rollover. (See Pub. 15-A.)	Exempt  Taxable  Exempt, except for amounts contributed under a salary reduction SEP agreement.  Taxable if paid through a salary reduction agreement (written or otherwise).  Taxable  Exempt	Exempt  Taxable  Taxable  Exempt
<b>Salespersons:</b> 1. Common law employees. 2. Statutory employees.  3. Statutory nonemployees (qualified real estate agents and direct sellers). (See page 7 for details.)	Withhold Exempt  Exempt	Taxable Taxable  Exempt	Taxable Taxable, except for full-time life insurance sales agents.  Exempt
<b>Scholarships and fellowship grants:</b> (inclusive in income under section 117(c)).	Withhold	Taxability depends on the nature of the employment and the status of the organization. See <b>Students</b> on page 31.	

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	Social Security and Medicare	Federal Unemployment
<b>Severance or dismissal pay.</b>	Withhold	Taxable	Taxable
<b>Service not in the course of the employer's trade or business</b> , other than on a farm operated for profit or for household employment in private homes.	Withhold only if employee earns \$50 or more in cash in a quarter and works on 24 or more different days in that quarter or in the preceding quarter.	Taxable if employee receives \$100 or more in a calendar year.	Taxable only if employee earns \$50 or more in cash in a quarter and works on 24 or more different days in that quarter or in the preceding quarter.
<b>Sick pay.</b> (See <b>Pub. 15-A</b> for more information.)	Withhold	Exempt after end of 6 calendar months after the calendar month employee last worked for employer.	
<b>State governments and political subdivisions, employees of:</b> 1. Fees of public official.  2. Salaries and wages.  3. Election workers.	Exempt  Withhold  Exempt	Taxable if certain transportation services or if covered by a section 218 (Social Security Act) agreement.  Taxable (1) for services performed by employees who are either (a) covered under a section 218 agreement or (b) not a member of a public retirement system, and (2) (for Medicare tax only) for employees hired after 3/31/86 who are members of a public retirement system not covered by a section 218 social security agreement.  Taxable if paid \$1,100 or more in 2001 (lesser amount if specified by a section 218 social security agreement); file Form W-2 for \$600 or more.	Exempt  Exempt  Exempt
<b>Students, scholars, trainees, teachers, etc.:</b> 1. Student enrolled and regularly attending classes, performing services for: a. Private school, college, or university b. Auxillary nonprofit organization operated for and controlled by school, college, or university. c. Public school, college, or university  2. Full-time student performing service for academic credit, combining instruction with work experience as an integral part of the program. 3. Student nurse performing part-time services for nominal earnings at hospital as incidental part of training. 4. Student employed by organized camps. 5. Student, scholar, trainee, teacher, etc., as nonimmigrant alien under section 101(a)(15)(F), (J), (M), or (Q) of Immigration and Nationality Act (i.e., aliens holding F-1, J-1, M-1, or Q-1 visas).	Withhold  Withhold  Withhold  Withhold  Withhold  Withhold unless excepted by regulations.	Exempt  Exempt unless services are covered by a section 218 (Social Security Act) agreement  Exempt unless services are covered by a section 218 (Social Security Act) agreement  Taxable  Exempt  Taxable  Exempt if service is performed for purpose specified in section 101(a)(15)(F), (J), (M), or (Q) of Immigration and Nationality Act. However, these taxes may apply if the employee becomes a resident alien.	Exempt  Exempt  Exempt  Exempt unless program was established for or on behalf of an employer or group of employers.  Exempt  Exempt
<b>Supplemental unemployment compensation plan benefits.</b>	Withhold	Exempt	Exempt
<b>Tips:</b> 1. If \$20 or more in a month.  2. If less than \$20 in a month. (See section 6 for more information.)	Withhold  Exempt	Taxable  Exempt	Taxable for all tips reported in writing to employer.  Exempt
<b>Worker's compensation.</b>	Exempt	Exempt	Exempt

# 16. How To Use the Income Tax Withholding and Advance Earned Income Credit (EIC) Payment Tables

## Income Tax Withholding

There are several ways to figure income tax withholding. The following methods of withholding are based on information you get from your employees on **Form W-4**, Employee's Withholding Allowance Certificate. See section 9 for more information on Form W-4.

### Wage Bracket Method

Under the wage bracket method, find the proper table (on pages 36-55) for your payroll period and the employee's marital status as shown on his or her Form W-4. Then, based on the number of withholding allowances claimed on the Form W-4 and the amount of wages, find the amount of tax to withhold. If your employee is claiming more than 10 withholding allowances, see below.

**Note:** If you cannot use the wage bracket tables because wages exceed the amount shown in the last bracket of the table, use the percentage method of withholding described below. Be sure to reduce wages by the amount of total withholding allowances in Table 5 before using the percentage method tables (pages 34-35).

**Adjusting wage bracket withholding for employees claiming more than 10 withholding allowances.** The wage bracket tables can be used if an employee claims up to 10 allowances. More than 10 allowances may be claimed because of the special withholding allowance, additional allowances for deductions and credits, and the system itself.

To adapt the tables to more than 10 allowances:

- 1) Multiply the number of withholding allowances over 10 by the allowance value for the payroll period. (The allowance values are in Table 5, **Percentage Method—2002 Amount for One Withholding Allowance** later.)
- 2) Subtract the result from the employee's wages.
- 3) On this amount, find and withhold the tax in the column for 10 allowances.

This is a voluntary method. If you use the wage bracket tables, you may continue to withhold the amount in the "10" column when your employee has more than 10 allowances, using the method above. You can also use any other method described below.

### Percentage Method

If you do not want to use the wage bracket tables on pages 36 through 55 to figure how much income tax to withhold,

you can use a percentage computation based on Table 5 and the appropriate rate table. This method works for any number of withholding allowances the employee claims and any amount of wages.

Use these steps to figure the income tax to withhold under the percentage method:

- 1) Multiply one withholding allowance for your payroll period (see Table 5 below) by the number of allowances the employee claims.
- 2) Subtract that amount from the employee's wages.
- 3) Determine the amount to withhold from the appropriate table on pages 34 and 35.

**Table 5. Percentage Method—2002 Amount for One Withholding Allowance**

Payroll Period	One Withholding Allowance
Weekly . . . . .	\$57.69
Biweekly . . . . .	115.38
Semimonthly . . . . .	125.00
Monthly . . . . .	250.00
Quarterly . . . . .	750.00
Semiannually . . . . .	1,500.00
Annually . . . . .	3,000.00
Daily or miscellaneous (each day of the payroll period) . . . . .	11.54

**Example:** An unmarried employee is paid \$600 weekly. This employee has in effect a Form W-4 claiming two withholding allowances. Using the percentage method, figure the income tax to withhold as follows:

1. Total wage payment . . . . .	\$600.00
2. One allowance . . . . .	\$57.69
3. Allowances claimed on Form W-4 <u>2</u>	
4. Multiply line 2 by line 3 . . . . .	<u>\$115.38</u>
5. Amount subject to withholding (subtract line 4 from line 1) . . . . .	\$484.62
6. Tax to be withheld on \$484.62 from Table 1—single person, page 34 . . . . .	<u>\$ 59.39</u>

To figure the income tax to withhold, you may reduce the last digit of the wages to zero, or figure the wages to the nearest dollar.

**Annual income tax withholding.** Figure the income tax to withhold on annual wages under the Percentage Method for an annual payroll period. Then prorate the tax back to the payroll period.

**Example:** A married person claims four withholding allowances. She is paid \$1,000 a week. Multiply the weekly wages by 52 weeks to figure the annual wage of \$52,000. Subtract \$12,000 (the value of four withholding allowances for 2002) for a balance of \$40,000. Using the table for the annual payroll period on page 35, \$4,432.50 is withheld. Divide the annual tax by 52. The weekly tax to withhold is \$85.24.



## Alternative Methods of Income Tax Withholding

Rather than the Percentage or Wage Bracket Methods described on page 32, you can use an alternative method to withhold income tax. **Pub. 15-A**, Employer's Supplemental Tax Guide, describes these alternative methods and contains:

- 1) Formula tables for percentage method withholding (for automated payroll systems).
- 2) Wage bracket percentage method tables (for automated payroll systems).
- 3) Combined income, social security, and Medicare tax withholding tables.

Some alternative methods explained in Pub. 15-A are annualized wages, average estimated wages, cumulative wages, and part-year employment.

## Advance Payment Methods for the Earned Income Credit (EIC)

To figure the advance EIC payment, you may use either the Wage Bracket Method or the Percentage Method explained below. You may use other methods for figuring advance EIC payments if the amount of the payment is about the same as it would be using tables in this booklet. See the tolerances allowed in the chart in section 10 of Pub. 15-A. See section 10 in this booklet for an explanation of the advance payment of the EIC.

The number of withholding allowances an employee claims on Form W-4 is not used in figuring the advance EIC payment. Nor does it matter that the employee has claimed exemption from income tax withholding on Form W-4.

### Wage Bracket Method

If you use the wage bracket tables on pages 58 through 61, figure the advance EIC payment as follows.

Find the employee's gross wages before any deductions using the appropriate table. There are different tables for **(a)** single or head of household **(b)** married without spouse filing certificate **(c)** married with both spouses filing certificates. Determine the amount of the advance EIC payment shown in the appropriate table for the amount of wages paid.

### Percentage Method

If you do not want to use the wage bracket tables to figure how much to include in an employee's wages for the advance EIC payment, you can use the percentage method based on the appropriate rate table on pages 56 and 57.

Find the employee's gross wages before any deductions in the appropriate table on pages 56 and 57. There are different tables for **(a)** single or head of household **(b)** married without spouse filing certificate **(c)** married with both spouses filing certificates. Find the advance EIC payment shown in the appropriate table for the amount of wages paid.

## Whole-Dollar Withholding and Paying Advance EIC (Rounding)

The income tax withholding amounts in the wage bracket tables (pages 36-55) have been rounded to whole-dollar amounts.

When employers use the percentage method (pages 34-35) or an alternative method of income tax withholding, the tax for the pay period may be rounded to the nearest dollar.

The wage bracket tables for advance EIC payments (pages 58-61) have also been rounded to whole-dollar amounts. If you use the percentage method for advance EIC payments (pages 56-57), the payments may be rounded to the nearest dollar.

**Tables for Percentage Method of Withholding**  
(For Wages Paid in 2002)

**TABLE 1—WEEKLY Payroll Period**

<b>(a) SINGLE person</b> (including head of household)—				<b>(b) MARRIED person</b> —			
If the amount of wages (after subtracting withholding allowances) is:		The amount of income tax to withhold is:		If the amount of wages (after subtracting withholding allowances) is:		The amount of income tax to withhold is:	
Not over \$51 . . . . .		\$0		Not over \$124 . . . . .		\$0	
<b>Over—</b>	<b>But not over—</b>	<b>of excess over—</b>		<b>Over—</b>	<b>But not over—</b>	<b>of excess over—</b>	
\$51	—\$164 . . . . .	10%	—\$51	\$124	—\$355 . . . . .	10%	—\$124
\$164	—\$570 . . . . .	\$11.30 plus 15%	—\$164	\$355	—\$991 . . . . .	\$23.10 plus 15%	—\$355
\$570	—\$1,247 . . . . .	\$72.20 plus 27%	—\$570	\$991	—\$2,110 . . . . .	\$118.50 plus 27%	—\$991
\$1,247	—\$2,749 . . . . .	\$254.99 plus 30%	—\$1,247	\$2,110	—\$3,400 . . . . .	\$420.63 plus 30%	—\$2,110
\$2,749	—\$5,938 . . . . .	\$705.59 plus 35%	—\$2,749	\$3,400	—\$5,998 . . . . .	\$807.63 plus 35%	—\$3,400
\$5,938	. . . . .	\$1,821.74 plus 38.6%	—\$5,938	\$5,998	. . . . .	\$1,716.93 plus 38.6%	—\$5,998

**TABLE 2—BIWEEKLY Payroll Period**

<b>(a) SINGLE person</b> (including head of household)—				<b>(b) MARRIED person</b> —			
If the amount of wages (after subtracting withholding allowances) is:		The amount of income tax to withhold is:		If the amount of wages (after subtracting withholding allowances) is:		The amount of income tax to withhold is:	
Not over \$102 . . . . .		\$0		Not over \$248 . . . . .		\$0	
<b>Over—</b>	<b>But not over—</b>	<b>of excess over—</b>		<b>Over—</b>	<b>But not over—</b>	<b>of excess over—</b>	
\$102	—\$329 . . . . .	10%	—\$102	\$248	—\$710 . . . . .	10%	—\$248
\$329	—\$1,140 . . . . .	\$22.70 plus 15%	—\$329	\$710	—\$1,983 . . . . .	\$46.20 plus 15%	—\$710
\$1,140	—\$2,493 . . . . .	\$144.35 plus 27%	—\$1,140	\$1,983	—\$4,219 . . . . .	\$237.15 plus 27%	—\$1,983
\$2,493	—\$5,498 . . . . .	\$509.66 plus 30%	—\$2,493	\$4,219	—\$6,800 . . . . .	\$840.87 plus 30%	—\$4,219
\$5,498	—\$11,875 . . . . .	\$1,411.16 plus 35%	—\$5,498	\$6,800	—\$11,996 . . . . .	\$1,615.17 plus 35%	—\$6,800
\$11,875	. . . . .	\$3,643.11 plus 38.6%	—\$11,875	\$11,996	. . . . .	\$3,433.77 plus 38.6%	—\$11,996

**TABLE 3—SEMIMONTHLY Payroll Period**

<b>(a) SINGLE person</b> (including head of household)—				<b>(b) MARRIED person</b> —			
If the amount of wages (after subtracting withholding allowances) is:		The amount of income tax to withhold is:		If the amount of wages (after subtracting withholding allowances) is:		The amount of income tax to withhold is:	
Not over \$110 . . . . .		\$0		Not over \$269 . . . . .		\$0	
<b>Over—</b>	<b>But not over—</b>	<b>of excess over—</b>		<b>Over—</b>	<b>But not over—</b>	<b>of excess over—</b>	
\$110	—\$356 . . . . .	10%	—\$110	\$269	—\$769 . . . . .	10%	—\$269
\$356	—\$1,235 . . . . .	\$24.60 plus 15%	—\$356	\$769	—\$2,148 . . . . .	\$50.00 plus 15%	—\$769
\$1,235	—\$2,701 . . . . .	\$156.45 plus 27%	—\$1,235	\$2,148	—\$4,571 . . . . .	\$256.85 plus 27%	—\$2,148
\$2,701	—\$5,956 . . . . .	\$552.27 plus 30%	—\$2,701	\$4,571	—\$7,367 . . . . .	\$911.06 plus 30%	—\$4,571
\$5,956	—\$12,865 . . . . .	\$1,528.77 plus 35%	—\$5,956	\$7,367	—\$12,996 . . . . .	\$1,749.86 plus 35%	—\$7,367
\$12,865	. . . . .	\$3,946.92 plus 38.6%	—\$12,865	\$12,996	. . . . .	\$3,720.01 plus 38.6%	—\$12,996

**TABLE 4—MONTHLY Payroll Period**

<b>(a) SINGLE person</b> (including head of household)—				<b>(b) MARRIED person</b> —			
If the amount of wages (after subtracting withholding allowances) is:		The amount of income tax to withhold is:		If the amount of wages (after subtracting withholding allowances) is:		The amount of income tax to withhold is:	
Not over \$221 . . . . .		\$0		Not over \$538 . . . . .		\$0	
<b>Over—</b>	<b>But not over—</b>	<b>of excess over—</b>		<b>Over—</b>	<b>But not over—</b>	<b>of excess over—</b>	
\$221	—\$713 . . . . .	10%	—\$221	\$538	—\$1,538 . . . . .	10%	—\$538
\$713	—\$2,471 . . . . .	\$49.20 plus 15%	—\$713	\$1,538	—\$4,296 . . . . .	\$100.00 plus 15%	—\$1,538
\$2,471	—\$5,402 . . . . .	\$312.90 plus 27%	—\$2,471	\$4,296	—\$9,142 . . . . .	\$513.70 plus 27%	—\$4,296
\$5,402	—\$11,913 . . . . .	\$1,104.27 plus 30%	—\$5,402	\$9,142	—\$14,733 . . . . .	\$1,822.12 plus 30%	—\$9,142
\$11,913	—\$25,729 . . . . .	\$3,057.57 plus 35%	—\$11,913	\$14,733	—\$25,992 . . . . .	\$3,499.42 plus 35%	—\$14,733
\$25,729	. . . . .	\$7,893.17 plus 38.6%	—\$25,729	\$25,992	. . . . .	\$7,440.07 plus 38.6%	—\$25,992

# Tables for Percentage Method of Withholding (Continued)

(For Wages Paid in 2002)

## TABLE 5—QUARTERLY Payroll Period

(a) SINGLE person (including head of household)—				(b) MARRIED person—			
If the amount of wages (after subtracting withholding allowances) is:		The amount of income tax to withhold is:		If the amount of wages (after subtracting withholding allowances) is:		The amount of income tax to withhold is:	
Not over \$663 . . . . .		\$0		Not over \$1,613 . . . . .		\$0	
Over—	But not over—	of excess over—		Over—	But not over—	of excess over—	
\$663	—\$2,138 . . . . .	10%	—\$663	\$1,613	—\$4,613 . . . . .	10%	—\$1,613
\$2,138	—\$7,413 . . . . .	\$147.50 plus 15%	—\$2,138	\$4,613	—\$12,888 . . . . .	\$300.00 plus 15%	—\$4,613
\$7,413	—\$16,205 . . . . .	\$938.75 plus 27%	—\$7,413	\$12,888	—\$27,425 . . . . .	\$1,541.25 plus 27%	—\$12,888
\$16,205	—\$35,738 . . . . .	\$3,312.59 plus 30%	—\$16,205	\$27,425	—\$44,200 . . . . .	\$5,466.24 plus 30%	—\$27,425
\$35,738	—\$77,188 . . . . .	\$9,172.49 plus 35%	—\$35,738	\$44,200	—\$77,975 . . . . .	\$10,498.74 plus 35%	—\$44,200
\$77,188	. . . . .	\$23,679.99 plus 38.6%	—\$77,188	\$77,975	. . . . .	\$22,319.99 plus 38.6%	—\$77,975

## TABLE 6—SEMIANNUAL Payroll Period

(a) SINGLE person (including head of household)—				(b) MARRIED person—			
If the amount of wages (after subtracting withholding allowances) is:		The amount of income tax to withhold is:		If the amount of wages (after subtracting withholding allowances) is:		The amount of income tax to withhold is:	
Not over \$1,325 . . . . .		\$0		Not over \$3,225 . . . . .		\$0	
Over—	But not over—	of excess over—		Over—	But not over—	of excess over—	
\$1,325	—\$4,275 . . . . .	10%	—\$1,325	\$3,225	—\$9,225 . . . . .	10%	—\$3,225
\$4,275	—\$14,825 . . . . .	\$295.00 plus 15%	—\$4,275	\$9,225	—\$25,775 . . . . .	\$600.00 plus 15%	—\$9,225
\$14,825	—\$32,410 . . . . .	\$1,877.50 plus 27%	—\$14,825	\$25,775	—\$54,850 . . . . .	\$3,082.50 plus 27%	—\$25,775
\$32,410	—\$71,475 . . . . .	\$6,625.45 plus 30%	—\$32,410	\$54,850	—\$88,400 . . . . .	\$10,932.75 plus 30%	—\$54,850
\$71,475	—\$154,375 . . . . .	\$18,344.95 plus 35%	—\$71,475	\$88,400	—\$155,950 . . . . .	\$20,997.75 plus 35%	—\$88,400
\$154,375	. . . . .	\$47,359.95 plus 38.6%	—\$154,375	\$155,950	. . . . .	\$44,640.25 plus 38.6%	—\$155,950

## TABLE 7—ANNUAL Payroll Period

(a) SINGLE person (including head of household)—				(b) MARRIED person—			
If the amount of wages (after subtracting withholding allowances) is:		The amount of income tax to withhold is:		If the amount of wages (after subtracting withholding allowances) is:		The amount of income tax to withhold is:	
Not over \$2,650 . . . . .		\$0		Not over \$6,450 . . . . .		\$0	
Over—	But not over—	of excess over—		Over—	But not over—	of excess over—	
\$2,650	—\$8,550 . . . . .	10%	—\$2,650	\$6,450	—\$18,450 . . . . .	10%	—\$6,450
\$8,550	—\$29,650 . . . . .	\$590.00 plus 15%	—\$8,550	\$18,450	—\$51,550 . . . . .	\$1,200.00 plus 15%	—\$18,450
\$29,650	—\$64,820 . . . . .	\$3,755.00 plus 27%	—\$29,650	\$51,550	—\$109,700 . . . . .	\$6,165.00 plus 27%	—\$51,550
\$64,820	—\$142,950 . . . . .	\$13,250.90 plus 30%	—\$64,820	\$109,700	—\$176,800 . . . . .	\$21,865.50 plus 30%	—\$109,700
\$142,950	—\$308,750 . . . . .	\$36,689.90 plus 35%	—\$142,950	\$176,800	—\$311,900 . . . . .	\$41,995.50 plus 35%	—\$176,800
\$308,750	. . . . .	\$94,719.90 plus 38.6%	—\$308,750	\$311,900	. . . . .	\$89,280.50 plus 38.6%	—\$311,900

## TABLE 8—DAILY or MISCELLANEOUS Payroll Period

(a) SINGLE person (including head of household)—				(b) MARRIED person—			
If the amount of wages (after subtracting withholding allowances) divided by the number of days in the payroll period is:		The amount of income tax to withhold per day is:		If the amount of wages (after subtracting withholding allowances) divided by the number of days in the payroll period is:		The amount of income tax to withhold per day is:	
Not over \$10.20 . . . . .		\$0		Not over \$24.80 . . . . .		\$0	
Over—	But not over—	of excess over—		Over—	But not over—	of excess over—	
\$10.20	—\$32.90 . . . . .	10%	—\$10.20	\$24.80	—\$71.00 . . . . .	10%	—\$24.80
\$32.90	—\$114.00 . . . . .	\$2.27 plus 15%	—\$32.90	\$71.00	—\$198.30 . . . . .	\$4.62 plus 15%	—\$71.00
\$114.00	—\$249.30 . . . . .	\$14.44 plus 27%	—\$114.00	\$198.30	—\$421.90 . . . . .	\$23.72 plus 27%	—\$198.30
\$249.30	—\$549.80 . . . . .	\$50.97 plus 30%	—\$249.30	\$421.90	—\$680.00 . . . . .	\$84.09 plus 30%	—\$421.90
\$549.80	—\$1,187.50 . . . . .	\$141.12 plus 35%	—\$549.80	\$680.00	—\$1,199.60 . . . . .	\$161.52 plus 35%	—\$680.00
\$1,187.50	. . . . .	\$364.32 plus 38.6%	—\$1,187.50	\$1,199.60	. . . . .	\$343.38 plus 38.6%	—\$1,199.60

# SINGLE Persons—WEEKLY Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
\$0	\$55	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
55	60	1	0	0	0	0	0	0	0	0	0	0
60	65	1	0	0	0	0	0	0	0	0	0	0
65	70	2	0	0	0	0	0	0	0	0	0	0
70	75	2	0	0	0	0	0	0	0	0	0	0
75	80	3	0	0	0	0	0	0	0	0	0	0
80	85	3	0	0	0	0	0	0	0	0	0	0
85	90	4	0	0	0	0	0	0	0	0	0	0
90	95	4	0	0	0	0	0	0	0	0	0	0
95	100	5	0	0	0	0	0	0	0	0	0	0
100	105	5	0	0	0	0	0	0	0	0	0	0
105	110	6	0	0	0	0	0	0	0	0	0	0
110	115	6	0	0	0	0	0	0	0	0	0	0
115	120	7	1	0	0	0	0	0	0	0	0	0
120	125	7	1	0	0	0	0	0	0	0	0	0
125	130	8	2	0	0	0	0	0	0	0	0	0
130	135	8	2	0	0	0	0	0	0	0	0	0
135	140	9	3	0	0	0	0	0	0	0	0	0
140	145	9	3	0	0	0	0	0	0	0	0	0
145	150	10	4	0	0	0	0	0	0	0	0	0
150	155	10	4	0	0	0	0	0	0	0	0	0
155	160	11	5	0	0	0	0	0	0	0	0	0
160	165	11	5	0	0	0	0	0	0	0	0	0
165	170	12	6	0	0	0	0	0	0	0	0	0
170	175	13	6	1	0	0	0	0	0	0	0	0
175	180	13	7	1	0	0	0	0	0	0	0	0
180	185	14	7	2	0	0	0	0	0	0	0	0
185	190	15	8	2	0	0	0	0	0	0	0	0
190	195	16	8	3	0	0	0	0	0	0	0	0
195	200	16	9	3	0	0	0	0	0	0	0	0
200	210	17	10	4	0	0	0	0	0	0	0	0
210	220	19	11	5	0	0	0	0	0	0	0	0
220	230	20	12	6	0	0	0	0	0	0	0	0
230	240	22	13	7	1	0	0	0	0	0	0	0
240	250	23	15	8	2	0	0	0	0	0	0	0
250	260	25	16	9	3	0	0	0	0	0	0	0
260	270	26	18	10	4	0	0	0	0	0	0	0
270	280	28	19	11	5	0	0	0	0	0	0	0
280	290	29	21	12	6	0	0	0	0	0	0	0
290	300	31	22	14	7	1	0	0	0	0	0	0
300	310	32	24	15	8	2	0	0	0	0	0	0
310	320	34	25	17	9	3	0	0	0	0	0	0
320	330	35	27	18	10	4	0	0	0	0	0	0
330	340	37	28	20	11	5	0	0	0	0	0	0
340	350	38	30	21	12	6	1	0	0	0	0	0
350	360	40	31	23	14	7	2	0	0	0	0	0
360	370	41	33	24	15	8	3	0	0	0	0	0
370	380	43	34	26	17	9	4	0	0	0	0	0
380	390	44	36	27	18	10	5	0	0	0	0	0
390	400	46	37	29	20	11	6	0	0	0	0	0
400	410	47	39	30	21	13	7	1	0	0	0	0
410	420	49	40	32	23	14	8	2	0	0	0	0
420	430	50	42	33	24	16	9	3	0	0	0	0
430	440	52	43	35	26	17	10	4	0	0	0	0
440	450	53	45	36	27	19	11	5	0	0	0	0
450	460	55	46	38	29	20	12	6	0	0	0	0
460	470	56	48	39	30	22	13	7	1	0	0	0
470	480	58	49	41	32	23	15	8	2	0	0	0
480	490	59	51	42	33	25	16	9	3	0	0	0
490	500	61	52	44	35	26	18	10	4	0	0	0
500	510	62	54	45	36	28	19	11	5	0	0	0
510	520	64	55	47	38	29	21	12	6	0	0	0
520	530	65	57	48	39	31	22	14	7	1	0	0
530	540	67	58	50	41	32	24	15	8	2	0	0
540	550	68	60	51	42	34	25	17	9	3	0	0
550	560	70	61	53	44	35	27	18	10	4	0	0
560	570	71	63	54	45	37	28	20	11	5	0	0
570	580	74	64	56	47	38	30	21	12	6	0	0
580	590	76	66	57	48	40	31	23	14	7	1	0
590	600	79	67	59	50	41	33	24	15	8	2	0

# SINGLE Persons—WEEKLY Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
<b>\$600</b>	<b>\$610</b>	\$82	\$69	\$60	\$51	\$43	\$34	\$26	\$17	\$9	\$3	\$0
<b>610</b>	<b>620</b>	84	70	62	53	44	36	27	18	10	4	0
<b>620</b>	<b>630</b>	87	72	63	54	46	37	29	20	11	5	0
<b>630</b>	<b>640</b>	90	74	65	56	47	39	30	21	13	6	1
<b>640</b>	<b>650</b>	92	77	66	57	49	40	32	23	14	7	2
<b>650</b>	<b>660</b>	95	80	68	59	50	42	33	24	16	8	3
<b>660</b>	<b>670</b>	98	82	69	60	52	43	35	26	17	9	4
<b>670</b>	<b>680</b>	101	85	71	62	53	45	36	27	19	10	5
<b>680</b>	<b>690</b>	103	88	72	63	55	46	38	29	20	12	6
<b>690</b>	<b>700</b>	106	90	75	65	56	48	39	30	22	13	7
<b>700</b>	<b>710</b>	109	93	77	66	58	49	41	32	23	15	8
<b>710</b>	<b>720</b>	111	96	80	68	59	51	42	33	25	16	9
<b>720</b>	<b>730</b>	114	98	83	69	61	52	44	35	26	18	10
<b>730</b>	<b>740</b>	117	101	86	71	62	54	45	36	28	19	11
<b>740</b>	<b>750</b>	119	104	88	73	64	55	47	38	29	21	12
<b>750</b>	<b>760</b>	122	107	91	75	65	57	48	39	31	22	13
<b>760</b>	<b>770</b>	125	109	94	78	67	58	50	41	32	24	15
<b>770</b>	<b>780</b>	128	112	96	81	68	60	51	42	34	25	16
<b>780</b>	<b>790</b>	130	115	99	83	70	61	53	44	35	27	18
<b>790</b>	<b>800</b>	133	117	102	86	71	63	54	45	37	28	19
<b>800</b>	<b>810</b>	136	120	104	89	73	64	56	47	38	30	21
<b>810</b>	<b>820</b>	138	123	107	92	76	66	57	48	40	31	22
<b>820</b>	<b>830</b>	141	125	110	94	79	67	59	50	41	33	24
<b>830</b>	<b>840</b>	144	128	113	97	81	69	60	51	43	34	25
<b>840</b>	<b>850</b>	146	131	115	100	84	70	62	53	44	36	27
<b>850</b>	<b>860</b>	149	134	118	102	87	72	63	54	46	37	28
<b>860</b>	<b>870</b>	152	136	121	105	90	74	65	56	47	39	30
<b>870</b>	<b>880</b>	155	139	123	108	92	77	66	57	49	40	31
<b>880</b>	<b>890</b>	157	142	126	110	95	79	68	59	50	42	33
<b>890</b>	<b>900</b>	160	144	129	113	98	82	69	60	52	43	34
<b>900</b>	<b>910</b>	163	147	131	116	100	85	71	62	53	45	36
<b>910</b>	<b>920</b>	165	150	134	119	103	87	72	63	55	46	37
<b>920</b>	<b>930</b>	168	152	137	121	106	90	75	65	56	48	39
<b>930</b>	<b>940</b>	171	155	140	124	108	93	77	66	58	49	40
<b>940</b>	<b>950</b>	173	158	142	127	111	96	80	68	59	51	42
<b>950</b>	<b>960</b>	176	161	145	129	114	98	83	69	61	52	43
<b>960</b>	<b>970</b>	179	163	148	132	117	101	85	71	62	54	45
<b>970</b>	<b>980</b>	182	166	150	135	119	104	88	72	64	55	46
<b>980</b>	<b>990</b>	184	169	153	137	122	106	91	75	65	57	48
<b>990</b>	<b>1,000</b>	187	171	156	140	125	109	93	78	67	58	49
<b>1,000</b>	<b>1,010</b>	190	174	158	143	127	112	96	81	68	60	51
<b>1,010</b>	<b>1,020</b>	192	177	161	146	130	114	99	83	70	61	52
<b>1,020</b>	<b>1,030</b>	195	179	164	148	133	117	102	86	71	63	54
<b>1,030</b>	<b>1,040</b>	198	182	167	151	135	120	104	89	73	64	55
<b>1,040</b>	<b>1,050</b>	200	185	169	154	138	123	107	91	76	66	57
<b>1,050</b>	<b>1,060</b>	203	188	172	156	141	125	110	94	78	67	58
<b>1,060</b>	<b>1,070</b>	206	190	175	159	144	128	112	97	81	69	60
<b>1,070</b>	<b>1,080</b>	209	193	177	162	146	131	115	99	84	70	61
<b>1,080</b>	<b>1,090</b>	211	196	180	164	149	133	118	102	87	72	63
<b>1,090</b>	<b>1,100</b>	214	198	183	167	152	136	120	105	89	74	64
<b>1,100</b>	<b>1,110</b>	217	201	185	170	154	139	123	108	92	76	66
<b>1,110</b>	<b>1,120</b>	219	204	188	173	157	141	126	110	95	79	67
<b>1,120</b>	<b>1,130</b>	222	206	191	175	160	144	129	113	97	82	69
<b>1,130</b>	<b>1,140</b>	225	209	194	178	162	147	131	116	100	85	70
<b>1,140</b>	<b>1,150</b>	227	212	196	181	165	150	134	118	103	87	72
<b>1,150</b>	<b>1,160</b>	230	215	199	183	168	152	137	121	105	90	74
<b>1,160</b>	<b>1,170</b>	233	217	202	186	171	155	139	124	108	93	77
<b>1,170</b>	<b>1,180</b>	236	220	204	189	173	158	142	126	111	95	80
<b>1,180</b>	<b>1,190</b>	238	223	207	191	176	160	145	129	114	98	82
<b>1,190</b>	<b>1,200</b>	241	225	210	194	179	163	147	132	116	101	85
<b>1,200</b>	<b>1,210</b>	244	228	212	197	181	166	150	135	119	103	88
<b>1,210</b>	<b>1,220</b>	246	231	215	200	184	168	153	137	122	106	91
<b>1,220</b>	<b>1,230</b>	249	233	218	202	187	171	156	140	124	109	93
<b>1,230</b>	<b>1,240</b>	252	236	221	205	189	174	158	143	127	112	96
<b>1,240</b>	<b>1,250</b>	254	239	223	208	192	177	161	145	130	114	99

**\$1,250 and over**

Use Table 1(a) for a **SINGLE person** on page 34. Also see the instructions on page 32.

# MARRIED Persons—WEEKLY Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$130	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
130	135	1	0	0	0	0	0	0	0	0	0	0
135	140	1	0	0	0	0	0	0	0	0	0	0
140	145	2	0	0	0	0	0	0	0	0	0	0
145	150	2	0	0	0	0	0	0	0	0	0	0
150	155	3	0	0	0	0	0	0	0	0	0	0
155	160	3	0	0	0	0	0	0	0	0	0	0
160	165	4	0	0	0	0	0	0	0	0	0	0
165	170	4	0	0	0	0	0	0	0	0	0	0
170	175	5	0	0	0	0	0	0	0	0	0	0
175	180	5	0	0	0	0	0	0	0	0	0	0
180	185	6	0	0	0	0	0	0	0	0	0	0
185	190	6	1	0	0	0	0	0	0	0	0	0
190	195	7	1	0	0	0	0	0	0	0	0	0
195	200	7	2	0	0	0	0	0	0	0	0	0
200	210	8	2	0	0	0	0	0	0	0	0	0
210	220	9	3	0	0	0	0	0	0	0	0	0
220	230	10	4	0	0	0	0	0	0	0	0	0
230	240	11	5	0	0	0	0	0	0	0	0	0
240	250	12	6	1	0	0	0	0	0	0	0	0
250	260	13	7	2	0	0	0	0	0	0	0	0
260	270	14	8	3	0	0	0	0	0	0	0	0
270	280	15	9	4	0	0	0	0	0	0	0	0
280	290	16	10	5	0	0	0	0	0	0	0	0
290	300	17	11	6	0	0	0	0	0	0	0	0
300	310	18	12	7	1	0	0	0	0	0	0	0
310	320	19	13	8	2	0	0	0	0	0	0	0
320	330	20	14	9	3	0	0	0	0	0	0	0
330	340	21	15	10	4	0	0	0	0	0	0	0
340	350	22	16	11	5	0	0	0	0	0	0	0
350	360	23	17	12	6	0	0	0	0	0	0	0
360	370	25	18	13	7	1	0	0	0	0	0	0
370	380	26	19	14	8	2	0	0	0	0	0	0
380	390	28	20	15	9	3	0	0	0	0	0	0
390	400	29	21	16	10	4	0	0	0	0	0	0
400	410	31	22	17	11	5	0	0	0	0	0	0
410	420	32	23	18	12	6	0	0	0	0	0	0
420	430	34	25	19	13	7	1	0	0	0	0	0
430	440	35	26	20	14	8	2	0	0	0	0	0
440	450	37	28	21	15	9	3	0	0	0	0	0
450	460	38	29	22	16	10	4	0	0	0	0	0
460	470	40	31	23	17	11	5	0	0	0	0	0
470	480	41	32	24	18	12	6	0	0	0	0	0
480	490	43	34	25	19	13	7	1	0	0	0	0
490	500	44	35	27	20	14	8	2	0	0	0	0
500	510	46	37	28	21	15	9	3	0	0	0	0
510	520	47	38	30	22	16	10	4	0	0	0	0
520	530	49	40	31	23	17	11	5	0	0	0	0
530	540	50	41	33	24	18	12	6	1	0	0	0
540	550	52	43	34	26	19	13	7	2	0	0	0
550	560	53	44	36	27	20	14	8	3	0	0	0
560	570	55	46	37	29	21	15	9	4	0	0	0
570	580	56	47	39	30	22	16	10	5	0	0	0
580	590	58	49	40	32	23	17	11	6	0	0	0
590	600	59	50	42	33	24	18	12	7	1	0	0
600	610	61	52	43	35	26	19	13	8	2	0	0
610	620	62	53	45	36	27	20	14	9	3	0	0
620	630	64	55	46	38	29	21	15	10	4	0	0
630	640	65	56	48	39	30	22	16	11	5	0	0
640	650	67	58	49	41	32	23	17	12	6	0	0
650	660	68	59	51	42	33	25	18	13	7	1	0
660	670	70	61	52	44	35	26	19	14	8	2	0
670	680	71	62	54	45	36	28	20	15	9	3	0
680	690	73	64	55	47	38	29	21	16	10	4	0
690	700	74	65	57	48	39	31	22	17	11	5	0
700	710	76	67	58	50	41	32	24	18	12	6	0
710	720	77	68	60	51	42	34	25	19	13	7	1
720	730	79	70	61	53	44	35	27	20	14	8	2
730	740	80	71	63	54	45	37	28	21	15	9	3
740	750	82	73	64	56	47	38	30	22	16	10	4

# MARRIED Persons—WEEKLY Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
\$750	\$760	\$83	\$74	\$66	\$57	\$48	\$40	\$31	\$23	\$17	\$11	\$5
760	770	85	76	67	59	50	41	33	24	18	12	6
770	780	86	77	69	60	51	43	34	26	19	13	7
780	790	88	79	70	62	53	44	36	27	20	14	8
790	800	89	80	72	63	54	46	37	29	21	15	9
800	810	91	82	73	65	56	47	39	30	22	16	10
810	820	92	83	75	66	57	49	40	32	23	17	11
820	830	94	85	76	68	59	50	42	33	24	18	12
830	840	95	86	78	69	60	52	43	35	26	19	13
840	850	97	88	79	71	62	53	45	36	27	20	14
850	860	98	89	81	72	63	55	46	38	29	21	15
860	870	100	91	82	74	65	56	48	39	30	22	16
870	880	101	92	84	75	66	58	49	41	32	23	17
880	890	103	94	85	77	68	59	51	42	33	25	18
890	900	104	95	87	78	69	61	52	44	35	26	19
900	910	106	97	88	80	71	62	54	45	36	28	20
910	920	107	98	90	81	72	64	55	47	38	29	21
920	930	109	100	91	83	74	65	57	48	39	31	22
930	940	110	101	93	84	75	67	58	50	41	32	24
940	950	112	103	94	86	77	68	60	51	42	34	25
950	960	113	104	96	87	78	70	61	53	44	35	27
960	970	115	106	97	89	80	71	63	54	45	37	28
970	980	116	107	99	90	81	73	64	56	47	38	30
980	990	118	109	100	92	83	74	66	57	48	40	31
990	1,000	120	110	102	93	84	76	67	59	50	41	33
1,000	1,010	122	112	103	95	86	77	69	60	51	43	34
1,010	1,020	125	113	105	96	87	79	70	62	53	44	36
1,020	1,030	128	115	106	98	89	80	72	63	54	46	37
1,030	1,040	130	116	108	99	90	82	73	65	56	47	39
1,040	1,050	133	118	109	101	92	83	75	66	57	49	40
1,050	1,060	136	120	111	102	93	85	76	68	59	50	42
1,060	1,070	138	123	112	104	95	86	78	69	60	52	43
1,070	1,080	141	126	114	105	96	88	79	71	62	53	45
1,080	1,090	144	128	115	107	98	89	81	72	63	55	46
1,090	1,100	147	131	117	108	99	91	82	74	65	56	48
1,100	1,110	149	134	118	110	101	92	84	75	66	58	49
1,110	1,120	152	136	121	111	102	94	85	77	68	59	51
1,120	1,130	155	139	123	113	104	95	87	78	69	61	52
1,130	1,140	157	142	126	114	105	97	88	80	71	62	54
1,140	1,150	160	144	129	116	107	98	90	81	72	64	55
1,150	1,160	163	147	132	117	108	100	91	83	74	65	57
1,160	1,170	165	150	134	119	110	101	93	84	75	67	58
1,170	1,180	168	153	137	121	111	103	94	86	77	68	60
1,180	1,190	171	155	140	124	113	104	96	87	78	70	61
1,190	1,200	174	158	142	127	114	106	97	89	80	71	63
1,200	1,210	176	161	145	130	116	107	99	90	81	73	64
1,210	1,220	179	163	148	132	117	109	100	92	83	74	66
1,220	1,230	182	166	150	135	119	110	102	93	84	76	67
1,230	1,240	184	169	153	138	122	112	103	95	86	77	69
1,240	1,250	187	171	156	140	125	113	105	96	87	79	70
1,250	1,260	190	174	159	143	127	115	106	98	89	80	72
1,260	1,270	192	177	161	146	130	116	108	99	90	82	73
1,270	1,280	195	180	164	148	133	118	109	101	92	83	75
1,280	1,290	198	182	167	151	136	120	111	102	93	85	76
1,290	1,300	201	185	169	154	138	123	112	104	95	86	78
1,300	1,310	203	188	172	157	141	125	114	105	96	88	79
1,310	1,320	206	190	175	159	144	128	115	107	98	89	81
1,320	1,330	209	193	177	162	146	131	117	108	99	91	82
1,330	1,340	211	196	180	165	149	133	118	110	101	92	84
1,340	1,350	214	198	183	167	152	136	121	111	102	94	85
1,350	1,360	217	201	186	170	154	139	123	113	104	95	87
1,360	1,370	219	204	188	173	157	142	126	114	105	97	88
1,370	1,380	222	207	191	175	160	144	129	116	107	98	90
1,380	1,390	225	209	194	178	163	147	131	117	108	100	91
1,390	1,400	228	212	196	181	165	150	134	119	110	101	93

\$1,400 and over

Use Table 1(b) for a **MARRIED** person on page 34. Also see the instructions on page 32.

# SINGLE Persons—BIWEEKLY Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
\$0	\$105	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
105	110	1	0	0	0	0	0	0	0	0	0	0
110	115	1	0	0	0	0	0	0	0	0	0	0
115	120	2	0	0	0	0	0	0	0	0	0	0
120	125	2	0	0	0	0	0	0	0	0	0	0
125	130	3	0	0	0	0	0	0	0	0	0	0
130	135	3	0	0	0	0	0	0	0	0	0	0
135	140	4	0	0	0	0	0	0	0	0	0	0
140	145	4	0	0	0	0	0	0	0	0	0	0
145	150	5	0	0	0	0	0	0	0	0	0	0
150	155	5	0	0	0	0	0	0	0	0	0	0
155	160	6	0	0	0	0	0	0	0	0	0	0
160	165	6	0	0	0	0	0	0	0	0	0	0
165	170	7	0	0	0	0	0	0	0	0	0	0
170	175	7	0	0	0	0	0	0	0	0	0	0
175	180	8	0	0	0	0	0	0	0	0	0	0
180	185	8	0	0	0	0	0	0	0	0	0	0
185	190	9	0	0	0	0	0	0	0	0	0	0
190	195	9	0	0	0	0	0	0	0	0	0	0
195	200	10	0	0	0	0	0	0	0	0	0	0
200	205	10	0	0	0	0	0	0	0	0	0	0
205	210	11	0	0	0	0	0	0	0	0	0	0
210	215	11	0	0	0	0	0	0	0	0	0	0
215	220	12	0	0	0	0	0	0	0	0	0	0
220	225	12	1	0	0	0	0	0	0	0	0	0
225	230	13	1	0	0	0	0	0	0	0	0	0
230	235	13	2	0	0	0	0	0	0	0	0	0
235	240	14	2	0	0	0	0	0	0	0	0	0
240	245	14	3	0	0	0	0	0	0	0	0	0
245	250	15	3	0	0	0	0	0	0	0	0	0
250	260	15	4	0	0	0	0	0	0	0	0	0
260	270	16	5	0	0	0	0	0	0	0	0	0
270	280	17	6	0	0	0	0	0	0	0	0	0
280	290	18	7	0	0	0	0	0	0	0	0	0
290	300	19	8	0	0	0	0	0	0	0	0	0
300	310	20	9	0	0	0	0	0	0	0	0	0
310	320	21	10	0	0	0	0	0	0	0	0	0
320	330	22	11	0	0	0	0	0	0	0	0	0
330	340	24	12	0	0	0	0	0	0	0	0	0
340	350	25	13	1	0	0	0	0	0	0	0	0
350	360	27	14	2	0	0	0	0	0	0	0	0
360	370	28	15	3	0	0	0	0	0	0	0	0
370	380	30	16	4	0	0	0	0	0	0	0	0
380	390	31	17	5	0	0	0	0	0	0	0	0
390	400	33	18	6	0	0	0	0	0	0	0	0
400	410	34	19	7	0	0	0	0	0	0	0	0
410	420	36	20	8	0	0	0	0	0	0	0	0
420	430	37	21	9	0	0	0	0	0	0	0	0
430	440	39	22	10	0	0	0	0	0	0	0	0
440	450	40	23	11	0	0	0	0	0	0	0	0
450	460	42	24	12	1	0	0	0	0	0	0	0
460	470	43	26	13	2	0	0	0	0	0	0	0
470	480	45	27	14	3	0	0	0	0	0	0	0
480	490	46	29	15	4	0	0	0	0	0	0	0
490	500	48	30	16	5	0	0	0	0	0	0	0
500	520	50	33	18	6	0	0	0	0	0	0	0
520	540	53	36	20	8	0	0	0	0	0	0	0
540	560	56	39	22	10	0	0	0	0	0	0	0
560	580	59	42	24	12	1	0	0	0	0	0	0
580	600	62	45	27	14	3	0	0	0	0	0	0
600	620	65	48	30	16	5	0	0	0	0	0	0
620	640	68	51	33	18	7	0	0	0	0	0	0
640	660	71	54	36	20	9	0	0	0	0	0	0
660	680	74	57	39	22	11	0	0	0	0	0	0
680	700	77	60	42	25	13	1	0	0	0	0	0
700	720	80	63	45	28	15	3	0	0	0	0	0
720	740	83	66	48	31	17	5	0	0	0	0	0
740	760	86	69	51	34	19	7	0	0	0	0	0
760	780	89	72	54	37	21	9	0	0	0	0	0
780	800	92	75	57	40	23	11	0	0	0	0	0



# SINGLE Persons—BIWEEKLY Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
\$800	\$820	\$95	\$78	\$60	\$43	\$26	\$13	\$2	\$0	\$0	\$0	\$0
820	840	98	81	63	46	29	15	4	0	0	0	0
840	860	101	84	66	49	32	17	6	0	0	0	0
860	880	104	87	69	52	35	19	8	0	0	0	0
880	900	107	90	72	55	38	21	10	0	0	0	0
900	920	110	93	75	58	41	23	12	0	0	0	0
920	940	113	96	78	61	44	26	14	2	0	0	0
940	960	116	99	81	64	47	29	16	4	0	0	0
960	980	119	102	84	67	50	32	18	6	0	0	0
980	1,000	122	105	87	70	53	35	20	8	0	0	0
1,000	1,020	125	108	90	73	56	38	22	10	0	0	0
1,020	1,040	128	111	93	76	59	41	24	12	1	0	0
1,040	1,060	131	114	96	79	62	44	27	14	3	0	0
1,060	1,080	134	117	99	82	65	47	30	16	5	0	0
1,080	1,100	137	120	102	85	68	50	33	18	7	0	0
1,100	1,120	140	123	105	88	71	53	36	20	9	0	0
1,120	1,140	143	126	108	91	74	56	39	22	11	0	0
1,140	1,160	147	129	111	94	77	59	42	25	13	1	0
1,160	1,180	152	132	114	97	80	62	45	28	15	3	0
1,180	1,200	158	135	117	100	83	65	48	31	17	5	0
1,200	1,220	163	138	120	103	86	68	51	34	19	7	0
1,220	1,240	169	141	123	106	89	71	54	37	21	9	0
1,240	1,260	174	144	126	109	92	74	57	40	23	11	0
1,260	1,280	179	148	129	112	95	77	60	43	25	13	1
1,280	1,300	185	154	132	115	98	80	63	46	28	15	3
1,300	1,320	190	159	135	118	101	83	66	49	31	17	5
1,320	1,340	196	164	138	121	104	86	69	52	34	19	7
1,340	1,360	201	170	141	124	107	89	72	55	37	21	9
1,360	1,380	206	175	144	127	110	92	75	58	40	23	11
1,380	1,400	212	181	150	130	113	95	78	61	43	26	13
1,400	1,420	217	186	155	133	116	98	81	64	46	29	15
1,420	1,440	223	191	160	136	119	101	84	67	49	32	17
1,440	1,460	228	197	166	139	122	104	87	70	52	35	19
1,460	1,480	233	202	171	142	125	107	90	73	55	38	21
1,480	1,500	239	208	177	145	128	110	93	76	58	41	24
1,500	1,520	244	213	182	151	131	113	96	79	61	44	27
1,520	1,540	250	218	187	156	134	116	99	82	64	47	30
1,540	1,560	255	224	193	162	137	119	102	85	67	50	33
1,560	1,580	260	229	198	167	140	122	105	88	70	53	36
1,580	1,600	266	235	204	172	143	125	108	91	73	56	39
1,600	1,620	271	240	209	178	147	128	111	94	76	59	42
1,620	1,640	277	245	214	183	152	131	114	97	79	62	45
1,640	1,660	282	251	220	189	157	134	117	100	82	65	48
1,660	1,680	287	256	225	194	163	137	120	103	85	68	51
1,680	1,700	293	262	231	199	168	140	123	106	88	71	54
1,700	1,720	298	267	236	205	174	143	126	109	91	74	57
1,720	1,740	304	272	241	210	179	148	129	112	94	77	60
1,740	1,760	309	278	247	216	184	153	132	115	97	80	63
1,760	1,780	314	283	252	221	190	159	135	118	100	83	66
1,780	1,800	320	289	258	226	195	164	138	121	103	86	69
1,800	1,820	325	294	263	232	201	169	141	124	106	89	72
1,820	1,840	331	299	268	237	206	175	144	127	109	92	75
1,840	1,860	336	305	274	243	211	180	149	130	112	95	78
1,860	1,880	341	310	279	248	217	186	154	133	115	98	81
1,880	1,900	347	316	285	253	222	191	160	136	118	101	84
1,900	1,920	352	321	290	259	228	196	165	139	121	104	87
1,920	1,940	358	326	295	264	233	202	171	142	124	107	90
1,940	1,960	363	332	301	270	238	207	176	145	127	110	93
1,960	1,980	368	337	306	275	244	213	181	150	130	113	96
1,980	2,000	374	343	312	280	249	218	187	156	133	116	99
2,000	2,020	379	348	317	286	255	223	192	161	136	119	102
2,020	2,040	385	353	322	291	260	229	198	167	139	122	105
2,040	2,060	390	359	328	297	265	234	203	172	142	125	108
2,060	2,080	395	364	333	302	271	240	208	177	146	128	111
2,080	2,100	401	370	339	307	276	245	214	183	152	131	114

\$2,100 and over

Use Table 2(a) for a **SINGLE person** on page 34. Also see the instructions on page 32.

# MARRIED Persons—BIWEEKLY Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
\$0	\$250	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
250	260	1	0	0	0	0	0	0	0	0	0	0
260	270	2	0	0	0	0	0	0	0	0	0	0
270	280	3	0	0	0	0	0	0	0	0	0	0
280	290	4	0	0	0	0	0	0	0	0	0	0
290	300	5	0	0	0	0	0	0	0	0	0	0
300	310	6	0	0	0	0	0	0	0	0	0	0
310	320	7	0	0	0	0	0	0	0	0	0	0
320	330	8	0	0	0	0	0	0	0	0	0	0
330	340	9	0	0	0	0	0	0	0	0	0	0
340	350	10	0	0	0	0	0	0	0	0	0	0
350	360	11	0	0	0	0	0	0	0	0	0	0
360	370	12	0	0	0	0	0	0	0	0	0	0
370	380	13	1	0	0	0	0	0	0	0	0	0
380	390	14	2	0	0	0	0	0	0	0	0	0
390	400	15	3	0	0	0	0	0	0	0	0	0
400	410	16	4	0	0	0	0	0	0	0	0	0
410	420	17	5	0	0	0	0	0	0	0	0	0
420	430	18	6	0	0	0	0	0	0	0	0	0
430	440	19	7	0	0	0	0	0	0	0	0	0
440	450	20	8	0	0	0	0	0	0	0	0	0
450	460	21	9	0	0	0	0	0	0	0	0	0
460	470	22	10	0	0	0	0	0	0	0	0	0
470	480	23	11	0	0	0	0	0	0	0	0	0
480	490	24	12	1	0	0	0	0	0	0	0	0
490	500	25	13	2	0	0	0	0	0	0	0	0
500	520	26	15	3	0	0	0	0	0	0	0	0
520	540	28	17	5	0	0	0	0	0	0	0	0
540	560	30	19	7	0	0	0	0	0	0	0	0
560	580	32	21	9	0	0	0	0	0	0	0	0
580	600	34	23	11	0	0	0	0	0	0	0	0
600	620	36	25	13	2	0	0	0	0	0	0	0
620	640	38	27	15	4	0	0	0	0	0	0	0
640	660	40	29	17	6	0	0	0	0	0	0	0
660	680	42	31	19	8	0	0	0	0	0	0	0
680	700	44	33	21	10	0	0	0	0	0	0	0
700	720	46	35	23	12	0	0	0	0	0	0	0
720	740	49	37	25	14	2	0	0	0	0	0	0
740	760	52	39	27	16	4	0	0	0	0	0	0
760	780	55	41	29	18	6	0	0	0	0	0	0
780	800	58	43	31	20	8	0	0	0	0	0	0
800	820	61	45	33	22	10	0	0	0	0	0	0
820	840	64	47	35	24	12	1	0	0	0	0	0
840	860	67	50	37	26	14	3	0	0	0	0	0
860	880	70	53	39	28	16	5	0	0	0	0	0
880	900	73	56	41	30	18	7	0	0	0	0	0
900	920	76	59	43	32	20	9	0	0	0	0	0
920	940	79	62	45	34	22	11	0	0	0	0	0
940	960	82	65	48	36	24	13	1	0	0	0	0
960	980	85	68	51	38	26	15	3	0	0	0	0
980	1,000	88	71	54	40	28	17	5	0	0	0	0
1,000	1,020	91	74	57	42	30	19	7	0	0	0	0
1,020	1,040	94	77	60	44	32	21	9	0	0	0	0
1,040	1,060	97	80	63	46	34	23	11	0	0	0	0
1,060	1,080	100	83	66	48	36	25	13	1	0	0	0
1,080	1,100	103	86	69	51	38	27	15	3	0	0	0
1,100	1,120	106	89	72	54	40	29	17	5	0	0	0
1,120	1,140	109	92	75	57	42	31	19	7	0	0	0
1,140	1,160	112	95	78	60	44	33	21	9	0	0	0
1,160	1,180	115	98	81	63	46	35	23	11	0	0	0
1,180	1,200	118	101	84	66	49	37	25	13	2	0	0
1,200	1,220	121	104	87	69	52	39	27	15	4	0	0
1,220	1,240	124	107	90	72	55	41	29	17	6	0	0
1,240	1,260	127	110	93	75	58	43	31	19	8	0	0
1,260	1,280	130	113	96	78	61	45	33	21	10	0	0
1,280	1,300	133	116	99	81	64	47	35	23	12	0	0
1,300	1,320	136	119	102	84	67	50	37	25	14	2	0
1,320	1,340	139	122	105	87	70	53	39	27	16	4	0
1,340	1,360	142	125	108	90	73	56	41	29	18	6	0
1,360	1,380	145	128	111	93	76	59	43	31	20	8	0

**MARRIED Persons—BIWEEKLY Payroll Period**  
(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
\$1,380	\$1,400	\$148	\$131	\$114	\$96	\$79	\$62	\$45	\$33	\$22	\$10	\$0
1,400	1,420	151	134	117	99	82	65	47	35	24	12	1
1,420	1,440	154	137	120	102	85	68	50	37	26	14	3
1,440	1,460	157	140	123	105	88	71	53	39	28	16	5
1,460	1,480	160	143	126	108	91	74	56	41	30	18	7
1,480	1,500	163	146	129	111	94	77	59	43	32	20	9
1,500	1,520	166	149	132	114	97	80	62	45	34	22	11
1,520	1,540	169	152	135	117	100	83	65	48	36	24	13
1,540	1,560	172	155	138	120	103	86	68	51	38	26	15
1,560	1,580	175	158	141	123	106	89	71	54	40	28	17
1,580	1,600	178	161	144	126	109	92	74	57	42	30	19
1,600	1,620	181	164	147	129	112	95	77	60	44	32	21
1,620	1,640	184	167	150	132	115	98	80	63	46	34	23
1,640	1,660	187	170	153	135	118	101	83	66	49	36	25
1,660	1,680	190	173	156	138	121	104	86	69	52	38	27
1,680	1,700	193	176	159	141	124	107	89	72	55	40	29
1,700	1,720	196	179	162	144	127	110	92	75	58	42	31
1,720	1,740	199	182	165	147	130	113	95	78	61	44	33
1,740	1,760	202	185	168	150	133	116	98	81	64	46	35
1,760	1,780	205	188	171	153	136	119	101	84	67	49	37
1,780	1,800	208	191	174	156	139	122	104	87	70	52	39
1,800	1,820	211	194	177	159	142	125	107	90	73	55	41
1,820	1,840	214	197	180	162	145	128	110	93	76	58	43
1,840	1,860	217	200	183	165	148	131	113	96	79	61	45
1,860	1,880	220	203	186	168	151	134	116	99	82	64	47
1,880	1,900	223	206	189	171	154	137	119	102	85	67	50
1,900	1,920	226	209	192	174	157	140	122	105	88	70	53
1,920	1,940	229	212	195	177	160	143	125	108	91	73	56
1,940	1,960	232	215	198	180	163	146	128	111	94	76	59
1,960	1,980	235	218	201	183	166	149	131	114	97	79	62
1,980	2,000	239	221	204	186	169	152	134	117	100	82	65
2,000	2,020	244	224	207	189	172	155	137	120	103	85	68
2,020	2,040	250	227	210	192	175	158	140	123	106	88	71
2,040	2,060	255	230	213	195	178	161	143	126	109	91	74
2,060	2,080	261	233	216	198	181	164	146	129	112	94	77
2,080	2,100	266	236	219	201	184	167	149	132	115	97	80
2,100	2,120	271	240	222	204	187	170	152	135	118	100	83
2,120	2,140	277	246	225	207	190	173	155	138	121	103	86
2,140	2,160	282	251	228	210	193	176	158	141	124	106	89
2,160	2,180	288	257	231	213	196	179	161	144	127	109	92
2,180	2,200	293	262	234	216	199	182	164	147	130	112	95
2,200	2,220	298	267	237	219	202	185	167	150	133	115	98
2,220	2,240	304	273	242	222	205	188	170	153	136	118	101
2,240	2,260	309	278	247	225	208	191	173	156	139	121	104
2,260	2,280	315	284	252	228	211	194	176	159	142	124	107
2,280	2,300	320	289	258	231	214	197	179	162	145	127	110
2,300	2,320	325	294	263	234	217	200	182	165	148	130	113
2,320	2,340	331	300	269	237	220	203	185	168	151	133	116
2,340	2,360	336	305	274	243	223	206	188	171	154	136	119
2,360	2,380	342	311	279	248	226	209	191	174	157	139	122
2,380	2,400	347	316	285	254	229	212	194	177	160	142	125
2,400	2,420	352	321	290	259	232	215	197	180	163	145	128
2,420	2,440	358	327	296	264	235	218	200	183	166	148	131
2,440	2,460	363	332	301	270	239	221	203	186	169	151	134
2,460	2,480	369	338	306	275	244	224	206	189	172	154	137
2,480	2,500	374	343	312	281	249	227	209	192	175	157	140
2,500	2,520	379	348	317	286	255	230	212	195	178	160	143
2,520	2,540	385	354	323	291	260	233	215	198	181	163	146
2,540	2,560	390	359	328	297	266	236	218	201	184	166	149
2,560	2,580	396	365	333	302	271	240	221	204	187	169	152
2,580	2,600	401	370	339	308	276	245	224	207	190	172	155
2,600	2,620	406	375	344	313	282	251	227	210	193	175	158
2,620	2,640	412	381	350	318	287	256	230	213	196	178	161
2,640	2,660	417	386	355	324	293	262	233	216	199	181	164
2,660	2,680	423	392	360	329	298	267	236	219	202	184	167

\$2,680 and over

Use Table 2(b) for a **MARRIED person** on page 34. Also see the instructions on page 32.

# SINGLE Persons—SEMIMONTHLY Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
\$0	\$115	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
115	120	1	0	0	0	0	0	0	0	0	0	0
120	125	1	0	0	0	0	0	0	0	0	0	0
125	130	2	0	0	0	0	0	0	0	0	0	0
130	135	2	0	0	0	0	0	0	0	0	0	0
135	140	3	0	0	0	0	0	0	0	0	0	0
140	145	3	0	0	0	0	0	0	0	0	0	0
145	150	4	0	0	0	0	0	0	0	0	0	0
150	155	4	0	0	0	0	0	0	0	0	0	0
155	160	5	0	0	0	0	0	0	0	0	0	0
160	165	5	0	0	0	0	0	0	0	0	0	0
165	170	6	0	0	0	0	0	0	0	0	0	0
170	175	6	0	0	0	0	0	0	0	0	0	0
175	180	7	0	0	0	0	0	0	0	0	0	0
180	185	7	0	0	0	0	0	0	0	0	0	0
185	190	8	0	0	0	0	0	0	0	0	0	0
190	195	8	0	0	0	0	0	0	0	0	0	0
195	200	9	0	0	0	0	0	0	0	0	0	0
200	205	9	0	0	0	0	0	0	0	0	0	0
205	210	10	0	0	0	0	0	0	0	0	0	0
210	215	10	0	0	0	0	0	0	0	0	0	0
215	220	11	0	0	0	0	0	0	0	0	0	0
220	225	11	0	0	0	0	0	0	0	0	0	0
225	230	12	0	0	0	0	0	0	0	0	0	0
230	235	12	0	0	0	0	0	0	0	0	0	0
235	240	13	0	0	0	0	0	0	0	0	0	0
240	245	13	1	0	0	0	0	0	0	0	0	0
245	250	14	1	0	0	0	0	0	0	0	0	0
250	260	14	2	0	0	0	0	0	0	0	0	0
260	270	15	3	0	0	0	0	0	0	0	0	0
270	280	16	4	0	0	0	0	0	0	0	0	0
280	290	17	5	0	0	0	0	0	0	0	0	0
290	300	18	6	0	0	0	0	0	0	0	0	0
300	310	19	7	0	0	0	0	0	0	0	0	0
310	320	20	8	0	0	0	0	0	0	0	0	0
320	330	21	9	0	0	0	0	0	0	0	0	0
330	340	22	10	0	0	0	0	0	0	0	0	0
340	350	23	11	0	0	0	0	0	0	0	0	0
350	360	24	12	0	0	0	0	0	0	0	0	0
360	370	26	13	0	0	0	0	0	0	0	0	0
370	380	27	14	1	0	0	0	0	0	0	0	0
380	390	29	15	2	0	0	0	0	0	0	0	0
390	400	30	16	3	0	0	0	0	0	0	0	0
400	410	32	17	4	0	0	0	0	0	0	0	0
410	420	33	18	5	0	0	0	0	0	0	0	0
420	430	35	19	6	0	0	0	0	0	0	0	0
430	440	36	20	7	0	0	0	0	0	0	0	0
440	450	38	21	8	0	0	0	0	0	0	0	0
450	460	39	22	9	0	0	0	0	0	0	0	0
460	470	41	23	10	0	0	0	0	0	0	0	0
470	480	42	24	11	0	0	0	0	0	0	0	0
480	490	44	25	12	0	0	0	0	0	0	0	0
490	500	45	27	13	1	0	0	0	0	0	0	0
500	520	48	29	15	2	0	0	0	0	0	0	0
520	540	51	32	17	4	0	0	0	0	0	0	0
540	560	54	35	19	6	0	0	0	0	0	0	0
560	580	57	38	21	8	0	0	0	0	0	0	0
580	600	60	41	23	10	0	0	0	0	0	0	0
600	620	63	44	25	12	0	0	0	0	0	0	0
620	640	66	47	28	14	2	0	0	0	0	0	0
640	660	69	50	31	16	4	0	0	0	0	0	0
660	680	72	53	34	18	6	0	0	0	0	0	0
680	700	75	56	37	20	8	0	0	0	0	0	0
700	720	78	59	40	22	10	0	0	0	0	0	0
720	740	81	62	43	24	12	0	0	0	0	0	0
740	760	84	65	46	27	14	1	0	0	0	0	0
760	780	87	68	49	30	16	3	0	0	0	0	0
780	800	90	71	52	33	18	5	0	0	0	0	0
800	820	93	74	55	36	20	7	0	0	0	0	0
820	840	96	77	58	39	22	9	0	0	0	0	0

# SINGLE Persons—SEMIMONTHLY Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
\$840	\$860	\$99	\$80	\$61	\$42	\$24	\$11	\$0	\$0	\$0	\$0	\$0
860	880	102	83	64	45	27	13	1	0	0	0	0
880	900	105	86	67	48	30	15	3	0	0	0	0
900	920	108	89	70	51	33	17	5	0	0	0	0
920	940	111	92	73	54	36	19	7	0	0	0	0
940	960	114	95	76	57	39	21	9	0	0	0	0
960	980	117	98	79	60	42	23	11	0	0	0	0
980	1,000	120	101	82	63	45	26	13	0	0	0	0
1,000	1,020	123	104	85	66	48	29	15	2	0	0	0
1,020	1,040	126	107	88	69	51	32	17	4	0	0	0
1,040	1,060	129	110	91	72	54	35	19	6	0	0	0
1,060	1,080	132	113	94	75	57	38	21	8	0	0	0
1,080	1,100	135	116	97	78	60	41	23	10	0	0	0
1,100	1,120	138	119	100	81	63	44	25	12	0	0	0
1,120	1,140	141	122	103	84	66	47	28	14	2	0	0
1,140	1,160	144	125	106	87	69	50	31	16	4	0	0
1,160	1,180	147	128	109	90	72	53	34	18	6	0	0
1,180	1,200	150	131	112	93	75	56	37	20	8	0	0
1,200	1,220	153	134	115	96	78	59	40	22	10	0	0
1,220	1,240	156	137	118	99	81	62	43	24	12	0	0
1,240	1,260	160	140	121	102	84	65	46	27	14	1	0
1,260	1,280	166	143	124	105	87	68	49	30	16	3	0
1,280	1,300	171	146	127	108	90	71	52	33	18	5	0
1,300	1,320	177	149	130	111	93	74	55	36	20	7	0
1,320	1,340	182	152	133	114	96	77	58	39	22	9	0
1,340	1,360	187	155	136	117	99	80	61	42	24	11	0
1,360	1,380	193	159	139	120	102	83	64	45	27	13	1
1,380	1,400	198	164	142	123	105	86	67	48	30	15	3
1,400	1,420	204	170	145	126	108	89	70	51	33	17	5
1,420	1,440	209	175	148	129	111	92	73	54	36	19	7
1,440	1,460	214	181	151	132	114	95	76	57	39	21	9
1,460	1,480	220	186	154	135	117	98	79	60	42	23	11
1,480	1,500	225	191	158	138	120	101	82	63	45	26	13
1,500	1,520	231	197	163	141	123	104	85	66	48	29	15
1,520	1,540	236	202	168	144	126	107	88	69	51	32	17
1,540	1,560	241	208	174	147	129	110	91	72	54	35	19
1,560	1,580	247	213	179	150	132	113	94	75	57	38	21
1,580	1,600	252	218	185	153	135	116	97	78	60	41	23
1,600	1,620	258	224	190	156	138	119	100	81	63	44	25
1,620	1,640	263	229	195	162	141	122	103	84	66	47	28
1,640	1,660	268	235	201	167	144	125	106	87	69	50	31
1,660	1,680	274	240	206	173	147	128	109	90	72	53	34
1,680	1,700	279	245	212	178	150	131	112	93	75	56	37
1,700	1,720	285	251	217	183	153	134	115	96	78	59	40
1,720	1,740	290	256	222	189	156	137	118	99	81	62	43
1,740	1,760	295	262	228	194	160	140	121	102	84	65	46
1,760	1,780	301	267	233	200	166	143	124	105	87	68	49
1,780	1,800	306	272	239	205	171	146	127	108	90	71	52
1,800	1,820	312	278	244	210	177	149	130	111	93	74	55
1,820	1,840	317	283	249	216	182	152	133	114	96	77	58
1,840	1,860	322	289	255	221	187	155	136	117	99	80	61
1,860	1,880	328	294	260	227	193	159	139	120	102	83	64
1,880	1,900	333	299	266	232	198	164	142	123	105	86	67
1,900	1,920	339	305	271	237	204	170	145	126	108	89	70
1,920	1,940	344	310	276	243	209	175	148	129	111	92	73
1,940	1,960	349	316	282	248	214	181	151	132	114	95	76
1,960	1,980	355	321	287	254	220	186	154	135	117	98	79
1,980	2,000	360	326	293	259	225	191	158	138	120	101	82
2,000	2,020	366	332	298	264	231	197	163	141	123	104	85
2,020	2,040	371	337	303	270	236	202	168	144	126	107	88
2,040	2,060	376	343	309	275	241	208	174	147	129	110	91
2,060	2,080	382	348	314	281	247	213	179	150	132	113	94
2,080	2,100	387	353	320	286	252	218	185	153	135	116	97
2,100	2,120	393	359	325	291	258	224	190	156	138	119	100
2,120	2,140	398	364	330	297	263	229	195	162	141	122	103

\$2,140 and over

Use Table 3(a) for a **SINGLE person** on page 34. Also see the instructions on page 32.

# MARRIED Persons—SEMIMONTHLY Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
\$0	\$270	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
270	280	1	0	0	0	0	0	0	0	0	0	0
280	290	2	0	0	0	0	0	0	0	0	0	0
290	300	3	0	0	0	0	0	0	0	0	0	0
300	310	4	0	0	0	0	0	0	0	0	0	0
310	320	5	0	0	0	0	0	0	0	0	0	0
320	330	6	0	0	0	0	0	0	0	0	0	0
330	340	7	0	0	0	0	0	0	0	0	0	0
340	350	8	0	0	0	0	0	0	0	0	0	0
350	360	9	0	0	0	0	0	0	0	0	0	0
360	370	10	0	0	0	0	0	0	0	0	0	0
370	380	11	0	0	0	0	0	0	0	0	0	0
380	390	12	0	0	0	0	0	0	0	0	0	0
390	400	13	0	0	0	0	0	0	0	0	0	0
400	410	14	1	0	0	0	0	0	0	0	0	0
410	420	15	2	0	0	0	0	0	0	0	0	0
420	430	16	3	0	0	0	0	0	0	0	0	0
430	440	17	4	0	0	0	0	0	0	0	0	0
440	450	18	5	0	0	0	0	0	0	0	0	0
450	460	19	6	0	0	0	0	0	0	0	0	0
460	470	20	7	0	0	0	0	0	0	0	0	0
470	480	21	8	0	0	0	0	0	0	0	0	0
480	490	22	9	0	0	0	0	0	0	0	0	0
490	500	23	10	0	0	0	0	0	0	0	0	0
500	520	24	12	0	0	0	0	0	0	0	0	0
520	540	26	14	1	0	0	0	0	0	0	0	0
540	560	28	16	3	0	0	0	0	0	0	0	0
560	580	30	18	5	0	0	0	0	0	0	0	0
580	600	32	20	7	0	0	0	0	0	0	0	0
600	620	34	22	9	0	0	0	0	0	0	0	0
620	640	36	24	11	0	0	0	0	0	0	0	0
640	660	38	26	13	1	0	0	0	0	0	0	0
660	680	40	28	15	3	0	0	0	0	0	0	0
680	700	42	30	17	5	0	0	0	0	0	0	0
700	720	44	32	19	7	0	0	0	0	0	0	0
720	740	46	34	21	9	0	0	0	0	0	0	0
740	760	48	36	23	11	0	0	0	0	0	0	0
760	780	50	38	25	13	0	0	0	0	0	0	0
780	800	53	40	27	15	2	0	0	0	0	0	0
800	820	56	42	29	17	4	0	0	0	0	0	0
820	840	59	44	31	19	6	0	0	0	0	0	0
840	860	62	46	33	21	8	0	0	0	0	0	0
860	880	65	48	35	23	10	0	0	0	0	0	0
880	900	68	50	37	25	12	0	0	0	0	0	0
900	920	71	52	39	27	14	2	0	0	0	0	0
920	940	74	55	41	29	16	4	0	0	0	0	0
940	960	77	58	43	31	18	6	0	0	0	0	0
960	980	80	61	45	33	20	8	0	0	0	0	0
980	1,000	83	64	47	35	22	10	0	0	0	0	0
1,000	1,020	86	67	49	37	24	12	0	0	0	0	0
1,020	1,040	89	70	52	39	26	14	1	0	0	0	0
1,040	1,060	92	73	55	41	28	16	3	0	0	0	0
1,060	1,080	95	76	58	43	30	18	5	0	0	0	0
1,080	1,100	98	79	61	45	32	20	7	0	0	0	0
1,100	1,120	101	82	64	47	34	22	9	0	0	0	0
1,120	1,140	104	85	67	49	36	24	11	0	0	0	0
1,140	1,160	107	88	70	51	38	26	13	1	0	0	0
1,160	1,180	110	91	73	54	40	28	15	3	0	0	0
1,180	1,200	113	94	76	57	42	30	17	5	0	0	0
1,200	1,220	116	97	79	60	44	32	19	7	0	0	0
1,220	1,240	119	100	82	63	46	34	21	9	0	0	0
1,240	1,260	122	103	85	66	48	36	23	11	0	0	0
1,260	1,280	125	106	88	69	50	38	25	13	0	0	0
1,280	1,300	128	109	91	72	53	40	27	15	2	0	0
1,300	1,320	131	112	94	75	56	42	29	17	4	0	0
1,320	1,340	134	115	97	78	59	44	31	19	6	0	0
1,340	1,360	137	118	100	81	62	46	33	21	8	0	0
1,360	1,380	140	121	103	84	65	48	35	23	10	0	0
1,380	1,400	143	124	106	87	68	50	37	25	12	0	0
1,400	1,420	146	127	109	90	71	52	39	27	14	2	0

# MARRIED Persons—SEMIMONTHLY Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
\$1,420	\$1,440	\$149	\$130	\$112	\$93	\$74	\$55	\$41	\$29	\$16	\$4	\$0
1,440	1,460	152	133	115	96	77	58	43	31	18	6	0
1,460	1,480	155	136	118	99	80	61	45	33	20	8	0
1,480	1,500	158	139	121	102	83	64	47	35	22	10	0
1,500	1,520	161	142	124	105	86	67	49	37	24	12	0
1,520	1,540	164	145	127	108	89	70	52	39	26	14	1
1,540	1,560	167	148	130	111	92	73	55	41	28	16	3
1,560	1,580	170	151	133	114	95	76	58	43	30	18	5
1,580	1,600	173	154	136	117	98	79	61	45	32	20	7
1,600	1,620	176	157	139	120	101	82	64	47	34	22	9
1,620	1,640	179	160	142	123	104	85	67	49	36	24	11
1,640	1,660	182	163	145	126	107	88	70	51	38	26	13
1,660	1,680	185	166	148	129	110	91	73	54	40	28	15
1,680	1,700	188	169	151	132	113	94	76	57	42	30	17
1,700	1,720	191	172	154	135	116	97	79	60	44	32	19
1,720	1,740	194	175	157	138	119	100	82	63	46	34	21
1,740	1,760	197	178	160	141	122	103	85	66	48	36	23
1,760	1,780	200	181	163	144	125	106	88	69	50	38	25
1,780	1,800	203	184	166	147	128	109	91	72	53	40	27
1,800	1,820	206	187	169	150	131	112	94	75	56	42	29
1,820	1,840	209	190	172	153	134	115	97	78	59	44	31
1,840	1,860	212	193	175	156	137	118	100	81	62	46	33
1,860	1,880	215	196	178	159	140	121	103	84	65	48	35
1,880	1,900	218	199	181	162	143	124	106	87	68	50	37
1,900	1,920	221	202	184	165	146	127	109	90	71	52	39
1,920	1,940	224	205	187	168	149	130	112	93	74	55	41
1,940	1,960	227	208	190	171	152	133	115	96	77	58	43
1,960	1,980	230	211	193	174	155	136	118	99	80	61	45
1,980	2,000	233	214	196	177	158	139	121	102	83	64	47
2,000	2,020	236	217	199	180	161	142	124	105	86	67	49
2,020	2,040	239	220	202	183	164	145	127	108	89	70	52
2,040	2,060	242	223	205	186	167	148	130	111	92	73	55
2,060	2,080	245	226	208	189	170	151	133	114	95	76	58
2,080	2,100	248	229	211	192	173	154	136	117	98	79	61
2,100	2,120	251	232	214	195	176	157	139	120	101	82	64
2,120	2,140	254	235	217	198	179	160	142	123	104	85	67
2,140	2,160	257	238	220	201	182	163	145	126	107	88	70
2,160	2,180	263	241	223	204	185	166	148	129	110	91	73
2,180	2,200	268	244	226	207	188	169	151	132	113	94	76
2,200	2,220	274	247	229	210	191	172	154	135	116	97	79
2,220	2,240	279	250	232	213	194	175	157	138	119	100	82
2,240	2,260	284	253	235	216	197	178	160	141	122	103	85
2,260	2,280	290	256	238	219	200	181	163	144	125	106	88
2,280	2,300	295	261	241	222	203	184	166	147	128	109	91
2,300	2,320	301	267	244	225	206	187	169	150	131	112	94
2,320	2,340	306	272	247	228	209	190	172	153	134	115	97
2,340	2,360	311	278	250	231	212	193	175	156	137	118	100
2,360	2,380	317	283	253	234	215	196	178	159	140	121	103
2,380	2,400	322	288	256	237	218	199	181	162	143	124	106
2,400	2,420	328	294	260	240	221	202	184	165	146	127	109
2,420	2,440	333	299	266	243	224	205	187	168	149	130	112
2,440	2,460	338	305	271	246	227	208	190	171	152	133	115
2,460	2,480	344	310	276	249	230	211	193	174	155	136	118
2,480	2,500	349	315	282	252	233	214	196	177	158	139	121
2,500	2,520	355	321	287	255	236	217	199	180	161	142	124
2,520	2,540	360	326	293	259	239	220	202	183	164	145	127
2,540	2,560	365	332	298	264	242	223	205	186	167	148	130
2,560	2,580	371	337	303	270	245	226	208	189	170	151	133
2,580	2,600	376	342	309	275	248	229	211	192	173	154	136
2,600	2,620	382	348	314	280	251	232	214	195	176	157	139
2,620	2,640	387	353	320	286	254	235	217	198	179	160	142
2,640	2,660	392	359	325	291	257	238	220	201	182	163	145
2,660	2,680	398	364	330	297	263	241	223	204	185	166	148
2,680	2,700	403	369	336	302	268	244	226	207	188	169	151
2,700	2,720	409	375	341	307	274	247	229	210	191	172	154

\$2,720 and over

Use Table 3(b) for a **MARRIED** person on page 34. Also see the instructions on page 32.

# SINGLE Persons—MONTHLY Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
\$0	\$230	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
230	240	1	0	0	0	0	0	0	0	0	0	0
240	250	2	0	0	0	0	0	0	0	0	0	0
250	260	3	0	0	0	0	0	0	0	0	0	0
260	270	4	0	0	0	0	0	0	0	0	0	0
270	280	5	0	0	0	0	0	0	0	0	0	0
280	290	6	0	0	0	0	0	0	0	0	0	0
290	300	7	0	0	0	0	0	0	0	0	0	0
300	320	9	0	0	0	0	0	0	0	0	0	0
320	340	11	0	0	0	0	0	0	0	0	0	0
340	360	13	0	0	0	0	0	0	0	0	0	0
360	380	15	0	0	0	0	0	0	0	0	0	0
380	400	17	0	0	0	0	0	0	0	0	0	0
400	420	19	0	0	0	0	0	0	0	0	0	0
420	440	21	0	0	0	0	0	0	0	0	0	0
440	460	23	0	0	0	0	0	0	0	0	0	0
460	480	25	0	0	0	0	0	0	0	0	0	0
480	500	27	2	0	0	0	0	0	0	0	0	0
500	520	29	4	0	0	0	0	0	0	0	0	0
520	540	31	6	0	0	0	0	0	0	0	0	0
540	560	33	8	0	0	0	0	0	0	0	0	0
560	580	35	10	0	0	0	0	0	0	0	0	0
580	600	37	12	0	0	0	0	0	0	0	0	0
600	640	40	15	0	0	0	0	0	0	0	0	0
640	680	44	19	0	0	0	0	0	0	0	0	0
680	720	48	23	0	0	0	0	0	0	0	0	0
720	760	53	27	2	0	0	0	0	0	0	0	0
760	800	59	31	6	0	0	0	0	0	0	0	0
800	840	65	35	10	0	0	0	0	0	0	0	0
840	880	71	39	14	0	0	0	0	0	0	0	0
880	920	77	43	18	0	0	0	0	0	0	0	0
920	960	83	47	22	0	0	0	0	0	0	0	0
960	1,000	89	52	26	1	0	0	0	0	0	0	0
1,000	1,040	95	58	30	5	0	0	0	0	0	0	0
1,040	1,080	101	64	34	9	0	0	0	0	0	0	0
1,080	1,120	107	70	38	13	0	0	0	0	0	0	0
1,120	1,160	113	76	42	17	0	0	0	0	0	0	0
1,160	1,200	119	82	46	21	0	0	0	0	0	0	0
1,200	1,240	125	88	50	25	0	0	0	0	0	0	0
1,240	1,280	131	94	56	29	4	0	0	0	0	0	0
1,280	1,320	137	100	62	33	8	0	0	0	0	0	0
1,320	1,360	143	106	68	37	12	0	0	0	0	0	0
1,360	1,400	149	112	74	41	16	0	0	0	0	0	0
1,400	1,440	155	118	80	45	20	0	0	0	0	0	0
1,440	1,480	161	124	86	49	24	0	0	0	0	0	0
1,480	1,520	167	130	92	55	28	3	0	0	0	0	0
1,520	1,560	173	136	98	61	32	7	0	0	0	0	0
1,560	1,600	179	142	104	67	36	11	0	0	0	0	0
1,600	1,640	185	148	110	73	40	15	0	0	0	0	0
1,640	1,680	191	154	116	79	44	19	0	0	0	0	0
1,680	1,720	197	160	122	85	48	23	0	0	0	0	0
1,720	1,760	203	166	128	91	53	27	2	0	0	0	0
1,760	1,800	209	172	134	97	59	31	6	0	0	0	0
1,800	1,840	215	178	140	103	65	35	10	0	0	0	0
1,840	1,880	221	184	146	109	71	39	14	0	0	0	0
1,880	1,920	227	190	152	115	77	43	18	0	0	0	0
1,920	1,960	233	196	158	121	83	47	22	0	0	0	0
1,960	2,000	239	202	164	127	89	52	26	1	0	0	0
2,000	2,040	245	208	170	133	95	58	30	5	0	0	0
2,040	2,080	251	214	176	139	101	64	34	9	0	0	0
2,080	2,120	257	220	182	145	107	70	38	13	0	0	0
2,120	2,160	263	226	188	151	113	76	42	17	0	0	0
2,160	2,200	269	232	194	157	119	82	46	21	0	0	0
2,200	2,240	275	238	200	163	125	88	50	25	0	0	0
2,240	2,280	281	244	206	169	131	94	56	29	4	0	0
2,280	2,320	287	250	212	175	137	100	62	33	8	0	0
2,320	2,360	293	256	218	181	143	106	68	37	12	0	0
2,360	2,400	299	262	224	187	149	112	74	41	16	0	0
2,400	2,440	305	268	230	193	155	118	80	45	20	0	0
2,440	2,480	311	274	236	199	161	124	86	49	24	0	0



# SINGLE Persons—MONTHLY Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
<b>\$2,480</b>	<b>\$2,520</b>	\$321	\$280	\$242	\$205	\$167	\$130	\$92	\$55	\$28	\$3	\$0
<b>2,520</b>	<b>2,560</b>	332	286	248	211	173	136	98	61	32	7	0
<b>2,560</b>	<b>2,600</b>	342	292	254	217	179	142	104	67	36	11	0
<b>2,600</b>	<b>2,640</b>	353	298	260	223	185	148	110	73	40	15	0
<b>2,640</b>	<b>2,680</b>	364	304	266	229	191	154	116	79	44	19	0
<b>2,680</b>	<b>2,720</b>	375	310	272	235	197	160	122	85	48	23	0
<b>2,720</b>	<b>2,760</b>	386	318	278	241	203	166	128	91	53	27	2
<b>2,760</b>	<b>2,800</b>	396	329	284	247	209	172	134	97	59	31	6
<b>2,800</b>	<b>2,840</b>	407	340	290	253	215	178	140	103	65	35	10
<b>2,840</b>	<b>2,880</b>	418	350	296	259	221	184	146	109	71	39	14
<b>2,880</b>	<b>2,920</b>	429	361	302	265	227	190	152	115	77	43	18
<b>2,920</b>	<b>2,960</b>	440	372	308	271	233	196	158	121	83	47	22
<b>2,960</b>	<b>3,000</b>	450	383	315	277	239	202	164	127	89	52	26
<b>3,000</b>	<b>3,040</b>	461	394	326	283	245	208	170	133	95	58	30
<b>3,040</b>	<b>3,080</b>	472	404	337	289	251	214	176	139	101	64	34
<b>3,080</b>	<b>3,120</b>	483	415	348	295	257	220	182	145	107	70	38
<b>3,120</b>	<b>3,160</b>	494	426	359	301	263	226	188	151	113	76	42
<b>3,160</b>	<b>3,200</b>	504	437	369	307	269	232	194	157	119	82	46
<b>3,200</b>	<b>3,240</b>	515	448	380	313	275	238	200	163	125	88	50
<b>3,240</b>	<b>3,280</b>	526	458	391	323	281	244	206	169	131	94	56
<b>3,280</b>	<b>3,320</b>	537	469	402	334	287	250	212	175	137	100	62
<b>3,320</b>	<b>3,360</b>	548	480	413	345	293	256	218	181	143	106	68
<b>3,360</b>	<b>3,400</b>	558	491	423	356	299	262	224	187	149	112	74
<b>3,400</b>	<b>3,440</b>	569	502	434	367	305	268	230	193	155	118	80
<b>3,440</b>	<b>3,480</b>	580	512	445	377	311	274	236	199	161	124	86
<b>3,480</b>	<b>3,520</b>	591	523	456	388	321	280	242	205	167	130	92
<b>3,520</b>	<b>3,560</b>	602	534	467	399	332	286	248	211	173	136	98
<b>3,560</b>	<b>3,600</b>	612	545	477	410	342	292	254	217	179	142	104
<b>3,600</b>	<b>3,640</b>	623	556	488	421	353	298	260	223	185	148	110
<b>3,640</b>	<b>3,680</b>	634	566	499	431	364	304	266	229	191	154	116
<b>3,680</b>	<b>3,720</b>	645	577	510	442	375	310	272	235	197	160	122
<b>3,720</b>	<b>3,760</b>	656	588	521	453	386	318	278	241	203	166	128
<b>3,760</b>	<b>3,800</b>	666	599	531	464	396	329	284	247	209	172	134
<b>3,800</b>	<b>3,840</b>	677	610	542	475	407	340	290	253	215	178	140
<b>3,840</b>	<b>3,880</b>	688	620	553	485	418	350	296	259	221	184	146
<b>3,880</b>	<b>3,920</b>	699	631	564	496	429	361	302	265	227	190	152
<b>3,920</b>	<b>3,960</b>	710	642	575	507	440	372	308	271	233	196	158
<b>3,960</b>	<b>4,000</b>	720	653	585	518	450	383	315	277	239	202	164
<b>4,000</b>	<b>4,040</b>	731	664	596	529	461	394	326	283	245	208	170
<b>4,040</b>	<b>4,080</b>	742	674	607	539	472	404	337	289	251	214	176
<b>4,080</b>	<b>4,120</b>	753	685	618	550	483	415	348	295	257	220	182
<b>4,120</b>	<b>4,160</b>	764	696	629	561	494	426	359	301	263	226	188
<b>4,160</b>	<b>4,200</b>	774	707	639	572	504	437	369	307	269	232	194
<b>4,200</b>	<b>4,240</b>	785	718	650	583	515	448	380	313	275	238	200
<b>4,240</b>	<b>4,280</b>	796	728	661	593	526	458	391	323	281	244	206
<b>4,280</b>	<b>4,320</b>	807	739	672	604	537	469	402	334	287	250	212
<b>4,320</b>	<b>4,360</b>	818	750	683	615	548	480	413	345	293	256	218
<b>4,360</b>	<b>4,400</b>	828	761	693	626	558	491	423	356	299	262	224
<b>4,400</b>	<b>4,440</b>	839	772	704	637	569	502	434	367	305	268	230
<b>4,440</b>	<b>4,480</b>	850	782	715	647	580	512	445	377	311	274	236
<b>4,480</b>	<b>4,520</b>	861	793	726	658	591	523	456	388	321	280	242
<b>4,520</b>	<b>4,560</b>	872	804	737	669	602	534	467	399	332	286	248
<b>4,560</b>	<b>4,600</b>	882	815	747	680	612	545	477	410	342	292	254
<b>4,600</b>	<b>4,640</b>	893	826	758	691	623	556	488	421	353	298	260
<b>4,640</b>	<b>4,680</b>	904	836	769	701	634	566	499	431	364	304	266
<b>4,680</b>	<b>4,720</b>	915	847	780	712	645	577	510	442	375	310	272
<b>4,720</b>	<b>4,760</b>	926	858	791	723	656	588	521	453	386	318	278
<b>4,760</b>	<b>4,800</b>	936	869	801	734	666	599	531	464	396	329	284
<b>4,800</b>	<b>4,840</b>	947	880	812	745	677	610	542	475	407	340	290
<b>4,840</b>	<b>4,880</b>	958	890	823	755	688	620	553	485	418	350	296
<b>4,880</b>	<b>4,920</b>	969	901	834	766	699	631	564	496	429	361	302
<b>4,920</b>	<b>4,960</b>	980	912	845	777	710	642	575	507	440	372	308
<b>4,960</b>	<b>5,000</b>	990	923	855	788	720	653	585	518	450	383	315
<b>5,000</b>	<b>5,040</b>	1,001	934	866	799	731	664	596	529	461	394	326
<b>5,040</b>	<b>5,080</b>	1,012	944	877	809	742	674	607	539	472	404	337

**\$5,080 and over**

Use Table 4(a) for a **SINGLE person** on page 34. Also see the instructions on page 32.

# MARRIED Persons—MONTHLY Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
\$0	\$540	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
540	560	1	0	0	0	0	0	0	0	0	0	0
560	580	3	0	0	0	0	0	0	0	0	0	0
580	600	5	0	0	0	0	0	0	0	0	0	0
600	640	8	0	0	0	0	0	0	0	0	0	0
640	680	12	0	0	0	0	0	0	0	0	0	0
680	720	16	0	0	0	0	0	0	0	0	0	0
720	760	20	0	0	0	0	0	0	0	0	0	0
760	800	24	0	0	0	0	0	0	0	0	0	0
800	840	28	3	0	0	0	0	0	0	0	0	0
840	880	32	7	0	0	0	0	0	0	0	0	0
880	920	36	11	0	0	0	0	0	0	0	0	0
920	960	40	15	0	0	0	0	0	0	0	0	0
960	1,000	44	19	0	0	0	0	0	0	0	0	0
1,000	1,040	48	23	0	0	0	0	0	0	0	0	0
1,040	1,080	52	27	2	0	0	0	0	0	0	0	0
1,080	1,120	56	31	6	0	0	0	0	0	0	0	0
1,120	1,160	60	35	10	0	0	0	0	0	0	0	0
1,160	1,200	64	39	14	0	0	0	0	0	0	0	0
1,200	1,240	68	43	18	0	0	0	0	0	0	0	0
1,240	1,280	72	47	22	0	0	0	0	0	0	0	0
1,280	1,320	76	51	26	1	0	0	0	0	0	0	0
1,320	1,360	80	55	30	5	0	0	0	0	0	0	0
1,360	1,400	84	59	34	9	0	0	0	0	0	0	0
1,400	1,440	88	63	38	13	0	0	0	0	0	0	0
1,440	1,480	92	67	42	17	0	0	0	0	0	0	0
1,480	1,520	96	71	46	21	0	0	0	0	0	0	0
1,520	1,560	100	75	50	25	0	0	0	0	0	0	0
1,560	1,600	106	79	54	29	4	0	0	0	0	0	0
1,600	1,640	112	83	58	33	8	0	0	0	0	0	0
1,640	1,680	118	87	62	37	12	0	0	0	0	0	0
1,680	1,720	124	91	66	41	16	0	0	0	0	0	0
1,720	1,760	130	95	70	45	20	0	0	0	0	0	0
1,760	1,800	136	99	74	49	24	0	0	0	0	0	0
1,800	1,840	142	105	78	53	28	3	0	0	0	0	0
1,840	1,880	148	111	82	57	32	7	0	0	0	0	0
1,880	1,920	154	117	86	61	36	11	0	0	0	0	0
1,920	1,960	160	123	90	65	40	15	0	0	0	0	0
1,960	2,000	166	129	94	69	44	19	0	0	0	0	0
2,000	2,040	172	135	98	73	48	23	0	0	0	0	0
2,040	2,080	178	141	103	77	52	27	2	0	0	0	0
2,080	2,120	184	147	109	81	56	31	6	0	0	0	0
2,120	2,160	190	153	115	85	60	35	10	0	0	0	0
2,160	2,200	196	159	121	89	64	39	14	0	0	0	0
2,200	2,240	202	165	127	93	68	43	18	0	0	0	0
2,240	2,280	208	171	133	97	72	47	22	0	0	0	0
2,280	2,320	214	177	139	102	76	51	26	1	0	0	0
2,320	2,360	220	183	145	108	80	55	30	5	0	0	0
2,360	2,400	226	189	151	114	84	59	34	9	0	0	0
2,400	2,440	232	195	157	120	88	63	38	13	0	0	0
2,440	2,480	238	201	163	126	92	67	42	17	0	0	0
2,480	2,520	244	207	169	132	96	71	46	21	0	0	0
2,520	2,560	250	213	175	138	100	75	50	25	0	0	0
2,560	2,600	256	219	181	144	106	79	54	29	4	0	0
2,600	2,640	262	225	187	150	112	83	58	33	8	0	0
2,640	2,680	268	231	193	156	118	87	62	37	12	0	0
2,680	2,720	274	237	199	162	124	91	66	41	16	0	0
2,720	2,760	280	243	205	168	130	95	70	45	20	0	0
2,760	2,800	286	249	211	174	136	99	74	49	24	0	0
2,800	2,840	292	255	217	180	142	105	78	53	28	3	0
2,840	2,880	298	261	223	186	148	111	82	57	32	7	0
2,880	2,920	304	267	229	192	154	117	86	61	36	11	0
2,920	2,960	310	273	235	198	160	123	90	65	40	15	0
2,960	3,000	316	279	241	204	166	129	94	69	44	19	0
3,000	3,040	322	285	247	210	172	135	98	73	48	23	0
3,040	3,080	328	291	253	216	178	141	103	77	52	27	2
3,080	3,120	334	297	259	222	184	147	109	81	56	31	6
3,120	3,160	340	303	265	228	190	153	115	85	60	35	10
3,160	3,200	346	309	271	234	196	159	121	89	64	39	14
3,200	3,240	352	315	277	240	202	165	127	93	68	43	18

# MARRIED Persons—MONTHLY Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
<b>\$3,240</b>	<b>\$3,280</b>	\$358	\$321	\$283	\$246	\$208	\$171	\$133	\$97	\$72	\$47	\$22
<b>3,280</b>	<b>3,320</b>	364	327	289	252	214	177	139	102	76	51	26
<b>3,320</b>	<b>3,360</b>	370	333	295	258	220	183	145	108	80	55	30
<b>3,360</b>	<b>3,400</b>	376	339	301	264	226	189	151	114	84	59	34
<b>3,400</b>	<b>3,440</b>	382	345	307	270	232	195	157	120	88	63	38
<b>3,440</b>	<b>3,480</b>	388	351	313	276	238	201	163	126	92	67	42
<b>3,480</b>	<b>3,520</b>	394	357	319	282	244	207	169	132	96	71	46
<b>3,520</b>	<b>3,560</b>	400	363	325	288	250	213	175	138	100	75	50
<b>3,560</b>	<b>3,600</b>	406	369	331	294	256	219	181	144	106	79	54
<b>3,600</b>	<b>3,640</b>	412	375	337	300	262	225	187	150	112	83	58
<b>3,640</b>	<b>3,680</b>	418	381	343	306	268	231	193	156	118	87	62
<b>3,680</b>	<b>3,720</b>	424	387	349	312	274	237	199	162	124	91	66
<b>3,720</b>	<b>3,760</b>	430	393	355	318	280	243	205	168	130	95	70
<b>3,760</b>	<b>3,800</b>	436	399	361	324	286	249	211	174	136	99	74
<b>3,800</b>	<b>3,840</b>	442	405	367	330	292	255	217	180	142	105	78
<b>3,840</b>	<b>3,880</b>	448	411	373	336	298	261	223	186	148	111	82
<b>3,880</b>	<b>3,920</b>	454	417	379	342	304	267	229	192	154	117	86
<b>3,920</b>	<b>3,960</b>	460	423	385	348	310	273	235	198	160	123	90
<b>3,960</b>	<b>4,000</b>	466	429	391	354	316	279	241	204	166	129	94
<b>4,000</b>	<b>4,040</b>	472	435	397	360	322	285	247	210	172	135	98
<b>4,040</b>	<b>4,080</b>	478	441	403	366	328	291	253	216	178	141	103
<b>4,080</b>	<b>4,120</b>	484	447	409	372	334	297	259	222	184	147	109
<b>4,120</b>	<b>4,160</b>	490	453	415	378	340	303	265	228	190	153	115
<b>4,160</b>	<b>4,200</b>	496	459	421	384	346	309	271	234	196	159	121
<b>4,200</b>	<b>4,240</b>	502	465	427	390	352	315	277	240	202	165	127
<b>4,240</b>	<b>4,280</b>	508	471	433	396	358	321	283	246	208	171	133
<b>4,280</b>	<b>4,320</b>	515	477	439	402	364	327	289	252	214	177	139
<b>4,320</b>	<b>4,360</b>	526	483	445	408	370	333	295	258	220	183	145
<b>4,360</b>	<b>4,400</b>	536	489	451	414	376	339	301	264	226	189	151
<b>4,400</b>	<b>4,440</b>	547	495	457	420	382	345	307	270	232	195	157
<b>4,440</b>	<b>4,480</b>	558	501	463	426	388	351	313	276	238	201	163
<b>4,480</b>	<b>4,520</b>	569	507	469	432	394	357	319	282	244	207	169
<b>4,520</b>	<b>4,560</b>	580	513	475	438	400	363	325	288	250	213	175
<b>4,560</b>	<b>4,600</b>	590	523	481	444	406	369	331	294	256	219	181
<b>4,600</b>	<b>4,640</b>	601	534	487	450	412	375	337	300	262	225	187
<b>4,640</b>	<b>4,680</b>	612	545	493	456	418	381	343	306	268	231	193
<b>4,680</b>	<b>4,720</b>	623	555	499	462	424	387	349	312	274	237	199
<b>4,720</b>	<b>4,760</b>	634	566	505	468	430	393	355	318	280	243	205
<b>4,760</b>	<b>4,800</b>	644	577	511	474	436	399	361	324	286	249	211
<b>4,800</b>	<b>4,840</b>	655	588	520	480	442	405	367	330	292	255	217
<b>4,840</b>	<b>4,880</b>	666	599	531	486	448	411	373	336	298	261	223
<b>4,880</b>	<b>4,920</b>	677	609	542	492	454	417	379	342	304	267	229
<b>4,920</b>	<b>4,960</b>	688	620	553	498	460	423	385	348	310	273	235
<b>4,960</b>	<b>5,000</b>	698	631	563	504	466	429	391	354	316	279	241
<b>5,000</b>	<b>5,040</b>	709	642	574	510	472	435	397	360	322	285	247
<b>5,040</b>	<b>5,080</b>	720	653	585	518	478	441	403	366	328	291	253
<b>5,080</b>	<b>5,120</b>	731	663	596	528	484	447	409	372	334	297	259
<b>5,120</b>	<b>5,160</b>	742	674	607	539	490	453	415	378	340	303	265
<b>5,160</b>	<b>5,200</b>	752	685	617	550	496	459	421	384	346	309	271
<b>5,200</b>	<b>5,240</b>	763	696	628	561	502	465	427	390	352	315	277
<b>5,240</b>	<b>5,280</b>	774	707	639	572	508	471	433	396	358	321	283
<b>5,280</b>	<b>5,320</b>	785	717	650	582	515	477	439	402	364	327	289
<b>5,320</b>	<b>5,360</b>	796	728	661	593	526	483	445	408	370	333	295
<b>5,360</b>	<b>5,400</b>	806	739	671	604	536	489	451	414	376	339	301
<b>5,400</b>	<b>5,440</b>	817	750	682	615	547	495	457	420	382	345	307
<b>5,440</b>	<b>5,480</b>	828	761	693	626	558	501	463	426	388	351	313
<b>5,480</b>	<b>5,520</b>	839	771	704	636	569	507	469	432	394	357	319
<b>5,520</b>	<b>5,560</b>	850	782	715	647	580	513	475	438	400	363	325
<b>5,560</b>	<b>5,600</b>	860	793	725	658	590	523	481	444	406	369	331
<b>5,600</b>	<b>5,640</b>	871	804	736	669	601	534	487	450	412	375	337
<b>5,640</b>	<b>5,680</b>	882	815	747	680	612	545	493	456	418	381	343
<b>5,680</b>	<b>5,720</b>	893	825	758	690	623	555	499	462	424	387	349
<b>5,720</b>	<b>5,760</b>	904	836	769	701	634	566	505	468	430	393	355
<b>5,760</b>	<b>5,800</b>	914	847	779	712	644	577	511	474	436	399	361
<b>5,800</b>	<b>5,840</b>	925	858	790	723	655	588	520	480	442	405	367

**\$5,840 and over**

Use Table 4(b) for a **MARRIED** person on page 34. Also see the instructions on page 32.

# SINGLE Persons—DAILY OR MISCELLANEOUS Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$15	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
15	18	1	0	0	0	0	0	0	0	0	0	0
18	21	1	0	0	0	0	0	0	0	0	0	0
21	24	1	0	0	0	0	0	0	0	0	0	0
24	27	2	0	0	0	0	0	0	0	0	0	0
27	30	2	1	0	0	0	0	0	0	0	0	0
30	33	2	1	0	0	0	0	0	0	0	0	0
33	36	3	1	0	0	0	0	0	0	0	0	0
36	39	3	2	0	0	0	0	0	0	0	0	0
39	42	3	2	1	0	0	0	0	0	0	0	0
42	45	4	2	1	0	0	0	0	0	0	0	0
45	48	4	3	1	0	0	0	0	0	0	0	0
48	51	5	3	2	0	0	0	0	0	0	0	0
51	54	5	3	2	1	0	0	0	0	0	0	0
54	57	6	4	2	1	0	0	0	0	0	0	0
57	60	6	4	3	1	0	0	0	0	0	0	0
60	63	7	5	3	2	1	0	0	0	0	0	0
63	66	7	5	4	2	1	0	0	0	0	0	0
66	69	7	6	4	2	1	0	0	0	0	0	0
69	72	8	6	4	3	1	0	0	0	0	0	0
72	75	8	7	5	3	2	1	0	0	0	0	0
75	78	9	7	5	4	2	1	0	0	0	0	0
78	81	9	8	6	4	2	1	0	0	0	0	0
81	84	10	8	6	5	3	1	0	0	0	0	0
84	87	10	8	7	5	3	2	1	0	0	0	0
87	90	11	9	7	5	4	2	1	0	0	0	0
90	93	11	9	8	6	4	2	1	0	0	0	0
93	96	12	10	8	6	5	3	2	1	0	0	0
96	99	12	10	9	7	5	3	2	1	0	0	0
99	102	12	11	9	7	5	4	2	1	0	0	0
102	105	13	11	9	8	6	4	2	1	0	0	0
105	108	13	12	10	8	6	5	3	2	0	0	0
108	111	14	12	10	9	7	5	3	2	1	0	0
111	114	14	12	11	9	7	6	4	2	1	0	0
114	117	15	13	11	9	8	6	4	3	1	0	0
117	120	16	13	12	10	8	6	5	3	2	0	0
120	123	16	14	12	10	9	7	5	3	2	1	0
123	126	17	14	13	11	9	7	6	4	2	1	0
126	129	18	15	13	11	10	8	6	4	3	1	0
129	132	19	16	13	12	10	8	7	5	3	2	0
132	135	20	17	14	12	10	9	7	5	4	2	1
135	138	21	17	14	13	11	9	7	6	4	2	1
138	141	21	18	15	13	11	10	8	6	4	3	1
141	144	22	19	16	14	12	10	8	7	5	3	2
144	147	23	20	17	14	12	11	9	7	5	4	2
147	150	24	21	18	14	13	11	9	7	6	4	2
150	153	25	21	18	15	13	11	10	8	6	4	3
153	156	25	22	19	16	14	12	10	8	7	5	3
156	159	26	23	20	17	14	12	11	9	7	5	4
159	162	27	24	21	18	15	13	11	9	8	6	4
162	165	28	25	22	18	15	13	11	10	8	6	5
165	168	29	25	22	19	16	14	12	10	8	7	5
168	171	29	26	23	20	17	14	12	11	9	7	5
171	174	30	27	24	21	18	15	13	11	9	8	6
174	177	31	28	25	22	19	15	13	12	10	8	6
177	180	32	29	26	23	19	16	14	12	10	9	7
180	183	33	30	26	23	20	17	14	12	11	9	7
183	186	33	30	27	24	21	18	15	13	11	9	8
186	189	34	31	28	25	22	19	16	13	12	10	8
189	192	35	32	29	26	23	20	16	14	12	10	9
192	195	36	33	30	27	23	20	17	14	13	11	9
195	198	37	34	30	27	24	21	18	15	13	11	10
198	201	38	34	31	28	25	22	19	16	13	12	10
201	204	38	35	32	29	26	23	20	17	14	12	10
204	207	39	36	33	30	27	24	20	17	14	13	11
207	210	40	37	34	31	27	24	21	18	15	13	11
210	213	41	38	35	31	28	25	22	19	16	13	12
213	216	42	38	35	32	29	26	23	20	17	14	12
216	219	42	39	36	33	30	27	24	21	17	14	13
219	222	43	40	37	34	31	28	24	21	18	15	13

# SINGLE Persons—DAILY OR MISCELLANEOUS Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
<b>\$222</b>	<b>\$225</b>	\$44	\$41	\$38	\$35	\$32	\$28	\$25	\$22	\$19	\$16	\$14
<b>225</b>	<b>228</b>	45	42	39	35	32	29	26	23	20	17	14
<b>228</b>	<b>231</b>	46	43	39	36	33	30	27	24	21	18	14
<b>231</b>	<b>234</b>	46	43	40	37	34	31	28	25	22	18	15
<b>234</b>	<b>237</b>	47	44	41	38	35	32	29	25	22	19	16
<b>237</b>	<b>240</b>	48	45	42	39	36	32	29	26	23	20	17
<b>240</b>	<b>243</b>	49	46	43	40	36	33	30	27	24	21	18
<b>243</b>	<b>246</b>	50	47	43	40	37	34	31	28	25	22	19
<b>246</b>	<b>249</b>	50	47	44	41	38	35	32	29	26	22	19
<b>249</b>	<b>252</b>	51	48	45	42	39	36	33	29	26	23	20
<b>252</b>	<b>255</b>	52	49	46	43	40	37	33	30	27	24	21
<b>255</b>	<b>258</b>	53	50	47	44	40	37	34	31	28	25	22
<b>258</b>	<b>261</b>	54	51	47	44	41	38	35	32	29	26	23
<b>261</b>	<b>264</b>	55	51	48	45	42	39	36	33	30	26	23
<b>264</b>	<b>267</b>	56	52	49	46	43	40	37	34	30	27	24
<b>267</b>	<b>270</b>	57	53	50	47	44	41	37	34	31	28	25
<b>270</b>	<b>273</b>	58	54	51	48	44	41	38	35	32	29	26
<b>273</b>	<b>276</b>	59	55	52	48	45	42	39	36	33	30	27
<b>276</b>	<b>279</b>	59	56	52	49	46	43	40	37	34	31	27
<b>279</b>	<b>282</b>	60	57	53	50	47	44	41	38	34	31	28
<b>282</b>	<b>285</b>	61	58	54	51	48	45	42	38	35	32	29
<b>285</b>	<b>288</b>	62	59	55	52	49	45	42	39	36	33	30
<b>288</b>	<b>291</b>	63	60	56	53	49	46	43	40	37	34	31
<b>291</b>	<b>294</b>	64	60	57	54	50	47	44	41	38	35	31
<b>294</b>	<b>297</b>	65	61	58	54	51	48	45	42	39	35	32
<b>297</b>	<b>300</b>	66	62	59	55	52	49	46	42	39	36	33
<b>300</b>	<b>303</b>	67	63	60	56	53	49	46	43	40	37	34
<b>303</b>	<b>306</b>	68	64	61	57	54	50	47	44	41	38	35
<b>306</b>	<b>309</b>	68	65	61	58	55	51	48	45	42	39	36
<b>309</b>	<b>312</b>	69	66	62	59	55	52	49	46	43	39	36
<b>312</b>	<b>315</b>	70	67	63	60	56	53	50	46	43	40	37
<b>315</b>	<b>318</b>	71	68	64	61	57	54	50	47	44	41	38
<b>318</b>	<b>321</b>	72	69	65	62	58	55	51	48	45	42	39
<b>321</b>	<b>324</b>	73	69	66	63	59	56	52	49	46	43	40
<b>324</b>	<b>327</b>	74	70	67	63	60	57	53	50	47	43	40
<b>327</b>	<b>330</b>	75	71	68	64	61	57	54	51	47	44	41
<b>330</b>	<b>333</b>	76	72	69	65	62	58	55	51	48	45	42
<b>333</b>	<b>336</b>	77	73	70	66	63	59	56	52	49	46	43
<b>336</b>	<b>339</b>	77	74	70	67	64	60	57	53	50	47	44
<b>339</b>	<b>341</b>	78	75	71	68	64	61	57	54	51	47	44
<b>341</b>	<b>343</b>	79	75	72	68	65	61	58	55	51	48	45
<b>343</b>	<b>345</b>	79	76	72	69	66	62	59	55	52	48	45
<b>345</b>	<b>347</b>	80	77	73	70	66	63	59	56	52	49	46
<b>347</b>	<b>349</b>	81	77	74	70	67	63	60	56	53	50	46
<b>349</b>	<b>351</b>	81	78	74	71	67	64	60	57	53	50	47
<b>351</b>	<b>353</b>	82	78	75	71	68	64	61	58	54	51	48
<b>353</b>	<b>355</b>	82	79	75	72	69	65	62	58	55	51	48
<b>355</b>	<b>357</b>	83	80	76	73	69	66	62	59	55	52	49
<b>357</b>	<b>359</b>	84	80	77	73	70	66	63	59	56	52	49
<b>359</b>	<b>361</b>	84	81	77	74	70	67	63	60	56	53	50
<b>361</b>	<b>363</b>	85	81	78	74	71	67	64	61	57	54	50
<b>363</b>	<b>365</b>	85	82	78	75	72	68	65	61	58	54	51
<b>365</b>	<b>367</b>	86	83	79	76	72	69	65	62	58	55	51
<b>367</b>	<b>369</b>	87	83	80	76	73	69	66	62	59	55	52
<b>369</b>	<b>371</b>	87	84	80	77	73	70	66	63	59	56	53
<b>371</b>	<b>373</b>	88	84	81	77	74	70	67	64	60	57	53
<b>373</b>	<b>375</b>	88	85	81	78	75	71	68	64	61	57	54
<b>375</b>	<b>377</b>	89	86	82	79	75	72	68	65	61	58	54
<b>377</b>	<b>379</b>	90	86	83	79	76	72	69	65	62	58	55
<b>379</b>	<b>381</b>	90	87	83	80	76	73	69	66	62	59	56
<b>381</b>	<b>383</b>	91	87	84	80	77	73	70	67	63	60	56
<b>383</b>	<b>385</b>	91	88	84	81	78	74	71	67	64	60	57
<b>385</b>	<b>387</b>	92	89	85	82	78	75	71	68	64	61	57
<b>387</b>	<b>389</b>	93	89	86	82	79	75	72	68	65	61	58
<b>389</b>	<b>391</b>	93	90	86	83	79	76	72	69	65	62	59

**\$391 and over**

Use Table 8(a) for a **SINGLE person** on page 35. Also see the instructions on page 32.

# MARRIED Persons—DAILY OR MISCELLANEOUS Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$30	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
30	33	1	0	0	0	0	0	0	0	0	0	0
33	36	1	0	0	0	0	0	0	0	0	0	0
36	39	1	0	0	0	0	0	0	0	0	0	0
39	42	2	0	0	0	0	0	0	0	0	0	0
42	45	2	1	0	0	0	0	0	0	0	0	0
45	48	2	1	0	0	0	0	0	0	0	0	0
48	51	2	1	0	0	0	0	0	0	0	0	0
51	54	3	2	0	0	0	0	0	0	0	0	0
54	57	3	2	1	0	0	0	0	0	0	0	0
57	60	3	2	1	0	0	0	0	0	0	0	0
60	63	4	3	1	0	0	0	0	0	0	0	0
63	66	4	3	2	1	0	0	0	0	0	0	0
66	69	4	3	2	1	0	0	0	0	0	0	0
69	72	5	3	2	1	0	0	0	0	0	0	0
72	75	5	4	3	1	0	0	0	0	0	0	0
75	78	5	4	3	2	1	0	0	0	0	0	0
78	81	6	4	3	2	1	0	0	0	0	0	0
81	84	6	5	3	2	1	0	0	0	0	0	0
84	87	7	5	4	3	1	0	0	0	0	0	0
87	90	7	6	4	3	2	1	0	0	0	0	0
90	93	8	6	4	3	2	1	0	0	0	0	0
93	96	8	6	5	4	2	1	0	0	0	0	0
96	99	9	7	5	4	3	2	0	0	0	0	0
99	102	9	7	6	4	3	2	1	0	0	0	0
102	105	9	8	6	4	3	2	1	0	0	0	0
105	108	10	8	6	5	4	2	1	0	0	0	0
108	111	10	9	7	5	4	3	2	0	0	0	0
111	114	11	9	7	6	4	3	2	1	0	0	0
114	117	11	10	8	6	4	3	2	1	0	0	0
117	120	12	10	8	7	5	4	2	1	0	0	0
120	123	12	10	9	7	5	4	3	2	0	0	0
123	126	13	11	9	7	6	4	3	2	1	0	0
126	129	13	11	10	8	6	5	3	2	1	0	0
129	132	14	12	10	8	7	5	4	2	1	0	0
132	135	14	12	11	9	7	5	4	3	2	0	0
135	138	14	13	11	9	8	6	4	3	2	1	0
138	141	15	13	11	10	8	6	5	3	2	1	0
141	144	15	14	12	10	8	7	5	4	3	1	0
144	147	16	14	12	11	9	7	5	4	3	2	1
147	150	16	15	13	11	9	8	6	4	3	2	1
150	153	17	15	13	12	10	8	6	5	3	2	1
153	156	17	15	14	12	10	8	7	5	4	3	1
156	159	18	16	14	12	11	9	7	5	4	3	2
159	162	18	16	15	13	11	9	8	6	4	3	2
162	165	18	17	15	13	12	10	8	6	5	3	2
165	168	19	17	15	14	12	10	9	7	5	4	3
168	171	19	18	16	14	12	11	9	7	6	4	3
171	174	20	18	16	15	13	11	9	8	6	4	3
174	177	20	19	17	15	13	12	10	8	6	5	4
177	180	21	19	17	16	14	12	10	9	7	5	4
180	183	21	19	18	16	14	13	11	9	7	6	4
183	186	22	20	18	16	15	13	11	10	8	6	4
186	189	22	20	19	17	15	13	12	10	8	7	5
189	192	23	21	19	17	16	14	12	10	9	7	5
192	195	23	21	20	18	16	14	13	11	9	7	6
195	198	23	22	20	18	17	15	13	11	10	8	6
198	201	24	22	20	19	17	15	14	12	10	8	7
201	204	25	23	21	19	17	16	14	12	11	9	7
204	207	26	23	21	20	18	16	14	13	11	9	7
207	210	26	24	22	20	18	17	15	13	11	10	8
210	213	27	24	22	21	19	17	15	14	12	10	8
213	216	28	25	23	21	19	17	16	14	12	11	9
216	219	29	26	23	21	20	18	16	14	13	11	9
219	222	30	27	24	22	20	18	17	15	13	11	10
222	225	31	27	24	22	21	19	17	15	14	12	10
225	228	31	28	25	23	21	19	18	16	14	12	11
228	231	32	29	26	23	21	20	18	16	15	13	11
231	234	33	30	27	24	22	20	18	17	15	13	12
234	237	34	31	28	24	22	21	19	17	15	14	12

# MARRIED Persons—DAILY OR MISCELLANEOUS Payroll Period

(For Wages Paid in 2002)

If the wages are—		And the number of withholding allowances claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
		The amount of income tax to be withheld is—										
<b>\$237</b>	<b>\$240</b>	\$35	\$31	\$28	\$25	\$23	\$21	\$19	\$18	\$16	\$14	\$12
<b>240</b>	<b>243</b>	35	32	29	26	23	22	20	18	16	15	13
<b>243</b>	<b>246</b>	36	33	30	27	24	22	20	19	17	15	13
<b>246</b>	<b>249</b>	37	34	31	28	25	22	21	19	17	16	14
<b>249</b>	<b>252</b>	38	35	32	28	25	23	21	19	18	16	14
<b>252</b>	<b>255</b>	39	36	32	29	26	23	22	20	18	16	15
<b>255</b>	<b>258</b>	39	36	33	30	27	24	22	20	19	17	15
<b>258</b>	<b>261</b>	40	37	34	31	28	25	23	21	19	17	16
<b>261</b>	<b>264</b>	41	38	35	32	29	25	23	21	20	18	16
<b>264</b>	<b>267</b>	42	39	36	33	29	26	23	22	20	18	16
<b>267</b>	<b>270</b>	43	40	36	33	30	27	24	22	20	19	17
<b>270</b>	<b>273</b>	43	40	37	34	31	28	25	23	21	19	17
<b>273</b>	<b>276</b>	44	41	38	35	32	29	26	23	21	20	18
<b>276</b>	<b>279</b>	45	42	39	36	33	30	26	23	22	20	18
<b>279</b>	<b>282</b>	46	43	40	37	33	30	27	24	22	20	19
<b>282</b>	<b>285</b>	47	44	40	37	34	31	28	25	23	21	19
<b>285</b>	<b>288</b>	48	44	41	38	35	32	29	26	23	21	20
<b>288</b>	<b>291</b>	48	45	42	39	36	33	30	27	24	22	20
<b>291</b>	<b>294</b>	49	46	43	40	37	34	30	27	24	22	21
<b>294</b>	<b>297</b>	50	47	44	41	38	34	31	28	25	23	21
<b>297</b>	<b>300</b>	51	48	45	41	38	35	32	29	26	23	21
<b>300</b>	<b>303</b>	52	48	45	42	39	36	33	30	27	24	22
<b>303</b>	<b>306</b>	52	49	46	43	40	37	34	31	27	24	22
<b>306</b>	<b>309</b>	53	50	47	44	41	38	35	31	28	25	23
<b>309</b>	<b>312</b>	54	51	48	45	42	38	35	32	29	26	23
<b>312</b>	<b>315</b>	55	52	49	45	42	39	36	33	30	27	24
<b>315</b>	<b>318</b>	56	53	49	46	43	40	37	34	31	28	24
<b>318</b>	<b>321</b>	56	53	50	47	44	41	38	35	32	28	25
<b>321</b>	<b>324</b>	57	54	51	48	45	42	39	35	32	29	26
<b>324</b>	<b>327</b>	58	55	52	49	46	42	39	36	33	30	27
<b>327</b>	<b>330</b>	59	56	53	50	46	43	40	37	34	31	28
<b>330</b>	<b>333</b>	60	57	53	50	47	44	41	38	35	32	29
<b>333</b>	<b>336</b>	60	57	54	51	48	45	42	39	36	32	29
<b>336</b>	<b>339</b>	61	58	55	52	49	46	43	39	36	33	30
<b>339</b>	<b>341</b>	62	59	56	53	50	46	43	40	37	34	31
<b>341</b>	<b>343</b>	63	59	56	53	50	47	44	41	38	34	31
<b>343</b>	<b>345</b>	63	60	57	54	51	47	44	41	38	35	32
<b>345</b>	<b>347</b>	64	60	57	54	51	48	45	42	39	36	32
<b>347</b>	<b>349</b>	64	61	58	55	52	49	45	42	39	36	33
<b>349</b>	<b>351</b>	65	62	58	55	52	49	46	43	40	37	34
<b>351</b>	<b>353</b>	65	62	59	56	53	50	47	43	40	37	34
<b>353</b>	<b>355</b>	66	63	60	56	53	50	47	44	41	38	35
<b>355</b>	<b>357</b>	66	63	60	57	54	51	48	44	41	38	35
<b>357</b>	<b>359</b>	67	64	61	57	54	51	48	45	42	39	36
<b>359</b>	<b>361</b>	67	64	61	58	55	52	49	46	42	39	36
<b>361</b>	<b>363</b>	68	65	62	59	55	52	49	46	43	40	37
<b>363</b>	<b>365</b>	68	65	62	59	56	53	50	47	44	40	37
<b>365</b>	<b>367</b>	69	66	63	60	57	53	50	47	44	41	38
<b>367</b>	<b>369</b>	70	66	63	60	57	54	51	48	45	42	38
<b>369</b>	<b>371</b>	70	67	64	61	58	55	51	48	45	42	39
<b>371</b>	<b>373</b>	71	68	64	61	58	55	52	49	46	43	39
<b>373</b>	<b>375</b>	71	68	65	62	59	56	52	49	46	43	40
<b>375</b>	<b>377</b>	72	69	65	62	59	56	53	50	47	44	41
<b>377</b>	<b>379</b>	72	69	66	63	60	57	54	50	47	44	41
<b>379</b>	<b>381</b>	73	70	67	63	60	57	54	51	48	45	42
<b>381</b>	<b>383</b>	73	70	67	64	61	58	55	52	48	45	42
<b>383</b>	<b>385</b>	74	71	68	65	61	58	55	52	49	46	43
<b>385</b>	<b>387</b>	74	71	68	65	62	59	56	53	49	46	43
<b>387</b>	<b>389</b>	75	72	69	66	62	59	56	53	50	47	44
<b>389</b>	<b>391</b>	75	72	69	66	63	60	57	54	51	47	44
<b>391</b>	<b>393</b>	76	73	70	67	64	60	57	54	51	48	45
<b>393</b>	<b>395</b>	77	73	70	67	64	61	58	55	52	49	45
<b>395</b>	<b>397</b>	77	74	71	68	65	62	58	55	52	49	46
<b>397</b>	<b>399</b>	78	75	71	68	65	62	59	56	53	50	46
<b>399</b>	<b>401</b>	78	75	72	69	66	63	59	56	53	50	47

**\$401 and over**

Use Table 8(b) for a **MARRIED person** on page 35. Also see the instructions on page 32.

# Tables for Percentage Method of Advance EIC Payments

(For Wages Paid in 2002)

## Table 1. WEEKLY Payroll Period

(a) SINGLE or HEAD OF HOUSEHOLD			(b) MARRIED Without Spouse Filing Certificate			(c) MARRIED With Both Spouses Filing Certificate		
If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:	If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:	If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:
Over—	But not over—		Over—	But not over—		Over—	But not over—	
\$0	\$141	20.40% of wages	\$0	\$141	20.40% of wages	\$0	\$70	20.40% of wages
\$141	\$260	\$29	\$141	\$279	\$29	\$70	\$139	\$14
\$260		\$29 less 9.588% of wages in excess of \$260	\$279		\$29 less 9.588% of wages in excess of \$279	\$139		\$14 less 9.588% of wages in excess of \$139

## Table 2. BIWEEKLY Payroll Period

(a) SINGLE or HEAD OF HOUSEHOLD			(b) MARRIED Without Spouse Filing Certificate			(c) MARRIED With Both Spouses Filing Certificate		
If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:	If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:	If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:
Over—	But not over—		Over—	But not over—		Over—	But not over—	
\$0	\$283	20.40% of wages	\$0	\$283	20.40% of wages	\$0	\$141	20.40% of wages
\$283	\$520	\$58	\$283	\$558	\$58	\$141	\$279	\$29
\$520		\$58 less 9.588% of wages in excess of \$520	\$558		\$58 less 9.588% of wages in excess of \$558	\$279		\$29 less 9.588% of wages in excess of \$279

## Table 3. SEMIMONTHLY Payroll Period

(a) SINGLE or HEAD OF HOUSEHOLD			(b) MARRIED Without Spouse Filing Certificate			(c) MARRIED With Both Spouses Filing Certificate		
If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:	If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:	If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:
Over—	But not over—		Over—	But not over—		Over—	But not over—	
\$0	\$307	20.40% of wages	\$0	\$307	20.40% of wages	\$0	\$153	20.40% of wages
\$307	\$563	\$63	\$307	\$605	\$63	\$153	\$302	\$31
\$563		\$63 less 9.588% of wages in excess of \$563	\$605		\$63 less 9.588% of wages in excess of \$605	\$302		\$31 less 9.588% of wages in excess of \$302

## Table 4. MONTHLY Payroll Period

(a) SINGLE or HEAD OF HOUSEHOLD			(b) MARRIED Without Spouse Filing Certificate			(c) MARRIED With Both Spouses Filing Certificate		
If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:	If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:	If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:
Over—	But not over—		Over—	But not over—		Over—	But not over—	
\$0	\$614	20.40% of wages	\$0	\$614	20.40% of wages	\$0	\$307	20.40% of wages
\$614	\$1,126	\$125	\$614	\$1,210	\$125	\$307	\$605	\$63
\$1,126		\$125 less 9.588% of wages in excess of \$1,126	\$1,210		\$125 less 9.588% of wages in excess of \$1,210	\$605		\$63 less 9.588% of wages in excess of \$605



**Tables for Percentage Method of Advance EIC Payments (Continued)**  
(For Wages Paid in 2002)

**Table 5. QUARTERLY Payroll Period**

<b>(a) SINGLE or HEAD OF HOUSEHOLD</b>			<b>(b) MARRIED Without Spouse Filing Certificate</b>			<b>(c) MARRIED With Both Spouses Filing Certificate</b>		
If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:	If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:	If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:
Over—	But not over—		Over—	But not over—		Over—	But not over—	
\$0	\$1,842	20.40% of wages	\$0	\$1,842	20.40% of wages	\$0	\$921	20.40% of wages
\$1,842	\$3,380	\$376	\$1,842	\$3,630	\$376	\$921	\$1,815	\$188
\$3,380		\$376 less 9.588% of wages in excess of \$3,380	\$3,630		\$376 less 9.588% of wages in excess of \$3,630	\$1,815		\$188 less 9.588% of wages in excess of \$1,815

**Table 6. SEMIANNUAL Payroll Period**

<b>(a) SINGLE or HEAD OF HOUSEHOLD</b>			<b>(b) MARRIED Without Spouse Filing Certificate</b>			<b>(c) MARRIED With Both Spouses Filing Certificate</b>		
If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:	If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:	If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:
Over—	But not over—		Over—	But not over—		Over—	But not over—	
\$0	\$3,685	20.40% of wages	\$0	\$3,685	20.40% of wages	\$0	\$1,842	20.40% of wages
\$3,685	\$6,760	\$752	\$3,685	\$7,260	\$752	\$1,842	\$3,630	\$376
\$6,760		\$752 less 9.588% of wages in excess of \$6,760	\$7,260		\$752 less 9.588% of wages in excess of \$7,260	\$3,630		\$376 less 9.588% of wages in excess of \$3,630

**Table 7. ANNUAL Payroll Period**

<b>(a) SINGLE or HEAD OF HOUSEHOLD</b>			<b>(b) MARRIED Without Spouse Filing Certificate</b>			<b>(c) MARRIED With Both Spouses Filing Certificate</b>		
If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:	If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:	If the amount of wages (before deducting withholding allowances) is:		The amount of payment to be made is:
Over—	But not over—		Over—	But not over—		Over—	But not over—	
\$0	\$7,370	20.40% of wages	\$0	\$7,370	20.40% of wages	\$0	\$3,685	20.40% of wages
\$7,370	\$13,520	\$1,503	\$7,370	\$14,520	\$1,503	\$3,685	\$7,260	\$752
\$13,520		\$1,503 less 9.588% of wages in excess of \$13,520	\$14,520		\$1,503 less 9.588% of wages in excess of \$14,520	\$7,260		\$752 less 9.588% of wages in excess of \$7,260

**Table 8. DAILY or MISCELLANEOUS Payroll Period**

<b>(a) SINGLE or HEAD OF HOUSEHOLD</b>			<b>(b) MARRIED Without Spouse Filing Certificate</b>			<b>(c) MARRIED With Both Spouses Filing Certificate</b>		
If the wages divided by the number of days in such period (before deducting withholding allowances) are:		The amount of payment to be made is the following amount multiplied by the number of days in such period:	If the wages divided by the number of days in such period (before deducting withholding allowances) are:		The amount of payment to be made is the following amount multiplied by the number of days in such period:	If the wages divided by the number of days in such period (before deducting withholding allowances) are:		The amount of payment to be made is the following amount multiplied by the number of days in such period:
Over—	But not over—		Over—	But not over—		Over—	But not over—	
\$0	\$28	20.40% of wages	\$0	\$28	20.40% of wages	\$0	\$14	20.40% of wages
\$28	\$52	\$6	\$28	\$55	\$6	\$14	\$27	\$3
\$52		\$6 less 9.588% of wages in excess of \$52	\$55		\$6 less 9.588% of wages in excess of \$55	\$27		\$3 less 9.588% of wages in excess of \$27

# Tables for Wage Bracket Method of Advance EIC Payments (For Wages Paid in 2002)

## WEEKLY Payroll Period

### SINGLE or HEAD OF HOUSEHOLD

Wages—			Wages—			Wages—			Wages—			Wages—			Wages—		
At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made
\$0	\$5	\$0	\$50	\$55	\$10	\$100	\$105	\$20	\$270	\$280	\$27	\$370	\$380	\$17	\$470	\$480	\$8
5	10	1	55	60	11	105	110	21	280	290	26	380	390	16	480	490	7
10	15	2	60	65	12	110	115	22	290	300	25	390	400	15	490	500	6
15	20	3	65	70	13	115	120	23	300	310	24	400	410	15	500	510	5
20	25	4	70	75	14	120	125	24	310	320	23	410	420	14	510	520	4
25	30	5	75	80	15	125	130	26	320	330	22	420	430	13	520	530	3
30	35	6	80	85	16	130	135	27	330	340	21	430	440	12	530	540	2
35	40	7	85	90	17	135	140	28	340	350	20	440	450	11	540	550	1
40	45	8	90	95	18	140	260	29	350	360	19	450	460	10	550	---	0
45	50	9	95	100	19	260	270	28	360	370	18	460	470	9	---	---	---

### MARRIED Without Spouse Filing Certificate

Wages—			Wages—			Wages—			Wages—			Wages—			Wages—		
At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made
\$0	\$5	\$0	\$50	\$55	\$10	\$100	\$105	\$20	\$285	\$295	\$27	\$385	\$395	\$18	\$485	\$495	\$8
5	10	1	55	60	11	105	110	21	295	305	26	395	405	17	495	505	7
10	15	2	60	65	12	110	115	22	305	315	25	405	415	16	505	515	6
15	20	3	65	70	13	115	120	23	315	325	25	415	425	15	515	525	5
20	25	4	70	75	14	120	125	24	325	335	24	425	435	14	525	535	4
25	30	5	75	80	15	125	130	26	335	345	23	435	445	13	535	545	3
30	35	6	80	85	16	130	135	27	345	355	22	445	455	12	545	555	2
35	40	7	85	90	17	135	140	28	355	365	21	455	465	11	555	565	2
40	45	8	90	95	18	140	275	29	365	375	20	465	475	10	565	575	1
45	50	9	95	100	19	275	285	28	375	385	19	475	485	9	575	---	0

### MARRIED With Both Spouses Filing Certificate

Wages—			Wages—			Wages—			Wages—			Wages—			Wages—		
At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made
\$0	\$5	\$0	\$30	\$35	\$6	\$60	\$65	\$12	\$165	\$175	\$11	\$225	\$235	\$5	\$285	---	\$0
5	10	1	35	40	7	65	70	13	175	185	10	235	245	4	---	---	---
10	15	2	40	45	8	70	75	14	185	195	9	245	255	3	---	---	---
15	20	3	45	50	9	75	80	15	195	205	8	255	265	2	---	---	---
20	25	4	50	55	10	80	85	16	205	215	7	265	275	1	---	---	---
25	30	5	55	60	11	85	90	17	215	225	6	275	285	1	---	---	---

## BIWEEKLY Payroll Period

### SINGLE or HEAD OF HOUSEHOLD

Wages—			Wages—			Wages—			Wages—			Wages—			Wages—		
At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made
\$0	\$5	\$0	\$100	\$105	\$20	\$200	\$205	\$41	\$550	\$560	\$54	\$750	\$760	\$35	\$950	\$960	\$16
5	10	1	105	110	21	205	210	42	560	570	53	760	770	34	960	970	15
10	15	2	110	115	22	210	215	43	570	580	52	770	780	33	970	980	14
15	20	3	115	120	23	215	220	44	580	590	51	780	790	32	980	990	13
20	25	4	120	125	24	220	225	45	590	600	50	790	800	31	990	1,000	12
25	30	5	125	130	26	225	230	46	600	610	49	800	810	30	1,000	1,010	11
30	35	6	130	135	27	230	235	47	610	620	48	810	820	29	1,010	1,020	10
35	40	7	135	140	28	235	240	48	620	630	47	820	830	28	1,020	1,030	9
40	45	8	140	145	29	240	245	49	630	640	46	830	840	27	1,030	1,040	8
45	50	9	145	150	30	245	250	50	640	650	45	840	850	26	1,040	1,050	7
50	55	10	150	155	31	250	255	51	650	660	44	850	860	25	1,050	1,060	6
55	60	11	155	160	32	255	260	52	660	670	43	860	870	24	1,060	1,070	5
60	65	12	160	165	33	260	265	53	670	680	42	870	880	23	1,070	1,080	4
65	70	13	165	170	34	265	270	54	680	690	42	880	890	22	1,080	1,090	3
70	75	14	170	175	35	270	275	55	690	700	41	890	900	21	1,090	1,100	2
75	80	15	175	180	36	275	280	56	700	710	40	900	910	20	1,100	1,110	1
80	85	16	180	185	37	280	285	57	710	720	39	910	920	19	1,110	---	0
85	90	17	185	190	38	285	290	58	720	730	38	920	930	18	---	---	---
90	95	18	190	195	39	290	295	59	730	740	37	930	940	17	---	---	---
95	100	19	195	200	40	295	300	60	740	750	36	940	950	16	---	---	---

### MARRIED Without Spouse Filing Certificate

Wages—			Wages—			Wages—			Wages—			Wages—					
At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made			
\$0	\$5	\$0	\$20	\$25	\$4	\$40	\$45	\$8	\$60	\$65	\$12	\$80	\$85	\$16	\$100	\$105	\$20
5	10	1	25	30	5	45	50	9	65	70	13	85	90	17	105	110	21
10	15	2	30	35	6	50	55	10	70	75	14	90	95	18	110	115	22
15	20	3	35	40	7	55	60	11	75	80	15	95	100	19	---	---	---

(continued on next page)

## BIWEEKLY Payroll Period

### MARRIED Without Spouse Filing Certificate

Wages—			Wages—			Wages—			Wages—			Wages—			Wages—		
At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made
\$115	\$120	\$23	\$195	\$200	\$40	\$275	\$280	\$56	\$695	\$705	\$44	\$855	\$865	\$28	\$1,015	\$1,025	\$13
120	125	24	200	205	41	280	555	57	705	715	43	865	875	27	1,025	1,035	12
125	130	26	205	210	42	555	565	57	715	725	42	875	885	26	1,035	1,045	11
130	135	27	210	215	43	565	575	56	725	735	41	885	895	26	1,045	1,055	10
135	140	28	215	220	44	575	585	55	735	745	40	895	905	25	1,055	1,065	9
140	145	29	220	225	45	585	595	54	745	755	39	905	915	24	1,065	1,075	8
145	150	30	225	230	46	595	605	53	755	765	38	915	925	23	1,075	1,085	7
150	155	31	230	235	47	605	615	52	765	775	37	925	935	22	1,085	1,095	6
155	160	32	235	240	48	615	625	51	775	785	36	935	945	21	1,095	1,105	5
160	165	33	240	245	49	625	635	50	785	795	35	945	955	20	1,105	1,115	4
165	170	34	245	250	50	635	645	50	795	805	34	955	965	19	1,115	1,125	3
170	175	35	250	255	51	645	655	49	805	815	33	965	975	18	1,125	1,135	3
175	180	36	255	260	52	655	665	48	815	825	32	975	985	17	1,135	1,145	2
180	185	37	260	265	53	665	675	47	825	835	31	985	995	16	1,145	1,155	1
185	190	38	265	270	54	675	685	46	835	845	30	995	1,005	15	1,155	- - -	0
190	195	39	270	275	55	685	695	45	845	855	29	1,005	1,015	14			

### MARRIED With Both Spouses Filing Certificate

Wages—			Wages—			Wages—			Wages—			Wages—			Wages—		
At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made
\$0	\$5	\$0	\$50	\$55	\$10	\$100	\$105	\$20	\$285	\$295	\$27	\$385	\$395	\$18	\$485	\$495	\$8
5	10	1	55	60	11	105	110	21	295	305	26	395	405	17	495	505	7
10	15	2	60	65	12	110	115	22	305	315	25	405	415	16	505	515	6
15	20	3	65	70	13	115	120	23	315	325	25	415	425	15	515	525	5
20	25	4	70	75	14	120	125	24	325	335	24	425	435	14	525	535	4
25	30	5	75	80	15	125	130	26	335	345	23	435	445	13	535	545	3
30	35	6	80	85	16	130	135	27	345	355	22	445	455	12	545	555	2
35	40	7	85	90	17	135	140	28	355	365	21	455	465	11	555	565	2
40	45	8	90	95	18	140	145	29	365	375	20	465	475	10	565	575	1
45	50	9	95	100	19	145	150	28	375	385	19	475	485	9	575	- - -	0

## SEMIMONTHLY Payroll Period

### SINGLE or HEAD OF HOUSEHOLD

Wages—			Wages—			Wages—			Wages—			Wages—			Wages—		
At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made
\$0	\$5	\$0	\$110	\$115	\$22	\$220	\$225	\$45	\$600	\$610	\$58	\$820	\$830	\$37	\$1,040	\$1,050	\$16
5	10	1	115	120	23	225	230	46	610	620	57	830	840	36	1,050	1,060	15
10	15	2	120	125	24	230	235	47	620	630	56	840	850	35	1,060	1,070	14
15	20	3	125	130	26	235	240	48	630	640	55	850	860	34	1,070	1,080	13
20	25	4	130	135	27	240	245	49	640	650	54	860	870	33	1,080	1,090	12
25	30	5	135	140	28	245	250	50	650	660	53	870	880	32	1,090	1,100	11
30	35	6	140	145	29	250	255	51	660	670	52	880	890	31	1,100	1,110	10
35	40	7	145	150	30	255	260	52	670	680	51	890	900	30	1,110	1,120	9
40	45	8	150	155	31	260	265	53	680	690	50	900	910	29	1,120	1,130	8
45	50	9	155	160	32	265	270	54	690	700	50	910	920	28	1,130	1,140	7
50	55	10	160	165	33	270	275	55	700	710	49	920	930	27	1,140	1,150	6
55	60	11	165	170	34	275	280	56	710	720	48	930	940	27	1,150	1,160	5
60	65	12	170	175	35	280	285	57	720	730	47	940	950	26	1,160	1,170	4
65	70	13	175	180	36	285	290	58	730	740	46	950	960	25	1,170	1,180	3
70	75	14	180	185	37	290	295	59	740	750	45	960	970	24	1,180	1,190	3
75	80	15	185	190	38	295	300	60	750	760	44	970	980	23	1,190	1,200	2
80	85	16	190	195	39	300	305	61	760	770	43	980	990	22	1,200	1,210	1
85	90	17	195	200	40	305	310	62	770	780	42	990	1,000	21	1,210	- - -	0
90	95	18	200	205	41	310	315	63	780	790	41	1,000	1,010	20			
95	100	19	205	210	42	315	320	64	790	800	40	1,010	1,020	19			
100	105	20	210	215	43	320	325	65	800	810	39	1,020	1,030	18			
105	110	21	215	220	44	325	330	66	810	820	38	1,030	1,040	17			

### MARRIED Without Spouse Filing Certificate

Wages—			Wages—			Wages—			Wages—			Wages—			Wages—		
At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made	At least	But less than	Payment to be made
\$0	\$5	\$0	\$50	\$55	\$10	\$100	\$105	\$20	\$150	\$155	\$31	\$200	\$205	\$41	\$250	\$255	\$51
5	10	1	55	60	11	105	110	21	155	160	32	205	210	42	255	260	52
10	15	2	60	65	12	110	115	22	160	165	33	210	215	43	260	265	53
15	20	3	65	70	13	115	120	23	165	170	34	215	220	44	265	270	54
20	25	4	70	75	14	120	125	24	170	175	35	220	225	45	270	275	55
25	30	5	75	80	15	125	130	26	175	180	36	225	230	46	275	280	56
30	35	6	80	85	16	130	135	27	180	185	37	230	235	47	280	285	57
35	40	7	85	90	17	135	140	28	185	190	38	235	240	48	285	290	58
40	45	8	90	95	18	140	145	29	190	195	39	240	245	49	290	295	59
45	50	9	95	100	19	145	150	30	195	200	40	245	250	50			

(continued on next page)



MONTHLY Payroll Period

MARRIED Without Spouse Filing Certificate

Table with 16 columns: Wages (At least, But less than, Payment to be made) for six different wage brackets. Rows range from \$0-\$5 to \$210-\$215.

MARRIED With Both Spouses Filing Certificate

Table with 16 columns: Wages (At least, But less than, Payment to be made) for six different wage brackets. Rows range from \$0-\$5 to \$105-\$110.

DAILY Payroll Period

Table with 16 columns: Wages (At least, But less than, Payment to be made) for six different wage brackets. Rows range from \$0-\$5 to \$25-\$50.

---

# Index

---

<b>A</b>	Hiring new employees . . . . .	3	Social security and Medicare taxes . . . . .	15
Accountable plan . . . . .	Household employees . . . . .	22	Social security number, employee . . . . .	8
Accuracy of deposits rule . . . . .			Social security tax rate . . . . .	1
Adjustments, Form 941 . . . . .	<b>I</b>		Standard mileage rate . . . . .	9
Advance earned income credit . . . . .	Income tax withholding . . . . .	13, 32	Statutory employees . . . . .	7
Advance EIC tables, instructions . . . . .	Information returns . . . . .	4	Statutory nonemployees . . . . .	7
Aliens, nonresident . . . . .	International social security agreements . . . . .	15	Successor employer . . . . .	15, 27
Allocated tips . . . . .			Supplemental wages . . . . .	12
Archer MSAs . . . . .				
	<b>L</b>		<b>T</b>	
<b>B</b>	Long-term care insurance . . . . .	10	Telephone help . . . . .	5
Backup withholding . . . . .	Lookback period, Form 941 . . . . .	17	Tip Rate Determination Agreement . . . . .	12
Business expenses, employee . . . . .			Tip Rate Determination and Education Program . . . . .	12
	<b>M</b>		Tip Reporting Alternative Commitment . . . . .	12
<b>C</b>	Magnetic media filing:		Tips . . . . .	11-12
Calendar . . . . .	Form 941 . . . . .	22	Trust fund recovery penalty . . . . .	21
Change of address . . . . .	Form W-4 . . . . .	14		
Claim for refund . . . . .	Meals and lodging . . . . .	9	<b>U</b>	
Correcting errors, Form 941 . . . . .	Medical care . . . . .	10	Unemployment tax, Federal . . . . .	26
	Medical savings accounts . . . . .	10	Unresolved tax issues . . . . .	5
	Medicare tax . . . . .	15		
<b>D</b>	Medicare tax rate . . . . .	1	<b>V</b>	
Delivery services, private . . . . .	Mileage . . . . .	9	Vacation pay . . . . .	12
Depositing taxes:	Monthly deposit schedule . . . . .	18		
Coupons . . . . .	Moving expenses . . . . .	9	<b>W</b>	
Penalties . . . . .			Wage repayments . . . . .	26
Rules . . . . .			Wages defined . . . . .	8
			Wages not paid in money . . . . .	9
<b>E</b>			Withholding:	
Electronic . . . . .	<b>N</b>		Backup . . . . .	4
Electronic deposit requirement . . . . .	New employees . . . . .	3	Certificate . . . . .	13
Electronic Federal Tax Deposit System (EFTPS) . . . . .	Nonaccountable plan . . . . .	9	Exemption . . . . .	13
Electronic filing . . . . .	Noncash wages . . . . .	9	Fringe benefits . . . . .	11
Eligibility for employment . . . . .	Nonemployee compensation . . . . .	4	Income tax . . . . .	13
Employees defined . . . . .	Nonpayroll withholding . . . . .	4	Levies . . . . .	14
Employer identification number . . . . .			Nonpayroll payments . . . . .	4
Employer responsibilities . . . . .			Nonresident aliens . . . . .	13
	<b>P</b>		Pensions and annuities . . . . .	4
<b>F</b>	Part-time workers . . . . .	15	Percentage method . . . . .	32
Family employees . . . . .	Payroll period . . . . .	12	Social security and Medicare taxes . . . . .	15
Final return, Form 941 . . . . .	Penalties . . . . .	21-22	Table instructions . . . . .	32
Form 941 e-file . . . . .	Private delivery services . . . . .	5	Tips . . . . .	12
Form 941TeleFile . . . . .			Wage bracket method . . . . .	32
Fringe benefits . . . . .	<b>R</b>			
FTD coupons . . . . .	Reconciling Forms W-2 and 941 . . . . .	23		
FUTA tax . . . . .	Recordkeeping . . . . .	4		
	Reimbursements:			
<b>G</b>	Accountable plan . . . . .	9		
Government employers . . . . .	Nonaccountable plan . . . . .	9		
	Per diem . . . . .	9		
<b>H</b>	Repayments, wages . . . . .	26		
Health insurance plans . . . . .				
	<b>S</b>			
	Seasonal employers . . . . .	22		
	Semiweekly deposit schedule . . . . .	18		
	Sick pay . . . . .	11		

**Employer's Order Blank for 2002 Forms**  
 Visit IRS's Web Site @ [www.irs.gov](http://www.irs.gov)

**Instructions.** Enter the quantity next to the form you are ordering. **Please order the number of forms needed, not the number of sheets.** **Note:** None of the items on the order blank are available from the IRS in continuous feed version. All forms on this order blank that require multiple copies are carbonized so that you will not have to insert carbons. You will automatically receive one instruction with any form on this order blank. **Type or print** your name and complete mail delivery address in the space provided below. An accurate mail delivery address is necessary to ensure delivery of your order.

**USE THIS PORTION FOR 2002 FORMS ONLY**

Quantity	Item	Title	Quantity	Item	Title
	<b>W-2</b>	Wage and Tax Statement		<b>1099 G</b>	Certain Government Payments
	<b>W-2 C</b>	Corrected Wage and Tax Statement		<b>1099 INT</b>	Interest Income
	<b>W-3</b>	Transmittal of Wage and Tax Statements		<b>1099 LTC</b>	Long-Term Care and Accelerated Death Benefits
	<b>W-3 C</b>	Transmittal of Corrected Wage and Tax Statements		<b>1099 MISC</b>	Miscellaneous Income
	<b>W-4</b>	Employee's Withholding Allowance Certificate		<b>1099 MSA</b>	Distributions From an Archer MSA or Medicare+Choice MSA
	<b>W-4 P</b>	Withholding Certificate for Pension or Annuity Payments		<b>1099 OID</b>	Original Issue Discount
	<b>W-4 S</b>	Request for Federal Income Tax Withholding From Sick Pay		<b>1099 PATR</b>	Taxable Distributions Received From Cooperatives
	<b>W-5</b>	Earned Income Credit Advance Payment Certificate		<b>1099 Q</b>	Qualified Tuition Program Payments (Under Section 529)
	<b>1096</b>	Annual Summary and Transmittal of U.S. Information Returns		<b>1099 R</b>	Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.
	<b>1098</b>	Mortgage Interest Statement		<b>1099 S</b>	Proceeds From Real Estate Transactions
	<b>1098 E</b>	Student Loan Interest Statement		<b>5498</b>	IRA and Coverdell ESA Contribution Information
	<b>1098 T</b>	Tuition Payments Statement		<b>5498 MSA</b>	Archer MSA or Medicare+Choice MSA Information
	<b>1099 A</b>	Acquisition or Abandonment of Secured Property		<b>Pub 15 A</b>	Employer's Supplemental Tax Guide
	<b>1099 B</b>	Proceeds From Broker and Barter Exchange Transactions		<b>Pub 15 B</b>	Employer's Tax Guide to Fringe Benefits
	<b>1099 C</b>	Cancellation of Debt		<b>Pub 1494</b>	Table for Figuring Amount Exempt From Levy On Wages, Salary, and Other Income (Forms 668-W(c) and 668-W(c)(DO))
	<b>1099 DIV</b>	Dividends and Distributions			

<b>Print or Type Only</b>	Attention:		Daytime Telephone Number:
			(      )
	Company Name:		
	Postal Mailing Address:		Ste/Room
	City:	State:	Zip Code:
Foreign Country:		International Postal Code:	

**Where To Send Your Order**

Send your order to the Internal Revenue Service address for the Area Distribution Center closest to your state.

**Central Area Distribution Center**  
 P.O. Box 8908  
 Bloomington, IL 61702-8908  
**Eastern Area Distribution Center**  
 P.O. Box 85075  
 Richmond, VA 23261-5075  
**Western Area Distribution Center**  
 Rancho Cordova, CA 95743-0001

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The time needed to complete this form will vary depending on the individual circumstances. The estimated average time is 3 minutes. If you have comments concerning the accuracy of this time estimate or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001.

**DO NOT** send your order Form 7018-A to the Tax Forms Committee. Instead, send your Forms order to the IRS Area Distribution Center closest to your state.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. Your response is voluntary.

# Quick and Easy Access to Tax Help and Forms



## Personal Computer

You can access the IRS Web Site 24 hours a day, 7 days a week, at [www.irs.gov](http://www.irs.gov) to:

- Download forms, instructions, and publications
- See answers to frequently asked tax questions
- Search publications on-line by topic or keyword
- Figure your withholding allowances using our W-4 calculator
- Send us comments or request help by e-mail
- Sign up to receive local and national tax news by e-mail

You can also reach us using File Transfer Protocol at [ftp.irs.gov](ftp://ftp.irs.gov)



## Fax

You can get over 100 of the most requested forms and instructions 24 hours a day, 7 days a week, by fax. Just call **703-368-9694** from the telephone connected to the fax

machine.

For help with transmission problems, call the FedWorld Help Desk at **703-487-4608**.

Long-distance charges may apply.



## Mail

You can order forms, instructions, and publications by completing the order blank on page 63. You should receive your order within 10 days after we receive your request.



## Phone

You can order forms and publications and receive automated information 24 hours a day, 7 days a week, by phone.

## Forms and Publications

Call **1-800-TAX-FORM** (1-800-829-3676) to order current year forms, instructions, and publications, and prior year forms and instructions. You should receive your order within 10 days.

## TeleTax Topics

Call **1-800-829-4477** to listen to pre-recorded messages covering about 150 tax topics. See page 5 for a list of the topics.



## Walk-In

You can pick up some of the most requested forms, instructions, and publications at many IRS offices, post offices, and libraries. Some IRS offices, libraries, city and county government offices, credit unions, grocery stores, office supply stores, and copy centers have an extensive collection of products available to photocopy or print from a CD-ROM.



## CD-ROM

Order **Pub. 1796**, Federal Tax Products on CD-ROM, and get:

- Current year forms, instructions, and publications
- Prior year forms, instructions, and publications
- Frequently requested tax forms that may be filled in electronically, printed out for submission, and saved for recordkeeping
- The Internal Revenue Bulletin

Buy the CD-ROM on the Internet at [www.irs.gov/cdorders](http://www.irs.gov/cdorders) from the National Technical Information Service (NTIS) for \$21 (no handling fee) or call **1-877-CDFORMS** (1-877-233-6767) toll free to buy the CD-ROM for \$21 (plus a \$5 handling fee).

**Internal Revenue Service**  
WADC-9999  
Rancho Cordova, CA 95743-9999

**Deliver to Payroll Department**

**Official Business**  
Penalty for Private Use \$300

**PRSR STD**  
Postage and Fees Paid  
Internal Revenue Service  
**Permit No. G-48**





## Cornell Law School

LII / Legal Information Institute

- home
- search
- sitemap
- donate

## U.S. Code collection

- main page
- faq
- index
- search



[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 61](#) > [Subchapter A](#) > [PART II](#) > [Subpart D](#) > [§ 6020](#)

[Prev](#) | [Next](#)

## § 6020. Returns prepared for or executed by Secretary

*How Current is This?*

### (a) Preparation of return by Secretary

If any person shall fail to make a return required by this title or by regulations prescribed thereunder, but shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the Secretary may prepare such return, which, being signed by such person, may be received by the Secretary as the return of such person.

### (b) Execution of return by Secretary

#### (1) Authority of Secretary to execute return

If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

#### (2) Status of returns

Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes.

Search this title:

[Notes](#)

[Updates](#)

[Parallel regulations \(CFR\)](#)

[Your comments](#)

[Prev](#) | [Next](#)

*LII has no control over and does not endorse any external Internet site that contains links to or references LII.*

**Study law abroad**  
Cornell Paris Institute

- [about us](#)

- help
- © copyright

Figure 23-1

AUTHORITY

The Internal Revenue Code States: Section 6020. Returns Prepared for or Executed by Secretary.

(b) EXECUTION OF RETURN BY SECRETARY

(1) AUTHORITY OF SECRETARY TO EXECUTE RETURN - If any person fails to make any return (other than a declaration of estimated tax required under section 6015) required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

The Internal Revenue Regulations amplifys this section of the Code: Section 301.6020-1.

(b) Execution of returns - (1) In general. If any person required by any internal revenue law or by the regulations prescribed thereunder to make a return (other than a declaration of estimated tax required under section 6015 or 6016) fails to make such return at the time prescribed therefor, or makes willfully or otherwise, a false or fraudulent return, the district director or other authorized internal revenue officer or employee shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

The authority has been delegated to revenue officers, among others (See Figure 23-2).

Date of Download: Sep 14, 2001

USCA (United States Code Annotated)

26 USCA S 6020

Copr. © West 2001 No Claim to Orig. U.S. Govt. Works

---

26 U.S.C.A. § 6020 I.R.C. § 6020

**UNITED STATES CODE ANNOTATED**

**TITLE 26. INTERNAL REVENUE CODE**

**SUBTITLE F--PROCEDURE AND ADMINISTRATION**

**CHAPTER 61--INFORMATION AND RETURNS**

**SUBCHAPTER A--RETURNS AND RECORDS**

**PART II--TAX RETURNS OR STATEMENTS**

**SUBPART D--MISCELLANEOUS PROVISIONS**

Copr. © West Group 2001. No claim to Orig. U.S. Govt. Works.

Current through P.L. 107-11, approved 5-28-01

§ 6020. Returns prepared for or executed by Secretary

**(a) Preparation of return by Secretary.**--If any person shall fail to make a return required by this title or by regulations prescribed thereunder, but shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the Secretary may prepare such return, which, being signed by such person, may be received by the Secretary as the return of such person.

**(b) Execution of return by Secretary.**--

**(1) Authority of Secretary to execute return.**--If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

**(2) Status of returns.**--Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes.

## CREDIT(S)

### 1989 Main Volume

(Aug. 16, 1954, c. 736, 68A Stat. 740; June 28, 1968, Pub.L. 90-364, Title I, § 103(e) (3), 82 Stat. 264; Oct. 4, 1976, Pub.L. 94-455, Title XIX, § 1906(b) (13) (A), 90 Stat. 1834; July 18, 1984, Pub.L. 98-369, Div. A, Title IV, § 412 (b)(4), 98 Stat. 792.)

[Code of Federal Regulations]  
[Title 26, Volume 17]  
[Revised as of April 1, 2001]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 26CFR301.6020-1]

[Page 21-22]

TITLE 26--INTERNAL REVENUE CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE  
TREASURY-- (Continued)

## PART 301--PROCEDURE AND ADMINISTRATION

Sec. 301.6020-1 Returns prepared or executed by district directors or other internal revenue officers.

(a) Preparation of returns--(1) In general. If any person required by the Code or by the regulations prescribed thereunder to make a return fails to make such return, it may be prepared by the district director or other authorized internal revenue officer or employee provided such person consents to disclose all information necessary for the preparation of such return. The return upon being signed by the person required to make it shall be received by the district director as the return of such person.

(2) Responsibility of person for whom return is prepared. A person for whom a return is prepared in accordance with subparagraph (1) of this paragraph shall for all legal purposes remain responsible for the correctness of the return to the same extent as if the return had been prepared by him.



(b) Execution of returns--(1) In general. If any person required by any internal revenue law or by the regulations prescribed thereunder to make a return (other than a declaration of estimated tax required under section 6015 or 6016) fails to make such return at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the district director or other authorized internal revenue officer or employee shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

(2) Status of returns. Any return made in accordance with subparagraph (1) of this paragraph and subscribed by the district director or other authorized internal revenue officer or employee shall be prima facie good and sufficient for all legal purposes.



(3) Deficiency procedures. For deficiency procedures in the case of income, estate, and gift taxes, see sections 6211 to 6216, inclusive, and Secs. 301.6211-1 to 301.6215-1, inclusive.

(c) Cross references. (1) For provisions that a return executed by a district director or other authorized internal revenue officer or employee will not start the running of the period of limitations [[Page 22]] on assessment and collection, see section 6501(b)(3) and paragraph (c) of Sec. 301.6501(b)-1.

(2) For additions to the tax and additional amounts for failure to file returns, see section 6651 and Sec. 301.6651-1, and section 6652 and Sec. 301.6652-1, respectively.

(3) For additions to the tax for failure to pay tax, see section 6653 and Sec. 301.6653-1.

(4) For criminal penalties for willful failure to make returns, see sections 7201, 7202, and 7203.

(5) For criminal penalties for willfully making false or fraudulent returns, see sections 7206 and 7207.

(6) For authority to examine books and witnesses, see section 7602 and Sec. 301.7602-1.

Figure 23-2

Order No. 182 (Rev. 3)

Effective date: 12-14-83 Authority to Execute Returns

The authority granted to the Commissioner of Internal Revenue by 26 CFR 301.6020-1(b) and 26 CFR 301.7701-9 to execute returns required by any internal revenue law or regulation made thereunder when the person required to file such return fails to do so, is delegated to:

1. Revenue agents;
2. Tax auditors;
3. Revenue officers, GS-9 and above;
4. Collection Office function managers, GS-9 and above;
5. Automated Collection Branch Managers, GS-9 and above; and
6. Service Center Collection Branch managers, GS-9 and above.

The authority delegated herein may not be redelegated. Delegation Order No. 182 (Rev. 2), effective March 7, 1983, is superseded.

/s/ James I. Owens  
Deputy Commissioner

The IRM restricts the broad delegation shown in figure 23-2, for revenue officers, to employment, excise, and partnership tax returns because of constitutional issues. (You have already studied audit referrals as a means to enforce compliance on income tax returns).

Generally you can file the following returns, using the authority granted by IRC section 6020(b):

1. Form 940, Employer's Annual Federal Unemployment Tax Return
2. Form 941, Employer's Quarterly Federal Tax Return



3. Form 942, Employer's Quarterly Tax Return for Household Employees
4. Form 943, Employer's Annual Tax Return for Agricultural Employees
5. Form 720, Quarterly Federal Excise Tax Return
6. Form 2290, Federal Use Tax Return on Highway Motor Vehicles
7. Form CT-1, Employer's Annual Railroad Retirement Tax Return
8. Form 1065, U.S. Partnership Return of Income.

When you recommend an assessment under IRC section 6020(b), you will prepare all the necessary returns for compliance. If a return will be due during the IRC section 6020(b) processing time, prepare it as well.

#### THE FIRST CONTACT

In a future lesson you will learn about interviewing taxpayers. One of the things you will discover is that the more information you obtain in your initial interview, the easier your job will be.

When you first contact the taxpayer to secure delinquent returns and if the taxpayer does not file the returns at once, establish a specific deadline for filing the returns. Try to secure sufficient information at that time so that you can prepare the returns if the taxpayer does not meet your deadline. During that visit, inform the taxpayer that if he or she does not file the return(s) by the specified deadline, IRS will consider that failure as a refusal to file. Also inform the taxpayer that if the returns aren't filed voluntarily, they may be prepared and filed for them by IRS under the authority of IRC section 6020(b).

#### PREPARATION OF THE RETURNS

Before preparing and processing returns under IRC 6020(b), the following actions must have been taken:

1. A field call, if required, must have been made within 30 days prior to the recommendation for assessment.
2. Sufficient information must have been obtained from the taxpayer or other sources to provide a complete explanation of the basis for the assessment.

**1.2.2.96 (Effective Date: 05-05-1997)****Order Number 182 (Rev. 7)****Execute Returns (Updated 10/02/2000 to reflect additional new organizational titles required by IRS Modernization.)**

1. **Authority:** To prepare or execute returns required by any internal revenue law or regulation when the person required to file such return fails to do so.
2. **Delegated to:** Internal Revenue Agents; Tax Auditors; Revenue Officers, GS-9 and above; Collection Support function managers, GS-9 and above; Automated Collection Branch Managers, GS-9 and above; Service Center Collection Branch Managers GS-9 and above; Detroit Computing Center Employment Tax Adjustment Program (ETAP) Support Managers, GS-9 and above.

**NOTE:**

This authority is also delegated to Automated Collection Branch Unit Managers GS-11 and above; SB/SE Tax Compliance Officers; Customer Service Collection Branch Managers GS-10 and above; Tax Resolution Representatives GS-9 and above.

1. **Redelegation:** This authority may not be redelegated.
2. **Sources of Authority:** 26 CFR 301.6020-1(b) and 26 CFR 301.7701-9.
3. To the extent that the authority previously exercised consistent with this Order may require ratification, it is hereby approved and ratified. This order supersedes Delegation Order No. 182 (Rev. 6), effective October 12, 1994.
4. Signed: John M. Dalrymple, for James E. Donelson, Acting Chief Compliance Officer



## IRS Resources

- [Compliance & Enforcement](#)
- [Contact My Local Office](#)
- [e-file](#)
- [Forms and Publications](#)
- [Frequently Asked Questions](#)
- [News](#)
- [Taxpayer Advocacy](#)
- [Where To File](#)

## Part 1. Organization, Finance and Management

### Chapter 2. Servicewide Policies and Authorities

#### Section 40. Delegation of Authorities for Organization, Finance and Management Activities

##### 1.2.40 Delegation of Authorities for Organization, Finance and Management Activities

- [1.2.40.1 Introduction](#)
- [1.2.40.2 Delegation Order 1-1 \(Rev. 1\)](#)
- [1.2.40.3 Delegation Order 1-3 \(formerly DO-19, Rev. 17\)](#)
- [1.2.40.4 Delegation Order 1-4 \(formerly DO-23, Rev. 15\)](#)
- [1.2.40.5 Delegation Order 1-5 \(formerly DO-25, Rev. 20\)](#)
- [1.2.40.6 Delegation Order 1-7 \(formerly DO-47, Rev. 18\)](#)
- [1.2.40.7 Delegation Order 1-10 \(formerly DO-74, Rev. 5\)](#)
- [1.2.40.8 Delegation Order 1-21 \(formerly DO-188, Rev. 5\)](#)
- [1.2.40.9 Delegation Order 1-25 \(formerly DO-229, Rev. 3\)](#)
- [1.2.40.10 Delegation Order 1-30 \(formerly DO-95, Rev. 14\)](#)
- [1.2.40.11 Delegation Order 1-31 \(New\)](#)
- [1.2.40.12 Delegation Order 1-32 \(New\)](#)
- [1.2.40.13 Delegation Order 1-33 \(New\)](#)
- [1.2.40.14 Delegation Order 1-34 \(New\)](#)
- [1.2.40.15 Delegation Order 1-35 \(New\)](#)
- [1.2.40.16 Delegation Order 1-36 \(New\)](#)
- [1.2.40.17 Delegation Order 1-37 \(formerly DO-201\)](#)
- [1.2.40.18 Delegation Order 12 \(Rev. 14\)](#)
- [1.2.40.19 Delegation Order 193 \(Rev. 6\)](#)
- [1.2.40.20 Delegation Order 28 \(Rev. 11\)](#)
- [1.2.40.21 Delegation Order 29 \(Rev. 5\)](#)
- [1.2.40.22 Delegation Order 46 \(Rev. 6\)](#)
- [1.2.40.23 Delegation Order 48 \(Rev. 15\)](#)
- [1.2.40.24 Delegation Order 50 \(Rev. 2\)](#)
- [1.2.40.25 Delegation Order 76](#)
- [1.2.40.26 Delegation Order 90 \(Rev. 3\)](#)
- [1.2.40.27 Delegation Order 100 \(Rev. 11\)](#)
- [1.2.40.28 Delegation Order 106 \(Rev. 16\)](#)
- [1.2.40.29 Delegation Order 110 \(Rev. 9\)](#)
- [1.2.40.30 Delegation Order 111 \(Rev. 13\)](#)
- [1.2.40.31 Delegation Order 115 \(Rev. 10\)](#)
- [1.2.40.32 Delegation Order 125 \(Rev. 5\)](#)
- [1.2.40.33 Delegation Order 133 \(Rev. 8\)](#)
- [1.2.40.34 Delegation Order 152 \(Rev. 4\)](#)
- [1.2.40.35 Delegation Order 164 \(Rev. 6\)](#)
- [1.2.40.36 Delegation Order 180 \(Rev. 3\)](#)
- [1.2.40.37 Delegation Order 185 \(Rev. 1\)](#)
- [1.2.40.38 Delegation Order 186 \(Rev. 3\)](#)
- [1.2.40.39 Delegation Order 187 \(Rev. 4\)](#)
- [1.2.40.40 Delegation Order 189 \(Rev. 6\)](#)
- [1.2.40.41 Delegation Order 192 \(Rev. 6\)](#)
- [1.2.40.42 Delegation Order 202 \(Rev. 3\)](#)

- 1.2.40.43 [Delegation Order 207 \(Rev. 3\)](#)
- 1.2.40.44 [Delegation Order 208 \(Rev. 6\)](#)
- 1.2.40.45 [Delegation Order 230 \(Rev. 2\)](#)
- 1.2.40.46 [Delegation Order 234 \(Rev. 1\)](#)
- 1.2.40.47 [Delegation Order 235 \(Rev. 1\)](#)
- 1.2.40.48 [Delegation Order 242 \(Rev. 1\)](#)
- 1.2.40.49 [Delegation Order 199 \(Rev. 3\)](#)
- 1.2.40.50 [Delegation Order 243 \(Rev. 1\)](#)
- Exhibit 1.2.40-1 [Delegation Orders by Old Number, New Number and Title](#)

### 1.2.40.1 (03-22-2006)

#### Introduction

1. This IRM contains a combination of newly restructured, renumbered and revised Delegation Orders and those that to date have not completed the clearance and approval process which relate to Organization, Finance and Management activities. Whether or not the numbers have changed, each Delegation Order is categorized by the process to which it belongs. Distribution of the IRM should be to all persons having a need for any of the Delegation Orders. The fact that Delegation Orders apply to all Service personnel involved in the type of program, activity, function, or work process covered by the Delegations of Authority remains unchanged.
2. Any Delegation Orders approved after this revision of IRM 1.2.40 can be found on the ReferenceNet web site under the Instructions to Staff tab at the top and then to "Recently Approved Delegation Orders. " They will remain on the web until the next revision is made to this IRM. The address is <http://rnet.web.irs.gov/index.htm>.
3. See *Exhibit 1.2.40-1* for a listing of Delegation Orders by new number, old number and title.

#### Note:

If any Delegation Orders have been inadvertently omitted from this Section they are still considered official and in full force and effect. Please send any discrepancies found to [spder@irs.gov](mailto:spder@irs.gov).

### 1.2.40.2 (01-25-2006)

#### Delegation Order 1-1 (Rev. 1)

1. **Order of Succession and Designation to Act as Commissioner of Internal Revenue**
2. **Authority:**To serve as the Commissioner's first assistant pursuant to 5 USC 3345 - 3349 and 31 C.F.R. Part 18.
3. **Delegated to:** Deputy Commissioner for Services and Enforcement.
4. **Redelegation:** This authority may not be redelegated.
5. **Authority:** To perform the functions of the Commissioner of Internal Revenue when the Commissioner, first assistant, or other acting officer designated by the President is unable to perform the functions and duties of the Commissioner's office in the event of an enemy attack on the United States, disability, absence from the main Treasury relocation Site, or vacancy in office, to insure the continuity of the functions of that office.
6. **Delegated to:** The following officials in the specific sequence listed.
  1. Deputy Commissioner for Operations Support
  2. Commissioner, Wage and Investment Division
  3. Commissioner, Small Business/Self-Employed Division

4. Chief Information Officer
  5. Commissioner, Large and Mid-Size Business Division
  6. Chief, Agency-Wide Shared Services
  7. Commissioner, Tax Exempt/Government Entities Division
  8. Chief, Criminal Investigation
  9. Chief, Mission Assurance
  10. Chief Financial Officer
  11. Chief Human Capital Officer
  12. Chief, Appeals
  13. Chief, Communications and Liaison
7. In the absence of all of these officials, the following officials are delegated this authority in the specific sequence listed.
1. Deputy Commissioner, Wage and Investment Division
  2. Deputy Commissioner, Small Business/Self-Employed Division
8. **Redelegation:** This authority may not be redelegated.
9. **Sources of Authority:** Treasury Order 150-10, Treasury Order 150-25, 5 U.S.C. 3345 - 3349 and 31 C.F.R. Part 18.
10. This Order supersedes Delegation Order 1-1, effective June 12, 2003.
11. Signed: Mark W. Everson, Commissioner of Internal Revenue.

#### **1.2.40.3 (04-07-2003)**

##### **Delegation Order 1-3 (formerly DO-19, Rev. 17)**

1. **Payment to Employees for Relocation Expenses**
2. **Authority:** To authorize or approve allowable expenses for transfers and appointment to a new official station under 5 USC Chapter 57, Subchapter II, 41 CFR Chapter 302, and Service travel and relocation guidance.
3. **Delegated to:** Division Commissioners, Chiefs, Chief Counsel, National Taxpayer Advocate, and their Deputies and the Director, Policy and Procedures.
4. **Redelegation:** Redelegation is authorized to a level no lower than Assistant Director, Deputy Director, Deputy Associate Chief Counsel, Deputy Division Counsel, and Special Agent In Charge or Assistant Special Agent In Charge.
5. **Source of Authority:** Treasury Order 101-05, Treasury Order 102-13, Treasury Order 150-10, and IRC 7803-7804.
6. To the extent that authority previously exercised consistent with the order may require ratification, it is hereby affirmed and ratified. This order supersedes Delegation Order 19 (Rev.17), effective April 3, 1991 (as amended).
7. Signed: Bob Wenzel, Acting Commissioner

#### **1.2.40.4 (12-16-2003)**

##### **Delegation Order 1-4 (formerly DO-23, Rev. 15)**

**1. Settlement of Tort Claims, Claims under the Small Claims Act, and Claims Made by an Employee of the Internal Revenue Service for Damage to or Loss of Personal Property Incident to Service**

**2. Authority:**

- A. To consider, ascertain, adjust, determine, compromise, settle, and pay or transmit for payment claims for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Internal Revenue Service pursuant to 28 U.S.C. § 2672 (Federal Tort Claims Act).
- B. To consider, ascertain, adjust, and determine claims under 31 U.S.C. § 3723 (Small Claims Act), except those claims set forth in the authorities below.
- C. To settle and pay claims made by an employee of the Internal Revenue Service for damage to or loss of personal property incident to his/her service pursuant to 31 U.S.C. § 3721 (Military Personnel and Civilian Employees' Claims Act).

**3. Delegated to:** IRS Claims Manager.

**4. Authority:** To consider, ascertain, adjust, and determine under 31 U.S.C. § 3723 claims for reimbursement of bank charges arising out of erroneous Service levies.

**5. Delegated to:** Chief Financial Officer. For matters under their responsibility, second level supervisors graded GS-13 or above in all Operating Divisions and the Taxpayer Advocate Service.

**6. Authority:** To consider, ascertain, adjust, and determine under 31 U.S.C. § 3723 claims for bank charges for stopping payment on a check, which the Service lost or misplaced and requested the taxpayer to replace.

**7. Delegated to:** Chief Financial Officer. For matters under their responsibility, first level supervisors graded GS-10 or above in all Operating Divisions and the Taxpayer Advocate Service.

**8. Redefinition:** These authorities may not be redelegated.

**9. Sources of Authority:** 31 C.F.R. Part 3, Treasury Order 101-15.

**10.** To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified. This order supersedes Delegation Order No. 23 (Rev. 15) (as amended).

**11.** Signed: John Dalrymple, Deputy Commissioner for Operations and Support

**1.2.40.5 (04-06-2003)**

**Delegation Order 1-5 (formerly DO-25, Rev. 20)**

**1. Reimbursement for Actual Expenses**

**2. Authority:** To authorize reimbursement for subsistence on an actual expense basis under circumstances and conditions permitted by the Federal Travel Regulation and Service travel and relocation guidance.

**3. Delegated to:** Division Commissioners, Chiefs, Chief Counsel, National Taxpayer Advocate, and their Deputies.

**4. Redefinition:** This authority may be redelegated to a level no lower than manager.

**5. Sources of Authority:** Treasury Order 101-05, Treasury Order 102-13, Treasury Order 150-10, and IRC 7803-7804.

6. To the extent that authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified. This order supersedes Delegation Order 25 (Rev. 20), effective April 3, 1991 (as amended).

7. Signed: Bob Wenzel, Acting Commissioner

**1.2.40.6 (04-07-2003)**  
**Delegation Order 1-7 (formerly DO-47, Rev. 18)**

1. **To Authorize Attendance at Meetings at Government Expense**

2. **Authority:**

A. To authorize the attendance of employees at meetings of scientific or professional societies; municipal, state, federal, or international organizations; Congress; and law enforcement or other groups; and

B. to authorize or approve attendance of employees at meetings held by employee groups, organizations, or associations.

3. **Delegated to:** Division Commissioners, Chiefs, Chief Counsel, National Taxpayer Advocate, and their Deputies.

4. **Redelegation:** This authority may be redelegated to a level no lower than manager.

5. **Sources of Authority:** Treasury Order 101-05, Treasury Order 102-13, Treasury Order 150-10, and IRC 7803-7804.

6. To the extent that authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified. This order supersedes Delegation Order 47 (Rev.18), effective April 3, 1991 (as amended).

7. Signed: Bob Wenzel, Acting Commissioner

**1.2.40.7 (04-07-2003)**  
**Delegation Order 1-10 (formerly DO-74, Rev. 5)**

1. **Travel of Personnel Detailed to the Internal Revenue Service**

2. **Authority:** To authorize employees from other bureaus, the Departmental offices, or other Government agencies to travel at the expense of IRS.

3. **Delegated to:** Division Commissioners, Chiefs, Chief Counsel, National Taxpayer Advocate, and their Deputies.

4. **Redelegation:** This authority may be redelegated to a level no lower than Deputy Director, Assistant Director, Deputy Associate Chief Counsel, Deputy Division Counsel, and Special Agent In Charge, or Assistant Special Agent In Charge.

5. **Sources of Authority:** Treasury Order 101-05, Treasury Order 102-13, Treasury Order 150-10, and IRC 7803-7804.

6. To the extent that authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified. This order supersedes Delegation Order 74 (Rev.5), effective May 25, 1988 (as amended).

7. Signed: Bob Wenzel, Acting Commissioner

**1.2.40.8 (10-02-2003)**  
**Delegation Order 1-21 (formerly DO-188, Rev. 5)**

1. **Authorization to Grant Case by Case Exemptions to the Financial Conflict of Interest Provision in 18 U.S.C. Subsection 208(a)**

2. **Authority:** To make written determinations under 18 U.S.C. subsection 208(b)(1) that the financial interest of an employee is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such employee if the employee participates personally and substantially in a matter in which the employee has a financial interest. Such determinations may be made only with the coordination and affirmative legal opinion of the Deputy Ethics Official or delegate, who is responsible for assuring compliance with the waiver procedures at 5 C.F.R. Part 2640 (Subpart C).
3. **Delegated To:** Division Commissioners, Chiefs, and Directors (and their Deputies), including the National Taxpayer Advocate, who report directly to the Commissioner or a Deputy Commissioner, for employees under their supervision and control. Unless prohibited by these officials in writing, or subject to such restrictions as they state in writing, this authority is also delegated to the officials listed in the chart below (for employees under their supervision and control).

AP	Appeals Directors
CL	Privacy Advocate and Directors, Offices of: Communications; Governmental Liaison and Disclosure; National Public Liaison; and Legislative Affairs.
EEO	No additional delegates. Approval authority may be exercised by the Deputy Chief, Equal Employment Opportunity and Diversity
RAS	No additional delegates. Approval authority to be exercised by the Director, Office of Research, Analysis and Statistics
TA	Taxpayer Advocate Service Directors
OS:A	No additional delegates. Approval authority to be exercised by Deputy Chief, AWSS.
OS:CFO	No additional delegates. Approval authority may be exercised by Deputy CFO.
OS:HC	No additional delegates. Approval authority may be exercised by Deputy CHCO.
OS:CIO	Chief, Information Technology Services and Directors reporting directly to that official; Associate and Deputy Associate Commissioners, Business Systems Modernization; Chief, Security Services; and SES officials within the Office of the Chief Information Officer.
OS:MA	No additional delegates. Approval authority may be exercised by the Chief, Mission Assurance or his or her Deputy.
SE:OTAC	No additional delegates. Approval authority may be exercised by the Deputy Director, Tax Administration Coordination.
SE:OPR	No additional delegates. Approval authority may be exercised by the Deputy Director, Office of Professional Responsibility.
SE:CI	Director, Strategy; Director, Operations Policy & Support; Area Directors; Director, Refund Crimes
SE:LM	Division Headquarters Directors; Director, International; Director, Field Specialists; Industry Directors; Directors Field Operations
SE:S	Division Headquarters Directors; Director, TEC; Director, CAS; Director, Accounts Management; Accounts Management Field Directors; Director, Compliance; Compliance Area Directors; Director, Compliance Services; Directors reporting directly to the Director, Compliance Services; Director, Compliance Policy; Directors reporting directly to the Director, Compliance Policy.
SE:T	Director, Employee Plans; Director, EP Rulings and Agreements; Director, EP Examination; Director, Exempt Organizations; Director, EO Rulings and Agreements; Director, EO Examination; Director, Government Entities; Director, Customer Account Services



SE:W&I Division Headquarters Directors; Directors of CARE, CAS, and Compliance; Field Directors for Submission Processing, Accounts Management, and Compliance Services; Director, Media & Publications; Director, SPEC; Director, Field Assistance; Directors, Field Assistance Areas; Director, Submission Processing; Director, Accounts Management; Director, Compliance Services

4. **Redelegation:** Division Commissioners, Chiefs, and Directors (including the National Taxpayer Advocate), who report directly to the Commissioner or a Deputy Commissioner, and their Deputies may redelegate the authority delegated in the paragraph above. Such redelegations may only be made to SES officials and without authority for further redelegation.
5. **Sources of Authority:** 18 USC 208(b)(1), IRC Section 7804, and Treasury Order 102-01.
6. This Order supersedes Delegation Order No. 188 (Rev. 5). To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified.
7. Signed: John Dalrymple, Deputy Commissioner for Operations Support

#### **1.2.40.9 (08-20-2003)** **Delegation Order 1-25 (formerly DO-229, Rev. 3)**

1. **Termination of Collection Action against Federal Depositories**
2. **Authority:** To compromise, suspend, or terminate collection action on debt claims against Federal depositories for deposit credit of tax collections that amount to more than \$1,500 but no more than \$100,000, exclusive of interest and penalties, upon written recommendation of Chief Counsel or Chief Counsel's designee, and to take appropriate action on such claims up to \$1,500 without the recommendation of Chief Counsel. This authority only refers to claims of deposit credit due for tax collections presented by Submission Processing Centers to their respective Federal Depositories, and does not apply to any claim where there is an indication of fraud or misrepresentation on the part of the debtor, nor does it apply to any other claims. Other orders delegate the authority to terminate collection on all other claims.
3. **Delegated to:** Directors, Submission Processing, Wage and Investment, and Deputy Director, Submission Processing, Small Business/Self-Employed Division for their jurisdictions. Where any delegate is disqualified from taking action due to a financial conflict of interest under 18 U.S.C. Section 208 or other disqualifying condition under 5 C.F.R. Part 2635, Subpart E, the action should be taken by the delegate's superior.
4. **Redelegation:** This authority may not be redelegated.
5. **Source of Authority:** Treasury Directive 34-02.
6. To the extent that authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified. This order supersedes Delegation Order 229 (Rev.3) effective April 9, 1999.
7. Signed: Bob Wenzel, Deputy Commissioner for Services and Enforcement.

#### **1.2.40.10 (04-07-2003)** **Delegation Order 1-30 (formerly DO-95, Rev. 14)**

1. **Approval of Travel Advances, Travel and Transportation Services, and Travel Vouchers**
2. **Authority:** To direct official travel and approve advances and travel vouchers for reimbursement of expenses, including non-workday travel, under the Federal Travel Regulation and Treasury and Service travel and relocation guidance.

3. **Delegated to:** Division Commissioners, Chiefs, Chief Counsel, National Taxpayer Advocate, and their Deputies.
4. **Redelegation:** This authority may be redelegated to a level no lower than manager.
5. **Sources of Authority:** Treasury Order 101-05, Treasury Order 102-13, Treasury Order 150-10, and IRC 7803-7804.
6. To the extent that authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified. This order supersedes Delegation Order 95 (Rev. 14), effective April 3, 1991 as amended).
7. Signed: Bob Wenzel, Acting Commissioner

**1.2.40.11 (04-07-2003)**  
**Delegation Order 1-31 (New)**

1. **Authorization and Approval of Tour Renewal Agreement Travel**
2. **Authority:** To make determinations and authorizations of tour renewal travel for employees assigned, appointed or transferred to a post of duty in Alaska or Hawaii under 5 USC 5728, 41 CFR Chapter 302, and Service travel and relocation guidance.
3. **Delegated to:** Division Commissioners, Chiefs, Chief Counsel, National Taxpayer Advocate and their Deputies.
4. **Redelegation:** This authority may be redelegated to a level no lower than Assistant Director, Deputy Director, Deputy Associate Chief Counsel and Deputy Division Counsel.
5. **Sources of Authority:** Treasury Order 101-05, Treasury Order 102-13, Treasury Order 150-10, and IRC 7803-7804.
6. To the extent that authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified.
7. Signed: Bob Wenzel, Acting Commissioner

**1.2.40.12 (04-07-2003)**  
**Delegation Order 1-32 (New)**

1. **Emergency Transportation and Storage of Privately Owned Vehicles**
2. **Authority:** To authorize emergency transportation and storage of privately owned vehicles to/from an official station outside the continental United States under 5 USC 5726, 41 CFR Chapter 302, and Service travel and relocation guidance.
3. **Delegated to:** Division Commissioners, Chiefs, Chief Counsel, National Taxpayer Advocate, and their Deputies.
4. **Redelegation:** This authority may be redelegated to a level no lower than Assistant Director, Deputy Director, Deputy Associate Chief Counsel or Deputy Division Counsel.
5. **Sources of Authority:** Treasury Order 101-05, Treasury Order 102-13, Treasury Order 150-10, and IRC 7803-7804.
6. To the extent that authority previously exercised consistent with the order may require ratification, it is hereby affirmed and ratified.
7. Signed: Bob Wenzel, Acting Commissioner

**1.2.40.13 (04-07-2003)**  
**Delegation Order 1-33 (New)**

1. **Travel for Emergency Purposes**

2. **Authority:** To authorize travel and transportation payment for emergency purposes under the Federal Travel Regulation and Service travel and relocation guidance.
3. **Delegated to:** Division Commissioners, Chiefs, Chief Counsel, National Taxpayer Advocate, and their Deputies.
4. **Redelegation:** This authority may be redelegated to a level no lower than manager.
5. **Sources of Authority:** Treasury Order 101-05, Treasury Order 102-13, Treasury Order 150-10, and IRC 7803-7804.
6. To the extent that authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified.
7. Signed: Bob Wenzel, Acting Commissioner

**1.2.40.14 (04-07-2003)**  
**Delegation Order 1-34 (New)**

1. **Payment of Travel Expenses for Threatened Law Enforcement and Investigative Employees**

2. **Authority:** To authorize payment of transportation and travel expenses for threatened law enforcement and investigative employees and members of their immediate families under circumstances and conditions covered by the Federal Travel Regulation and Service travel and relocation guidance.
3. **Delegated to:** Chief, Criminal Investigation, Area Directors, Deputies, and Special Agents In Charge.
4. **Redelegation:** This authority may not be redelegated.
5. **Sources of Authority:** Treasury Order 101-05, Treasury Order 102-13, Treasury Order 150-10, and IRC 7803-7804.
6. To the extent that authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified.
7. Signed: Bob Wenzel, Acting Commissioner

**1.2.40.15 (04-07-2003)**  
**Delegation Order 1-35 (New)**

1. **Authority to Use Non-contract Air Carriers**

2. **Authority:** To approve the use of non-contract air carriers rather than contract air carriers between city-pairs when justified under the circumstances in 41 CFR Part 301 and Treasury and Service travel and relocation guidance.
3. **Delegated to:** Division Commissioners and Chiefs, Chief Counsel, National Taxpayer Advocate and their deputies.
4. **Redelegation:** This authority may be redelegated to a level no lower than: Deputy Director, Assistant Director, Assistant Chief Counsel, Area Counsel, Special Agent In Charge, or Assistant Special Agent In Charge.
5. **Sources of Authority:** Treasury Order 101-05, Treasury Order 102-13, Treasury Order 150-10, and IRC 7803-7804.
6. To the extent that authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified.

7. Signed: Bob Wenzel, Acting Commissioner

**1.2.40.16 (04-07-2003)  
Delegation Order 1-36 (New)**

1. **Authority to Direct Official Travel by an Individual Employed Intermittently in the Government**
2. **Authority:** To direct official travel and approve travel vouchers for an expert or consultant who is paid on a daily when actually-employed basis and an individual serving without pay or at \$1 per year under 5 USC 5703, under the circumstances and conditions described in the Federal Travel Regulation and Service travel and relocation guidance.
3. **Delegated to:** Division Commissioners, Chiefs, Chief Counsel, National Taxpayer Advocate, and their Deputies.
4. **Redelegation:** This authority may be redelegated to a level no lower than Deputy Director, Assistant Director, Assistant Chief Counsel, Area Counsel, and Special Agent In Charge or Assistant Special Agent In Charge.
5. **Sources of Authority:** Treasury Order 101-05, Treasury Order 102-13, Treasury Order 150-10, and IRC 7803-7804.
6. To the extent that authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified.

7. Signed: Bob Wenzel, Acting Commissioner

**1.2.40.17 (07-21-2003)  
Delegation Order 1-37 (formerly DO-201)**

1. **Authority to Certify Destruction of IRS Records for Court Purposes**

**Note:**

This order reinstates and revises former Delegation Order 201 revoked March 18, 1997.

2. **Authority:** With telephone verification, to certify that a particular accession of IRS records has been destroyed.
3. **Delegated to:**
  - IRS Records Officer
  - AWSS Records Managers
4. **Redelgation:** This authority may not be redelegated.
5. **Source of Authority:** 26 CFR 301.7622-1
6. To the extent that authority previously exercised consistent with this order may require ratification; it is hereby affirmed and ratified.
7. Signed: John Dalrymple, Deputy Commissioner for Operations Support.

**1.2.40.18 (08-29-1996)  
Delegation Order 12 (Rev. 14)**

1. **Designation of Acting Supervisory Officials**

2. **Authority:** To designate acting supervisory officials in the Internal Revenue Service.
3. **Delegated to:** All supervisory officials.
4. **Redelegation:** This authority may not be redelegated.
5. **Sources of Authority:** Treasury Order 102-01 and Chapter 250, Human Resources Directorate Manual (formerly the Treasury Personnel Management Manual).
6. This order supersedes Delegation Order No. 12 (Rev. 13), effective June 20, 1994.
7. Signed: Michael P. Dolan for Margaret M. Richardson, Commissioner

#### **1.2.40.19 (11-08-2000) Delegation Order 193 (Rev. 6)**

1. **Authorization to Perform Functions of the Commissioner**
2. **Authority:** To perform any function the Commissioner is authorized to perform.
3. **Delegated to:** Deputy Commissioner.
4. **Authority:** To perform those functions the Commissioner is authorized to perform which arise out of, relate to, or concern the respective activities or functions administered by the delegated officials. Each of these officials will exercise this authority in his or her own capacity and under his or her own title and is responsible for referring matters to the Commissioner for action when appropriate.
5. **Delegated to:** Assistant Deputy Commissioners, Division Commissioners and Chiefs.
6. **Redelegation:** The authority in this order may not be redelegated.
7. **Authority:** To take actions previously delegated to District Directors, Regional Commissioners, Directors of Service Centers, and Assistant Commissioners by Treasury Regulations, Treasury Decisions, or Revenue Procedures for matters under their jurisdiction or cases under their responsibility; and to delegate same to officers and persons under their supervision, except where prohibited by law or where inconsistent with delegations reprinted in IRM 1.2, Section 2.
8. **Delegated to:** Assistant Deputy Commissioners, Division Commissioners; Chiefs; and Directors, Submission Processing Field, Compliance Services Field, and Accounts Management Field.
9. **Redelegation:** The officials identified in paragraph 8 may redelegate the authority provided in paragraph 7 as to matters under their jurisdiction and cases under their responsibility.
10. **Source of Authority:** Treasury Order No. 150-10; Treas. Reg. 301.7701-9; I.R.C. § 7701(a).
11. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. This order supersedes Delegation Order No. 193 (Rev. 5), effective August 29, 1996 (as amended November 24, 1999).
12. Signed: Charles O. Rossotti, Commissioner of Internal Revenue

#### **1.2.40.20 (02-01-2001) Delegation Order 28 (Rev. 11)**

1. **Designation of Officers and Employees as Authorized Certifying Officers**
2. **Authority:** To designate officer and employees to certify vouchers to disbursing officers for payment from funds under their jurisdiction; revoke the designation of

officer and employees to certify such voucher; and make certifications and give notices under regulations of the Treasury required for certifying vouchers to the Chief Disbursing Officer.

3. **Delegated to:** Director, Administrative Accounting Systems and Policies.
4. **Redelegation:** The Director, Administrative Accounting Systems and Policies may redelegate the authority to Chief Office of Financial Systems, Submissions Processing Center Directors, Computing Center Directors, and Director, Beckley Finance Center.
5. **Source of Authority:** Treasury Order 101-12.

**Note:**

A copy of each document delegating the authority delegated herein must be furnished to the Chief Disbursing Officer, and Financial Management Service, Treasury Department.

6. To the extent that the authority previously exercised consistent with the order may require ratification, is hereby approved and ratified.
7. This order supersedes Delegation Order No. 28 (Rev. 10), as amended, effective August 2, 1996.
8. Signed: Bob Wenzel, Deputy Commissioner

**1.2.40.21 (05-15-2002)  
Delegation Order 29 (Rev. 5)**

1. **Certification and Approval of Internal Revenue Collections**
2. **Authority:** To certify and approve as accountable officers Internal Revenue collections in such manner and on such forms as the Financial Management Service of the Department of the Treasury shall designate and/or require pursuant to the provisions of the Treasury Financial Manual, and all amendments and revisions thereof, and to designate in writing employees of the Internal Revenue Service under their supervision who have authority to do the same.
3. **Delegated to:** Commissioners, Wage and Investment and Small Business/Self Employed Divisions; the Chief Financial Officer; and the field Submission Processing Directors.
4. **Redelegation:** Except as provided below, the authority described in paragraph 1 may not be redelegated. The Chief Financial Officer may redelegate the authority to designate officers and employees for the purpose described in paragraph 1, but designates identified pursuant to such redelegated authority may not be below the branch level.
5. **Source of Authority:** Treasury Order 150-08
6. To the extent that the authority previously exercised consistent with this Order may require ratification, it is hereby approved and ratified. This Order supersedes Delegation Order No. 29 (Rev. 4), effective October 4, 1990.
7. Signed: Bob Wenzel, Deputy Commissioner

**1.2.40.22 (10-05-2001)  
Delegation Order 46 (Rev. 6)**

1. **Authority to Direct and Conduct IRS Records Management and Disposal**

**Note:**

Delegation Order Number 46 was revoked in 1997 because it was believed to be procedural in nature. Since this authority rests with the Commissioner a restatement of the Order is required.

2. **Authority:**To direct and conduct Internal Revenue Service records management and disposal and to serve as bureau records management officer under Treasury Directive 80-05.
3. **Delegated to:** IRS Records Officer
4. **Redelegation:** This authority may not be redelegated.
5. **Sources of Authority:** Treasury Directive 80-05; 44 USC Section 3101 and 44 USC Section 3102.
6. To the extent that previously exercised authority consistent with this order may require ratification, it is hereby approved and ratified. This Order reinstates and revised former Delegation Order No. 46 (Rev. 5), effective October 31, 1987 and revoked March 18, 1997.
7. Signed: Charles O. Rossotti, Commissioner of Internal Revenue

### **1.2.40.23 (04-03-1991) Delegation Order 48 (Rev. 15)**

1. **Foreign Travel (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. Pursuant to authority delegated to the Commissioner of Internal Revenue by Treasury Directive 74-07, Department of the Treasury Directives Manual Chapter TD 70, Section 02:
  - A. The officials who may authorize officers and employees performing functions under their general supervision to travel to points outside the United States and its possessions, including travel incident to changes in post of duty include the Assistant Commissioner (International), Deputy Chief Counsel, Associate Chief Counsel (International) and the Deputy Associate Chief Counsel (International). Note: This authority is also delegated to Director, International.
  - B. The Assistant Commissioner (International) may authorize officers and employees to travel to points outside the United States and its possessions, except for employees of the officials listed in 1a above. When it is determined that contact with the Assistant Commissioner (International) would be inappropriate for Inspection employees, the Deputy Commissioner shall authorize such travel by Inspection employees.

**Note:**

This authority is also delegated to Director, International.

- C. Directors for Buffalo, Detroit and Seattle Districts are authorized to approve travel to certain contiguous districts for Collection, Criminal Investigation and Examination employees under their supervision, with respect to specific activities described in text 422 of IRM 1763, Travel Handbook. Contiguous districts are defined as follows: Buffalo District, for the metropolitan areas of St. Catharines and Hamilton, Ontario; Detroit District, for metropolitan Windsor, Ontario; and Seattle District, for metropolitan Vancouver, British Columbia.
- D. The designated officials in a above are authorized to sign communications to the Director, Passport Office, Department of State, regarding proposed trips to foreign countries. Notification to the Department of State should be made as far in advance as possible.

**Note:**

SB/SE Area Directors, LMSB Directors of Field Operations and TE/GE Area Managers, TE/GE Directors of Federal, State and Local Governments, Indian Tribal Governments and Tax Exempt Bonds, with responsibility in certain contiguous areas are authorized to approve travel to certain contiguous areas for employees under their supervision with respect to specific activities described in text 622 of IRM 1763.

3. The authority delegated may be redelegated only by the officials listed and may not be further redelegated. The authority delegated in c above may not be redelegated.
4. The Directors, Offices of Taxpayer Service and Compliance, Tax Administration Advisory Services, and International Programs are authorized to specify rates of per diem for foreign travel in individual cases, upon a determination that rates prescribed by the State Department, Department of Defense, or the General Services Administration are not reasonably commensurate with the detailed individual's subsistence expenses. Such specified rates may not exceed maximum rates established by statute and by higher authority. The authority herein delegated may not be redelegated.

**Note:**

This authority is also delegated to Director, International.

5. Supervisors are authorized to approve an advance of funds for foreign travel once the foreign travel has been approved by the officials delegated above.
6. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. Delegation Order No. 48 (Rev. 14) effective January 1, 1991, is superseded.
7. Signed: John D. Johnson, Chief Financial Officer

**1.2.40.24 (10-31-1987)  
Delegation Order 50 (Rev. 2)**

1. **Withholding Compensation Due Personnel (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Fiscal Service Circular No. 871, First Supplement, dated November 12, 1954, there is hereby delegated to the Director, Finance Division, Assistant Commissioner (International), and to Regional Commissioners authority to make administrative determination of the amount of an erroneous payment, based on a statement of findings of fact, and to arrange with the employee the method of repayment and the amounts to be collected or deducted from the gross pay of the individual, in accordance with regulations prescribed by the Treasury Department.

**Note:**

This authority is also delegated to Assistant Deputy Commissioners, Division Commissioners; Deputy Division Commissioners; Chiefs; Deputy Chiefs; Executive Officer for Service Center Operations; Director, Customer Account Services; National Taxpayer Advocate; Deputy National Taxpayer Advocate; Directors, Submission Processing Field, Directors, Accounts Management Field and Directors, Compliance Services Field.

3. The authority delegated herein may be redelegated. Delegation Order No. 50 (Rev. 1), effective May 12, 1986, is superseded.
4. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified.
5. Signed: John L. Wedick, Jr., Deputy Commissioner (Planning and Resources)



#### **1.2.40.25 (01-20-1995)**

##### **Delegation Order 76**

1. **Signing Reports on Budget Status Required by Office of Management and Budget Circular No. A-34 (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. Pursuant to the authority vested in the Commissioner of Internal Revenue, under regulations contained in Treasury Department Accounting Policy Circular No. 3, authority is hereby delegated to the National Director for Budget, to sign reports on budget status required by Office of Management and Budget Circular No. A-34.

##### **Note:**

This authority is also delegated to Director, Strategic Planning and Budget.

3. This authority may not be redelegated.
4. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. Delegation Order 76 (Rev. 3), effective July 20, 1994, is superseded.
5. Signed: C. Morgan Kinghorn, Chief Financial Officer

#### **1.2.40.26 (06-13-1994)**

##### **Delegation Order 90 (Rev. 3)**

1. **Approval of Standard Form 1151, Nonexpenditure Transfer Authorization**
2. Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department Accounting Policy Circular No. 12, dated March 19, 1963, authority is hereby delegated to the Chief Financial Officer to approve Standard Form 1151, Nonexpenditure Transfer Authorization, for non-expenditure transfers from appropriated funds of the Internal Revenue Service.
3. This authority may not be redelegated.
4. Delegation Order No. 90 (Rev. 2), effective August 18, 1992, is superseded.
5. Signed: Michael P. Dolan, Deputy Commissioner

#### **1.2.40.27 (04-03-1991)**

##### **Delegation Order 100 (Rev. 11)**

1. **Furnishing Special Statistical Studies, Compilations, Return and Return Information, Training, and Training Aids (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. The authority to furnish information on a reimbursable basis, provided by 26 USC 6108 and delegated to the Commissioner of Internal Revenue by Treasury Order 150-10, is hereby redelegated to the Assistant Commissioner (Returns Processing). Upon written request of any person and agreement by such person to pay the cost of the work or services to be performed, the Assistant Commissioner (Returns Processing) is authorized to provide special statistical studies and compilations involving return information (as defined in 26 USC 6103(b)(2)). No publication or disclosure of statistics or other information authorized under this delegation shall permit the disclosure of any information that would be associated with or otherwise identify, directly or indirectly, a particular taxpayer.

##### **Note:**

This authority is also delegated to the Director, Statistics of Income, Chief, Criminal Investigation and Chief, Appeals.

This authority may not be redelegated below the level of Division Director.

3. The authority to enter into contracts to furnish information on a reimbursable basis under 26 USC 6103, and delegated to the Commissioner of Internal Revenue by Treasury Order 150-10, is hereby redelegated to the Chief Inspector and all Assistant Commissioners. Upon written request by any person and agreement by such person to pay the cost of work to be performed, the Chief Inspector or the Assistant Commissioner having functional responsibility over the resources to be utilized in filling this request may authorize the providing of services or the furnishing of return and return information upon determination by the Commissioner or his/her delegate that information to be furnished is disclosable under 26 USC 6103. Any return or return information (as defined in 26 USC 6103(b)(1) and (2)) provided under this paragraph is subject to disclosure laws, regulations, and internal operating instructions covering 26 USC 6103. Joint authorization may be appropriate if filling the request requires utilization of resources in more than one functional area.

**Note:**

This authority is also delegated to Assistant Deputy Commissioners, Division Commissioners; equivalent-level Director of Strategy, Research and Program Planning; or equivalent position under the jurisdiction of the Division Commissioner.

4. This authority may not be redelegated below the level of Division Director or equivalent level position.
5. The authority delegated to the Commissioner of Internal Revenue by 26 CFR 301.7516-1 is hereby redelegated to the Assistant Commissioner (International); Chief Inspector; Regional Commissioners; District, Service Center and Austin Compliance Center Directors; and/or, Directors, Detroit and Martinsburg Computing Centers, within their discretion, upon written request, to admit employees and officials of any State, the Commonwealth of Puerto Rico, any possession of the United States, any political subdivision or instrumentality of any of the foregoing, and the District of Columbia to training courses conducted by the Internal Revenue Service and to authorize that they be supplied with texts and other training aids.

**Note:**

This authority is also delegated to the Assistant Deputy Commissioners, Division and Deputy Division Commissioners; Chiefs; Deputy Chiefs; Directors reporting to Assistant Deputy Commissioners, Division Commissioners and Chiefs; Directors, Customer Service Centers, Directors, Accounts Management Field and Directors, Compliance Services Field; Directors, Submission Processing Field; Directors, Computing Centers; National Taxpayer Advocate; Deputy National Taxpayer Advocate; Area Advocates.

6. The authority to admit officials of foreign governments to training courses conducted by IRS and to authorize that they be supplied with texts and other training aids is hereby redelegated to the Assistant Commissioner (International).

**Note:**

This authority is also redelegated to Director, International.

7. The Chief Inspector or the Assistant Commissioner having functional responsibility over the resources to be utilized in filling such requests may require payment of a reasonable fee not to exceed the cost of the training and training aids supplied pursuant to request from the party or parties making such requests.

**Note:**

This authority is also delegated to Assistant Deputy Commissioners, Division Commissioners; Chiefs; Deputy Chiefs; Directors reporting to Chiefs and Assistant Deputy Commissioners, Division Commissioners; National Taxpayer Advocate; Deputy National Taxpayer Advocate; and Area Advocates.

8. This authority may not be redelegated.

9. Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Order No. 150-10, there is hereby delegated to the Assistant Commissioner (Employee Plans and Exempt Organizations) **and/or TE/GE Division Commissioner** the authority to enter into interagency agreements with federal and state agencies. This authority only applies to agreements that are necessary to promote more effective coordination and exchange of information on employee plans and exempt organizations described in section 501(a) of the Internal Revenue Code and political organizations described in section 527 of the Internal Revenue Code. Any agreement entered into under this paragraph (4) must comply with the requirements of Code section 6103 and the regulations thereunder. To the extent that an interagency agreement under this paragraph is issued under the authority of the Economy Act (31 U.S.C. 1535), such agreement may only be executed after a Determination and Findings is authorized by the Assistant Commissioner (Human Resources and Support) **and/or Chief, Management and Finance**. This authority may not be further redelegated.
10. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. Delegation Order No. 100 (Rev. 10), effective April 4, 1990, is superseded.
11. Signed: John D. Johnson, Chief Financial Officer

**1.2.40.28 (10-25-1996)**  
**Delegation Order 106 (Rev. 16)**

1. **Delegation of Procurement Authority (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. **Authority:** To enter into, make determinations and decisions, and take other actions with respect to purchases, contracts, leases, and other contractual procurement transactions; designate persons qualified in procurement matters as contracting officers; establish clear lines of contracting authority; maintain high qualification standards for procurement personnel; and perform all other delegated functions in Treasury Directive (TD) 12-11.
3. **Delegated to:** Assistant Commissioner (Procurement).

**Note:**

This authority is also delegated to Director, Procurement in Agency-Wide Shared Services.

4. **Redelegation:** This authority may be redelegated by the Assistant Commissioner (Procurement) **and/or Director, Procurement**, as deemed necessary, to officers and employees of the IRS, except that the authority of TD 12-11, paragraphs 1.a.(2) and 1.a.(3) may be delegated only to personnel meeting the requisite qualification standards to serve as Contracting Officers for the United States for the type and complexity of procurement actions specified.
5. **Source of Authority:** Treasury Directive 12-11, effective October 31, 1995.
6. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. This order supersedes Delegation Order No. 106 (Rev. 15), effective May 7, 1991.
7. Signed: Margaret M. Richardson, Commissioner

**1.2.40.29 (05-15-2002)**  
**Delegation Order 110 (Rev. 9)**

1. **Requests for Waivers of Claims Against Present or Former IRS Employees for Erroneous Payments of Pay and Allowances and Travel, Transportation, and Relocation Expenses and Allowances**

2. **Authority:** To waive, in whole or in part, erroneous payments of pay and allowances excluding travel, transportation, and relocation expenses and allowances not exceeding \$5,000 AND to recommend to the Deputy Chief Financial Officer, Department of the Treasury, the approval, in whole or in part, of requests for waivers of those payments exceeding \$5,000.
3. **Delegated to:** Director, Personnel Services for payments to all present or former IRS employees and Counsel employees (excluding Counsel attorneys) located in field locations; Associate Chief Counsel (Finance and Management) for present or former Counsel headquarters employees and Counsel attorneys located at field locations.
4. **Redelegation:** This authority may not be redelegated.
5. **Authority:** To waive, in whole or in part, erroneous payments of travel, transportation, and relocation expenses and allowances to all present or former IRS, and Counsel employees (including attorneys) not exceeding \$5,000 AND to recommend to the Deputy Chief Financial Officer, Department of the Treasury, the approval, in whole or in part, of requests for waiver of those payments to all present or former IRS, or Counsel employees exceeding \$5,000.
6. **Delegated to:** Chief Financial Officer
7. **Redelegation:** The authority to waive payments may be redelegated only to the Director, Administrative Accounting, Systems and Policies.
8. **Authority:** To deny requests for waiver in any amount.
9. **Delegated to:** All officials having approval authority for waiver of claims up to \$5,000 under this delegation order. If a request for waiver of an erroneous payment is denied, the employee must be advised of his or her right to appeal the denial to the Deputy Chief Financial Officer, Department of the Treasury.
10. **Source of Authority:** Treasury Directive 34-01
11. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified. This order supersedes Delegation Order No. 110 (Rev. 8), effective May 13, 1996, and guidance issued via memorandum dated June 26, 1998, to Directors Support Services, Associate Chief Counsel (Finance and Management), and Chief, Headquarters Operations.
12. Signed: Bob Wenzel, Deputy Commissioner

**1.2.40.30 (07-31-1996)**  
**Delegation Order 111 (Rev. 13)**

1. **Agency Collection Action (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. **Authority:** To collect claims of the United States and to compromise, terminate, or suspend collection action on claims not exceeding \$100,000, exclusive of interest, upon written recommendation of Chief Counsel or Chief Counsel's designee (except claims arising from damage to, or loss of, Government property, breach of contract cases, or other damages arising from tortious acts against the Service), and terminate collection action on claims up to \$1,500 without the recommendation of Chief Counsel.
3. **Delegated to:** Regional Controllers; Chief, Office of Financial Reports; Chief, Office of Travel Management and Relocation; Associate Chief Counsel (Finance and Management); Chief, Headquarters Operations; Director of Support Services; and Chiefs, Support Services Host Site.

**Note:**

This authority is also delegated to Directors of Financial Management (or equivalent) who report to Assistant Deputy Commissioners, Division Commissioners, Chiefs,

National Taxpayer Advocate; and Director, Personnel Services and Personnel Officers reporting directly to Director, Personnel Services.

4. Also, Regional Chiefs, Accounting Branches, and Director, Headquarters Human Resources—claims up to \$750 without the recommendation of Chief Counsel.
5. **Authority:** To collect claims and to compromise, terminate, or suspend collection action on claims arising from damage to, or loss of, Government property, breach of contract cases, or other damages arising from tortious acts against the Service up to \$5,000, exclusive of interest and costs of the United States, arising out of field activities upon written recommendation of Regional Counsel **and/or Operating Division Counsel**, and to terminate collection on these claims up to \$1,500 without the recommendation of Regional Counsel **and/or Operating Division Counsel**.
6. **Delegated to:** Directors of Support Services.

**Note:**

Also delegated to Director, Personnel Services.

7. **Authority:** To collect claims of the United States and to compromise, terminate, or suspend collection action on claims not exceeding \$100,000 for money or property arising out of the activities of, or referred to, the Service, for damage to, or loss of, Government property, breach of contract cases, or other damages arising from tortious acts against the Service upon written recommendation of Chief Counsel **and/or the Chief Counsel's designee** and to terminate collection action on these claims up to \$1,500 without the recommendation of Chief Counsel **and/or the Chief Counsel's designee**.
8. **Delegated to:** IRS Claims Manager
9. **Authority:** To compromise, terminate, or suspend collection action on claims related to employee clearance and employee indebtedness including claims arising from payroll/personnel processing through the Treasury Integrated Management Information System (TIMIS) not exceeding \$100,000, exclusive of interest, upon written recommendation of Chief Counsel or Chief Counsel's designee, and to terminate collection action on these claims up to \$1,500 without the recommendation of Chief Counsel.
10. **Delegated to:** Associate Chief Counsel (Finance and Management); Chief, Headquarters Operations; Directors of Support Services; Chiefs, Support Services Host Site; District Directors; Service Center Directors; and Compliance Center Directors.

**Note:**

This authority is also delegated to Directors of Financial Management or equivalent reporting to Assistant Deputy Commissioners, Division Commissioners, Chiefs, National Taxpayer Advocate; Directors, Submission Processing Field; Directors, Customer Service Centers, Directors, Accounts Management Field and Directors, Compliance Services Field; and Director, Personnel Services (AWSS) and personnel officers reporting to Directors, Personnel Services.

11. Also, Director, Headquarters Human Resources—claims up to \$750 without the recommendation of Chief Counsel.

**Note:**

This authority is also delegated to Directors of Financial Management or equivalent reporting to Assistant Deputy Commissioners, Division Commissioners, Chiefs, National Taxpayer Advocate; and Director, Personnel Services (AWSS) and personnel officers reporting to Director, Personnel Services.

12. **Redelegation:** The authority delegated in this Order may not be redelegated.

13. **Source of Authority:** Treasury Directive 34–02
14. This Order does not apply to claims for deposit credit of tax collections against federal depositories or any claim where there is an indication of fraud or misrepresentation on the part of the debtor.
15. To the extent that the authority previously exercised consistent with this Order may require ratification, it is hereby approved and ratified. This Order supersedes Delegation Order No. 111 (Rev. 12), effective December 8, 1993.
16. Signed: Anthony Musick, Chief Financial Officer

**1.2.40.31 (05-25-2001)**  
**Delegation Order 115 (Rev. 10)**

1. **Audit and Settlement of Accountable Officer's Accounts—Revenue Accounting**
2. **Authority:** To resolve, by administrative action appropriate to the circumstances, irregularities due to physical loss or deficiency arising from a single incident or series of similar incidents arising about the same time and involving the same accountable officer, amounting to less than \$3,000. This authority does not apply to irregularities involving illegal, improper or incorrect payments, both in nature and amount, including those resulting from fraud, forgery, alteration of voucher and other improper practices and exceptions or charges raised by GAO. Embezzlement of less than \$3,000 not involving payments, may be resolved by administrative action.
3. **Delegated to:** Director, Submission Processing, Wage and Investment Division and the Director, Customer Account Services, Small Business/Self-Employed Division for their jurisdictions. Where any delegate is disqualified from taking action due to a financial conflict of interest under 18 U.S.C. Section 208 or other disqualifying condition under 5 C.F.R. Part 2635, Subpart E, the action should be taken by the delegate's superior.
4. **Redelegation:** This authority may not be redelegated.
5. **Source of Authority:** Treasury Directive 32–04.
6. To the extent that authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified. This order supersedes Delegation Order No. 115 (Rev. 9), effective January 31, 1998.
7. Signed: Bob Wenzel, Deputy Commissioner

**1.2.40.32 (05-11-1995)**  
**Delegation Order 125 (Rev. 5)**

1. **Settlement of Accounts and Relief of Accountable Officers**
2. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Directive 32-04, there is hereby delegated to the National Director for Systems and Accounting Standards the authority to:
  - A. Resolve, by administrative action appropriate to the circumstances, irregularities due to physical loss or deficiency in all imprest funds arising from a single incident or series of similar incidents occurring about the same time, amounting to less than \$3,000. This authority applies to the administrative accounts of Certifying Officers, Assistant Certifying Officers, Imprest Fund Cashiers or other employees who are responsible for or have custody of public administrative funds. This authority does not apply to irregularities involving illegal, improper, or incorrect payments, both in nature and amount, including those resulting from fraud, forgery, alterations of voucher, and other improper practices and exceptions or charges; raised by the General Accounting Office .
  - B. Resolve administratively, illegal, improper, or incorrect payments involving

amounts of \$100 or less; and

- C. Review requests for relief and forward to GAO irregularities of \$3,000 or more.
- 3. The authority delegated herein may not be redelegated.
- 4. To the extent that authority previously exercised consistent with this Order may require ratification, it is hereby affirmed and ratified. This Order supersedes Delegation Order No. 125 (Rev. 4), effective August 18, 1992.
- 5. Signed: C. Morgan Kinghorn, Chief Financial Officer

**1.2.40.33 (09-26-1994)  
Delegation Order 133 (Rev. 8)**

1. **Authority to Perform Operating Functions Relating to Personnel Security (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. The authority vested in me by Treasury Directive 12-32, is hereby delegated to the officials indicated below, for performing the operating functions relating to Internal Revenue personnel security, including the designation of position sensitivity and granting of security clearances and the denial or termination of clearances based upon a determination that they are not required, **except** security clearances for:
  - A. Presidential appointees requiring confirmation by the Senate;
  - B. Occupants of Executive level positions (Commissioner, Deputy Commissioner, and Chief Counsel); and
  - C. Assistant Chief Inspector (Internal Security).
3. The Deputy Commissioner and **Assistant Deputy Commissioners** is authorized to deny security clearances; and grant and terminate security clearances for officials and employees occupying Executive Resources Board positions. This authority may not be redelegated.
4. The **Personnel Security Officer** [former authority held by Assistant Chief Inspector (Internal Security)] is authorized to grant and terminate security clearances for officials and employees occupying other than the positions cited in 2 above. This authority cannot be redelegated.
5. The Director, Strategic Human Resources Division, is authorized to designate position sensitivity for:
  - A. positions identified as a result of the 1984 Deputy Commissioner's Personnel Security Task Force under criteria described in IRM 0736.
  - B. class of positions affecting 200 or more employees. In this instance, the **Personnel Security Officer** (replacing Director, Human Resources Division authority), must be notified so that, in turn, he/she may notify the **Chief, National Background Investigation Center** [former authority held by Assistant Chief Inspector (Internal Security)], that there will be an impact on the resources of that function.
6. The **Directors, Human Resources reporting to Assistant Deputy Commissioners, Division Commissioners, Chiefs, and National Taxpayer Advocate and the Chief, Personnel/Human Resources Branch**, in consultation with the **Personnel Security Officer**, are authorized to designate position sensitivity for employees under his/her jurisdiction except as indicated in paragraph 4.
7. If the designation of position sensitivity by **Directors, Human Resources** (replacing Chief, Personnel/Human Resources Branch), does not conform to standards published in IRM 0736, the **Personnel Security Officer** (replacing Director, Human Resources Division), has the authority to reverse these designations.

8. The authority in Paragraphs 4, 5 and 6 may not be redelegated.
9. The authority to deny, withdraw, or terminate clearances based upon security implications **is not** granted by this Delegation Order. Such authority is held by the Director, Office of Security, Department of the Treasury, as delegated by the Secretary of the Treasury and the Assistant Secretary (Management).
10. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. Delegation Order No. 133 (Rev. 7), effective April 3, 1991, is superseded.
11. Signed: Margaret M. Richardson, Commissioner

**1.2.40.34 (05-25-2001)**  
**Delegation Order 152 (Rev. 4)**

1. **Collections from Employees of the Internal Revenue Service**
2. **Authority:** To issue a notice and demand for payment of any funds due the United States from any employee of the Internal Revenue Service who fails to account for and pay over any amount of money or property collected or received by them in connection with Internal Revenue Laws. If payment is not received within the time limit prescribed by the notice and demand, the unpaid amount is deemed assessed as of the date of the notice and appropriate action will be taken as required by subsection 7804(c) of the Internal Revenue Code.
3. **Delegated to:** Submission Processing Field Directors. Where any delegate is disqualified from taking action due to a financial conflict of interest under 18 U.S.C. Section 208 (including potential liability for a loss or shortage) or other disqualifying condition under 5 C.F.R. Part 2635, Subpart E, the action should be taken by the delegate's superior.
4. **Redelegation:** This authority may not be redelegated.
5. **Source of Authority:** Treasury Order 150-15
6. To the extent that authority previously exercised consistent with this order may require ratification; it is hereby affirmed and ratified. Delegation Order No. 152 (Rev. 3), effective October 4, 1990 (as amended) is superseded.
7. Signed: Bob Wenzel, Deputy Commissioner

**1.2.40.35 (04-30-1997)**  
**Delegation Order 164 (Rev. 6)**

1. **Authority to Prescribe Identification Media (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. **Authority:** To prescribe identification media for use within the Internal Revenue Service.
3. **Delegated to:** Chief, Management and Administration.

**Note:**

This authority is also delegated to the Assistant Deputy Commissioners; Chief, Agency-Wide Shared Services.

4. **Redelegation:** This authority may not be redelegated.
5. **Source of Authority:** Treasury Order 150-10.
6. To the extent that the authority previously exercised consistent with this order may



require ratification, it is hereby approved and ratified. This Order supersedes Order No. 164 (Rev. 5), effective May 11, 1995.

7. Signed: Michael P. Dolan, Deputy Commissioner

**1.2.40.36 (10-08-1996)  
Delegation Order 180 (Rev. 3)**

1. **Requests for Customer Financial Records from Financial Institutions Pursuant to a Formal Written Request (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. **Authority:** To request financial records of a customer from a financial institution pursuant to a formal written request under Section 1108 of the Right to Financial Privacy Act of 1978 (92 Stat. 3697 *ate sea.* , 12 U.S.C. 3401 *ate seq.* ).
3. **Authority:** To perform the tasks enumerated in the Act, including:
  - A. issuing notice to the customer as required in Sections 1104(a), 1105(2), 1106 (b and c), 1107(2), 1108(4), and 1112(b);
  - B. applying to the appropriate United States Attorney who may petition in the United States district court for delay of notice to the customer pursuant to Section 1109;
  - C. issuing post-notice to the customer that there has been a court-ordered delay as required in Section 1109(b)(3) and Section 1109(c);
  - D. issuing notice to the customer that no legal proceeding is contemplated as required in Section 1110(d)(2);
  - E. issuing notice to the customer that customer record information has been transferred to another agency as required in Section 1112(b);
  - F. certifying in writing to a financial institution in accordance with Section 1103(b) that all applicable provisions of this Act have been complied with when such certification is required;
  - G. transferring customer record information in accordance with Section 1112(a) to another Federal department or agency;
  - H. certifying that delay in obtaining access to customer financial records would create an imminent danger as required by the special procedures provision in Section 1114(b); and
  - I. requesting account information as required in Section 1113(g).
4. **Delegated to:** Chief Inspector, Assistant Chief Inspector (Internal Security), Director, Office of Investigations and Technology, Regional Inspectors, and Assistant Regional Inspectors (Internal Security).

**Note:**

This authority is also delegated to the Personnel Security Officer.

5. **Redelegation:** This authority may not be redelegated.
6. **Source of Authority:** 31 CFR Part 14 - Right to Financial Privacy Act.
7. A copy of this delegation order should be provided to financial institutions should they question the authority of the official to issue a formal written request for financial records.
8. To the extent that the authority previously exercised consistent with this order may

require ratification, it is hereby approved and ratified. This order supersedes Delegation Order No. 180 (Rev. 2), effective July 28, 1994.

9. Signed: Michael P. Dolan, Deputy Commissioner

**1.2.40.37 (08-18-1992)  
Delegation Order 185 (Rev. 1)**

1. **Authority to Provide Advice on Questionable Payments**
2. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Directive 12-02, there is hereby delegated to the Director, Systems and Accounting Standards, the authority to provide to disbursing and certifying officers of the Service, upon application, written advice concerning any question involving a payment to be made by them or a payment on any voucher presented for certification, involving minor amounts of \$25 or less.
3. This authority may not be redelegated.
4. This Order supersedes Delegation Order No. 185, effective September 28, 1980.
5. Signed: Philip Brand, Chief Financial Officer, Date: July 24, 1992

**1.2.40.38 (03-10-1999)  
Delegation Order 186 (Rev. 3)**

1. **Authority to Establish Travel and Relocation Regulations and Allowances (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. **Authority:** To make regulations, standards, requirements, guidelines, and allowances for temporary duty and relocation travel incident to official business for the IRS.
3. **Delegated to:** National Director for Systems and Accounting Standards.

**Note:**

This authority is also delegated to Director, Systems and Accounting Standards.

4. **Redelegation:** This authority may not be redelegated.
5. **Source of Authority:** 41 CFR Chapter 301, Treasury Directive 74-07, IRM 1763, Travel Handbook.
6. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. This Order supersedes Delegation Order 186 (Rev. 2), effective May 24, 1994.
7. Signed: Donna H. Cunnigham, Chief Financial Officer

**1.2.40.39 (01-20-1995)  
Delegation Order 187 (Rev. 4)**

1. **Determining Imprest Fund Requirements (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order 101-02, there is hereby delegated to the officials named below the authority to determine the need for imprest funds to be used for the purposes listed below, and the locations at which such imprest funds are required; to request the designation of officers and employees to serve as cashiers with authority to hold cash for the purposes listed below; to request the revocation of such designations; and to request the amount of advance to be carried by each such cashier.

3. List of purposes for which an imprest fund may be established:
  - A. Making Small Cash Purchases; and
  - B. Investigative Purposes.
4. List of delegated officials for imprest funds located in the National Office:
  - Assistant Commissioner
  - Office of Financial Operations, Financial Management Division.

**Note:**

This authority is also delegated to the Assistant Deputy Commissioners; Chief Financial Officer.

5. List of delegated officials for imprest funds located in regional headquarters offices, districts and service centers, within their respective regions:
  - Chiefs, Accounting Branches, Offices of the Regional Controllers.

**Note:**

This authority is also delegated to the Chief Financial Officer.

6. To the extent that the authority previously exercised consistent with this Order may require ratification, it is hereby approved and ratified.
7. The authority delegated herein may not be redelegated.
8. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. This Order supersedes Delegation Order No. 187 (Rev. 3), effective April 6, 1992.
9. C. Morgan Kinghorn, Chief Financial Officer

#### **1.2.40.40 (02-01-2001)** **Delegation Order 189 (Rev. 6)**

1. **Authority to Authorize Travel Not at Government Expense**
2. **Authority:** To approve travel of Chief Counsel employees within the geographic limits of the General Travel Order for purposes of participating in or attending tax forums and continuing professional education programs where reasonable expenses for travel, lodging, and meals are to be paid or reimbursed by any state, county, or municipal agency or by an organization which has been declared to be tax exempt under section 501(c)(3) of the Internal Revenue Code pursuant to 5 USC 4111 and 5 CFR Part 410. Travel will not be authorized where reimbursements or payments would be made by a tax exempt organization in litigation with the agency.
3. **Delegated to:** Chief Counsel, Division Counsel and Associate Chief Counsel
4. **Redelegation:** This authority may be redelegated no lower than to Assistants Chief Counsel and Associate Area Counsel.
5. **Sources of Authority:** Treasury Order 101-05, Treasury Order 102-13, Treasury Order 150-10, IRC 7803-7804, 18 USC 209(a), 5 CFR 2635.204(l).
6. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified.
7. This order supersedes Delegation Order 189 (Rev. 5), effective April 3, 1991 (as

amended November 24, 1999).

8. Signed: Bob Wenzel, Deputy Commissioner

**1.2.40.41 (04-03-1991)  
Delegation Order 192 (Rev. 6)**

1. **Authority to Approve the Use of Cash to Purchase Official Passenger Transportation Services Exceeding \$500 (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. Pursuant to the authority vested in the Commissioner of Internal Revenue Service by Treasury Order No. 150-10, and FPMR Temporary Regulation G-50, the officials designated below are hereby delegated the authority to authorize or approve use of cash to procure emergency passenger transportation services costing more than \$500, and to request exemptions, when necessary, from the General Services Administration, for non-emergency cash purchases of passenger transportation services exceeding the \$500 limitation:
  - Assistants to the Commissioner
  - Assistant to the Deputy Commissioner
  - Division Directors (or equivalent level position)
  - Director, Martinsburg Computing Center
  - Director, Detroit Computing Center
  - Chief Counsel
  - Regional Commissioners
  - Regional Directors of Appeals
  - Assistant Regional Commissioners
  - Regional Inspectors
  - Assistant Regional Inspectors
  - District Counsel
  - District Directors
  - Service Center Directors
  - Director, Austin Compliance Center

**Note:**

This authority is also delegated to the Assistant Deputy Commissioners; Division Commissioners; Deputy Division Commissioners; Chiefs; Deputy Chiefs; National Taxpayer Advocate, Area Advocates; Deputy National Taxpayer Advocate; Operating Division Counsels; All Directors reporting to the Assistant Deputy Commissioners, Division Commissioners, Chiefs, National Taxpayer Advocate and Operating Division Counsels; and Area and Field Operations Managers in TE/GE; Directors, Customer Service Centers, Directors, Accounts Management Field and Directors, Compliance Services Field; Directors, Submission Processing Field.

3. All regulations issued pursuant to this Order will be in conformance with applicable provisions of law and governing regulations of higher authority.

4. This authority may be redelegated to a level no lower than Branch Chief in the National Office or Division Chief in the field (or equivalent level position).

**Note:**

This authority may also be redelegated not lower than Territory Managers in field offices and second-level supervisors in National Headquarters, and Appeals Area Directors and/or Deputy Appeals Area Directors.

5. The Chief Counsel may redelegate this authority to a level not lower than **Office Heads** (replaces "Office Director in the National Office" ); and the Regional Director of Appeals may redelegate not lower than the Chief, Appeals Office.
6. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. This Order supersedes Delegation Order No. 192, (Rev. 5) effective October 4, 1990.
7. Signed: John D. Johnson, Chief Financial Officer

**1.2.40.42 (12-12-1996)  
Delegation Order 202 (Rev. 3)**

1. **Authority for Appointment of Custodian to Evaluate Foreign Gifts, Decorations and Unconditional (In-Kind) Gifts (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. **Authority:** To receive, evaluate and dispose of foreign gifts, decorations and unconditional (in-kind) gifts tendered to Service employees in a manner consistent with the Foreign Gifts and Decorations Act of 1966, amended (5 U.S.C. 7342) (31 U.S.C. 321(d)).
3. **Delegated to:** Directors of Support Services in regions and Director Support and Services Division, Headquarters Operations.

**Note:**

This authority is also delegated to Facilities Management branch-level managers in Agency-Wide Shared Services.

4. **Redelegation:** This authority may not be redelegated.
5. **Source(s) of Authority:** Treasury Order 101-05, Treasury Directive 61-04.
6. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. This Order supersedes Delegation Order No. 202 (Rev. 2), issued May 11, 1995.
7. Signed: Margaret M. Richardson, Commissioner

**1.2.40.43 (10-29-2000)  
Delegation Order 207 (Rev. 3)**

1. **Requests for Space**
2. **Authority:** To approve and sign Requests for Space (SF-81's).
3. **Delegated to:** Director, Real Estate and Facilities Management.
4. **Redelegation:** This authority may be redelegated not lower than to Facilities Associate Directors.
5. **Sources of Authority:** Treasury Department Order 150-10
6. To the extent that the authority previously exercised consistent with this order may

require ratification, it is hereby approved and ratified. This order supersedes Delegation Order No. 207 (Rev. 2), effective February 12, 1997 (as amended).

7. Signed: Bob Wenzel, Deputy Commissioner of Internal Revenue

**1.2.40.44 (06-15-1995)  
Delegation Order 208 (Rev. 6)**

1. **Delegation of Authority in the Performance of Commercial Activities (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. The authority vested in me by Treasury Order 150-10 and OMB Circular A-76 is hereby delegated as shown in the following paragraphs.
3. The **Chief, AWSS** (former authority to Strategic Planning and Communications), is authorized to determine, after consultation with the Chiefs, and the Chief Counsel, **as well as Assistant Deputy Commissioners; Division Commissioners, the National Taxpayer Advocate, Directors Customer Service Center, Directors, Accounts Management Field and Directors, Compliance Services Field, and Directors Submission Processing Field** which IRS activities are commercial activities as defined by OMB Circular A-76, recommending for the Commissioner's decision only those activities which in the judgment of the **Chief, AWSS** (replacing Strategic Planning and Communications), are of such large and Servicewide significance that the Commissioner's involvement is necessary.
4. The authority to certify the Most Efficient Organization (MEO), sign the final result of the A-76 cost comparison review, decide A-76 appeals concerning the award of contracts subsequent to formal A-76 cost comparisons, and decide that a contract for a commercial activity should be awarded without going through a formal A-76 cost comparison review is hereby delegated to the following officials:
  - Assistant to the Deputy Commissioner
  - Deputy Chief Counsel
  - Chief Officers
  - Regional Chiefs Customer Service
  - Regional Chief Compliance Officers
  - Regional Directors of Support Services
  - Regional Inspectors
  - Regional Counsel
  - District Directors
  - Service Center Directors
  - Director, Detroit Computing Center
  - Director, Martinsburg Computing Center
  - Director, Austin Compliance Center

**Note:**

This authority is also delegated to Assistant Deputy Commissioners, Division Commissioners; Directors in Agency-Wide Shared Services; Directors, Customer Service Centers, Directors, Accounts Management Field and Directors, Compliance Services Field; Directors, Submission Processing Field; the Associate Chief Counsel

(Finance and Management); and Operating Division Councils.

5. The authority to decide A-76 appeals concerning a decision to award a contract for a commercial activity without performing an A-76 cost comparison review is delegated to regional commissioners, the Executive Officer for Service Center Operations, **Chief, Customer Service Field Operations; Assistant Deputy Commissioners, Division Commissioners and Chiefs** or, in the case of National Headquarters activities, the Deputy Commissioner or Chief Counsel for those activities over which they have supervision or control.

**Note:**

The authority to make this decision is also delegated to the Deputy Chief Counsel for all activities over which the Chief Counsel has supervision and control. This authority may be redelegated to the Associate Chief Counsel (Finance and Management).

6. The authorities in paragraphs 2, 3 and 4 above may not be redelegated **except as expressly provided**.
7. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. Delegation Order No. 208 (Rev. 5), effective April 3, 1991, is superseded.
8. Signed: Michael P. Dolan, for Margaret M. Richardson, Commissioner

**1.2.40.45 (01-20-1995)  
Delegation Order 230 (Rev. 2)**

1. **Authority to Establish Depository Accounts (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. Pursuant to the authority vested in the Commissioner of Internal Revenue Service by Treasury Directive 12-03, dated March 15, 1988, authority is hereby delegated to the Chief, Accounting Branch, in the region, and the Chief, Office of Financial Operations, Financial Management Division, National Office, the authority to establish depository accounts at financial institutions to cash checks for replenishment of imprest funds.

**Note:**

This authority is also delegated to the Director, Systems Standards & Accounting.

3. This authority may not be redelegated.
4. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. This Order supersedes Delegation Order No. 230 (Rev. 1), effective August 18, 1992.
5. Signed: C. Morgan Kinghorn, Chief Financial Officer, Date: July 24, 1992

**1.2.40.46 (04-03-1991)  
Delegation Order 234 (Rev. 1)**

1. **Delegation of Approval Authority for Revenue Procedures (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Order 150-10, the **Assistant Deputy Commissioners; Chief, Management and Finance, Chief Information Officer, and Chief, Agency-Wide Shared Services**[replacing Assistant Commissioners (Planning and Research), (Human Resources and Support), (Information Systems Management), and (Information Systems Development)] are hereby authorized to approve revenue procedures which arise out of, relate to, or concern the activities or functions each administers. This authority is limited to revenue procedures for non-substantive tax matters and procedures. All revenue procedures are subject to review by the Chief

Counsel or the **Chief Counsel's designee** (replacing appropriate Associate Chief Counsel). Each **Chief listed above** (replacing Assistant Commissioner) shall be responsible for referring to the **Division Commissioner or Deputy Division Commissioner** (replacing Commissioner), Chief Information Officer, Chief Operations Officer, or Chief Financial Officer any matters on which action would appropriately be taken by that official.

3. This authority may not be redelegated.
4. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. Delegation Order No. 234, effective March 20, 1989, is superseded.
5. Signed: John D. Johnson, Chief Financial Officer

**1.2.40.47 (08-18-1992)**  
**Delegation Order 235 (Rev. 1)**

1. **Administrative Settlement and Resolution of Irregularities in the Accounts of Accountable Officers Involving the Federal Tax Lien Revolving Fund**
2. Pursuant to the authority vested in the Commissioner of Internal Revenue by the Treasury Directive 32-07, there is hereby delegated to the Director, Systems and Accounting Standards Division, the authority to:
  - A. resolve, by administrative action appropriate to the circumstances, irregularities due to physical loss or deficiency in the Federal Tax Lien Revolving Fund arising from a single incident or series of similar incidents occurring about the same time, amounting to less than \$3,000. This authority does not apply to irregularities involving illegal, improper, or incorrect payments, both in nature and amount, including those resulting from fraud, forgery, alterations of voucher, and other improper practices, and exceptions or charges raised by the General Accounting Office (GAO). Embezzlements of less than \$3,000 not involving payments may be resolved by administrative action;
  - B. resolve administratively illegal, improper, or incorrect payments involving amounts of \$25 or less; and
  - C. review requests for relief from GAO of irregularities of \$3,000 or more.
3. To the extent that authority previously exercised consistent with this Order may require ratification, it is hereby affirmed and ratified.
4. The authority delegated herein may not be redelegated.
5. This Order supersedes Delegation Order No. 235, effective April 25, 1989.
6. Signed: Philip Brand, Chief Financial Officer, July 24, 1992

**1.2.40.48 (12-01-1994)**  
**Delegation Order 242 (Rev. 1)**

1. **Authority to Sign Apportionment Documents Required by Office of Management and Budget Circular No. A-34 (Updated 10-02-2000 to reflect additional new organizational titles required by IRS Modernization.)**
2. Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Directive 31-01, authority is hereby delegated to **the Director Strategic Planning and Budget**, to sign all documents relating to the apportionment of appropriated funds as prescribed by Office of Management and Budget Circular No. A-34.
3. To the extent that the authority previously exercised consistent with this Order may require ratification, it is hereby approved and ratified.



4. This authority may not be redelegated.
5. Delegation Order No. 242, effective April 13, 1993, is superseded.
6. Michael P. Dolan, Deputy Commissioner

**1.2.40.49 (01-15-1997)**  
**Delegation Order 199 (Rev. 3)**

1. **Interagency Reimbursement Agreements with State Department for On-Site Support of Overseas Offices of the Assistant Commissioner (International) (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. **Authority:** To enter into interagency reimbursement agreements with the Department of State. This only applies to agreements that are necessary for the proper support of overseas offices of the Assistant Commissioner (International).
3. **Delegated to:** Assistant Commissioner (International).

**Note:**

This authority is also delegated to the LMSB Director, International.

4. **Redelegation:** This authority may not be redelegated.
5. **Source of Authority:** Treasury Order No. 150-10.
6. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. This order supersedes Delegation Order No. 199 (Rev. 2), effective October 31, 1987.
7. Signed: James E. Donelson, Acting Chief Compliance Officer

**1.2.40.50 (03-25-1999)**  
**Delegation Order 243 (Rev. 1)**

1. **Approval of Non-Emergency Common Carrier Cash Purchases Over \$100 (Updated (10-02-2000) to reflect additional new organizational titles required by IRS Modernization.)**
2. **Authority:** To authorize cash purchases over \$100 for common carrier transportation in non-emergency situations.
3. **Delegated to:** Chief Financial Officer and Regional Commissioners

**Note:**

This authority is also delegated to the Assistant Deputy Commissioners; Division Commissioners; Chiefs; National Taxpayer Advocate; Directors, Customer Service Centers, Directors, Accounts Management Field and Directors, Compliance Services Field; and Directors, Submission Processing Field.

4. **Redelegation:** This authority may not be redelegated.
5. **Source of Authority:** 41 CFR Chapter 301, Treasury Directive 12-26, IRM 1763, Travel Handbook.
6. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified.
7. Signed: Charles O. Rossotti, Commissioner

**Exhibit 1.2.40-1 (11-24-2006)**  
**Delegation Orders by Old Number, New Number and Title**

<b>New Number</b>	<b>Old Number</b>	<b>Title</b>
1-1 (Rev. 1)	5 (Rev. 19)	Order of Succession and Designation to Act as Commissioner of Internal Revenue
1-3	19 (Rev. 17)	Payment to Employees for Relocation Expenses
1-4	23 (Rev. 15)	Settlement of Tort Claims, Claims under the Small Claims Act, and Claims Made by an Employee of the Internal Revenue Service for Damage to or Loss of Personal Property Incident to Service
1-5	25 (Rev.20)	Reimbursement for Actual Expenses
1-7	47 (Rev. 18)	To Authorize Attendance at Meetings at Government Expense
1-10	74 (Rev. 5)	Travel of Personnel Detailed to the Internal Revenue Service
1-21	188 (Rev. 5)	Authorization to Grant Case by Case Exemptions to the Financial Conflict of Interest Provision in 18 U.S.C. Subsection 208(a)
1-25	229 (Rev. 3)	Termination of Collection Action against Federal Depositories
1-30	94 (Rev. 14)	Approval of Travel Advances, Travel and Transportation Services, and Travel Vouchers
1-31	New	Authorization and Approval of Tour Renewal Agreement Travel
1-32	New	Emergency Transportation and Storage of Privately Owned Vehicles
1-33	New	Travel for Emergency Purposes
1-34	New	Payment of Travel Expenses for Threatened Law Enforcement and Investigative Employees
1-35	New	Authority to Use Non-contract Air Carriers
1-36	New	Authority to Direct Official Travel by an Individual Employed Intermittently in the Government
1-37	New	Authority to Certify Destruction of IRS Records for Court Purposes
Not Assigned	12 (Rev. 14)	Designation of Acting Supervisory Officials
Not Assigned	193 (Rev. 6)	Authorization to Perform Functions of the Commissioner
Not Assigned	28 (Rev. 11)	Designation of Officers and Employees as Authorized Certifying Officers
Not Assigned	29 (Rev. 5)	Certification and Approval of Internal Revenue Collections
Not Assigned	46 (Rev. 6)	Authority to Direct and Conduct IRS Records Management and Disposal
Not Assigned	48 (Rev. 15)	Foreign Travel
Not Assigned	50 (Rev. 2)	Withholding Compensation Due Personnel
Not Assigned	76 (Rev. 4)	Signing Reports on Budget Status Required by Office of Management and Budget Circular No. A-34
Not Assigned	90 (Rev. 3)	Approval of Standard Form 1151, Nonexpenditure Transfer Authorization
Not Assigned	100 (Rev. 11)	Furnishing Special Statistical Studies, Compilations, Return and Return Information, Training, and Training Aids

Not Assigned	106 (Rev. 16)	Delegation of Procurement Authority
Not Assigned	110 (Rev. 9)	Requests for Waivers of Claims Against Present or Former IRS Employees for Erroneous Payments of Pay and Allowances and Travel, Transportation, and Relocation Expenses and Allowances
Not Assigned	111 (Rev. 13)	Agency Collection Action
Not Assigned	115 (Rev. 10)	Audit and Settlement of Accountable Officer's Accounts—Revenue Accounting
Not Assigned	125 (Rev. 5)	Settlement of Accounts and Relief of Accountable Officers
Not Assigned	133 (Rev. 8)	Authority to Perform Operating Functions Relating to Personnel Security
Not Assigned	152 (Rev. 4)	Collections from Employees of the Internal Revenue Service
Not Assigned	164 (Rev. 6)	Authority to Prescribe Identification Media
Not Assigned	180 (Rev. 3)	Requests for Customer Financial Records from Financial Institutions Pursuant to a Formal Written Request
Not Assigned	185 (Rev. 1)	Authority to Provide Advice on Questionable Payments
Not Assigned	186 (Rev. 3)	Authority to Establish Travel and Relocation Regulations and Allowances
Not Assigned	187 (Rev. 4)	Determining Imprest Fund Requirements
Not Assigned	188 (Rev. 5)	Authorization to Grant Case by Case Exemptions to the Financial Conflict of Interest Provision in 18 U.S.C. Subsection 208(a)
Not Assigned	189 (Rev. 6)	Authority to Authorize Travel Not at Government Expense
Not Assigned	192 (Rev. 6)	Authority to Approve the Use of Cash to Purchase Official Passenger Transportation Services Exceeding \$500
Not Assigned	202 (Rev. 3)	Authority for Appointment of Custodian to Evaluate Foreign Gifts, Decorations and Unconditional (In-Kind) Gifts
Not Assigned	207 (Rev. 3)	Requests for Space
Not Assigned	208 (Rev. 6)	Delegation of Authority in the Performance of Commercial Activities
Not Assigned	230 (Rev. 2)	Authority to Establish Depository Accounts
Not Assigned	234 (Rev. 1)	Delegation of Approval Authority for Revenue Procedures
Not Assigned	235 (Rev. 1)	Administrative Settlement and Resolution of Irregularities in the Accounts of Accountable Officers Involving the Federal Tax Lien Revolving Fund
Not Assigned	242 (Rev. 1)	Authority to Sign Apportionment Documents Required by Office of Management and Budget Circular No. A-34
Not Assigned	199 (Rev. 3)	Interagency Reimbursement Agreements with State Department for On-Site Support of Overseas Offices of the Assistant Commissioner (International)
Not Assigned	243 (Rev. 1)	Approval of Non-Emergency Common Carrier Cash Purchases Over \$100

[More Internal Revenue Manual](#)

## Part 5

### Collecting Process

#### Chapter 18

#### Liability Determination

#### Section 2

#### Business Returns IRC 6020(b) Processing

#### Contents

##### 5.18.2 Business Returns IRC 6020(b) Processing

###### 5.18.2.1 IRC 6020(b)

###### 5.18.2.2 What Is Business Returns IRC 6020(b) Processing?

###### 5.18.2.3 Research Criteria for BMF Return--IRC 6020(b) Processing Research

###### 5.18.2.3.1 Service Center Collection Branch (SCCB) 6020(b) Processing

###### 5.18.2.3.2 Automated Collection System (ACS) I9 Inventory

###### 5.18.2.3.3 ACS Support Group Automated A6020(b) Procedures

###### 5.18.2.3.4 Organization, Function, and Program (OFP) Codes for A6020(b)

###### 5.18.2.3.5 Federal and State Information Sharing Agreements

###### 5.18.2.3.6 A6020(b) Program

###### 5.18.2.3.7 System Security

###### 5.18.2.4 A6020(b) Inventory Status Codes Procedures

###### 5.18.2.4.1 A6020(b) Lists, Reports, and Duties

###### 5.18.2.4.2 A6020(b) Lists and Reports

5.18.2.4.3 A6020(b) Rejection Lists

5.18.2.4.4 A6020(b) New Account Lists

5.18.2.4.5 A6020(b) Overage Lists

5.18.2.4.6 A6020(b) Tax Examiner Duties

5.18.2.4.7 Rejection List/Tax Examiner Duties

5.18.2.4.8 New Account List/Tax Examiner Duties

5.18.2.4.9 New Account Centralized Authorized File (CAF) Research List

5.18.2.4.10 New Account S3 Research List

5.18.2.4.11 New Account Undelivered Mail List

5.18.2.4.12 A6020(b) Tax Examiner Screens

5.18.2.4.13 Administrator Menus, Duties, and Screens

5.18.2.4.14 Administrator Menus and Duties

5.18.2.4.15 A6020(b) Administrator Screens

5.18.2.4.16 Administrator Reports

5.18.2.4.17 Database Administrator (DBA) Duties

5.18.2.4.18 Follow-up to Responses

5.18.2.4.19 Processing Returns Received

5.18.2.4.20 Final Return Received

5.18.2.4.21 Unsigned Returns Received

5.18.2.4.22 Not Liable for Returns

5.18.2.4.23 Inquiries and Responses

5.18.2.4.24 Undelivered Mail

5.18.2.4.25 Undelivered Mail System (UMS)

5.18.2.4.26 No Response Follow-up, Taxpayer Unagreed 6020(b) Processing

5.18.2.4.27 IDRS Research on 6020(b) Accounts

5.18.2.4.28 Processing 6020(b) Returns

5.18.2.4.29 Late Responses Received After 6020(b) Returns Processed

5.18.2.4.30 Research Table for Late Responses

5.18.2.4.31 Manual 6020(b) Procedures

5.18.2.4.32 Basis of Tax for 6020(b) Modules

5.18.2.4.33 6020(b) Packages

5.18.2.4.34 Review Before Mailing

5.18.2.4.35 Cases With Power of Attorney (POA) Indicators

5.18.2.4.36 6020(b) Follow-Up

5.18.2.4.37 6020(b) Return Processing

5.18.2.4.38 Manual Processing: Return Pending File

Exhibit 5.18.2-1 Internal Revenue Code 6020(B) Processing Flowchart

Exhibit 5.18.2-2 Contents of the Generic Status Research Listing

Exhibit 5.18.2-3 A6020(B) Status Codes

Exhibit 5.18.2-4 View and Update Screen

Exhibit 5.18.2-5 View Option

Exhibit 5.18.2-6 Modules Option

Exhibit 5.18.2-7 Next Module Option

Exhibit 5.18.2-8 CAF Option

Exhibit 5.18.2-9 Wage Option

Exhibit 5.18.2-10 Review, Input, or Update Wage Option

Exhibit 5.18.2-11 Using the Update Option

Exhibit 5.18.2-12 Status Option

Exhibit 5.18.2-13 Screens for Tax Returns 943 and 1065

Exhibit 5.18.2-14 Screen for Changing the Status of All Modules

Exhibit 5.18.2-15 Screen for Changing the Status of One Module

Exhibit 5.18.2-16 Status Screen

Exhibit 5.18.2-17 Comments Option

Exhibit 5.18.2-18 6020(B) Inventory Management Menu

Exhibit 5.18.2-19 Queue Cases for Printing Menu

Exhibit 5.18.2-20 Number of 1085 Packages Ready to be Printed

Exhibit 5.18.2-21 Revise Header Menu

Exhibit 5.18.2-22 IDS 6020(B) Report Menu

Exhibit 5.18.2-23 IDS Print Menu

Exhibit 5.18.2-24 DBA Menu

-----  
5.18.2.1 (08-01-2001)

IRC 6020(b)

IRC 6020(b) provides a way to prepare returns and secure assessments from non-filing business taxpayers who:

Have an open filing requirement

Are required to file a return

Do not file a return as required

Exhibit 5.18.2-1 provides an overview of this section in flowchart format.

5.18.2.2 (08-01-2001)

What Is Business Returns IRC 6020(b) Processing?

Internal Revenue Code Section 6020(b) is the authority given to the Commissioner of the Internal Revenue Service to prepare and process returns for non-filing taxpayers.

Delegation Order No. 182 (Rev. 7), extends 6020(b) authority to Internal Revenue Agents; Tax Auditors; Revenue Officers; GS-9 and above; Collection Support function managers, GS-9 and above; Service Center Collection Branch Managers GS-9 and above; Automated Collection Branch Unit Managers, GS-11 and above; Customer Service Collection Branch Managers, GS-10 and above; and Tax Resolution Representatives, GS-9 and above.

5.18.2.3 (08-01-2001)

Research Criteria for BMF Return--IRC 6020(b) Processing Research

Process a return under the provisions of IRC 6020(b) for Business Master File (BMF) returns if:

The entity appears to be liable for the return

The person required to file the returns does not file it

Attempts to secure the returns fail

The following BMF returns with corresponding Master File Tax (MFT) codes are the returns usually prepared under the provisions of IRC 6020(b): TAX RETURN RETURN TITLE RETURN MFT

Form 720 Quarterly Federal Excise Tax Return 03

Form 940 Employer's Annual Federal Unemployment Tax Return 10



Form 941 Employer's Quarterly Federal Tax Return 01

Form 943 Employer's Annual Return for Agricultural Employees 11

Form 1065 U.S. Partnership Return of Income 06

Form 2290 Federal Use Tax Return on Highway Motor Vehicles 60

Do NOT propose assessments on cases with the following characteristics: See LEM 5.18.2.3

See LEM 5.18.2.3

See LEM 5.18.2.3

**IRS Resources**

- [Compliance & Enforcement](#)
- [Contact My Local Office](#)
- [e-file](#)
- [Forms and Publications](#)
- [Frequently Asked Questions](#)
- [News](#)
- [Taxpayer Advocacy](#)
- [Where To File](#)

**Part 5. Collecting Process****Chapter 17. Legal Reference Guide for Revenue Officers****Section 4. Suits by the United States****5.17.4 Suits by the United States**

- 5.17.4.1 [Suits by the United States Section Overview](#)
- 5.17.4.2 [Initiating and Processing Collection Suits](#)
- 5.17.4.3 [General Characteristics of a Suit](#)
- 5.17.4.4 [Periods of Limitation Upon Assessment and Collection of Tax Under the Internal Revenue Code](#)
- 5.17.4.5 [Administrative Procedures for Extending Period of Limitations for Collection](#)
- 5.17.4.6 [Collection of Judgments](#)
- 5.17.4.7 [Suit to Reduce Tax Claim to Judgment](#)
- 5.17.4.8 [Foreclose of Federal Tax Lien](#)
- 5.17.4.9 [Proceeding to Seize A Principal Residence](#)

**5.17.4.1 (09-20-2000)****Suits by the United States Section Overview**

1. The purpose of this section is to outline some of the general characteristics and procedures followed in instituting and carrying out a lawsuit and some of the most common types of lawsuits commenced by the United States for effecting or assisting in the collection of taxes.

**5.17.4.1.1 (09-20-2000)****Distinctions between Judicial and Administrative Collection Processes**

1. U.S. Constitution, Article 1, Section 8, provides that ". . . Congress shall have power to lay and collect taxes . . ." Congress in enacting the Internal Revenue Code gave the Service broad administrative processes for the collection of taxes. Although such processes are responsible for a majority of the delinquent tax accounts collected, considerable credit for such success lies in the ability of the Internal Revenue Service to utilize, when the need arises, the aid of the courts to insure collection of the tax. This use of the courts in assisting and effecting collection is commonly referred to as "judicial process."
2. As between the two collection processes, administrative and judicial, the administrative process is far less expensive and time consuming; therefore; judicial proceedings should usually be a last resort. However, once the decision is made to proceed by way of a court action, collection personnel should move quickly and thoroughly to insure its success. Because of the publicity that generally accompanies a court proceeding, the success of such an action cannot be measured only in the dollar amount of the tax collected. A timely and successful court action can do much to increase the effectiveness and success of the voluntary and prompt payment of taxes.

**5.17.4.2 (09-20-2000)****Initiating and Processing Collection Suits**

1. A request for institution of a legal proceeding to effect or assist in the collection of a tax is generally initiated in the office of the Area Director. In some cases, such as interpleader suits, the legal proceeding will have been commenced by a party other than the United States. In such cases, the Area Director or his/her designated representative must recommend either on his/her own initiative or upon request whether the United States should join in the proceeding for the purpose of collecting taxes.

#### **5.17.4.2.1 (09-20-2000) General Procedures**

1. Prior to recommending the commencement of any legal proceeding for the collection of taxes the responsible initiating officer should become thoroughly familiar with appropriate provisions of the Internal Revenue Manual and Section 12 herein, entitled "Investigations and Reports" .
2. Counsel is always available for the purpose of rendering legal advice in ascertaining the most desirable course of action available and the probability of processing a case through to a successful conclusion. Should the revenue officer uncover information early in the investigation that casts doubt on the success of a contemplated legal proceeding, much time and effort can be saved by requesting timely legal assistance.
3. An examination of the steps taken after the Area Director's determination and recommendation that suit be instituted will show the advantage of making a timely recommendation for the institution of a collection suit. After receipt of the Area Director's recommendation, together with supporting documents, Counsel examines the case carefully from a legal viewpoint to determine whether or not suit is warranted on the facts presented. Assuming suit is warranted, Counsel then prepares a letter to the Assistant Attorney General, Tax Division, Department of Justice, authorizing and requesting the institution of suit. That letter must contain a discussion of the necessary facts and supporting documents, tax information, and applicable statutes and pertinent judicial decisions that may be relevant to the case.
4. When the Department of Justice receives the authorization, the case becomes the responsibility of that Department, which makes the final decision whether to institute the suit. If the action is instituted, pleadings will generally be prepared in the Tax Division of the Department of Justice and forwarded to the local United States Attorney for filing in the appropriate United States District Court. The Department of Justice may determine that a settlement agreement with the taxpayer should be given consideration. If a settlement is proposed, the Department of Justice generally will request the recommendation of the Counsel on the proposed terms of such settlement. This procedure reflects the close cooperation that exists between the two Government agencies, but it should not be misconstrued as meaning that final authority for settlement rests with the Internal Revenue Service. The Department of Justice has the final word on settlement.

#### **5.17.4.2.2 (09-20-2000) Statutory Authority**

1. The authority for the United States to commence a court action for the collection or recovery of taxes is provided for by IRC 7401, as follows:

No civil action for the collection or recovery of taxes, or of any fine, penalty, or forfeiture, shall be commenced unless the Secretary authorizes or sanctions the proceedings and the Attorney General or his delegate directs that the action be commenced.

2. The Attorney General has not delegated the authority to direct the institution of such a proceeding to the United States Attorney. The Secretary of the Treasury has delegated his power of authorization to the Chief Counsel of Internal Revenue. Where the commencement of such an action has not been authorized or sanctioned it is subject to dismissal. Civil actions commenced under this provision must be brought in the name of the United States and not a government official.

#### **5.17.4.2.3 (09-20-2000) Parties to Suit**

1. Generally the parties or persons who are actively concerned in the prosecution and defense of a lawsuit can be designated as either plaintiffs or defendants.
  - The plaintiff is the usual term applied to the person or persons who initiate the suit.
  - The defendant is the usual term applied to the person or persons against whom relief or recovery is sought in an action or suit.
2. Although the United States has the right to bring suit without express legislative authority, the United States may only be sued where Congress has enacted a statute specifically authorizing such suit. See Section 5 of this Handbook.

#### **5.17.4.2.4 (09-20-2000)** **Jurisdiction of Courts**

1. Generally, jurisdiction can be defined as the power conferred upon a court to hear and determine the subject matter in controversy between parties and to grant the relief asked for. Federal courts derive their authority to act either from the Federal Constitution or an Act of Congress. State courts derive their authority to act either from the State Constitution or Acts of the Legislature of the particular State. The United States may resort to the state courts to collect its taxes where it is a defendant, for example, in a mortgage foreclosure proceeding. Where it is the plaintiff, the United States utilizes Federal courts to enforce collection of its taxes.
2. The jurisdiction of United States district courts to hear collection suits is established by IRC 7402(a), which provides as follows:

The district courts of the United States, at the instance of the United States, shall have such jurisdiction to make and issue in civil actions, writs and orders of injunction, and of *ne exeat republica*, orders appointing receivers, and such other orders and processes, and to render such judgments and decrees as may be necessary or appropriate for the enforcement of the internal revenue laws. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such laws.

3. The United States Code additionally provides, in 28 U.S.C. § 1345:

United States as plaintiff. Except as otherwise provided by Act of Congress, the district courts shall have original jurisdiction of all civil actions, suits or proceedings commenced by the United States, or by any agency or officer thereof expressly authorized to sue by Act of Congress.

#### **5.17.4.2.5 (09-20-2000)** **Venue of Actions**

1. Venue means the place at which a suit is tried. A civil action for the collection of internal revenue taxes may be brought in the district where the liability for such tax accrues, in the district of the taxpayer's residence, or in the district where the return was filed. 28 U.S.C. § 1396.
2. The United States, therefore, has a choice of forum in the institution of civil suits for the collection of taxes. However, in an *in rem* action (an action against property, rather than against a person), venue would ordinarily lie in the district where the property in question was located.

#### **5.17.4.3 (09-20-2000)** **General Characteristics of a Suit**

1. A lawsuit by the United States to collect taxes is generally commenced by the filing of the complaint drawn, in most cases, in the Tax Division of the Department of Justice and forwarded to the local United States Attorney for filing with the appropriate court. When the suit is brought by the United States, the action is commenced in a Federal

district court. After the filing of the complaint with the court, a copy of the complaint accompanied by a summons is generally served upon all persons named as a party to the action. After service of a summons and complaint, the defendant or defendants are required to file an answer to the complaint within 20 days. The purpose of the complaint and answer thereto, which together with motions, replies, etc., are described as pleadings, is to define the issues and apprise the parties of what they must be prepared to meet at the trial.

#### **5.17.4.3.1 (09-20-2000)**

##### **Trial of a Suit**

1. In the usual sense, the term "trial" means the investigation and decision of a matter at issue between parties before a competent court, including all the steps taken in the case from its submission to the court or jury to the rendition of judgment. Once a case is at issue, that is, the pleadings have established the controversy between the parties, the court will then set the case for trial. Depending on the issue or issues in controversy and the requests of the parties involved, the case will either be tried before a jury or presented to the judge of the court without a jury for determination. The parties to a lawsuit are not in all cases entitled to a trial by jury. The function and purpose of a jury in any civil lawsuit is to determine contested or disputed questions of fact. If the facts in a particular suit are uncontested, then generally the parties are not entitled to a jury and the case would be decided by the judge. Even if the parties are entitled to a jury trial, such right can be waived by the parties should they so desire.
2. The actual trial of a civil lawsuit is generally along the following lines:
  - A. selection of the jury if a jury is considered appropriate,
  - B. opening statements by counsel for the parties,
  - C. presentation of evidence, including testimony and examination of witnesses,
  - D. closing statements by counsel,
  - E. instructions to the jury by the judge if a jury was used, and
  - F. the decision or judgment of the jury or of the judge.
3. Generally, if the case is not tried before a jury, the court does not immediately render its decision on the matter. It may request the parties to submit written statements or briefs outlining their positions in the case and the relevant law.

#### **5.17.4.3.2 (09-20-2000)**

##### **Appeal**

1. Decisions of the jury or trial court are generally subject to review by another court. That is, the losing party can usually appeal the case as a matter of right to a higher authority, generally referred to as an appellate court. The method and procedure for effecting an appeal are provided by statute. Under the Federal Rules of Civil Procedure, issues appealable from a Federal district court are usually appealed to the Court of Appeals for the Circuit in which the district is located. Appeals to the United States Supreme Court may be taken from a decision of a Court of Appeals, or the highest state court. The usual time limitation in which an appeal may be taken from a decision of the Federal district court in a case in which the United States is a party, is 60 days.
2. Generally, when the United States voluntarily becomes a party to litigation, it stands on the same footing as a private person and it is bound by the decision of the court. Neither the United States nor any person is bound by a judgment rendered in an action to which it is not a party.

#### **5.17.4.4 (09-20-2000)**

##### **Periods of Limitation Upon Assessment and Collection of Tax Under the Internal Revenue Code**

1. The statute of limitations for collection is found in IRC 6502. However, since the statute of limitations for collection generally starts to run on the date of assessment, it is also important to be familiar with the statutory period within which such assessment must be made to be valid. See Exhibit 5.17.4-1 for a summary of some of the more common periods of limitation upon assessment, or commencement of a proceeding in court without assessment, and collection of tax as provided for by the Internal Revenue Code. The failure to timely assess or to commence a suit for the collection of taxes assessed within the period of limitations can defeat a judicial action.
2. The burden of proving that the assessment or collection suit is timely, and that the period of limitations has not expired, generally rests on the taxpayer, unless the United States is acting in reliance on an exception to the normal statute of limitations. If an exception is relied upon for assessing the tax or commencement of the collection suit after the normal period for such action has expired, the burden is upon the Government to show that the exception applies. Failure to carry this burden will generally result in a dismissal of the proceedings.

#### 5.17.4.5 (09-20-2000)

##### Administrative Procedures for Extending Period of Limitations for Collection

1. Prior to the enactment of the Internal Revenue Service Restructuring and Reform Act of 1998 ( "RRA 98" ), the collection period could commonly be extended by the execution of a written waiver between the taxpayer and the Secretary of the Treasury or his delegate. This authority was severely curtailed by RRA 98.
2. For waiver agreements entered into on or **prior** to December 31, 1999, the expiration of the collection period is the latter of:
  - A. the 10-year period,
  - B. December 31, 2002, or
  - C. in the case of an extension in connection with an installment agreement, the 90th day after the end of the period of such extension.
3. For agreements to extend the period of limitations made in conjunction with offers in compromise, the above rules also apply. Thus, in the case of a waiver made in conjunction with an offer entered into on or prior to December 31, 1999, the expiration of the collection period is the later of the 10-year period or December 31, 2002. No waiver may be made in conjunction with offers entered into after December 31, 1999. In situations involving cumulative offers, or other statute problems involving offers, advice of Counsel may be sought.
4. After December 31, 1999, waiver of the statute of limitations for collection may be secured only in the following two situations:
  - A. For requests to extend the period of limitations made **after** December 31, 1999, if there is an installment agreement between the taxpayer and the Secretary, a court proceeding must be brought or a levy made prior to the date which is 90 days after the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer at the time the installment agreement was entered into.
  - B. Where release of levy has been made under section 6343 after the 10-year period, a levy must be made or court proceeding begun prior to the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer before such release.
5. For any waiver the extension period commences to run on the date the acceptance of the waiver is signed by the Area Director, not the date of receipt of the waiver.

#### 5.17.4.6 (09-20-2000)

##### Collection of Judgments

1. The primary responsibility for the collection of judgments rendered in favor of the United States for the collection of taxes rests with the Department of Justice. As a

general rule, the Department of Justice looks to the local United States Attorney to collect the judgments. In fulfilling his/her responsibility, the United States Attorney will frequently request advice and assistance from the Area Director. If the initial effort of the United States Attorney fails to collect the judgment, his or her office will usually make no further effort unless it receives information that would indicate a successful collection can be made. If property is located which can be seized in satisfaction of the judgment, this information should be made immediately available to the appropriate United States Attorney. Levy provisions of the Internal Revenue Code are also available to enforce collection of accounts reduced to judgment within the 10-year collection period.

2. Under the provisions of IRC 7406, "[a]ll judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties shall be paid to the Secretary as collections of internal revenue taxes."

#### **5.17.4.7 (09-20-2000)**

##### **Suit to Reduce Tax Claim to Judgment**

1. As a general rule, the purpose of instituting a suit to reduce tax claims to judgment is to prevent the statute of limitations for collection from running where collection cannot be accomplished by administrative methods within the normal statutory period.
2. A suit in aid of collection of taxes will not usually be authorized unless all administrative remedies available have been exhausted or their use would prove ineffective.

#### **5.17.4.7.1 (09-20-2000)**

##### **Statutory Authority**

1. The statutory authority for bringing a suit to reduce tax claims to judgment is found in IRC sections 7401 and 7402(a). These sections are set forth in IRM 5.17.4.2.2(1) and IRM 5.17.4.2.4(2).

#### **5.17.4.7.2 (09-20-2000)**

##### **Amount and Collectibility of Tax Claim**

1. Guidelines for determining whether it is feasible to recommend a suit to reduce a tax claim to judgment will be found in the Law Enforcement Manual, LEM 5.5.

#### **5.17.4.7.3 (09-20-2000)**

##### **Effect of Judgment on Tax Lien and Levy**

1. IRC 6322 (relating to period of lien) provides that where a tax assessment is reduced to judgment, the lien continues until the underlying tax liability is satisfied or becomes unenforceable by reason of lapse of time. With respect to levy proceedings, IRC 6502 (a) (relating to length of period of collection) makes it clear that the Government may continue to levy beyond the normal collection period when a judgment is timely sought, until the tax liability or judgment is satisfied or becomes unenforceable. Moreover, the Government's right to foreclosure under the tax lien (as contrasted with the more cumbersome method of foreclosing under the judgment) is still available after the assessment is reduced to judgment.

#### **5.17.4.8 (09-20-2000)**

##### **Foreclose of Federal Tax Lien**

1. The Government uses a suit to foreclose a tax lien where there is a specific, presently available source of collection. It uses a suit to reduce a tax claim to judgment, on the other hand, to extend the collection period where there is no source of collection currently available. In most other respects, the commencement and prosecution of the suits are very similar.
2. In a foreclosure action, the Department of Justice often also requests a judgment against the taxpayer. Doing so is appropriate where the property subject to the Federal tax lien is not sufficient to satisfy the entire tax liability. In addition, combining a lien foreclosure action with a suit to reduce tax claim to judgment avoids potentially duplicative suits.

**5.17.4.8.1 (09-20-2000)****Statutory Authority**

1. Under section 7403 of the Internal Revenue Code, where there has been a refusal or neglect to pay any tax, the Attorney General, at the request of the Secretary of the Treasury, is authorized to institute a civil action in Federal district court to enforce the lien or to subject any property in which the taxpayer has an interest to the payment of the tax liability. IRC 7403(a). The Secretary of the Treasury has delegated to the Chief Counsel authority to request instituting an action under section 7403.
2. All persons having liens on or claiming any interest in the property involved in the action must be made parties to the action. IRC 7403(b).
3. In a lien foreclosure action, the court determines the merits of all claims to and liens on the property, and, where the interest of the United States is established, may order the sale of the property. The property is sold free and clear of all liens and encumbrances. The proceeds of the sale are then distributed in accordance with the court's determination of the parties' interests in the property. IRC 7403(c).

**Note:**

In United States v. Rodgers, 461 U.S. 677 (1983), the Supreme Court held that I.R.C. § 7403 contemplates the sale of the entire property, not just the taxpayer's interest in the property. Nevertheless, the Court found, where a nondelinquent third party has an interest in the property (such as homestead property), courts have limited equitable discretion to refuse to order the sale of the entire property. Where the entire property is sold, the nondelinquent third party is entitled to be fully compensated for the value for his interest in the property from the proceeds of the sale.

4. If the United States holds the first lien on the property, it may bid at the sale. The amount of the United States' bid cannot exceed the amount of the Federal tax lien, plus the expenses of sale. IRC 7403(c).

**Note:**

Whether the Government exercises its right to bid is a matter within the discretion of the appropriate Area Director. It may be appropriate for the Government to bid on the property to prevent its sale at distress prices. This protects the interests of the Government, as well as those of the taxpayer.

5. Section 7403 also provides that the court may, at the request of the Government, appoint a receiver to enforce the lien. The court may also appoint a receiver with all of the powers of receivers in equity where the Government has certified that such appointment is in the public interest. IRC 7403(d). For detailed discussion of receivership, see IRM 5.17.4.10.

**5.17.4.8.2 (09-20-2000)****Issues to Consider When Recommending an Action to Foreclose a Tax Lien**

1. Listed below are factors to consider when determining whether to recommend to Division Counsel that a case be referred to the Department of Justice to institute an action to foreclose a Federal tax lien.

**5.17.4.8.2.1 (09-20-2000)****Administrative Collections Devices Are Not Feasible or Adequate**

1. As a general rule, the administrative collection remedies available to the Government are adequate. However, there are situations in which such remedies have been exhausted or where administrative collection would not be feasible because, for example, a distraint sale would result in a lower price paid for the property. In such cases, consider recommending to Counsel that the matter be referred to the Department of Justice for court action. Below are several examples of situations in which lien foreclosure may be appropriate:
  - There are encumbrances on the property in addition to the Federal tax lien



which make it difficult to determine the relative interests in the property, thereby, in all likelihood, driving down the price purchasers would be willing to pay at a distraint sale.

- There is a cloud on title or title is contested by a third party or parties.

**Note:**

Where a person served with a notice of levy retains the property under a good faith belief that he or parties other than the taxpayer may have a claim against the property superior to the Federal tax lien, a suit under IRC 7403 is generally more appropriate than a suit under IRC 6332 for failure to honor a levy. In a lien foreclosure action, the court determines the interests of all parties in the property.

- A business is to be sold as a going concern.
- The Government wishes to reach the cash surrender value of a taxpayer's insurance policy.

**Note:**

The cash loan value of an insurance policy or endowment contract may be reached by administrative means under IRC 6332(b). However, reaching the cash surrender value requires lien foreclosure.

**5.17.4.8.2.2 (09-20-2000)  
Redemption Rights**

1. Unlike the sale of real property at a distraint sale, the taxpayer has no right to redeem his property after court ordered foreclosure of the Federal tax lien. This makes the property generally more desirable to purchasers and would normally result in a higher selling price than at a distraint sale.

**5.17.4.8.2.3 (09-20-2000)  
Statute of Limitations**

1. See IRM 5.17.4.5 and Exhibit 5.17.4-2 for a general discussion of the statute of limitations on collection actions.
2. Where the Government has reduced a tax claim to judgment, it may bring a lien foreclosure action after the statutory period provided in IRC 6502(a) expires.

**Note:**

While obtaining a judgment extends the life of the lien for the purposes of bringing a lien foreclosure action, in order to maintain the priority of the lien in relation to other creditors, the Government must refile the notice of Federal tax lien as provided in IRC 6323(g).

**5.17.4.8.2.4 (09-20-2000)  
Economic Feasibility of Lien Foreclosure**

1. The tax liability and the amount expected to be recovered should be substantial enough to warrant bringing a foreclosure action. Guidelines for determining whether it is feasible to recommend a suit are found in LEM 5.5.

**5.17.4.8.2.5 (09-20-2000)  
Lien Foreclosure on a Principal Residence**

1. Lien foreclosure on the principal residence of any person requires the written approval of the Area Director.

**5.17.4.8.3 (09-20-2000)**

### Preparing Recommendation to Institute an Action to Foreclose Tax Liens

1. A suit to foreclose a tax lien is initiated and processed in much the same manner as a suit to reduce a tax claim to judgment.
2. In preparing a suit letter to the Department of Justice, Counsel relies on information provided in the recommendation. The Department of Justice, in turn, relies on the suit letter from Counsel in drafting its complaint, should it decide to bring suit. Therefore, it is imperative that complete, accurate information be provided in the recommendation.

**Note:**

If the recommendation is to foreclose the lien on a principal residence, the written approval of the Area Director must be provided along with the recommendation.

#### 5.17.4.8.3.1 (09-20-2000)

##### Tax Information, Description and Valuation of Property

1. The complaint filed by the Government in a suit under IRC 7403 must provide information demonstrating proper assessment and attachment of the federal tax lien, including date of assessment and demand for payment of each tax liability.
2. In addition to setting forth accurate tax information, the complaint must contain the correct legal description of all real estate and the best available description of personal property subject to the tax lien. The legal description of real property can be obtained from the deed recorded with the local recording office. Personal property must be adequately described to distinguish it from other property. For instance, if the property is an automobile, the description should state the make, style, year and vehicle identification number or VIN.
3. If the property is an insurance policy, the description should describe it by including the name of the insurance company, the contract number, the date issued, the name of insured, the name(s) of beneficiary(ies), and any other pertinent information available. With respect to all types of property obtaining documents related to the property, such as the title to an automobile or a copy of an insurance policy, can be helpful in describing the property accurately.

**Note:**

Obtaining documents related to the property subject to the tax lien can also be helpful in identifying additional parties to be named in the foreclosure suit. For example, in some states, the beneficiary of the policy is deemed to have a vested right in the policy, and therefore must be named as a party to the suit.

4. Careful consideration should be given to assessing the value of the property. The valuation is important in ascertaining whether a suit is justified.

#### 5.17.4.8.3.2 (09-20-2000)

##### Identification of Parties and Competing Liens

1. The suit recommendation must identify all other persons with liens on or other interests in the property. In a lien foreclosure suit, the court adjudicates all claims against the property. Therefore, the United States must name as defendants to the suit all known persons who have liens on or claim any interest in the property subject to the tax lien. In addition, providing this information enables the attorneys reviewing the case to ascertain prior to commencement of the suit the priority of the Government's tax lien and the amount of collection that can be expected.

**Note:**

Because persons named as parties must be served with process, it is important to furnish their addresses, as well as their correct legal names.

- 2.

<b>If</b>	<b>Then</b>
the party to be named is an individual doing business under another name	both names should be provided, along with the home address of the individual as well as the business address.
the party is a partnership	the complete name and address of the partnership should be provided together with the individual partners' names and addresses
the party is a corporation	the complete name and address of the corporation and its officers, state of incorporation, and statutory agent for service of process should be provided.

- The term "company" following the name of a business does not always mean the business has in fact been incorporated. Checking with the office of the Secretary of State in the state in which the business is located will generally confirm whether it is a corporation, local or foreign. If it is not registered, it may be doing business under a fictitious name.

#### **5.17.4.9 (09-20-2000) Proceeding to Seize A Principal Residence**

- A court order is required prior to the seizure of certain principal residences. In 1998, section 6334 of the Internal Revenue Code was amended to exempt principal residences from levy unless a judge or magistrate of a Federal district court approves the seizure, in writing. IRC 6334(e)(1).

##### **Note:**

Section 6334(a)(13)(A) exempts from levy any real property used as a principal residence by any person (except real property which is rented) if the amount of taxes owed does not exceed \$5,000.

- "Principal residence" refers to the principal residence (as defined by IRC 121) of the taxpayer, the taxpayer's spouse, former spouse, or minor child.
- A proceeding to seize a principal residence (also called a 6334(e)(1) proceeding) is necessary in order for the Government to pursue administrative collection against a principal residence; foreclosure of the tax lien on a principal residence is still available under IRC 7403. A section 6334(e)(1) proceeding should be recommended whenever the government would have, prior to the amendment of IRC 6334, administratively seized the principal residence. Continue to recommend lien foreclosure actions where appropriate.
- A section 6334(e)(1) proceeding is generally commenced in the same manner as suits by the Government to collect taxes. A recommendation is forwarded to Counsel, which prepares a suit letter to the Department of Justice. The information required to be provided in a lien foreclosure recommendation (see IRM 5.17.4.8.3) must be provided in a 6334(e)(1) proceeding recommendation.

##### **Note:**

If the residence to be seized is the principal residence of the taxpayer's spouse, former spouse or minor child, remember to provide the name and address of that person or persons.

- In addition to the information provided in connection with lien foreclosure, the recommendation must show that all the legal and procedural requirements for seizure have been met. For example, it should contain information regarding:
  - the notice given to the taxpayer under IRC 6331 (d)
  - any notices given or hearings conducted as required by IRC 6320 and 6330

- the investigation of the status of the property required by IRC 6331(j)
  - alternative methods of collection considered
  - necessary approvals
6. Seizure of a principal residence of the taxpayer, the taxpayer's spouse, former spouse, or minor child (or of any other person) requires the written approval of the Area Director. This written approval must accompany the recommendation.

[More Internal Revenue Manual](#)

[Accessibility](#) | [FirstGov.gov](#) | [Freedom of Information Act](#) | [Important Links](#) | [IRS Privacy Policy](#) | [U.S. Treasury](#)



Search IRS Site for:

[Home](#) > [Tax Professionals](#)

Search Forms and  
Publications for:

[Search Help](#)

## contents

[e-file Providers](#)  
[Enrolled Agents](#)  
[Enrolled Actuaries](#)

## resources

[e-file](#)  
[Forms and Publications](#)  
[Where to File](#)  
[Contact My Local Office](#)  
[FAQs](#)  
[Taxpayer Advocate](#)

## topics

[Tax Pro News](#)  
[Tax Pro Events](#)  
[Subscription Services](#)  
[IRS Resources](#)  
[Internal Revenue Manual](#)  
[More Topics . . .](#)

# Internal Revenue Manual

## Part 5 Collecting Process

### Chapter 1 General

### Section 11 Delinquent Return Accounts

#### Contents

- [5.1.11 Delinquent Return Accounts](#)
  - [5.1.11.1 Delinquent Return Investigations](#)
    - [5.1.11.1.1 Taxpayer Contact](#)
    - [5.1.11.1.2 Full Compliance Check](#)
    - [5.1.11.1.3 Documentation](#)
    - [5.1.11.1.4 Unable to Locate](#)
    - [5.1.11.1.5 Cases Requiring Special Handling](#)
      - [5.1.11.1.5.1 Restricting Field Contact](#)
      - [5.1.11.1.5.2 Criminal Investigation Cases](#)
      - [5.1.11.1.5.3 Exempt Organizations](#)
      - [5.1.11.1.5.4 Wagering Taxes](#)
      - [5.1.11.1.5.5 Bankruptcy Cases](#)
      - [5.1.11.1.5.6 IRS Employee Return Delinquency](#)
    - [5.1.11.1.6 Del Ret Transfers](#)
      - [5.1.11.1.6.1 Transfer Without Prior Courtesy Investigation](#)
      - [5.1.11.1.6.2 Military Personnel](#)
      - [5.1.11.1.6.3 Other International Cases](#)
  - [5.1.11.2 Research Tools](#)
    - [5.1.11.2.1 IRMF Transcripts](#)
    - [5.1.11.2.2 Del Ret Supplements](#)
    - [5.1.11.2.3 IDRS and CFOL Command Codes](#)
  - [5.1.11.3 Secured Returns](#)
    - [5.1.11.3.1 Returns With Payment](#)
    - [5.1.11.3.2 Returns Without Full Payment](#)
  - [5.1.11.4 Enforcement Criteria](#)
    - [5.1.11.4.1 Minimal or No Tax Due on Returns and Collectibility Factors](#)
  - [5.1.11.5 Refusal to File -- Initial Activity](#)
  - [5.1.11.6 Referrals to Criminal Investigation](#)
    - [5.1.11.6.1 Preparing and Processing Referrals](#)
  - [5.1.11.7 Referrals to Examination](#)

- [5.1.11.7.1 Preparation of Form 3449](#)
- [5.1.11.7.2 Referrals Concerning Underreported Tax](#)
- [5.1.11.7.3 Excise Tax Returns](#)
- [5.1.11.7.4 Referrals to the Tax Exempt and Government Entities \(TEGE\)](#)
- [5.1.11.7.5 Employer/Employee Relationship Questions](#)
- [5.1.11.8 Substitute for Returns](#)
- [5.1.11.9 IRC 6020\(b\) Authority](#)
  - [5.1.11.9.1 Taxpayer Contact](#)
  - [5.1.11.9.2 Preparation and Approval of Returns](#)
  - [5.1.11.9.3 Appeals of Unagreed IRC 6020\(b\) Cases](#)
  - [5.1.11.9.4 Preparing Returns for Assessment](#)
  - [5.1.11.9.5 Unable to Locate and Unable to Contact Cases](#)
- [5.1.11.10 Del Ret Completions](#)
  - [5.1.11.10.1 Transaction Codes](#)
  - [5.1.11.10.2 TC 590 -- Not Required to File for this Period Only](#)
  - [5.1.11.10.3 TC 591 -- Final](#)
  - [5.1.11.10.4 TC 593 -- Unable to Locate](#)
  - [5.1.11.10.5 TC 594 -- Return Previously Filed](#)
  - [5.1.11.10.6 TC 595 -- Referrals to Examination or TEGE](#)
  - [5.1.11.10.7 TC 596 -- Referrals to Criminal Investigation](#)
  - [5.1.11.10.8 TC 597 -- Surveyed](#)
  - [5.1.11.10.9 TC 598 -- Shelved](#)
  - [5.1.11.10.10 TC 599 -- Taxable/Nontaxable Return Secured](#)
  - [5.1.11.10.11 Recalls](#)
  - [5.1.11.10.12 Credit Balances](#)
    - [5.1.11.10.12.1 Excess Collection Taskforce](#)
    - [5.1.11.10.12.2 Not Liable or No Longer Liable for Return](#)
    - [5.1.11.10.12.3 Unable to Locate](#)
    - [5.1.11.10.12.4 Return Previously Filed With Spouse](#)
    - [5.1.11.10.12.5 Debit\(s\) on Account](#)
    - [5.1.11.10.12.6 ICS Credit Transfers](#)
  - [5.1.11.10.13 Entity Changes](#)
- [5.1.11.11 Delinquent Investigation Account Listing \(DIAL\)](#)
  - [5.1.11.11.1 Matching Procedures](#)
  - [5.1.11.11.2 Collection Statute Expiration Date](#)
  - [5.1.11.11.3 Assessment Statute Expiration Date \(ASED\)](#)
  - [5.1.11.11.4 Large Dollar Accounts](#)
- [5.1.11.12 Delinquency Check Programs](#)
  - [5.1.11.12.1 Tax Liability of Entities and Individuals from Canada and Mexico](#)
  - [5.1.11.12.2 Rules and Restrictions with Respect to Collection Activities in Canada](#)
- [5.1.11.13 Heavy Vehicle Use Tax](#)
  - [5.1.11.13.1 Service Center Collection Branch Processing](#)
  - [5.1.11.13.2 Automated Collection Branch Processing](#)
  - [5.1.11.13.3 Collection Field Function \(CFf\) Processing](#)
- [Exhibit 5.1.11-1 Index for Questions and Answers to Assist in the Disposition of Del Ret](#)
- [Exhibit 5.1.11-2 Questions and Answers to Assist in the Disposition of Del Ret \(Reference: IRM 5.1.11.9\)](#)
- [Exhibit 5.1.11-3 Comprehensive List of Transaction Code 59X Closing Codes](#)
- [Exhibit 5.1.11-4 DIAL Format](#)

---

## **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 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 Del Ret cannot be resolved following the initial attempt, the field investigation should include contacts with such third parties as are necessary to resolve the Del Ret (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 Del Ret.
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 5.20, 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. Del Rets with Case Code "914" identify taxpayers who are under investigation by the Criminal Investigation. Follow local procedures when working such Del Ret's.
2. Del Rets with a notice code "Z" indicate a reversed TC 914 for the Del Rets period.

#### **5.1.11.1.5.3 (05-27-1999)**

##### **Exempt Organizations**

1. Refer the case to the Territory Manager 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 Del Ret organization has merged with another organization, note the name and EIN of the surviving organization as well as the merger details.

#### **5.1.11.1.5.4 (05-27-1999)**

##### **Wagering Taxes**

1. Collection Field function is responsible for securing delinquent wagering, occupational and/or excise tax returns, except when:
  - A. Evidence of criminal wagering or non-wagering activity or fraud is discovered.
  - B. Notification is received advising that the taxpayer is the subject of a criminal investigation.
  - C. Extensive scrutiny of records requires Territory Manager involvement.

#### **5.1.11.1.5.5 (05-27-1999)**

##### **Bankruptcy Cases**

1. Stop all balance due enforcement actions upon learning that the taxpayer has filed a petition under any chapter in bankruptcy.
  - A. Determine the petition date and annotate on the Del Ret "Bankruptcy Code Petition----- (date)." Do not demand payment for prebankruptcy periods.
  - B. Secure and process all delinquent returns in accordance with Section 11.3 of this IRM.

#### **5.1.11.1.5.6 (05-27-1999)**

##### **IRS Employee Return Delinquency**

1. Refer to procedures for handling cases on IRS employees in IRM 5.1.7.
2. IRS employee Del Rets are identified by SELECTION CODE 92. These Del Rets 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 Del Ret.
4. Do not refer these cases to the Territory Manager.
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 Del Ret 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 Del Ret so as to extend approximately one inch above the Del Ret.

7. When the IRS employee is in the jurisdiction of another service center, send a photocopy of the Del Ret to the service center Collection branch where the Del Ret was issued. Originals and photocopies should be sent in accordance with, IRM 1.21, Physical Security Standards.

#### **5.1.11.1.6 (05-27-1999)**

##### **Del Ret Transfers**

1. Form 2650 Bal Due-Del Ret Transfer, is not required when transferring Del Rets outside the jurisdiction of the area office unless accompanied by a Bal Dues on the same entity.
2. Intra-area Del Ret transfers require managerial approval.
3. Mail Letter 729(DO) to the taxpayer and initiate a Courtesy Investigation if:
  - A. The taxpayer fails to acknowledge receipt of Letter 729.
  - B. The post office doesn't provide notification of change of address within 30 days.

#### **5.1.11.1.6.1 (05-27-1999)**

##### **Transfer Without Prior Courtesy Investigation**

1. Del Rets may be transferred without first requesting a Courtesy Investigation via Form 2209 if:
  - A. They accompany Bal Dues on the same taxpayer which are being transferred.
2. The Del Rets, as issued, show an address in another area and:
  - A. Terminal research does not show a more current address within your area, the taxpayer is not incarcerated, and the address is not a P.O. Box or in care of a motel or hotel.
  - B. The transferee office requests or agrees to the transfer.
  - C. Either a Daily Transaction Register item, IDRS or correspondence received from the taxpayer or personal contact with the taxpayer provides a new address.
3. Corporate Del Rets may be transferred only if the corporation itself, not merely one or more officers, is located in the transferee area's territory.
4. Joint or partnership Del Rets may be transferred only if all the taxpayers reside in the transferee area's territory.
5. The taxpayer acknowledges receipt of Letter 729 or a similar letter, but does not respond sufficiently to close the Del Ret.

#### **5.1.11.1.6.2 (05-27-1999)**

##### **Military Personnel**

1. If a military taxpayer is stationed within the United States initiate a Courtesy Investigation when correspondence can't resolve the case.
2. If the military taxpayer is stationed outside the United States initiate a Courtesy Investigation if correspondence or if the taxpayer requests personal contact.
  - A. Courtesy Investigations will go to the Director, Compliance (International).
  - B. Transfer of the Del Rets is not permitted.
  - C. Provide specific instructions since the Revenue Representative may not be familiar with Collection procedures.
  - D. Attach copies of the Del Ret and related documents.

#### **5.1.11.1.6.3 (05-27-1999)**

##### **Other International Cases**

1. Initiate a request for a courtesy investigation to the Director, Compliance (International) if:
  - A. The taxpayer has moved to an address outside the United States.
  - B. The case can't be resolved through correspondence.
  - C. The case meets LEM V criteria.
2. Prepare Form 2209, Courtesy Investigation proposing transfer of the Del Ret('s) and forwarded to: Internal Revenue Service, 950 L'Enfant Plaza S.W. Washington D.C. 20024 ATTN: S:C:15:T:1:C.
3. Send Form 2209 involving taxpayers having current addresses in Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa or any of the other territories possessions, to U.S. Internal Revenue Service, 2 Ponce de Leon Ave., 10th Floor, San Juan, PR 00918-1693.
4. Give specific instructions on the Form 2209 for each return to be secured or action to be taken.

#### **5.1.11.2 (05-27-1999)**

##### **Research Tools**

1. There are several research tools available to assist in working nonfiler issues.
2. Principal among them are:
  - A. IRMF Transcripts
  - B. Del Ret supplements
  - C. CFOL command codes
  - D. IDRS command codes

#### **5.1.11.2.1 (05-27-1999)**

##### **IRMF Transcripts**

1. If Del Ret supplement data is not available, you can request an IRMF transcript to obtain IRP data. Use CC IRPTR which will generate a request to Martinsburg Computing Center (MCC) each week.
2. CC IRPTR may be used to request IRMF transcripts on BMF taxpayers for CID or Examination referrals or in unable to locate cases.
3. You will receive the information in a paper format, usually within four weeks.
4. To facilitate input of CC IRPTR to IDRS, use Form 6632.

#### **5.1.11.2.2 (05-27-1999)**

##### **Del Ret Supplements**

1. Request a Del Ret Supplement via IDRS using CC TSIGN , with the literal "D" . The following week, CC SUPRQ will display the supplement on the IDRS screen. The retention period for supplement data on IDRS is five days. If the CC SUPRQ is not used during the following week, the Del Ret Supplement data will drop off.
2. The Del Ret Supplement file may hold up to 5 years plus the current delinquent year (if multiple years are open). If the Del Ret has multiple periods and supplements are missing, a request may produce all of the missing supplements.
3. Use Del RetRQ, request type "S" for Del Ret Supplement requests when no account data is on IDRS. Request type "S" will build a Del Ret compliance record for an existing account if one is not present. The following cycle, the supplement may be accessed using CC SUPRQ , as described in (1) and (2) above.
4. Form 4845, Bal Due/Del Ret Reassignment Request, may be used to maintain a weekly record of CC TSIGN"D" inputs so supplements may be secured the following week using CC SUPRQ .

#### **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. Del RetNQ

### **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 Insolvency **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 Insolvency. See IRM 5.9 Bankruptcy.
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 IRM.
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 section 1.4 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, section 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 5.16), 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, section 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 Bal Due 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, section 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 Bal Due 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 Bal Due is issued.
- If a Bal Due is received for a return processed per (2) above and no further action is needed, route the Bal Due to the unit responsible for maintaining the pre-assessment file. This unit will associate the Bal Due 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 Insolvency.
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 Del Ret 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 IRM.
2. The investigating employee will take the following actions for each Del Ret 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 Del Ret or in the case file;
  3. Document the basis for the determination; and
  4. Secure managerial approval on the Del Ret.
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 willful, or there is any indication of fraud. The employee will suspend activities and promptly report the findings to the Fraud Referral Specialist.
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 Fraud Referral Specialist
  - B. Referral to the Criminal Investigation, See IRM 25.1
  - C. Summons, see IRM 25.5
  - D. Referral to Examination, see Section 11.7 of this IRM
  - 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 Handbook, IRM 25.1, 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 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 Fraud Referral Specialist.
4. The revenue officer is responsible for identifying potential fraud and referring that taxpayer to the Criminal Investigation. 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.
2. Procedures for processing a referral through Collection to CI 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 Fraud Referral Specialist (FRS);
  - C. The FRS 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 FRS;
  - 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 FRS 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 FRS 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 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 Del Ret;
  - B. Attach a copy of Form 2797 to the back of the Del Ret;
  - C. Use closing code TC 596 00 57 for the earliest period of each MFT printed on an IMF Del Ret

**NOTE:**

Do not use TC 596 on BMF Del Rets. 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 25.1 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 IRM, 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. IDRSVCFOL research
  2. Del Ret 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 Del Ret file.
9. Close the oldest module of each MFT on the Del Ret 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 Del Ret 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 Field Territory Manager 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 Tax Exempt and Government Entities (TEGE)**

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 TEGE key area. The key area offices are as follows:
  - A. Central Mountain
  - B. Cincinnati
  - C. Pacific Coast
  - D. Great Lakes
  - E. Northeast
  - F. Gulf Coast
  - G. Mid Atlantic
2. A summons does not have to be served prior to referring a case to TEGE.
3. Include all information which will assist TEGE 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 Del Ret 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 Del Ret and case file history
  - B. Close the Del Ret using TC 595 CC57
5. If a Del Ret is for any other Form 5500 series or where the plan number is 501 or higher, close the Del Ret 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 area Employment Tax Program or the PSP Support Manager in Compliance 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 4.23, 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. Del Rets are referred to ASFR for processing when there are no unresolved taxpayer delinquent accounts (Bal Due) associated with the taxpayer and if the case meets certain selection code criteria. The case may be sent to ASFR directly after the final Del Ret notice by the Automated Collection System (ACS) or by revenue officers.
3. Revenue officers may refer IMF Del Rets 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 Del Ret to ASFR complete the following:
  - A. Resolve all open Bal Dues.
  - 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 Del Ret and process the Del Ret 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, Del Rets with proposed installment agreements or in Collection status 60 cannot be processed through ASFR.
6. If Bal Dues are resolved by continuous levy (status 60 with the agreement locator number of XX08), refer a Del Ret 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 Del Ret to DOAO8000.
7. Infrequently, the revenue officer may receive a Bal Due after the related Del Ret is sent for

ASFR processing. The Del Ret 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 Del Ret will be T-signed to DOAO8000.
the 30 or 90 day letter has <b>not</b> been sent to the taxpayer	both the Bal Due and Del Ret 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 area channels.
- If the Bal Due is resolved and the Del Ret 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 Del Ret 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):

- Form 940, Employer's Annual Federal Unemployment Tax Return
- Form 941, Employer's Quarterly Federal Tax Return
- Form 942, Employer's Quarterly Tax Return for Household Employees
- Form 943, Employer's Annual Tax Return for Agricultural Employees
- Form 720, Quarterly Federal Excise Tax Return
- Form 2290, Heavy Vehicle Use Tax Return
- Form CT-1, Employer's Annual Railroad Retirement Tax Return
- Form 1065, U.S. Partnership Return of Income

2. The following are authorized to execute returns under IRC 6020(b):

- Revenue officers.
- 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:**

- Total wages, number of employees, and tax withheld for each delinquent return (Forms 941, 942 and 943).
  - Name of states in which wages were paid (Form 940).
  - Number of partners in the partnership, their names, addresses and social security numbers (Form 1065).
  - Type of truck, number of axles, gross weight of vehicle and tax due (Form 2290).
- 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.
  - Explain the trust fund recovery penalty, if applicable.
  - If collection of the tax on a delinquent return appears to be in jeopardy, follow the procedures for prompt and jeopardy (IRM 5.1, section 4) assessments.
  - If the taxpayer is in a receivership or probate proceeding, follow the procedures for quick assessments in IRM 5.1, Section 4.
  - 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 for guidelines.
  - A field call is required before using IRC 6020(b) authority.
  - 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 Del Ret 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 Del Ret 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.

**5.1.11.9.3 (05-27-1999)****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 Del Ret 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 IRM.
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 IRM.
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 20.1, Penalty IRM.

#### **5.1.11.9.5 (05-27-1999)** **Unable to Locate and Unable to Contact Cases**

1. In unable to locate situations when the proprietors, partners or responsible officers and assets cannot be located:

<b>If</b>	<b>Then</b>
Their SSNs can be determined	Follow IRM Section 11.3 of this IRM for returns without full payment
Their SSNs cannot be determined	Closing the delinquency using TC 593 with the proper closing code. See Sections 11.1 and 11.9 of this IRM.

- In unable to contact situations:
  - A. Process the returns via prompt assessment  
or
  - B. Prepare a preassessment Form 53, Report of Currently Not Collectible Taxes, at the time the return is signed.

#### **5.1.11.10 (05-27-1999)** **Del Ret Completions**

1. Disposition of the Del Ret will depend upon the circumstances of individual cases. Exhibits 11-1 and 11-2 furnish answers to a number of questions in the disposition of the Del Ret.
2. When the taxpayer does not file the required returns or does not submit sufficient information to satisfy all delinquent periods, the Del Ret cannot be closed. Appropriate entries will be made in the case history of the Del Ret regarding all actions taken including full compliance checks.

#### **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 Del Ret 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 Del Ret 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 Del Ret taxpayer is a subsidiary (closing code 14).
  - B. To close Del Rets under discretionary provisions of Policy Statement P-5-133. See Section 11.4 of this IRM for criteria.
  - C. To close Del Rets 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 Del Ret 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 Del Ret. If the ending period of the MFT is more than one year away, see Section 11.9.3(3) of this IRM.
3. To close out future delinquencies on those periods not appearing on IDRS at the time of closing the Del Ret, delete the filing requirements by checking the TC 016 block of the Del Ret 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 Del Ret.
4. When closing an IMF Del Ret using TC 591, if the taxpayer is deceased, prominently mark the face of the Del Ret in red ink with "TC 540" . No other document preparation will be necessary.
5. If a Del Ret 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 Del Ret or IDRS.
2. Indicate in the case history all actions taken in attempting to locate the taxpayer. See Section 11.1 of this IRM for required and suggested actions.
3. In instances where collection personnel cannot contact an Exempt Organization responsible officer, the Del Ret will be closed using TC 593.

#### **5.1.11.10.5 (05-27-1999)**

#### **TC 594 -- Return Previously Filed**

1. If the return has been previously filed, the revenue officer should secure a signed copy of the return with proof of payment, if appropriate, and:
  - A. close the Del Ret by completing the TC594 block with closing code 58 and furnish fact of filing data in the history or on reverse of Del Ret; and
  - B. attach a signed copy of both the return and proof of payment to the Del Ret.
  - C. If a balance due remains, make a preassessment collection determination as required by Section 11.3 of this IRM.
2. If the taxpayer is unable to provide proof of payment, the revenue officer should:
  - A. secure a signed copy of the balance due return and process it as an original;
  - B. close the Del Ret by checking the TC599 block; and
  - C. make a preassessment collection determination required by Section 11.3 of this IRM.
3. Where there has been an entity change, a careful analysis of the facts should be made to determine for which entity the previously filed return was intended. If the return was not intended for the Del Ret entity, the Del Ret should be closed by TC 590 or 591 (closing code 50), as appropriate, and not by TC 594.
4. Check the "Recall" block if you see the original return, with DLN, with the same name and number or microfilm or terminal inquiry shows the tax module with a satisfactory closing transaction code.
5. If the taxpayer has filed jointly with spouse as the secondary SSN on the return, the revenue officer will verify fact of filing and close the delinquent period by entering TC 594 closing code 59. Fact of filing can be verified by requesting IDRS MCC transcripts, using CFOL with CCs INOLE, IMFOL or RTVUE or securing returns for the primary SSN and comparing the taxpayer's SSN with the secondary SSN. When the revenue officer discovers that the secondary SSN is incorrect on the jointly filed return, use Form 2363 Master File Entity Change to correct the secondary SSN of the entity. Attach any transcripts to case file. If fact of filing cannot be verified, secure original tax return and attach a copy of the return(s) to the case file.
6. TC 594 cannot be used if a taxpayer has a Form 1120 filing requirement but has filed a Form 1120S or vice versa.

#### **5.1.11.10.6 (05-27-1999)**

#### **TC 595 -- Referrals to Examination or TEGE**

1. Use TC 595 with closing code 57 on the earliest period on the Del Ret 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 Del Ret. 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 Del Ret in inventory pending notification of acceptance or rejection of the case by the Criminal Investigation.
2. Use TC 596 closing code 57 for the earliest period printed on the Del Ret or IDRS for each MFT when the Criminal Investigation 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 Del Ret.
4. Do not use TC 596 on BMF Del Ret's. Hold BMF Del Ret'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 Del Ret and on any subsequent periods that are delinquent but not printed on the Del Ret.

#### **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 Del Ret 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 Del Ret (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 IRM.

#### **5.1.11.10.11 (05-27-1999)**

##### **Recalls**

1. Indicate information on the back of the Del Ret (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."



**5.1.11.10.12 (05-27-1999)****Credit Balances**

1. Some DEL RET modules have credit balances. You may have to handle the credit balance separately from the DEL RET closure depending on whether you secure a return or not.

**5.1.11.10.12.1 (07-04-2001)****Excess Collection Taskforce**

1. In 2000, TIGTA and the Excess Collection File (XSF) Task Force made recommendations which management approved.
2. These recommendations were:
  - o rather than transferring credits with no return to XSF, leave them on the Master File account until the refund statute expires;
  - o systemically generate semi-annual notices to the taxpayer, reminding them of the credit(s) and their options for claiming it;
  - o six months before the credit expires, send a systemic last chance notice to the taxpayer; explain that the credit(s) will no longer be available in six months,
  - o when credit statute expires, systemically transfer unresolved credit(s) to Unapplied Statute Expired Credits Account.
3. ICS programming changes became effective in January 2001.
4. IDRS programming changes became effective in July 2001.

**5.1.11.10.12.2 (07-04-2001)****Not Liable or No Longer Liable for Return**

1. For a DEL RET module closed with a not liable (TC590) or a no longer liable (TC591) and a credit exists, the credit should be refunded to the taxpayer. A signed no-liability (non-taxable) return should be secured from the taxpayer.
2. The return should be annotated "Input as original for Refund" , and forward for processing as an original delinquent return.
3. If a return cannot be secured, secure a signed statement of no liability from the taxpayer.
4. If the taxpayer refuses to provide a signed return or statement of no liability, close the DEL RET module with correct transaction code and leave the credit on the module.

**5.1.11.10.12.3 (07-04-2001)****Unable to Locate**

1. For a DEL RET module closed unable to locate (TC 593), leave the credit on the module.

**5.1.11.10.12.4 (07-04-2001)****Return Previously Filed With Spouse**

1. If the DEL RET module is closed TC 594 cc 59, and a credit balance exists, then transfer the credit to the spouse's social security number using ICS. See section 12.6 below.

**5.1.11.10.12.5 (07-04-2001)****Debit(s) on Account**

1. If the taxpayer does not claim the credit and the period for refunding an overpayment has not expired, research IDRS.
  - A. If there are any outstanding debit balances on other modules, then transfer the credit to them on ICS. See section 12.6 below.
  - B. If after the transfer, any credit remains leave it on the module, do not remove to excess collections.

#### **5.1.11.10.12.6 (07-04-2001)** **ICS Credit Transfers**

1. The "Credit Disposition" option on the ICS Module Detail screen allows you to dispose of the credit balance on a DEL RET module.
2. Select the "Transfer to Another Period" option and complete the required fields.
3. ICS User Guide section 6 "Module Detail Delinquent Return" will give you specific instructions.
4. Currently, ICS credit transfers do not load to IDRS. Therefore, prepare Form 2424, Account Adjustment Voucher, to have credit transferred on IDRS. IRM 3.17.21.8.3 has detailed instructions for preparing this form.

#### **5.1.11.10.13 (05-27-1999)** **Entity Changes**

1. In working a Del Ret where you find there has been a change in the entity, a careful analysis of all facts should be made to ensure that the Del Ret 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 Del Ret should be closed by TC 591.
2. The bottom front portion of the Del Ret 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 Del Ret 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 areas 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 area 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 IRM.
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 Bal Dues and Del RetS.
2. At a minimum, a quarterly match of all Del RetS and Bal Dues 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 Bal Due, (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 Bal Due 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 Bal Due 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 Del Ret 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 Del Ret is closed per IDRS, note "closed by Del Ret match" and close the Del Ret from inventory.
  - D. Request a Bal Due or a Del Ret reissuance when a document cannot be located but is listed on the DIAL. Managerial approval is required to use this command code. Until the Bal Due or Del Ret is reissued, an IDRS/CFOL printout of the missing module(s) may be used.
  - E. Request a Bal Due reissuance by inputting CCSTAUP to IDRS and requesting Bal Due status 26.
  - F. Request a Del Ret replacement through IDRS by using the command code CCDel RetAD.

#### **5.1.11.11.2 (05-27-1999) Collection Statute Expiration Date**

1. The CSED appears next to Bal Due 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 Bal Dues 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 ASED column of the DIAL:
  - A. "0" appears when a trust fund Bal Due 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 IRM.
  - 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

---

**Internal Revenue Manual Part 5 Collecting Process Chap. 1 General (05-27-1999)**  
**Sec. 11 Delinquent Return Accounts**

[IRS Privacy and Security Policy](#) | [Contact Us](#) | ©2001 IRS.gov



Search IRS Site for:

Search Forms and Publications for:

[Tips for successful searching](#)[Home](#) > [Internal Revenue Manual](#)**information for:**[Individuals](#)  
[Businesses](#)  
[Charities & Non-Profits](#)  
[Government Entities](#)  
[Tax Professionals](#)  
[Retirement Plans](#)**resources**[e-file](#)  
[Forms and Publications](#)  
[Where To File](#)  
[Contact My Local Office](#)  
[Frequently Asked Questions](#)  
[Taxpayer Advocate](#)

# Internal Revenue Manual

## Part 5. Collection Process

### Chapter 1. General Handbook

#### Section 11. Delinquent Return Accounts (Cont. 1)

##### 5.1.11 Delinquent Return Accounts (Cont. 1)

- [5.1.11.6 No Return Secured](#)
- [5.1.11.7 Del Ret Closures](#)
- [5.1.11.8 Delinquency Check Programs](#)
- [5.1.11.9 Tax Liability of Entities and Individuals from Canada and Mexico](#)
- [5.1.11.10 Heavy Vehicle Use Tax](#)
- [Exhibit 5.1.11-1 Index for Questions and Answers to Assist in the Disposition of Del Rets\(Reference: IRM 5.1.11.7\)](#)
- [Exhibit 5.1.11-2 Questions and Answers to Assist in the Disposition of Del Rets \(Reference: IRM 5.1.11.7\)](#)
- [Exhibit 5.1.11-3 Comprehensive List of Transaction Code 59X Closing Codes](#)
- [Exhibit 5.1.11-4 Substitute for Return for Revenue Officer \(SFR for RO\) worksheet](#)
- [Exhibit 5.1.11-5 Return Delinquency Processing Flow Chart](#)

##### 5.1.11.6 No Return Secured

##### 5.1.11.6.4 Referrals to Examination

##### 5.1.11.6.4.1 (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. To complete Form 3449, follow the steps outlined below:

- A. For IMF referrals, state the income, (must meet current LEM criteria) the amount of withholding, and compute the potential tax due using Filing Status 1 or 3 with no deductions or exemptions. State which documents or sources were used to compute income and withholding. Thoroughly document the non-IRP income and sources;

**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 an individual. Use Filing Status 3 to compute the tax.

- B. Describe the source of income for the taxpayer, i.e. self employed computer programmer, insurance salesman, trust fund income for IMF, etc.;
- C. Attach all documentation substantiating income. This includes:
  - 1) IDRSVCFOL research
  - 2) Del Ret supplements
  - 3) Summoned documents
  - 4) Relevant case history
- D. Secure managerial approval
- E. Forward approved part 1 and 2 of the Form 3449 to Examination
- F. Retain Part 3 of Form 3449 in the Del Ret file
- G. Close the oldest module of each MFT on the Del Ret using Option E, "**Exam Referral**" (see Section 11.7.5 of this IRM)
- H. Prepare a terminal input request for input of TC 592 if an erroneous referral was made.
- I. Resubmit a referral that was returned or surveyed by Examination only if there is additional documentation supporting the preparation of a return by Examination.

#### 5.1.11.6.5 (05-27-2003)

#### Automated Substitute for Returns (ASFR)

1. The Automated Substitute for Return (ASFR) system prepares Substitute for Returns and assessments for individuals who fail to file after notified. ASFR uses Information Return Master File (IRMF) information to calculate taxable income.
2. ASFR is authorized to prepare an individual's income tax return on their behalf under Section 6020(b) of the IRC. The automated process is located in the campuses.
3. Referrals to ASFR can be made from Automated Collection System (ACS) when the Del Ret is un-resolved after the final Del Ret notice. Revenue officers may also refer Del Rets to ASFR processing if it meets specific criteria.
4. Del Rets may be referred to ASFR for processing only if there are no unresolved (Status 22,24,26) taxpayer delinquent accounts (Bal Due) associated with the taxpayer and the case meets certain Selection Code criteria.
5. IMF Del Rets referrals to ASFR must meet all of the following criteria:
  - A. The Del Ret Selection Code is 12, 13, 14, 15, 28, 29, 71, 72, 73, 74, 75, 76, 77, or case is refund hold account - any selection code is acceptable.
  - B. the tax year is no older than six years prior to the current year
  - C. there is no current or pending TC 530 on the account

- D. there are no unresolved Bal Due modules
  - E. there are no open 420s or 520s on the account
6. Use **"Option K ,Transfer to ASFR (IMF only)"** to close the ICS Del Ret module and systemically refer the case to ASFR processing. If Bal Dues are resolved by continuous levy (status 60 with the agreement locator number of XX08), do not use Option K to assign the Del Ret to ASFR. Instead, prepare Form 4844 to request that the Campus open a control base for the delinquent years using CC ACTON, category code "SFR" , status code "B" .
  7. Infrequently, the revenue officer may receive a Bal Due after the related Del Ret is sent for ASFR processing. The case will fail ASFR and ASFR will re-T-sign the case back to the field. The Del Ret status will be identified as ASFR by TSIGN 8000 and the TC 150 \$0 posted to the module.
  8. 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.
  9. If a return is secured for a period referred to ASFR, attach Form 3210, transmittal, to the face of the return(s). Annotate Form 3210 with the following: "Route SB return (s) to the Brookhaven NY campus, Attn.: ASFR Unit" . Submit through normal area channels. Route W & I cases to the appropriate ASFR site as determined by the DLN of the TC 150 \$0. Retain a copy of the return in the case file.

#### **5.1.11.6.6 (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. However, the revenue officer will:
  - A. Compare the income reported on the return with the information on the Del Ret supplement or IRPTR summary;
  - B. Determine if income that has come to the attention of Collection personnel that has not been subject to 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.
2. If income has not been reported by the taxpayer or there is an overstatement of credits and indications of fraud do not exist, attempt to resolve the discrepancy with the taxpayer.
3. If unable to resolve the differences and the amount in question exceeds the amount shown in LEM 5.2.1, prepare Form 3449 with a narrative and the amount of underreported tax. The information will be referred to Examination function in the Campus.
4. When there is a discrepancy in the information reported on a secured BMF return resulting in an underreporting of taxes and no signs of fraud or willfulness exist, refer the case to the Field Territory Manager on Form 3449. The 3449 should include an estimate of the dollar amount of the misstatement and the source or object resulting in understatement.

#### **5.1.11.6.7 (05-27-1999)**

#### **Excise Tax Returns**

1. Form 720, Quarterly Federal Excise Tax Return, may be prepared under the authority of IRC 6020(b) 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 Examination on Form 3449. The referral will contain all facts relative to the preparation of the return.

#### **5.1.11.6.8 (05-27-1999)**

#### **Referrals to the Tax Exempt and Government Entities (TEGE)**

1. If a revenue officer encounters a responsible officer of an exempt organization who refuses to file a required exempt organization return, a referral should be sent using Form 5666 to:

IRS Exempt Organizations

Examination Classification Unit

MC 4920 DAL

Dallas, Texas 75242

2. A summons does not have to be served prior to referring a case to TEGE.
3. Attach an explanatory cover memo and include all information on the referral to assist TEGE in preparation of the return.
4. Employee Plans, Form 5500 series (MFT 74) are no longer worked in Collection Field function. If a Del Ret includes a Form 5500 delinquency and the plan number is 001–500, the revenue officer will:
  - A. Prepare Form 5666, EP Referral
  - B. Attach a copy of the Del Ret and case file history
  - C. Close the ICS Del Ret using **Option E**, and;
  - D. Send the referral to:

5.

IRS TE/GE Div 2nd floor

Employee Plans Classification

9350 Flair Dr

EIMonte, Ca 91731

6. If a Del Ret is for any other Form 5500 series or where the plan number is 501 or higher, close the ICS Del Ret using **Option C** and sub-menu action "Not Liable" which will post a TC 590 cc 50 to the module.

#### **5.1.11.6.9 (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. Refer a case to the area Employment Tax Program or the PSP Support Manager in Compliance when it is determined 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. Refer potential Employee/Employer relationship determinations on Form 3449 relating all the facts of the case.
4. Internal Revenue Manual 4600, Employment Tax Handbook, contains additional information for all functions pertaining to the administration of Employee/Employer classification issues.

#### **5.1.11.6.10 (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 943, Employer's Annual Tax Return for Agricultural Employees
  - D. Form 720, Quarterly Federal Excise Tax Return
  - E. Form 2290, Heavy Vehicle Use Tax Return
  - F. Form CT-1, Employer's Annual Railroad Retirement Tax Return
  - G. Form 1065, U.S. Return of Partnership Income.

2. Pursuant to IRM 1.2.2.97, Delegations of Authority, Order Number 182 (rev. 7), dated 5/5/1997, revenue officers GS-09 and above, and Collection Support Function managers GS-09 and above, have the authority to prepare and execute returns under IRC 6020(b).

#### 5.1.11.6.10.1 (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 and 943).
  - B. Name of states in which wages were paid (Form 940).
  - C. Number of partners in the partnership, their names, addresses, social security numbers/employer identification number, each partner's interest percentage in the partnership, and the partnership's gross income (Form 1065/K-1). If possible, obtain copies of the partnership agreement and copy of the last filed 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, section 4) assessments.
  5. If the taxpayer is in a receivership or probate proceeding, follow the procedures for quick assessments in IRM 5.1, Section 4.
  6. A summons is not required before using IRC 6020(b) procedures. However in some cases, a summons may be the appropriate action if the revenue officer can not establish an estimated amount of tax liability, and the taxpayer is being uncooperative. See IRM 25.5, Summons Handbook, for further guidance.
  7. A field call is required before using IRC 6020(b) authority to ensure that the entity is in business, operating and located at the ICS address.
  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).

#### 5.1.11.6.10.2 (05-27-1999)

##### Preparation and Approval of 6020(b) Returns

1. ICS now provides revenue officers the ability to prepare returns and letters on their ICS laptop. Compliance Territory Managers are encouraged to fully utilize the ICS 6020(b) program. However at local management option, and with the concurrence of the Compliance Services, Case Processing, Territory Manager, the Field Support Function may perform all phases of the IRC 6020(b) clerical and review process. This includes signing of returns and submitting them for routine processing.

2. Use Form 5604, Section 6020(b) Action Sheet, to prepare returns under the authority of IRC 6020(b). The revenue officer should fully document their ICS history with a complete explanation of the basis for the assessment(s). The explanation should include information such as wages paid, income tax withheld, FTD's or payments, and any calculations or other information they used to establish the correct liability for each tax period. This information is important because it could be utilized later should the taxpayer request an appeal, file suit, or file Form 911 with the Taxpayer Advocate office.
3. Attach a copy of the ICS history documentation that explains the basis for the assessment(s) to Form 5604. This will eliminate the need for the revenue officer to complete the "basis for assessment" section on Form 5604.
4. 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.
5. 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 Del Ret 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. If a "final" return is prepared under IRC 6020(b), be sure to indicate it as "final" under " date last wages paid" .
  - E. The inflation factor is not applicable if the Del Ret module is BEFORE the LPS module data.

### Example:

Do not calculate the inflation factor if the LPS is 200206 and the delinquent period is 199912.

6. Use the following procedure for preparing Partnership returns:

### Note:

Do not prepare a Partnership return under the provisions of IRC 6020(b) if Revenue Procedure 84-35 applies to a small partnership (10 or less partners) that meets

"reasonable cause" provisions for failure to file and you have verified that each partner has individually and fully reported his share of partnership income (see section 11.7.1 for Del Ret closing actions).

- A. For Form 1065, complete the name, address, and EIN portion of the form along with the number of schedule K-1s that will be attached. If you know the gross receipts, then also complete lines 1a, 1c, and 8. These lines should all contain the same amount. This is all that is completed on Form 1065.
  - B. Schedule K-1 should also be completed and attached to Form 1065. A Schedule K-1 is completed for each known partner. Partners can be individuals, other partnerships, trusts, S-Corporations, or Corporations. On all cases, complete the Partners identifying number, name, address, and zip code, as well as the Partnership's identifying number, name, address, and zip code.
  - C. If the revenue officer does not know what the Partnership's income was for the tax year, then do not complete anything else on the Schedule K-1.
  - D. If the revenue officer knows what the Partnership's income was for the tax year (line 8 on Form 1065), then complete line 1 on Schedule K-1. If the revenue officer knows what each partner's distribution of income percentage is, then prepare each K-1 appropriately. If the distribution of income percentage is unknown, then divide the distribution of income equally among the partners, and reflect that amount on the K-1. Example: \$100,000 total distributive income (Line 8 from the Form 1065) and four partners. Then \$25,000 will be reported on each partner's K-1.
  - E. Partnerships don't pay tax, but instead pass through income and deductions to their partners, who then report it on their income tax returns. Therefore, it is important to know that the main objective of ensuring the Form 1065 and Schedule K-1 is filed, either voluntarily by the Partnership or under IRC 6020 (b) authority, is to ensure that the partners have accurately reported their share of the Partnership income. It is important for the revenue officer to appropriately follow up on each partner's filing requirements for the delinquent tax year. If appropriate, revenue officers should consider a referral to Exam, Form 3449, if partners failed to report Partnership income. If potential fraud exists, then the revenue officer should follow 6.2 of this section, Referrals to Criminal Investigation.
7. Prepare a return for the current tax period if that period becomes delinquent during the IRC 6020(b) process.
  8. Prepare the tax returns in sets. A completed set includes an original and one copy of each return for each tax period.
  9. Mail Letter 1085 or 1616 along with the original returns and all applicable enclosures, to the taxpayer. ICS macros should contain Letters 1085, and L1616 (used for Partnership returns). Retain a copy of the letter and tax returns in the case file.
  10. Should a taxpayer file bankruptcy after a letter 1085 or 1616 has been mailed, immediately inform Insolvency and provide them with copies of the proposed returns. Unless instructed otherwise, continue 6020(b) processing.

#### **5.1.11.6.10.3 (05-27-1999)** **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 Collection Support Function while the case is pending in Appeals.
2. If a Collection Support Function 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. To place the Del Ret module in suspense while the taxpayer exercises the right of appeal choose "**Option I, Surveyed**" from the Close Del Ret menu on the Del Ret Module Summary screen.
  4. The Group manager or Collection Support 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 appropriate Campus for assessment with Part 1 of Form 5604.

#### **5.1.11.6.10.4 (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 11.5.2 of this IRM.
3. Sign and 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 Exhibit 5.1.11-3 of this IRM.
4. Close the ICS Del Ret module under "**Option A, Return Secured**" using the appropriate sub-menu option (see section 11.7.1 of this IRM).

#### **5.1.11.6.10.5 (05-27-1999)** **Unable to Locate and Unable to Contact Cases**

1. In unable to locate situations when the proprietors, partners or responsible officers and assets cannot be located:

**If** \_\_\_\_\_ **Then** \_\_\_\_\_

Their SSNs can be determined	Follow IRM Section 11.5.2 of this IRM for returns without full payment
Their SSNs cannot be determined	Close the Del Ret Module using Option B, "Unable to Locate" . See Section 11.7.2 of this IRM.

2. In unable to contact situations:

- A. Process the returns via prompt assessment  
or
- B. Prepare a pre-assessment Form 53, Report of Currently Not Collectible Taxes, at the time the return is signed.

### 5.1.11.7 (06-02-2004) Del Ret Closures

1. Disposition of the Del Ret will depend upon the circumstances of individual cases. This section will describe Del Ret Module closing actions.
2. For technical details on each type of case closure, refer to the specific sections listed in this IRM. Exhibits 11-1 and 11-2 will also furnish answers to a number of questions in the disposition of the Del Ret.
3. The ICS system is a menu driven process. Users select literals from a menu which then generate transaction codes to IDRS.
4. Closing the Del Ret on the ICS system is done using the "**<F6> Close Del Ret menu**" found on the "ICS Del Ret Module Summary screen". Once an option is selected, ICS will generate a transaction code 59X and an applicable closing code for the closure.
5. The following IRM sections will explain the selections available as a closing options from the "**<F6> Close Del Ret menu**".

#### 5.1.11.7.1 (06-02-2004) Option A — Return Secured

1. Select "**Option A**" from the "Close Del Ret" menu to close the Del Ret module(s) on ICS when a return is secured:
  - A. Select the appropriate closing action from the sub-menu for the type return you secured.
  - B. ICS generates a TC 599 with a cc to IDRS (the closing code depends on what closing action you selected) .
  - C. Record money secured with a return via a sub menu within closing actions
    - a) Taxable, c) Unassessable or e) 6020(b) Agreed. This generates a TC 610 workstation transaction and updates the ICS module balance to reflect the payment.
2. See section 11.5 of this IRM for specific details on types of returns secured.

#### 5.1.11.7.2 (06-02-2004) Option B — Unable To Locate

1. Select "**Option B, Unable to Locate**" from the "Close Del Ret" menu to close the

Del Ret when you are unable to locate a taxpayer.

2. Do not close subsequent periods on the same type of tax if the earliest Del Ret module for each type of tax is closed.
3. ICS generates a TC 593 cc 57 to IDRS when the closure is verified.
4. Group Manager approval is required.

#### 5.1.11.7.3 (06-02-2004)

#### Option C — No Return Secured Taxpayer Not Required To File For This Period Only

1. Select "**Option C**" from the "<F6> Close Del Ret menu" when a taxpayer is not required to file for a period.
2. ICS generates a TC 590 and closing code (cc) to satisfy a particular period. However, the requirement to file for subsequent periods remains open.
3. Select one of the following closing actions from the ICS sub-menu to generate the appropriate closing code:
  - A. **Not liable for return (BMF - NMF) — cc 50** is used when the taxpayer is not liable for this period but does plan to be liable for future returns.
  - B. **Income below filing requirement (IMF) — cc 51** is used after verifying and calculating that the taxpayer's total income is below the amount required to file for that year. Use cc SUPOL and cc IRPTR to help you verify income. Be sure to include the spouse's income when calculating married filing joint status.
  - C. **Little or no tax due (P-5-133) — cc 52** is used to close a case based on the Policy Statement P-5-133. See IRM 5.1.11.6.1. It is also used to close a Del Ret module on a Partnership Return based on Revenue Procedure 84-35. See IRM 5.1.11.6.10.2(6) for more information.

#### Note:

This closing action requires managerial approval before the closure is completed.

- D. **T/P due refund — cc 53** is used after verifying the taxpayer's income and calculating that the tax due on the return, if it were filed, would result in a refund.
- E. **T/P due refund 6020(b) — cc 63** is used when a 6020(b) return is prepared and there is more credit than tax resulting in a refund due the taxpayer. See section 11.6.10 of this IRM for 6020(b) procedures.
4. For problems concerning multiple entities, see IRM 5.1.11.7.13 for additional guidance.

#### 5.1.11.7.4 (06-02-2004)

#### Option D — No Return Secured Taxpayer No Longer Required To File (Final)

1. Select "**Option D**" from the "<F6> Close Del Ret menu" when the taxpayer is no longer required to file a return, and the filing requirement for the MFT should be closed on the Master File.

2. ICS generates a TC 591 to satisfy that period as well closing the filing requirements on all subsequent periods for that MFT so be sure to select "Option D" on the earliest period on each MFT.
  - A. ICS generates a TC 591 cc 66 on all subsequent open Del Rets for that MFT.
  - B. Close any other ICS modules for other MFTs related to the entity
  - C. Prepare paper documents, (Forms 2363 or 4844) to close filing requirements on non ICS MFTs. Be sure to include the effective date of the actions.
  - D. Create a ICS history item to document the actions taken on paper.
3. A TC 591 will stop tax packages from being mailed to the taxpayer and stop future delinquency checks for that MFT.
4. Select one of the closing action from the ICS sub-menu to generate the appropriate closing code:
  - A. **Business discontinued — cc 50** is used when an entity has discontinued and returns are no longer required. Close out all filing requirements on all MFT's after the closing date.
  - B. **Business transferred — cc 50** is used when a business has stopped operating under this entity and has established another entity to take its place. Close out all filing requirements on all MFT's after the transfer date.
  - C. **Change in Organization — cc 50** is used when an organizational change has taken place for the entity and a new entity has been established. In addition to any Del Rets close out all filing requirements on all MFTs after the change date.
  - D. **Discharged all employees — cc 50** is used when the business has discharged all of its employees yet the business has not closed. Close the 940, 941, 943, and 945 filing requirements after the discharge date.
  - E. **IRC 6020(b) - Program — cc 63** is used when a 6020(b) return is being prepared and it will be the final return for the business. See section 11.6.10 of this IRM for procedures on 6020(b).
  - F. **Other — cc 50** is used for any situations that do not fall into the above categories. For example, an IMF Del Ret where the taxpayer is deceased; in this situation prepare Form 2363 to request the input of a TC 540, "Deceased Taxpayer" , and create an ICS history item.
5. To prevent future delinquencies on those periods or MFT's not appearing on ICS at the time of closing the Del Ret
  - A. Prepare paper documents 2363 or 4844 as appropriate
  - B. Request that a TC 591 with appropriate closing code be input.
  - C. Be sure to give the effective date or the out of business date.

#### 5.1.11.7.5 (06-02-2004) Option E — Exam Referral



1. Select "**Option E, Exam Referral**" from the "Close Del Ret" menu when you refer a case to Examination or to SFR for RO processing.
2. ICS generates a TC 595 cc 57 once the closure is verified
3. Do not close subsequent periods on the same type of tax if the earliest Del Ret module for each type of tax is closed.
4. See section 11.6.4 of this IRM for specific details on referrals that use this closing option.

#### 5.1.11.7.6 (06-02-2004)

##### Option F — CI Referral (IMF Only)

1. Select "**Option F, CI Referral (IMF Only)**" from the "<F6> Close Del Ret menu" when a case is referred to the Criminal Investigation function.
2. ICS will generate a TC 596 cc 57 once the closure is verified.
3. Closing transactions should not be input for subsequent periods on the same type of tax if the earliest Del Ret module for each type of tax is closed.
4. See section 11.6.2 of this IRM for specific details on CI referrals.

#### 5.1.11.7.7 (06-02-2004)

##### Option G — Return Previously Filed

1. If the return has been previously filed, secure a signed copy of the return with proof of payment, if appropriate. A careful analysis of the facts should be made to determine for which entity the previously filed return was intended. Verify fact of filing using CFOL command codes as shown in section 11.1.3.1 of this IRM.
  - A. If the signed copy is for the Del Ret entity, forward the return for processing.
  - B. Write on the top of the return "possible duplicate return " and close the Del Ret module on ICS using "Option "C, No Return Secured" . When the sub-menu is displayed select closing action "Return previously filed" . This will generate a TC 594 cc 58.
  - C. If the signed copy is the spousal entity and the return is posted to spouse's SSN, close the Del Ret module on ICS, using "<F6> Close Del Ret menu" select "Option C, No Return Secured" . When the sub-menu appears select closing action "Spouse on joint return" . This will systemically generate a TC 594 cc 59.
  - D. If the secondary SSN is incorrect on the jointly filed return, use Form 2363 Master File Entity Change to correct the secondary SSN of the entity.
  - E. If fact of filing cannot be verified on the spouses SSN, secure an original tax return and forward for processing using procedures in section 11.5 of this IRM. Close the Del Ret with closing action " Spouse on joint return" .
  - F. Where there has been an entity change and the return was not intended for the Del Ret entity a closing action of "Return Previously Filed" is not appropriate in this situation.
  - G. When taxpayer is not liable for **this module only**, close on ICS using "Option C, No Return Secured" . When the sub-menu appears select closing

action "Not Liable for Return". This will generate a TC 590 cc 69.

- H. When taxpayer is no longer liable to file under this entity, close on ICS using "Option D, No Return Secured/Final" . When the sub-menu appears select closing action that best describes why the entity is no longer liable to file return. This will generate a TC 591 cc 50.

#### 5.1.11.7.8 (06-02-2004)

##### Option H — Shelved

1. Select "**Option H, Shelved**" from the "<F6> Close Del Ret menu" only when prescribed in IRM instructions or by direction from Headquarters.
2. ICS generates a TC 598 cc 57 to IDRS once the closure is verified.

#### 5.1.11.7.9 (06-02-2004)

##### Option I — Surveyed

1. Select "**Option I, Surveyed**" from the "<F6> Close Del Ret menu " to generate a TC 597 on IDRS.
2. The appropriate closing actions for a TC 597 are as follows:
  - A. **Routine — cc 57** is used only when prescribed in IRM instructions or by direction from Headquarters.
  - B. **6020(b) Unagreed Appeal — cc 63** is used to close the Del Ret module(s) when the taxpayer exercises his appeal rights in unagreed IRC 6020(b) cases. See IRM 11.6.10.3 of this IRM for additional information.

#### 5.1.11.7.10 (06-02-2004)

##### Option J — Erroneously Created Module(s)

1. Select "**Option J, Erroneously Created Mod**" from the "<F6> Close Del Ret menu" when an ICS only Del Ret was opened and is no longer needed.
2. ICS **will not** generate a transaction code to IDRS.

#### 5.1.11.7.11 (06-02-2004)

##### Option K — Transfer To ASFR (IMF Only)

1. Select "**Option K, Transfer to ASFR (IMF Only)**" from the "<F6> Close Del Ret menu" when a case meets the criteria for transfer to ASFR.
2. ICS transfers the case by reassigning it to the Campus's ASFR function with TSIGN 8000. Transfer to ASFR is limited to the following Select Codes:
  - A. W & I Select Codes: 12, 13, 14, 15, 39, and 93
  - B. SBSE Select Codes 71, 72, 73, 74, 75, 76, 77, 78, 93, 28, 29
  - C. Any Select Code with a Refund Hold (RF) freeze code (beginning February 2004)

#### 5.1.11.7.12 (06-02-2004)

##### Del Ret Module(s) with Credit Balances

1. Some Del Ret modules have credit balances after the module is closed. Handle the credit balance separately from the Del Ret closure based on whether you secure a return or not.
2. In 2000, a policy and programming change was made regarding credits. Existing credits that were statute barred before the programming changes must be manually moved using form 8758. The changes effective 2001 are:
  - Rather than transferring credits with no return to excess collections, leave them on the Master File account until the refund statute expires;
  - Systemically generate semi-annual notices to the taxpayer, reminding them of the credit(s) and their options for claiming it;
  - Six months before the refund credit expires, send a systemic last chance notice to the taxpayer; explain that the credit(s) will no longer be available in six months,
  - When refund credit statute expires, systemically transfer unresolved credit (s) to Unapplied Statute Expired Credits Account.
  - Programming changes were completed in January 2001 for ICS and in July 2001 for IDRS.

#### **5.1.11.7.12.1 (06-02-2004)** **Debit(s) on Account**

1. If the taxpayer does not claim the credit and the period for refunding a payment **has not** expired, research IDRS.
  - A. If there are any outstanding debit balances on other modules, then transfer the credit using section 11.7.12.2 of this IRM.
  - B. If any credit remains after the transfer, leave it on the module. Do not remove to excess collections.

#### **5.1.11.7.12.2 (06-02-2004)** **ICS Credit Transfers**

1. The "Credit Disposition" option on the ICS Module Detail screen allows you to dispose of the credit balance on a ICS Del Ret module.
2. Select the "Transfer to Another Period" option and complete the required fields.
3. ICS User Guide Section 6, "Module Detail Delinquent Return," gives you specific instructions.
4. ICS credit transfers **do not load** to IDRS. Therefore, prepare Form 2424, Account Adjustment Voucher, to have credit transferred on IDRS.
5. Refer to IRM 5.4.2 Exhibit 2, which has detailed instructions for preparing Form 2424.
6. Remember a TC 570 maybe needed to hold the credit on the new module until the a return or other action has been completed.

#### **5.1.11.7.12.3 (06-02-2004)** **Closing Del Ret with TC 59X and Credit Balance Exists**

- When you close a Del Ret module with a TC 59X take the following actions depending on the option selected:

<b>If a Del Ret Module is closed using:</b>	<b>Then:</b>
Option A – Return Secured	See section 11.5 in this IRM for procedures.
Option B – Unable to Locate Option E – Exam Referral Option F – CI Referral Option H – Shelved Option I – Surveyed	Take no action, leave the credit on the module.
Option C – Not Liable for Return or Option D – No Longer Liable for Return	The credit should be refunded to the taxpayer.
	A signed no-liability (non-taxable) return should be secured from the taxpayer. The return should be annotated "Input as original for Refund" , and forward for processing as an original delinquent return.
	If a return cannot be secured, secure a signed statement of no liability from the taxpayer
	If the taxpayer refuses to provide a signed return or statement of no liability, close the Del Ret module with correct transaction code and leave the credit on the module.
Option G – Return Previously Filed With Spouse	Transfer the credit to the spouse's social security number using procedures in section 11.7.12.2 of this IRM.

#### **5.1.11.7.13 (06-02-2004) Entity Changes**

- In working a Del Ret module where you find there has been a change in the entity, a careful analysis of all facts should be made to ensure that the case is closed properly and that all returns have been filed under the appropriate TIN(s).
- Changes to the taxpayer's address, location or ZIP code can be made on ICS using the "Case Summary screen" and selecting the "Entity Detail Menu" .
  - From "Entity Detail Menu" select the "Name/Address menu." Changes can then be made to the address by overlaying and saving as outlined in the ICS User's Guide.
  - Once the updated information has been completed, the information will load to IDRS and then return and update the entity on ICS.
- All other changes require Form 2363, Master File Entity Change to make changes to the taxpayer's entity. Some of these changes could include:
  - TIN change – only if entity is not changed
  - Name change – only one entity is involved.
  - Filing Requirements – either changing or establishing.

D. Taxpayer Deceased – request input of TC 540 for IMF deceased taxpayer (s).

4. The following table will help you solve most types of entity problems:

If:	Then:
Del Ret module is on the new entity and the T/P filed correctly under the old entity for that period	Close the Del Ret using "Option C – No Return Secured Taxpayer Not required to File for This Period Only" to generate a TC 590 closing code 50.
Del Ret module is on the old entity and the T/P filed correctly under the new entity	Close the Del Ret using "Option C – No Return Secured Taxpayer Not required to File for This Period Only" to generate a TC 590 closing code 50.
Del Ret module is the correct entity and the return was filed under another number	Close the Del Ret using "Option G – Return Previously Filed " to generate a TC 594 closing code 59.
	Prepare Form 3870 to transfer return and any credits to the Del Ret entity.
New entity is being established	Prepare Form SS-4, Application for Employer Identification Number for issuance of a new number.
	Any Del Ret modules should be closed using "Option D – No Return Secured Taxpayer Not required to File (Final)" to generate TC 591 cc 50.
	All other filing requirements can be closed by preparing Form 2363.
Consolidation of accounts is needed	Prepare Form 2363 to change the "From" number to the " To" number and request transaction code 011.
	Prepare an additional Form 2363 to change any other data on the "TO " side if needed. Input both Forms 2363 the same cycle.
	The Name Controls of the "TO" and "FROM" accounts must be the same before consolidation will take place.
Change in an EIN for other than a consolidation of accounts	Therefore, if the Name Control of the "From" account is in error, prepare a Form 2363 to change the Name. Input the Name Control Transaction code 013 into the system two cycles prior to the TC 011 transaction.
	Prepare a Form 2363 and request transaction code 011 to change the EIN.

	Prepare an additional Form 2363 to change any other data on the "TO " side of the Form, using the "FROM" EIN.
--	---

	Input both Forms 2363 the same cycle.
--	---------------------------------------

### 5.1.11.8 (05-27-1999) Delinquency Check Programs

1. Effective March 12, 1997, activities previously known as Returns Compliance Programs (RCP), Information Gathering Projects (IGP), Fed/State projects and Compliance 2000 initiatives were consolidated into the Compliance Initiative Proposal (CIP).

### 5.1.11.9 (07-01-2002) Tax Liability of Entities and Individuals from Canada and Mexico

1. The Director, Compliance (International) has primary responsibility for ensuring United States tax compliance by Canadian and Mexican entities or individuals conducting business in the United States. **All** Canadian and Mexican entities or individuals with delinquencies (Bal Due's or Del Ret's) are assigned to SE:S:C:F:15. However, area offices bordering Canada and Mexico should be aware of their responsibilities and authority. Area offices bordering Canada and Mexico **can** :
  - answer inquires about possible tax liabilities
  - report possible delinquencies to SE:S:C:F:15
  - secure requested information for SE:S:C:F:15
  - examine public records (See IRM 11.9.1 for instructions regarding travel in border countries)
  - receive voluntary payment of tax or accept voluntary delinquent returns
2. Area offices bordering Canada and Mexico **can not**:
  - interview third parties
  - subpoena persons
  - use any enforcement action such as levy against, or seize assets
3. When area personnel have information indicating that a Canadian or Mexican individual or entity may be liable for United States tax, they will check IDRS to determine the status.
4. If the entity or individual has filed a return and there is an outstanding balance, then the revenue officer should forward this information to the Director, Compliance, Attn: SE:S:C:F:15.
5. If the entity or individual has not filed a return, then the revenue officer should prepare Form 3449, Referral Report, and forward it to the Director, Compliance, Attn: SE:S:C:F:15.
6. Any questions or need for further guidance should be addressed to the Director, Compliance, SE:S:C:F:15.

**5.1.11.9.1 (07-01-2002)****Rules and Restrictions with Respect to Collection Activities in Canada and Mexico**

1. There are strict guidelines and procedures that **absolutely** must be followed when traveling into Canada or Mexico. However, because rules, restrictions and agreements with our border countries are constantly changing, personnel in contiguous areas should contact SE:S:C:F:15 for guidance regarding travel to and from Canada and Mexico

**5.1.11.10 (05-27-1999)****Heavy Vehicle Use Tax**

1. Sections 4481, 4482, and 4483 of the Internal Revenue Code were revised by the passage of Public Law 97-424. One of the major provisions requires proof of filing and payment be submitted to a state prior to its issuance of a vehicle registration certificate. This proof, effective October 1, 1985, is defined at Section 41.6001-2(c)(1)(i) of the regulations and consists of a receipted Schedule 1 of Form 2290, Heavy Vehicle Use Tax Return. Ordinarily, Schedule 1 will be receipted during routine Campus processing.
2. Other provisions of which Collection employees must be aware include a change to the method of computing tax due as it applies to a Canadian highway motor vehicle registered in a Canadian province which is also proportionally registered in the United States under the International Registration Plan (IRP). In these situations, the revenue officer should contact SE:S:C:F:15 for guidance.

**5.1.11.10.1 (05-27-1999)****Collection Field Function (CFf) Processing**

1. Stamp both copies of Form 2290, Schedule 1 with the area office "received" stamp. Attach one copy of Schedule 1 to the original return. Return the other copy of Schedule 1 to the taxpayer if:
  - a. the return is filed timely;
  - b. the liability is paid in full; or
  - c. the quarterly liability is paid.
2. CFf employees will also stamp Schedule 1 of Form 2290 in the following situations:
  - A. The taxpayer provides proof that a return was previously filed and paid but did not receive a receipted Schedule 1 of Form 2290.
  - B. The Collection employee determines that an Installment Agreement, Form 433D, is the appropriate method of resolving the unpaid liability. After an agreement is secured and submitted for processing, the receipted Schedule 1 of Form 2290 will be returned together with Part 2 of Form 433D to the taxpayer. Exercise care in granting installment privileges to taxpayers who are identified as repeaters.
  - C. Under no circumstances will Schedule 1 of Form 2290 be receipted without full payment, the quarterly payment available under Section 6156 of the code, or resolution of the unpaid liability reached using Form 433D. Schedule 1 will not be stamped "received" if the amount is or has been determined to be currently not collectible.

**Exhibit 5.1.11-1 (06-02-2004)**

## Index for Questions and Answers to Assist in the Disposition of Del Ret (Reference: IRM 5.1.11.7)

<b>General Problems</b>	<b>Question</b>
Delinquency check information	7
Final return previously secured	4
FR is "O"	3
Incorrect TIN on Del Ret	1
LRA information	7
Multiple TIN's	1,2
Non-ICS modules	5
T/P not required to file	5
T/P out of business	5
Wrong period	6
<b>Form 940 Problems</b>	
Determining T/P liability	3
FR is "0" or "1"	4
TC 591	5
T/P entity merged	1
T/P filed preaddressed return for wrong year	2
<b>Form 941 Problems</b>	
Entity change	1, 2
FR is "O"	3
No FR	4
One return filed for two periods	6
Taxable return previously filed	5
Del Ret for 941E T/P files 941	7
<b>Form 943 Problems</b>	
Determining T/P liability	1
<b>Form 1040 Problems</b>	
Deceased T/P	2
T/P fiscal year filter	1
T/P used spouses SSN	3
<b>Form 1041 Problems</b>	
T/P files Form 706	1
T/P reports income on Form 1040	2
<b>Form 1120 Problems</b>	
1120F	3
1120POL	4
1120S	1,2
Change in filing requirement	3,4
Consolidated return	9
Corporation has net loss	8
Corporation is non-profit organization	5
Defunct Corporation	7
T/P changed FYM	10
T/P files Form 990	6
T/P not liable for return	1,2

### Exhibit 5.1.11-2 (06-02-2004) Questions and Answers to Assist in the Disposition of Del Ret



**(Reference: IRM 5.1.11.7)****General Problems**

1. Question: You receive a Del Ret with a TIN that is different from the number on the return which the taxpayer filed. How is the Del Ret closed if you discover that both TIN's have been issued to the taxpayer?

Answer: Determine from available information which TIN should be used. If the Form 941 filing requirement (FR) is open, that TIN will be used. If both numbers have an open Form 941 FR, the oldest number should be used, if possible. If the return was filed using the number shown on the Del Ret and that number is determined to be correct, secure a signed copy. From the ICS CLOSE DEL RET menu select "Option G, Return Previously Filed," . When the submenu is displayed select the appropriate closing action. In this case, prepare Form 2363 to input TC 011. If the number on the Del Ret is incorrect, select "Option D, No Return Secured/Final," and the appropriate closing action. In addition to the Del Ret modules, close out all open filing requirements on the incorrect number.

2. Question: A corporation has two TIN's. One number has a delinquency for a Form 1120. The other number has a delinquency for Forms 941 and 940. The Del Rets are outstanding under both TIN's. How should each of these Del Rets be closed?

Answer: The TIN having the Form 941 FR will be the one retained as the correct number. If both Del Rets have open 941 FR's, the oldest number will be retained. Prepare Form 2363 to consolidate the accounts. Add the period and type of tax to the number being retained, if different and unfiled. From the ICS CLOSE DEL RET menu select "Option D, No Return Secured/Final," and the appropriate closing action to close the Del Ret with the incorrect number.

3. Question. You receive a Del Ret requesting a return with a " O" filing requirement. Your investigation reveals no existing or prior liability for this type of tax. How is this case closed?

Answer: This occurs when TC 474 is input for the wrong type of tax which creates a tax module without indicating a filing requirement. From the ICS CLOSE DEL RET menu select "Option D, No Return Secured/Final," and the appropriate closing action to close the Del Ret.

4. Question. You receive a Del Ret for an MFT for which you secured a final return two periods previously and there is an open FR for the MFT. How does this happen and what action should be taken?

Answer: This may occur as a result of a preaddressed return being mailed out before the FR is turned off and the taxpayer responds on the return that he is not liable. From the ICS CLOSE DEL RET menu select "Option D, No Return Secured/Final," and the appropriate closing action to close the Del Ret.

5. Question: If a taxpayer states that he/she went out of business, how should you close the Del Ret if the taxpayer is preparing the return (s) for the period(s) stated on the Del Ret?

Answer: Have the taxpayer file the return with you. Indicate "Final " and write TC 599 with the appropriate closing code on the return. Ensure that the block in line A of the Form 941 is checked and the date last wages paid is entered. From the ICS CLOSE DEL RET menu select " Option A, Return Secured," and the appropriate closing action for that period. To satisfy open filing requirements, select "Option D, No Return Secured/Final," for the subsequent period of the same MFT as well as all other filing requirements. Prepare Form 2363 to final out filing requirements on non-ICS Del Ret modules.

6. Question: You have a Del Ret on one period and the taxpayer filed a return erroneously indicating a different period. How do you close the Del Ret?

Answer: Prepare Form 3870 to bring the return to the Del Ret period. From the ICS CLOSE DEL RET menu select "Option G, Return Previously Filed, " and the appropriate closing action to close the Del Ret. Also indicate on the Form 3870, the transaction code and closing code to input to close the tax period the return was posted to.

7. Question: How is the LRA used in coding Del Ret's if we have multiple MFT's on the Del Ret?

Answer: The coding is determined on the last return amount of the MFT being delinquency checked. If multiple MFT's are being delinquency checked at the same time and one MFT meets the criteria for coding, all other types of tax will also be coded on the Del Ret.

### **Form 940 Problems**

1. Question: What should be done if taxpayer states that there was a consolidation or statutory merger during the tax period and a Form 940 was filed by the new entity?

Answer: From the ICS CLOSE DEL RET menu, select "Option D, No Return Secured/Final, " . When the submenu is displayed select " Closing Action C, Change in Organization." However, if taxpayer states he sold business and new owner filed, determine if the taxpayer is also liable for Form 940.

2. Question: You have a 2000 Form 940 Del Ret. Your investigation reveals that the taxpayer, who was not liable for a 1999 Form 940, reported his 2000 liability on the preaddressed 1999 Form 940 without any indication it was to be considered a 2000 return. How do you close the Del Ret?

Answer: From the ICS CLOSE DEL RET menu select "Option G, Return Previously Filed," , and appropriate closing action. Prepare Form 3870 to change the period on the return to 2000. Include on Form 3870 the transaction code that will satisfy the 2000 tax module.

3. Question: If taxpayer states just the amount of wages paid in a quarter, must he/she also state the number of weeks any one employee worked before a determination of "not required to file this period" can be made?

Answer: The Del Ret may be closed using "Option C, No Return Secured, " and appropriate closing action if taxpayer states that either the number of weeks or the amount of wages was less than the requirement to file. Generally, you should accept taxpayer's statement of no liability unless conflicting information is present.

4. Question: You receive a Del Ret for a 200012 Form 940. The FR shows 0 or 1 and the LPS shows the last Form 941 filed was for the 199909 period?

Answer: Deletion of a FR prevents subsequent delinquency checks but any delinquency checks that have been made where the Del Ret has been delayed will keep a tax module open until an appropriate transaction code is posted. A final code for Form 941 will satisfy any subsequent delinquent tax modules but will not satisfy delinquent tax modules for other types of tax. Close the Del Ret by selecting "Option D, No Return Secured/Final," and appropriate closing action.

### **Form 941 Problems**

1. Question: You receive a Del Ret on a partnership taxpayer for a Form 941. Your investigation reveals that they formed a corporation which filed the return under a new name without a TIN. How do you close your Del Ret?

Answer: Assure yourself that a Form SS4 has been submitted by the new entity or that an EIN has been issued to the new Corporate entity by researching IDRS. From the ICS CLOSE DEL RET menu select "Option D, No Return Secured/Final. " When the submenu is displayed select "Closing Action B, Business Transferred." Prepare Form 2363 to close out open FR's for other MFT's.

2. Question: You have a Del Ret on a corporation for a Form 941. Your investigation reveals that corporation was recently formed from a partnership and the return you seek was erroneously filed on a preaddressed return with the partnership name. How do you close this corporate Del Ret?

Answer: From the ICS CLOSE DEL RET menu select "Option G, Return Previously Filed," with the appropriate closing action. Prepare Form 3870 to transfer the assessment from the partnership to the corporation. If the changeover occurred in the middle of a quarter, secure a short period final return for the partnership and prepare Form 3870, Request for Adjustment, giving a full explanation and request expedite action. Attach the return to the Form 3870. Submit any payment for processing on Form 3244, Payment Posting Voucher, using TC 610 and document code 17. Also prepare a Form 2363 with TC 016 for the partnership and indicate 0 for all open filing requirements.

3. Question: You have a Del Ret for a Form 941 for the period 199909. ICS shows a FR of 0 and a return filed for 200003. How do you close this Del Ret if a return is secured for 199909?

Answer: From the ICS CLOSE DEL RET menu select "Option A, Return Secured, " with the appropriate closing action. Submit the return for processing marking it "Final." Although the FR is 0, the posting of a return will open the filing requirement if the return is not marked "Final."

4. Question: You receive a Del Ret without a FR for Form 941; however, the taxpayer is liable for tax. How does this happen?

Answer: Frequently, taxpayers will indicate "FINAL" on their fourth quarter return thinking that it is their final return of the year. The filing of a return will automatically turn the FR back on.

5. Question: You have a Del Ret for a Form 941. The taxpayer advises you that he has filed a final Form 941 taxable return under the same name and TIN shown on the Del Ret. How do you close this Del Ret?

Answer: After securing a signed copy of the return, select "Option G, Return Previously Filed," and appropriate closing action for the Del Ret module. Select "Option D, No Return Secured/Final," to close the subsequent period. This will ensure the elimination of the filing requirement even though the taxpayer may have indicated "FINAL " on his last Form 941.

6. Question: The taxpayer files a Form 941 return for one period and includes tax and wages for two periods. How do you close the Del Ret?

Answer: Secure a Form 941 return for the period on the Del Ret and a Form 941C for the period on which the return was filed. Prepare a Form 3870, Request for Adjustment, explaining the circumstances including instructions on transferring the credit and attach the Form 941 and 941C. Request expedite action on processing the adjustment. Close the Del Ret by selecting "Option A, Return Secured," and appropriate closing action from the ICS CLOSE DEL RET menu.

7. Question: You receive a Del Ret for Form 941E; however, taxpayer indicates they want to file Form 941 and pay FICA withholding on employees.

Answer: Secure the Form 941 return and Form SS15, Certificate Waiving Exemption From Taxes Under the Federal Insurance Contribution Act, from the taxpayer indicating that they wish to file Form 941. Close the Del Ret by selecting " Option A, Return Secured," and appropriate closing action from the ICS CLOSE DEL RET menu. The change in filing requirement will be input by the campus when Form SS15 is processed.

#### **Form 943 Problem**

Question: How will a Form 943 Del Ret be closed if the employer states that the only employee is the employer's son, but the age of the son is not stated?

Answer: From the ICS CLOSE DEL RET menu select "Option C, No Return Secured," with the appropriate closing action.

### Form 1040 Problems

1. Question: How do we treat a Form 1040 when the taxpayer is a fiscal year filer?

Answer: Treat the taxpayer as a calendar year filer, with the exception that we are looking for a return filed other than YYYY12 (YYYY \_\_\_\_year or delinquency check). Do not change the filing status at the Master File.

2. Question: If the taxpayer is deceased, do you select "Option D, No Return Secured/Final," if the taxpayer was technically liable for a return for the period shown on the Del Ret?

Answer: If there is a technical liability for a return but the information for "this year" indicates little monetary liability, do not try to secure a return. Close the Del Ret using "Option D, No Return Secured/Final," and the appropriate closing action. Prepare Form 4844 to input a TC 540 and annotate the ICS history accordingly. If, on the other hand, a substantial tax liability exists, secure a return from the executor of the estate. If there is no estate to satisfy any part of a tax liability and there is no possibility of a transferee assessment, select " Option C, No Return Secured," with "Closing Action C, Little or no tax due (P-5-133)" .

3. Question: Del Ret is on the wife with her SSN. She filed a separate return using her deceased husband's SSN. What do you do?

Answer: Close the Del Ret by using "Option G, Return Previously Filed, " and appropriate closing action because the name and number are correct on the Del Ret. Prepare a Form 3870 requesting adjustment by moving the return from the husband's number to the wife's number.

### Form 1041 Problems

1. Question: Taxpayer states Form 706 was previously filed for the year in question?

Answer: This is an insufficient response. Tax paid on Form 706 — United States Estate Tax Return is based on evaluation of the property of the estate. Form 1041 is filed by the executor for the deceased taxpayer on income from an estate or trust.

2. Question: Taxpayer states all income was reported on 1040. What action do you take?

Answer: Verify that the estate or trust had no income for that period. From the ICS CLOSE DEL RET menu select "Option C, No Return Secured," with the appropriate closing action.

### Form 1120 Problems

1. Question: You receive a Del Ret for a Form 1120, yet investigation reveals the taxpayer files a Form 1120S or other "lettered" Form 1120. How do you close this Del Ret module?

Answer: From the ICS CLOSE DEL RET menu close the Del Ret module by selecting "Option C, No Return Secured," and the appropriate closing action. Prepare Form 2363 to change the filing requirement to the correct Form 1120. If there is a Form 1120S filing requirement, confirm that the taxpayer filed a Form 2553, Election by a Small Business Corporation, which has been accepted for the Del Ret module. Secure Form 1120 if Form 2553 has not been filed.

### Note:

Any actions (approved, denied, etc) taken regarding the Form 2553 will post to the entity as a TC 09X, check Document 6209 for specific details.

2. Question: The taxpayer has a Form 1120S filing requirement and informs the service that the corporation will now file Form 1120. If the campus turns on the filing requirement in any month prior to the Fiscal Year Month (FYM) established on the master file, is it possible to receive a Del Ret for a Form 1120?

Answer: Yes, when the next delinquency check is made, the program analysis will determine if the taxpayer filed a Form 1120 in the past twelve months. If not, a delinquency notice will be issued and if the tax module is not satisfied, a Del Ret will subsequently be issued. Close the Del Ret by selecting "Option C, No Return Secured," and the appropriate closing action from the ICS CLOSE DEL RET menu.

3. Question: You receive a Del Ret for a Form 1120 and find the taxpayer is responsible for filing Form 1120F, United States Income Tax Return of Foreign Corporation. How do you close this Del Ret?

Answer: Form 1120F is now included in the BMF. The filing requirement for the Form 1120F is 6. Prepare Form 2363 to change the filing requirement.

4. Question: What action do you take if taxpayer indicates Form 1120POL (Political Campaign Organization) was filed instead of Form 1120?

Answer: From the ICS CLOSE DEL RET menu select "Option G, Return Previously Filed," and the appropriate closing action. Prepare Form 2363 to change the filing requirement to 9 on the BMF.

5. Question: What action is required if the taxpayer states the corporation is exempt from filing because it is a non-profit organization?

Answer: Determine if the corporation has filed for tax exempt status. If so, find out the status of the request. If corporation has not applied, inform taxpayer that it must be filed and approved. Also request that the Form 1120 requested on the Del Ret be filed.

6. Question: You have a Del Ret requesting a Form 1120. The taxpayer is filing Form 990, having been granted exemption from income tax. How should this Del Ret be closed?

Answer: From the ICS CLOSE DEL RET menu select "Option D, No Return Secured/Final." When the submenu is displayed select the appropriate closing action.

7. Question: How do you close a Del Ret on Form 1120 for a non-existent corporation which has gone out of business and no one is willing to prepare the return?

Answer: See IRM 5.1.11.6.1.

8. Question: Taxpayer states return has not been filed, but that corporation showed a net loss. What action should be taken?

Answer: See IRM 5.1.11.6.1.

9. Question: You receive a Del Ret for a Form 1120. Investigation reveals the taxpayer is a subsidiary corporation being included in a consolidated return with a parent corporation. How do you close this Del Ret?

Answer: An election may be made for a subsidiary corporation to file with its parent. A copy of IRS Form 851, Affiliations Schedule, verifies the election status. Close the Del Ret by preparing Form 4844 to request input of TC 590 closing code 14. Write the EIN of the parent corporation on Form 4844.

10. Question: You have a Del Ret with a Form 1120 due for a stated period. Your investigation reveals that the taxpayer files a Form 1120 for a different period. How do you close the Del Ret?

Answer: From the ICS CLOSE DEL RET menu select "Option C, No Return Secured." When the submenu is displayed select the appropriate closing action. Prepare Form 2363 to change the fiscal year month (FYM). However, a short period return may be due and this possibility should be checked with the taxpayer.

**Exhibit 5.1.11-3 (06-02-2004)**  
**Comprehensive List of Transaction Code 59X Closing Codes**

Definition	Transaction Code	Closing Code			
		ACS/ CS	CFf, SPF	CSCO	OTHER
<b>Return Secured</b>					
Taxable (before prepaid credits)	599	44	69	94	—
Nontaxable (TC 150=0)	599	46	71	96	—
Unassessable (Bankruptcy)	599	42	67	92	—
IRC 6020(b) Unagreed or SFR for RO Program	599	38	63	38	—
SFR Program Unagreed	599	—	—	88	—
IRC 6020(b) Agreed or SFR for RO Program	599	39	64	39	—
SFR Program Agreed	599	—	—	89	—
<b>Return Previously Filed</b>					
Filed as spouse on joint return	594	34	59	84	—
IRC 6020(b) Program	594	38	63	38	—
SFR Program		—	—	88	—
All other cases	594	33	58	83	—
<b>No Return Secured</b>					
Subsidiary Corporation filed under parent EIN	590	14	14	14	14
Not liable for return (BMF, NMF, EPMF only)	590	25	50	75	20
Income below filing requirement (IMF only)	590	26	51	76	—
Little or no tax due (P-5-133)	590	27	52	77	—
TP due refund	590	28	53	78	—
6020(b) — not/no longer liable	590-591	38	63	38	—
SFR — not/no longer liable	590-591	—	—	88	—
No longer liable (BMF, NMF)	591	25	50	75	97

TP is deceased (IMF)	591	25	50	75	97
<b>All Other Closing Transactions</b>					
IRC 6020(b)	593–598	38	63	38	–
SFR	593–598	–	–	88	–
All other cases	593, 595–598	32	57	82	97

## ADDITIONAL CODES FOR INPUT BY CAMPUS

<b>Definition</b>	<b>Transaction Code</b>	<b>Closing Code</b>
<b>System Generated Codes</b>		
Satisfying TC in an earlier module for the same MFT	591–593	00
Short year tax return	590, 591	01
Suppressed International delinquency	590	02
Generated when an open Del Ret module contains a dummy 150 and a TC 300	597	02
Suppressed prior to return due date	590	03
Alternative FR — not liable for this MFT and period	590	04
Return being processed	599	06
FR deleted	591	10
TC 598 posted for 65 cycles	597	12
Unpostable return coded 305	599	13
Systemic closure of non-filer aged inventory	597	44
Return in block out of balance prior to delinquency check	590	54
Generated by ICS when a TC 591 or TC 593 closes an earlier module for the same type of tax	591,593	66
Return in block out of balance after delinquency check	599	99
<b>Manually Generated Codes</b>		
Form 11 FR deleted after notice	591	11
Filed as a Subsidiary	590	14
Unprocessable return	599	17
Return in process on or after Program Completion Date	599	18
Suppressed in notice status	590	19

**Exhibit 5.1.11-4 (06-02-2004)**  
**Substitute for Return for Revenue Officer (SFR for RO) worksheet**

This image is too large to be displayed in the current screen. [Please click the link to view the image.](#)

**Exhibit 5.1.11-5 (06-02-2004)**  
**Return Delinquency Processing Flow Chart**

This image is too large to be displayed in the current screen. [Please click the link to view the image.](#)

[IRS Privacy Policy](#) | [Contact Us](#)



**IRS Resources**

- [Compliance & Enforcement](#)
- [Contact My Local Office](#)
- [e-file](#)
- [Forms and Publications](#)
- [Frequently Asked Questions](#)
- [News](#)
- [Taxpayer Advocacy](#)
- [Where To File](#)

**Part 5. Collecting Process****Chapter 1. General Collecting Procedures****Section 11. Delinquent Return Accounts (Cont. 1)****5.1.11 Delinquent Return Accounts (Cont. 1)**

- 5.1.11.6 [No Return Secured](#)
- 5.1.11.7 [Del Ret Closures](#)
- 5.1.11.8 [Delinquency Check Programs](#)
- 5.1.11.9 [Tax Liability of Entities and Individuals from Canada and Mexico](#)
- 5.1.11.10 [Heavy Vehicle Use Tax](#)
- Exhibit 5.1.11-1 [Index for Questions and Answers to Assist in the Disposition of Del Rets\(Reference: IRM 5.1.11.7\)](#)
- Exhibit 5.1.11-2 [Questions and Answers to Assist in the Disposition of Del Rets \(Reference: IRM 5.1.11.7\)](#)
- Exhibit 5.1.11-3 [Comprehensive List of Transaction Code 59X Closing Codes](#)
- Exhibit 5.1.11-4 [Substitute for Return for Revenue Officer \(SFR for RO\) worksheet](#)
- Exhibit 5.1.11-5 [Return Delinquency Processing Flow Chart](#)

**5.1.11.6  
No Return Secured****5.1.11.6.4  
Referrals to Examination****5.1.11.6.4.1 (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. To complete Form 3449, follow the steps outlined below:
  - A. For IMF referrals, state the income, (must meet current LEM criteria)) the amount of withholding, and compute the potential tax due using Filing Status 1 or 3 with no deductions or exemptions. State which documents or sources were used to compute income and withholding. Thoroughly document the non-IRP income and sources;
 

**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 an individual. Use Filing Status 3 to compute the tax.
  - B. Describe the source of income for the taxpayer, i.e. self employed computer programmer, insurance salesman, trust fund income for IMF, etc.;
  - C. Attach all documentation substantiating income. This includes:
    - 1) IDRSVCFOL research

- 2) Del Ret supplements
- 3) Summoned documents
- 4) Relevant case history

- D. Secure managerial approval
- E. Forward approved part 1 and 2 of the Form 3449 to Examination
- F. Retain Part 3 of Form 3449 in the Del Ret file
- G. Close the oldest module of each MFT on the Del Ret using Option E, "**Exam Referral**" (see Section 11.7.5 of this IRM)
- H. Prepare a terminal input request for input of TC 592 if an erroneous referral was made.
- I. Resubmit a referral that was returned or surveyed by Examination only if there is additional documentation supporting the preparation of a return by Examination.

#### **5.1.11.6.5 (05-27-2003) Automated Substitute for Returns (ASFR)**

1. The Automated Substitute for Return (ASFR) system prepares Substitute for Returns and assessments for individuals who fail to file after notified. ASFR uses Information Return Master File (IRMF) information to calculate taxable income.
2. ASFR is authorized to prepare an individual's income tax return on their behalf under Section 6020(b) of the IRC. The automated process is located in the campuses.
3. Referrals to ASFR can be made from Automated Collection System (ACS) when the Del Ret is un-resolved after the final Del Ret notice. Revenue officers may also refer Del Rets to ASFR processing if it meets specific criteria.
4. Del Rets may be referred to ASFR for processing only if there are no unresolved (Status 22,24,26) taxpayer delinquent accounts (Bal Due) associated with the taxpayer and the case meets certain Selection Code criteria.
5. IMF Del Rets referrals to ASFR must meet all of the following criteria:
  - A. The Del Ret Selection Code is 12, 13, 14, 15, 28, 29, 71, 72, 73, 74, 75, 76, 77, or case is refund hold account - any selection code is acceptable.
  - B. the tax year is no older than six years prior to the current year
  - C. there is no current or pending TC 530 on the account
  - D. there are no unresolved Bal Due modules
  - E. there are no open 420s or 520s on the account
6. Use "**Option K ,Transfer to ASFR (IMF only)**" to close the ICS Del Ret module and systemically refer the case to ASFR processing. If Bal Dues are resolved by continuous levy (status 60 with the agreement locator number of XX08), do not use Option K to assign the Del Ret to ASFR. Instead, prepare Form 4844 to request that the Campus open a control base for the delinquent years using CC ACTON, category code "SFR" , status code "B" .
7. Infrequently, the revenue officer may receive a Bal Due after the related Del Ret is sent for ASFR processing. The case will fail ASFR and ASFR will re-T-sign the case back to the field. The Del Ret status will be identified as ASFR by TSIGN 8000 and the TC 150 \$0 posted to the module.
8. 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.

9. If a return is secured for a period referred to ASFR, attach Form 3210, transmittal, to the face of the return(s). Annotate Form 3210 with the following: "Route SB return(s) to the Brookhaven NY campus, Attn.: ASFR Unit" . Submit through normal area channels. Route W & I cases to the appropriate ASFR site as determined by the DLN of the TC 150 \$0. Retain a copy of the return in the case file.

#### **5.1.11.6.6 (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. However, the revenue officer will:
  - A. Compare the income reported on the return with the information on the Del Ret supplement or IRPTR summary;
  - B. Determine if income that has come to the attention of Collection personnel that has not been subject to 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.
2. If income has not been reported by the taxpayer or there is an overstatement of credits and indications of fraud do not exist, attempt to resolve the discrepancy with the taxpayer.
3. If unable to resolve the differences and the amount in question exceeds the amount shown in LEM 5.2.1, prepare Form 3449 with a narrative and the amount of underreported tax. The information will be referred to Examination function in the Campus.
4. When there is a discrepancy in the information reported on a secured BMF return resulting in an underreporting of taxes and no signs of fraud or willfulness exist, refer the case to the Field Territory Manager on Form 3449. The 3449 should include an estimate of the dollar amount of the misstatement and the source or object resulting in understatement.

#### **5.1.11.6.7 (05-27-1999)**

##### **Excise Tax Returns**

1. Form 720, Quarterly Federal Excise Tax Return, may be prepared under the authority of IRC 6020(b) 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 Examination on Form 3449. The referral will contain all facts relative to the preparation of the return.

#### **5.1.11.6.8 (05-27-1999)**

##### **Referrals to the Tax Exempt and Government Entities (TEGE)**

1. If a revenue officer encounters a responsible officer of an exempt organization who refuses to file a required exempt organization return, a referral should be sent using Form 5666 to:

IRS Exempt Organizations

Examination Classification Unit

MC 4920 DAL

Dallas, Texas 75242

2. A summons does not have to be served prior to referring a case to TEGE.
3. Attach an explanatory cover memo and include all information on the referral to assist TEGE in preparation of the return.
4. Employee Plans, Form 5500 series (MFT 74) are no longer worked in Collection Field function. If a Del Ret includes a Form 5500 delinquency and the plan number is 001–500, the revenue officer will:
  - A. Prepare Form 5666, EP Referral
  - B. Attach a copy of the Del Ret and case file history
  - C. Close the ICS Del Ret using **Option E**, and;
  - D. Send the referral to:
 

IRS TE/GE Div 2nd floor

Employee Plans Classification

9350 Flair Dr

EIMonte, Ca 91731
5.
  6. If a Del Ret is for any other Form 5500 series or where the plan number is 501 or higher, close the ICS Del Ret using **Option C** and sub-menu action "Not Liable" which will post a TC 590 cc 50 to the module.

#### 5.1.11.6.9 (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. Refer a case to the area Employment Tax Program or the PSP Support Manager in Compliance when it is determined 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. Refer potential Employee/Employer relationship determinations on Form 3449 relating all the facts of the case.
4. Internal Revenue Manual 4600, Employment Tax Handbook, contains additional information for all functions pertaining to the administration of Employee/Employer classification issues.

#### **5.1.11.6.10 (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 943, Employer's Annual Tax Return for Agricultural Employees
  - D. Form 720, Quarterly Federal Excise Tax Return
  - E. Form 2290, Heavy Vehicle Use Tax Return
  - F. Form CT-1, Employer's Annual Railroad Retirement Tax Return
  - G. Form 1065, U.S. Return of Partnership Income.
2. Pursuant to IRM 1.2.2.97, Delegations of Authority, Order Number 182 (rev. 7), dated 5/5/1997, revenue officers GS-09 and above, and Collection Support Function managers GS-09 and above, have the authority to prepare and execute returns under IRC 6020(b).

#### **5.1.11.6.10.1 (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 and 943).
  - B. Name of states in which wages were paid (Form 940).
  - C. Number of partners in the partnership, their names, addresses, social security numbers/employer identification number, each partner's interest percentage in the partnership, and the partnership's gross income (Form 1065/K-1). If possible, obtain copies of the partnership agreement and copy of the last filed 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, section 4) assessments.

5. If the taxpayer is in a receivership or probate proceeding, follow the procedures for quick assessments in IRM 5.1, Section 4.
6. A summons is not required before using IRC 6020(b) procedures. However in some cases, a summons may be the appropriate action if the revenue officer can not establish an estimated amount of tax liability, and the taxpayer is being uncooperative. See IRM 25.5, Summons Handbook, for further guidance.
7. A field call is required before using IRC 6020(b) authority to ensure that the entity is in business, operating and located at the ICS address.
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).

#### **5.1.11.6.10.2 (05-27-1999) Preparation and Approval of 6020(b) Returns**

1. ICS now provides revenue officers the ability to prepare returns and letters on their ICS laptop. Compliance Territory Managers are encouraged to fully utilize the ICS 6020(b) program. However at local management option, and with the concurrence of the Compliance Services, Case Processing, Territory Manager, the Field Support Function may perform all phases of the IRC 6020(b) clerical and review process. This includes signing of returns and submitting them for routine processing.
2. Use Form 5604, Section 6020(b) Action Sheet, to prepare returns under the authority of IRC 6020(b). The revenue officer should fully document their ICS history with a complete explanation of the basis for the assessment(s). The explanation should include information such as wages paid, income tax withheld, FTD's or payments, and any calculations or other information they used to establish the correct liability for each tax period. This information is important because it could be utilized later should the taxpayer request an appeal, file suit, or file Form 911 with the Taxpayer Advocate office.
3. Attach a copy of the ICS history documentation that explains the basis for the assessment(s) to Form 5604. This will eliminate the need for the revenue officer to complete the "basis for assessment" section on Form 5604.
4. 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.
5. 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 Del Ret 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. If a "final" return is prepared under IRC 6020(b), be sure to indicate it as "final" under " date last wages paid" .
- E. The inflation factor is not applicable if the Del Ret module is BEFORE the LPS module data.

**Example:**

Do not calculate the inflation factor if the LPS is 200206 and the delinquent period is 199912.

- 6. Use the following procedure for preparing Partnership returns:

**Note:**

Do not prepare a Partnership return under the provisions of IRC 6020(b) if Revenue Procedure 84-35 applies to a small partnership (10 or less partners) that meets "reasonable cause" provisions for failure to file and you have verified that each partner has individually and fully reported his share of partnership income (see section 11.7.1 for Del Ret closing actions).

- A. For Form 1065, complete the name, address, and EIN portion of the form along with the number of schedule K-1s that will be attached. If you know the gross receipts, then also complete lines 1a, 1c, and 8. These lines should all contain the same amount. This is all that is completed on Form 1065.
  - B. Schedule K-1 should also be completed and attached to Form 1065. A Schedule K-1 is completed for each known partner. Partners can be individuals, other partnerships, trusts, S-Corporations, or Corporations. On all cases, complete the Partners identifying number, name, address, and zip code, as well as the Partnership's identifying number, name, address, and zip code.
  - C. If the revenue officer does not know what the Partnership's income was for the tax year, then do not complete any thing else on the Schedule K-1.
  - D. If the revenue officer knows what the Partnership's income was for the tax year (line 8 on Form 1065), then complete line 1 on Schedule K-1. If the revenue officer knows what each partner's distribution of income percentage is, then prepare each K-1 appropriately. If the distribution of income percentage is unknown, then divide the distribution of income equally among the partners, and reflect that amount on the K-1. Example: \$100,000 total distributive income (Line 8 from the Form 1065) and four partners. Then \$25,000 will be reported on each partner's K-1.
  - E. Partnerships don't pay tax, but instead pass through income and deductions to their partners, who then report it on their income tax returns. Therefore, it is important to know that the main objective of ensuring the Form 1065 and Schedule K-1 is filed, either voluntarily by the Partnership or under IRC 6020 (b) authority, is to ensure that the partners have accurately reported their share of the Partnership income. It is important for the revenue officer to appropriately follow up on each partner's filing requirements for the delinquent tax year. If appropriate, revenue officers should consider a referral to Exam, Form 3449, if partners failed to report Partnership income. If potential fraud exists, then the revenue officer should follow 6.2 of this section, Referrals to Criminal Investigation.
- 7. Prepare a return for the current tax period if that period becomes delinquent during the IRC 6020(b) process.
  - 8. Prepare the tax returns in sets. A completed set includes an original and one copy of each return for each tax period.

9. Mail Letter 1085 or 1616 along with the original returns and all applicable enclosures, to the taxpayer. ICS macros should contain Letters 1085, and L1616 (used for Partnership returns). Retain a copy of the letter and tax returns in the case file.
10. Should a taxpayer file bankruptcy after a letter 1085 or 1616 has been mailed, immediately inform Insolvency and provide them with copies of the proposed returns. Unless instructed otherwise, continue 6020(b) processing.

#### **5.1.11.6.10.3 (05-27-1999)**

##### **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 Collection Support Function while the case is pending in Appeals.
2. If a Collection Support Function 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. To place the Del Ret module in suspense while the taxpayer exercises the right of appeal choose "**Option I, Surveyed**" from the Close Del Ret menu on the Del Ret Module Summary screen.
4. The Group manager or Collection Support 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 appropriate Campus for assessment with Part 1 of Form 5604.

#### **5.1.11.6.10.4 (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 11.5.2 of this IRM.
3. Sign and 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 Exhibit 5.1.11-3 of this IRM.
4. Close the ICS Del Ret module under "**Option A, Return Secured**" using the appropriate sub-menu option (see section 11.7.1 of this IRM).

#### **5.1.11.6.10.5 (05-27-1999)**

##### **Unable to Locate and Unable to Contact Cases**



1. In unable to locate situations when the proprietors, partners or responsible officers and assets cannot be located:

If	Then
Their SSNs can be determined	Follow IRM Section 11.5.2 of this IRM for returns without full payment
Their SSNs cannot be determined	Close the Del Ret Module using Option B, "Unable to Locate" . See Section 11.7.2 of this IRM.

2. In unable to contact situations:

- A. Process the returns via prompt assessment  
or

- B. Prepare a pre-assessment Form 53, Report of Currently Not Collectible Taxes, at the time the return is signed.

#### **5.1.11.7 (06-02-2004)**

##### **Del Ret Closures**

1. Disposition of the Del Ret will depend upon the circumstances of individual cases. This section will describe Del Ret Module closing actions.
2. For technical details on each type of case closure, refer to the specific sections listed in this IRM. Exhibits 11-1 and 11-2 will also furnish answers to a number of questions in the disposition of the Del Ret.
3. The ICS system is a menu driven process. Users select literals from a menu which then generate transaction codes to IDRS.
4. Closing the Del Ret on the ICS system is done using the "<F6> **Close Del Ret menu**" found on the "ICS Del Ret Module Summary screen". Once an option is selected, ICS will generate a transaction code 59X and an applicable closing code for the closure.
5. The following IRM sections will explain the selections available as a closing options from the "<F6> **Close Del Ret menu**" .

#### **5.1.11.7.1 (06-02-2004)**

##### **Option A — Return Secured**

1. Select "**Option A**" from the "Close Del Ret" menu to close the Del Ret module(s) on ICS when a return is secured:
  - A. Select the appropriate closing action from the sub-menu for the type return you secured.
  - B. ICS generates a TC 599 with a cc to IDRS (the closing code depends on what closing action you selected) .
  - C. Record money secured with a return via a sub menu within closing actions a) Taxable, c) Unassessable or e) 6020(b) Agreed. This generates a TC 610 workstation transaction and updates the ICS module balance to reflect the payment.
2. See section 11.5 of this IRM for specific details on types of returns secured.

#### **5.1.11.7.2 (06-02-2004)**

##### **Option B — Unable To Locate**

1. Select "**Option B, Unable to Locate**" from the "Close Del Ret" menu to close the Del Ret when you are unable to locate a taxpayer.

2. Do not close subsequent periods on the same type of tax if the earliest Del Ret module for each type of tax is closed.
3. ICS generates a TC 593 cc 57 to IDRS when the closure is verified.
4. Group Manager approval is required.

#### 5.1.11.7.3 (06-02-2004)

#### Option C — No Return Secured Taxpayer Not Required To File For This Period Only

1. Select "**Option C**" from the "<F6> Close Del Ret menu" when a taxpayer is not required to file for a period.
2. ICS generates a TC 590 and closing code (cc) to satisfy a particular period. However, the requirement to file for subsequent periods remains open.
3. Select one of the following closing actions from the ICS sub-menu to generate the appropriate closing code:
  - A. **Not liable for return (BMF - NMF) — cc 50** is used when the taxpayer is not liable for this period but does plan to be liable for future returns.
  - B. **Income below filing requirement (IMF) — cc 51** is used after verifying and calculating that the taxpayer's total income is below the amount required to file for that year. Use cc SUPOL and cc IRPTR to help you verify income. Be sure to include the spouse's income when calculating married filing joint status.
  - C. **Little or no tax due (P-5-133) — cc 52** is used to close a case based on the Policy Statement P-5-133. See IRM 5.1.11.6.1. It is also used to close a Del Ret module on a Partnership Return based on Revenue Procedure 84-35. See IRM 5.1.11.6.10.2(6) for more information.

**Note:**

This closing action requires managerial approval before the closure is completed.

  - D. **T/P due refund — cc 53** is used after verifying the taxpayer's income and calculating that the tax due on the return, if it were filed, would result in a refund.
  - E. **T/P due refund 6020(b) — cc 63** is used when a 6020(b) return is prepared and there is more credit than tax resulting in a refund due the taxpayer. See section 11.6.10 of this IRM for 6020(b) procedures.
4. For problems concerning multiple entities, see IRM 5.1.11.7.13 for additional guidance.

#### 5.1.11.7.4 (06-02-2004)

#### Option D — No Return Secured Taxpayer No Longer Required To File (Final)

1. Select "**Option D**" from the "<F6> Close Del Ret menu" when the taxpayer is no longer required to file a return, and the filing requirement for the MFT should be closed on the Master File.
2. ICS generates a TC 591 to satisfy that period as well closing the filing requirements on all subsequent periods for that MFT so be sure to select "Option D" on the earliest period on each MFT.
  - A. ICS generates a TC 591 cc 66 on all subsequent open Del Rets for that MFT.
  - B. Close any other ICS modules for other MFTs related to the entity

- C. Prepare paper documents, (Forms 2363 or 4844) to close filing requirements on non ICS MFTs. Be sure to include the effective date of the actions.
  - D. Create a ICS history item to document the actions taken on paper.
3. A TC 591 will stop tax packages from being mailed to the taxpayer and stop future delinquency checks for that MFT.
  4. Select one of the closing action from the ICS sub-menu to generate the appropriate closing code:
    - A. **Business discontinued — cc 50** is used when an entity has discontinued and returns are no longer required. Close out all filing requirements on all MFT's after the closing date.
    - B. **Business transferred — cc 50** is used when a business has stopped operating under this entity and has established another entity to take its place. Close out all filing requirements on all MFT's after the transfer date.
    - C. **Change in Organization — cc 50** is used when an organizational change has taken place for the entity and a new entity has been established. In addition to any Del Rets close out all filing requirements on all MFTs after the change date.
    - D. **Discharged all employees — cc 50** is used when the business has discharged all of its employees yet the business has not closed. Close the 940, 941, 943, and 945 filing requirements after the discharge date.
    - E. **IRC 6020(b) - Program — cc 63** is used when a 6020(b) return is being prepared and it will be the final return for the business. See section 11.6.10 of this IRM for procedures on 6020(b).
    - F. **Other — cc 50** is used for any situations that do not fall into the above categories. For example, an IMF Del Ret where the taxpayer is deceased; in this situation prepare Form 2363 to request the input of a TC 540, "Deceased Taxpayer" , and create an ICS history item.
  5. To prevent future delinquencies on those periods or MFT's not appearing on ICS at the time of closing the Del Ret
    - A. Prepare paper documents 2363 or 4844 as appropriate
    - B. Request that a TC 591 with appropriate closing code be input.
    - C. Be sure to give the effective date or the out of business date.

#### 5.1.11.7.5 (06-02-2004)

##### Option E — Exam Referral

1. Select "**Option E, Exam Referral**" from the "Close Del Ret" menu when you refer a case to Examination or to SFR for RO processing.
2. ICS generates a TC 595 cc 57 once the closure is verified
3. Do not close subsequent periods on the same type of tax if the earliest Del Ret module for each type of tax is closed.
4. See section 11.6.4 of this IRM for specific details on referrals that use this closing option.

#### 5.1.11.7.6 (06-02-2004)

##### Option F — CI Referral (IMF Only)

1. Select "**Option F, CI Referral (IMF Only)**" from the "<F6> Close Del Ret menu" when

a case is referred to the Criminal Investigation function.

2. ICS will generate a TC 596 cc 57 once the closure is verified.
3. Closing transactions should not be input for subsequent periods on the same type of tax if the earliest Del Ret module for each type of tax is closed.
4. See section 11.6.2 of this IRM for specific details on CI referrals.

#### 5.1.11.7.7 (06-02-2004)

##### Option G — Return Previously Filed

1. If the return has been previously filed, secure a signed copy of the return with proof of payment, if appropriate. A careful analysis of the facts should be made to determine for which entity the previously filed return was intended. Verify fact of filing using CFOL command codes as shown in section 11.1.3.1 of this IRM.
  - A. If the signed copy is for the Del Ret entity, forward the return for processing.
  - B. Write on the top of the return "possible duplicate return" and close the Del Ret module on ICS using "Option C, No Return Secured". When the sub-menu is displayed select closing action "Return previously filed". This will generate a TC 594 cc 58.
  - C. If the signed copy is the spousal entity and the return is posted to spouse's SSN, close the Del Ret module on ICS, using "<F6> Close Del Ret menu" select "Option C, No Return Secured". When the sub-menu appears select closing action "Spouse on joint return". This will systemically generate a TC 594 cc 59.
  - D. If the secondary SSN is incorrect on the jointly filed return, use Form 2363 Master File Entity Change to correct the secondary SSN of the entity.
  - E. If fact of filing cannot be verified on the spouses SSN, secure an original tax return and forward for processing using procedures in section 11.5 of this IRM. Close the Del Ret with closing action " Spouse on joint return" .
  - F. Where there has been an entity change and the return was not intended for the Del Ret entity a closing action of "Return Previously Filed" is not appropriate in this situation.
  - G. When taxpayer is not liable for **this module only**, close on ICS using "Option C, No Return Secured". When the sub-menu appears select closing action "Not Liable for Return". This will generate a TC 590 cc 69.
  - H. When taxpayer is no longer liable to file under this entity, close on ICS using "Option D, No Return Secured/Final". When the sub-menu appears select closing action that best describes why the entity is no longer liable to file return. This will generate a TC 591 cc 50.

#### 5.1.11.7.8 (06-02-2004)

##### Option H — Shelved

1. Select "**Option H, Shelved**" from the "<F6> Close Del Ret menu" only when prescribed in IRM instructions or by direction from Headquarters.
2. ICS generates a TC 598 cc 57 to IDRS once the closure is verified.

#### 5.1.11.7.9 (06-02-2004)

##### Option I — Surveyed

1. Select "**Option I, Surveyed**" from the "<F6> Close Del Ret menu" to generate a TC 597 on IDRS.

2. The appropriate closing actions for a TC 597 are as follows:

- A. **Routine — cc 57** is used only when prescribed in IRM instructions or by direction from Headquarters.
- B. **6020(b) Unagreed Appeal — cc 63** is used to close the Del Ret module(s) when the taxpayer exercises his appeal rights in unagreed IRC 6020(b) cases. See IRM 11.6.10.3 of this IRM for additional information.

#### **5.1.11.7.10 (06-02-2004)**

##### **Option J — Erroneously Created Module(s)**

1. Select "**Option J, Erroneously Created Mod**" from the "<F6> Close Del Ret menu" when an ICS only Del Ret was opened and is no longer needed.
2. ICS **will not** generate a transaction code to IDRS.

#### **5.1.11.7.11 (06-02-2004)**

##### **Option K — Transfer To ASFR (IMF Only)**

1. Select "**Option K, Transfer to ASFR (IMF Only)**" from the "<F6> Close Del Ret menu" when a case meets the criteria for transfer to ASFR.
2. ICS transfers the case by reassigning it to the Campus's ASFR function with TSIGN 8000. Transfer to ASFR is limited to the following Select Codes:
  - A. W & I Select Codes: 12, 13, 14, 15, 39, and 93
  - B. SBSE Select Codes 71, 72, 73, 74, 75, 76, 77, 78, 93, 28, 29
  - C. Any Select Code with a Refund Hold (RF) freeze code (beginning February 2004)

#### **5.1.11.7.12 (06-02-2004)**

##### **Del Ret Module(s) with Credit Balances**

1. Some Del Ret modules have credit balances after the module is closed. Handle the credit balance separately from the Del Ret closure based on whether you secure a return or not.
2. In 2000, a policy and programming change was made regarding credits. Existing credits that were statute barred before the programming changes must be manually moved using form 8758. The changes effective 2001 are:
  - Rather than transferring credits with no return to excess collections, leave them on the Master File account until the refund statute expires;
  - Systemically generate semi-annual notices to the taxpayer, reminding them of the credit(s) and their options for claiming it;
  - Six months before the refund credit expires, send a systemic last chance notice to the taxpayer; explain that the credit(s) will no longer be available in six months,
  - When refund credit statute expires, systemically transfer unresolved credit(s) to Unapplied Statute Expired Credits Account.
  - Programming changes were completed in January 2001 for ICS and in July 2001 for IDRS.

#### **5.1.11.7.12.1 (06-02-2004)**

##### **Debit(s) on Account**

1. If the taxpayer does not claim the credit and the period for refunding a payment **has**

notexpired, research IDRS.

- A. If there are any outstanding debit balances on other modules, then transfer the credit using section 11.7.12.2 of this IRM.
- B. If any credit remains after the transfer, leave it on the module. Do not remove to excess collections.

#### 5.1.11.7.12.2 (06-02-2004)

##### ICS Credit Transfers

1. The "Credit Disposition" option on the ICS Module Detail screen allows you to dispose of the credit balance on a ICS Del Ret module.
2. Select the "Transfer to Another Period" option and complete the required fields.
3. ICS User Guide Section 6, "Module Detail Delinquent Return," gives you specific instructions.
4. ICS credit transfers **do not load** to IDRS. Therefore, prepare Form 2424, Account Adjustment Voucher, to have credit transferred on IDRS.
5. Refer to IRM 5.4.2 Exhibit 2, which has detailed instructions for preparing Form 2424.
6. Remember a TC 570 maybe needed to hold the credit on the new module until the a return or other action has been completed.

#### 5.1.11.7.12.3 (06-02-2004)

##### Closing Del Ret with TC 59X and Credit Balance Exists

1. When you close a Del Ret module with a TC 59X take the following actions depending on the option selected:

If a Del Ret Module is closed using:	Then:
Option A – Return Secured	See section 11.5 in this IRM for procedures.
Option B – Unable to Locate Option E – Exam Referral Option F – CI Referral Option H – Shelved Option I – Surveyed	Take no action, leave the credit on the module.
Option C – Not Liable for Return or Option D – No Longer Liable for Return	The credit should be refunded to the taxpayer.
	A signed no-liability (non-taxable) return should be secured from the taxpayer. The return should be annotated "Input as original for Refund" , and forward for processing as an original delinquent return.
	If a return cannot be secured, secure a signed statement of no liability from the taxpayer
	If the taxpayer refuses to provide a signed return or statement of no liability, close the Del Ret module with correct transaction code and leave the credit on the module.
Option G – Return Previously Filed With Spouse	Transfer the credit to the spouse's social security number using procedures in section 11.7.12.2 of this IRM.

### 5.1.11.7.13 (06-02-2004) Entity Changes

1. In working a Del Ret module where you find there has been a change in the entity, a careful analysis of all facts should be made to ensure that the case is closed properly and that all returns have been filed under the appropriate TIN(s).
2. Changes to the taxpayer's address, location or ZIP code can be made on ICS using the "Case Summary screen" and selecting the "Entity Detail Menu" .
  - A. From "Entity Detail Menu" select the "Name/Address menu." Changes can then be made to the address by overlaying and saving as outlined in the ICS User's Guide.
  - B. Once the updated information has been completed, the information will load to IDRS and then return and update the entity on ICS.
3. All other changes require Form 2363, Master File Entity Change to make changes to the taxpayer's entity. Some of these changes could include:
  - A. TIN change – only if entity is not changed
  - B. Name change – only one entity is involved.
  - C. Filing Requirements – either changing or establishing.
  - D. Taxpayer Deceased – request input of TC 540 for IMF deceased taxpayer(s).
4. The following table will help you solve most types of entity problems:

If:	Then:
Del Ret module is on the new entity and the T/P filed correctly under the old entity for that period	Close the Del Ret using "Option C – No Return Secured Taxpayer Not required to File for This Period Only" to generate a TC 590 closing code 50.
Del Ret module is on the old entity and the T/P filed correctly under the new entity	Close the Del Ret using "Option C – No Return Secured Taxpayer Not required to File for This Period Only" to generate a TC 590 closing code 50.
Del Ret module is the correct entity and the return was filed under another number	Close the Del Ret using "Option G – Return Previously Filed " to generate a TC 594 closing code 59. Prepare Form 3870 to transfer return and any credits to the Del Ret entity.
New entity is being established	Prepare Form SS-4, Application for Employer Identification Number for issuance of a new number.
	Any Del Ret modules should be closed using "Option D – No Return Secured Taxpayer Not required to File (Final)" to generate TC 591 cc 50.
	All other filing requirements can be closed by preparing Form 2363.
	Prepare Form 2363 to change the "From" number to the " To" number and request transaction code 011.

Consolidation of accounts is needed	Prepare an additional Form 2363 to change any other data on the "TO " side if needed. Input both Forms 2363 the same cycle.
	The Name Controls of the "TO" and "FROM" accounts must be the same before consolidation will take place.
	Therefore, if the Name Control of the "From" account is in error, prepare a Form 2363 to change the Name. Input the Name Control Transaction code 013 into the system two cycles prior to the TC 011 transaction.
Change in an EIN for other than a consolidation of accounts	Prepare a Form 2363 and request transaction code 011 to change the EIN.
	Prepare an additional Form 2363 to change any other data on the "TO " side of the Form, using the "FROM" EIN.
	Input both Forms 2363 the same cycle.

#### 5.1.11.8 (05-27-1999) Delinquency Check Programs

1. Effective March 12, 1997, activities previously known as Returns Compliance Programs (RCP), Information Gathering Projects (IGP), Fed/State projects and Compliance 2000 initiatives were consolidated into the Compliance Initiative Proposal (CIP).

#### 5.1.11.9 (07-01-2002) Tax Liability of Entities and Individuals from Canada and Mexico

1. The Director, Compliance (International) has primary responsibility for ensuring United States tax compliance by Canadian and Mexican entities or individuals conducting business in the United States. **All** Canadian and Mexican entities or individuals with delinquencies (Bal Due's or Del Ret's) are assigned to SE:S:C:F:15. However, area offices bordering Canada and Mexico should be aware of their responsibilities and authority. Area offices bordering Canada and Mexico **can** :
  - answer inquires about possible tax liabilities
  - report possible delinquencies to SE:S:C:F:15
  - secure requested information for SE:S:C:F:15
  - examine public records (See IRM 11.9.1 for instructions regarding travel in border countries)
  - receive voluntary payment of tax or accept voluntary delinquent returns
2. Area offices bordering Canada and Mexico **can not**:
  - interview third parties
  - subpoena persons
  - use any enforcement action such as levy against, or seize assets
3. When area personnel have information indicating that a Canadian or Mexican individual or entity may be liable for United States tax, they will check IDRS to



determine the status.

4. If the entity or individual has filed a return and there is an outstanding balance, then the revenue officer should forward this information to the Director, Compliance, Attn: SE:S:C:F:15.
5. If the entity or individual has not filed a return, then the revenue officer should prepare Form 3449, Referral Report, and forward it to the Director, Compliance, Attn: SE:S:C:F:15.
6. Any questions or need for further guidance should be addressed to the Director, Compliance, SE:S:C:F:15.

#### **5.1.11.9.1 (07-01-2002)**

#### **Rules and Restrictions with Respect to Collection Activities in Canada and Mexico**

1. There are strict guidelines and procedures that **absolutely** must be followed when traveling into Canada or Mexico. However, because rules, restrictions and agreements with our border countries are constantly changing, personnel in contiguous areas should contact SE:S:C:F:15 for guidance regarding travel to and from Canada and Mexico

#### **5.1.11.10 (05-27-1999)**

#### **Heavy Vehicle Use Tax**

1. Sections 4481, 4482, and 4483 of the Internal Revenue Code were revised by the passage of Public Law 97-424. One of the major provisions requires proof of filing and payment be submitted to a state prior to its issuance of a vehicle registration certificate. This proof, effective October 1, 1985, is defined at Section 41.6001-2(c)(1) (l) of the regulations and consists of a receipted Schedule 1 of Form 2290, Heavy Vehicle Use Tax Return. Ordinarily, Schedule 1 will be receipted during routine Campus processing.
2. Other provisions of which Collection employees must be aware include a change to the method of computing tax due as it applies to a Canadian highway motor vehicle registered in a Canadian province which is also proportionally registered in the United States under the International Registration Plan (IRP). In these situations, the revenue officer should contact SE:S:C:F:15 for guidance.

#### **5.1.11.10.1 (05-27-1999)**

#### **Collection Field Function (CFf) Processing**

1. Stamp both copies of Form 2290, Schedule 1 with the area office "received" stamp. Attach one copy of Schedule 1 to the original return. Return the other copy of Schedule 1 to the taxpayer if:
  - a. the return is filed timely;
  - b. the liability is paid in full; or
  - c. the quarterly liability is paid.
2. CFf employees will also stamp Schedule 1 of Form 2290 in the following situations:
  - A. The taxpayer provides proof that a return was previously filed and paid but did not receive a receipted Schedule 1 of Form 2290.
  - B. The Collection employee determines that an Installment Agreement, Form 433D, is the appropriate method of resolving the unpaid liability. After an agreement is secured and submitted for processing, the receipted Schedule 1 of Form 2290 will be returned together with Part 2 of Form 433D to the taxpayer. Exercise care in granting installment privileges to taxpayers who are identified as repeaters.

C. Under no circumstances will Schedule 1 of Form 2290 be receipted without full payment, the quarterly payment available under Section 6156 of the code, or resolution of the unpaid liability reached using Form 433D. Schedule 1 will not be stamped "received" if the amount is or has been determined to be currently not collectible.

**Exhibit 5.1.11-1 (06-02-2004)**  
**Index for Questions and Answers to Assist in the Disposition of Del Ret**  
**(Reference: IRM 5.1.11.7)**

<b>General Problems</b>	<b>Question</b>
Delinquency check information	7
Final return previously secured	4
FR is "O"	3
Incorrect TIN on Del Ret	1
LRA information	7
Multiple TIN's	1,2
Non-ICS modules	5
T/P not required to file	5
T/P out of business	5
Wrong period	6
<b>Form 940 Problems</b>	
Determining T/P liability	3
FR is "0" or "1"	4
TC 591	5
T/P entity merged	1
T/P filed preaddressed return for wrong year	2
<b>Form 941 Problems</b>	
Entity change	1, 2
FR is "O"	3
No FR	4
One return filed for two periods	6
Taxable return previously filed	5
Del Ret for 941E T/P files 941	7
<b>Form 943 Problems</b>	
Determining T/P liability	1
<b>Form 1040 Problems</b>	
Deceased T/P	2
T/P fiscal year filter	1
T/P used spouses SSN	3
<b>Form 1041 Problems</b>	
T/P files Form 706	1
T/P reports income on Form 1040	2
<b>Form 1120 Problems</b>	
1120F	3
1120POL	4
1120S	1,2
Change in filing requirement	3,4
Consolidated return	9
Corporation has net loss	8
Corporation is non-profit organization	5
Defunct Corporation	7
T/P changed FYM	10
T/P files Form 990	6
T/P not liable for return	1,2

**Exhibit 5.1.11-2 (06-02-2004)**

## Questions and Answers to Assist in the Disposition of Del Ret's (Reference: IRM 5.1.11.7)

### General Problems

1. Question: You receive a Del Ret with a TIN that is different from the number on the return which the taxpayer filed. How is the Del Ret closed if you discover that both TIN's have been issued to the taxpayer?

Answer: Determine from available information which TIN should be used. If the Form 941 filing requirement (FR) is open, that TIN will be used. If both numbers have an open Form 941 FR, the oldest number should be used, if possible. If the return was filed using the number shown on the Del Ret and that number is determined to be correct, secure a signed copy. From the ICS CLOSE DEL RET menu select "Option G, Return Previously Filed," . When the submenu is displayed select the appropriate closing action. In this case, prepare Form 2363 to input TC 011. If the number on the Del Ret is incorrect, select "Option D, No Return Secured/Final," and the appropriate closing action. In addition to the Del Ret modules, close out all open filing requirements on the incorrect number.

2. Question: A corporation has two TIN's. One number has a delinquency for a Form 1120. The other number has a delinquency for Forms 941 and 940. The Del Ret's are outstanding under both TIN's. How should each of these Del Ret's be closed?

Answer: The TIN having the Form 941 FR will be the one retained as the correct number. If both Del Ret's have open 941 FR's, the oldest number will be retained. Prepare Form 2363 to consolidate the accounts. Add the period and type of tax to the number being retained, if different and unfiled. From the ICS CLOSE DEL RET menu select "Option D, No Return Secured/Final," and the appropriate closing action to close the Del Ret with the incorrect number.

3. Question. You receive a Del Ret requesting a return with a " O" filing requirement. Your investigation reveals no existing or prior liability for this type of tax. How is this case closed?

Answer: This occurs when TC 474 is input for the wrong type of tax which creates a tax module without indicating a filing requirement. From the ICS CLOSE DEL RET menu select "Option D, No Return Secured/Final," and the appropriate closing action to close the Del Ret.

4. Question. You receive a Del Ret for an MFT for which you secured a final return two periods previously and there is an open FR for the MFT. How does this happen and what action should be taken?

Answer: This may occur as a result of a preaddressed return being mailed out before the FR is turned off and the taxpayer responds on the return that he is not liable. From the ICS CLOSE DEL RET menu select "Option D, No Return Secured/Final," and the appropriate closing action to close the Del Ret.

5. Question: If a taxpayer states that he/she went out of business, how should you close the Del Ret if the taxpayer is preparing the return (s) for the period(s) stated on the Del Ret?

Answer: Have the taxpayer file the return with you. Indicate "Final " and write TC 599 with the appropriate closing code on the return. Ensure that the block in line A of the Form 941 is checked and the date last wages paid is entered. From the ICS CLOSE DEL RET menu select " Option A, Return Secured," and the appropriate closing action for that period. To satisfy open filing requirements, select "Option D, No Return Secured/Final," for the subsequent period of the same MFT as well as all other filing requirements. Prepare Form 2363 to final out filing requirements on non-ICS Del Ret modules.

6. Question: You have a Del Ret on one period and the taxpayer filed a return erroneously indicating a different period. How do you close the Del Ret?

Answer: Prepare Form 3870 to bring the return to the Del Ret period. From the ICS CLOSE DEL RET menu select "Option G, Return Previously Filed, " and the appropriate closing action to close the Del Ret. Also indicate on the Form 3870, the transaction code and closing code to input to close the tax period the return was posted to.

7. Question: How is the LRA used in coding Del Ret's if we have multiple MFT's on the Del Ret?

Answer: The coding is determined on the last return amount of the MFT being delinquency checked. If multiple MFT's are being delinquency checked at the same time and one MFT meets the criteria for coding, all other types of tax will also be coded on the Del Ret.

#### **Form 940 Problems**

1. Question: What should be done if taxpayer states that there was a consolidation or statutory merger during the tax period and a Form 940 was filed by the new entity?

Answer: From the ICS CLOSE DEL RET menu, select "Option D, No Return Secured/Final," . When the submenu is displayed select "Closing Action C, Change in Organization." However, if taxpayer states he sold business and new owner filed, determine if the taxpayer is also liable for Form 940.

2. Question: You have a 2000 Form 940 Del Ret. Your investigation reveals that the taxpayer, who was not liable for a 1999 Form 940, reported his 2000 liability on the preaddressed 1999 Form 940 without any indication it was to be considered a 2000 return. How do you close the Del Ret?

Answer: From the ICS CLOSE DEL RET menu select "Option G, Return Previously Filed," , and appropriate closing action. Prepare Form 3870 to change the period on the return to 2000. Include on Form 3870 the transaction code that will satisfy the 2000 tax module.

3. Question: If taxpayer states just the amount of wages paid in a quarter, must he/she also state the number of weeks any one employee worked before a determination of "not required to file this period" can be made?

Answer: The Del Ret may be closed using "Option C, No Return Secured, " and appropriate closing action if taxpayer states that either the number of weeks or the amount of wages was less than the requirement to file. Generally, you should accept taxpayer's statement of no liability unless conflicting information is present.

4. Question: You receive a Del Ret for a 200012 Form 940. The FR shows 0 or 1 and the LPS shows the last Form 941 filed was for the 199909 period?

Answer: Deletion of a FR prevents subsequent delinquency checks but any delinquency checks that have been made where the Del Ret has been delayed will keep a tax module open until an appropriate transaction code is posted. A final code for Form 941 will satisfy any subsequent delinquent tax modules but will not satisfy delinquent tax modules for other types of tax. Close the Del Ret by selecting "Option D, No Return Secured/Final," and appropriate closing action.

#### **Form 941 Problems**

1. Question: You receive a Del Ret on a partnership taxpayer for a Form 941. Your investigation reveals that they formed a corporation which filed the return under a new name without a TIN. How do you close your Del Ret?

Answer: Assure yourself that a Form SS4 has been submitted by the new entity or that an EIN has been issued to the new Corporate entity by researching IDRS. From the ICS CLOSE DEL RET menu select "Option D, No Return Secured/Final. " When the submenu is displayed select "Closing Action B, Business Transferred." Prepare Form 2363 to close out open FR's for other MFT's.

2. Question: You have a Del Ret on a corporation for a Form 941. Your investigation reveals that corporation was recently formed from a partnership and the return you seek was erroneously filed on a preaddressed return with the partnership name. How do you close this corporate Del Ret?

Answer: From the ICS CLOSE DEL RET menu select "Option G, Return Previously Filed," with the appropriate closing action. Prepare Form 3870 to transfer the assessment from the partnership to the corporation. If the changeover occurred in the middle of a quarter, secure a short period final return for the partnership and prepare Form 3870, Request for Adjustment, giving a full explanation and request expedite action. Attach the return to the Form 3870. Submit any payment for processing on Form 3244, Payment Posting Voucher, using TC 610 and document code 17. Also prepare a Form 2363 with TC 016 for the partnership and indicate 0 for all open filing requirements.

3. Question: You have a Del Ret for a Form 941 for the period 199909. ICS shows a FR of 0 and a return filed for 200003. How do you close this Del Ret if a return is secured for 199909?

Answer: From the ICS CLOSE DEL RET menu select "Option A, Return Secured, " with the appropriate closing action. Submit the return for processing marking it "Final." Although the FR is 0, the posting of a return will open the filing requirement if the return is not marked "Final."

4. Question: You receive a Del Ret without a FR for Form 941; however, the taxpayer is liable for tax. How does this happen?

Answer: Frequently, taxpayers will indicate "FINAL" on their fourth quarter return thinking that it is their final return of the year. The filing of a return will automatically turn the FR back on.

5. Question: You have a Del Ret for a Form 941. The taxpayer advises you that he has filed a final Form 941 taxable return under the same name and TIN shown on the Del Ret. How do you close this Del Ret?

Answer: After securing a signed copy of the return, select "Option G, Return Previously Filed," and appropriate closing action for the Del Ret module. Select "Option D, No Return Secured/Final," to close the subsequent period. This will ensure the elimination of the filing requirement even though the taxpayer may have indicated "FINAL " on his last Form 941.

6. Question: The taxpayer files a Form 941 return for one period and includes tax and wages for two periods. How do you close the Del Ret?

Answer: Secure a Form 941 return for the period on the Del Ret and a Form 941C for the period on which the return was filed. Prepare a Form 3870, Request for Adjustment, explaining the circumstances including instructions on transferring the credit and attach the Form 941 and 941C. Request expedite action on processing the adjustment. Close the Del Ret by selecting "Option A, Return Secured," and appropriate closing action from the ICS CLOSE DEL RET menu.

7. Question: You receive a Del Ret for Form 941E; however, taxpayer indicates they want to file Form 941 and pay FICA withholding on employees.

Answer: Secure the Form 941 return and Form SS15, Certificate Waiving Exemption From Taxes Under the Federal Insurance Contribution Act, from the taxpayer indicating that they wish to file Form 941. Close the Del Ret by selecting " Option A, Return Secured," and appropriate closing action from the ICS CLOSE DEL RET menu. The change in filing requirement will be input by the campus when Form SS15 is processed.

#### **Form 943 Problem**

Question: How will a Form 943 Del Ret be closed if the employer states that the only employee is the employer's son, but the age of the son is not stated?

Answer: From the ICS CLOSE DEL RET menu select "Option C, No Return Secured," with the appropriate closing action.

#### **Form 1040 Problems**

1. Question: How do we treat a Form 1040 when the taxpayer is a fiscal year filer?

Answer: Treat the taxpayer as a calendar year filer, with the exception that we are looking for a return filed other than YYYY12 (YYYY \_\_\_\_year or delinquency check). Do not change the filing status at the Master File.

2. Question: If the taxpayer is deceased, do you select "Option D, No Return Secured/Final," if the taxpayer was technically liable for a return for the period shown on the Del Ret?

Answer: If there is a technical liability for a return but the information for "this year" indicates little monetary liability, do not try to secure a return. Close the Del Ret using "Option D, No Return Secured/Final," and the appropriate closing action. Prepare Form 4844 to input a TC 540 and annotate the ICS history accordingly. If, on the other hand, a substantial tax liability exists, secure a return from the executor of the estate. If there is no estate to satisfy any part of a tax liability and there is no possibility of a transferee assessment, select " Option C, No Return Secured," with "Closing Action C, Little or no tax due (P-5-133)" .

3. Question: Del Ret is on the wife with her SSN. She filed a separate return using her deceased husband's SSN. What do you do?

Answer: Close the Del Ret by using "Option G, Return Previously Filed, " and appropriate closing action because the name and number are correct on the Del Ret. Prepare a Form 3870 requesting adjustment by moving the return from the husband's number to the wife's number.

#### **Form 1041 Problems**

1. Question: Taxpayer states Form 706 was previously filed for the year in question?

Answer: This is an insufficient response. Tax paid on Form 706 — United States Estate Tax Return is based on evaluation of the property of the estate. Form 1041 is filed by the executor for the deceased taxpayer on income from an estate or trust.

2. Question: Taxpayer states all income was reported on 1040. What action do you take?

Answer: Verify that the estate or trust had no income for that period. From the ICS CLOSE DEL RET menu select "Option C, No Return Secured," with the appropriate closing action.

#### **Form 1120 Problems**

1. Question: You receive a Del Ret for a Form 1120, yet investigation reveals the taxpayer files a Form 1120S or other "lettered" Form 1120. How do you close this Del Ret module?

Answer: From the ICS CLOSE DEL RET menu close the Del Ret module by selecting "Option C, No Return Secured," and the appropriate closing action. Prepare Form 2363 to change the filing requirement to the correct Form 1120. If there is a Form 1120S filing requirement, confirm that the taxpayer filed a Form 2553, Election by a Small Business Corporation, which has been accepted for the Del Ret module. Secure Form 1120 if Form 2553 has not been filed.

#### **Note:**

Any actions (approved, denied, etc) taken regarding the Form 2553 will post to the entity as a TC 09X, check Document 6209 for specific details.

2. Question: The taxpayer has a Form 1120S filing requirement and informs the service that the corporation will now file Form 1120. If the campus turns on the filing requirement in any month prior to the Fiscal Year Month (FYM) established on the master file, is it possible to receive a Del Ret for a Form 1120?

Answer: Yes, when the next delinquency check is made, the program analysis will determine if the taxpayer filed a Form 1120 in the past twelve months. If not, a delinquency notice will be issued and if the tax module is not satisfied, a Del Ret will subsequently be issued. Close the Del Ret by selecting "Option C, No Return Secured," and the appropriate closing action from the ICS CLOSE DEL RET menu.

3. Question: You receive a Del Ret for a Form 1120 and find the taxpayer is responsible for filing Form 1120F, United States Income Tax Return of Foreign Corporation. How do you close this Del Ret?

Answer: Form 1120F is now included in the BMF. The filing requirement for the Form 1120F is 6. Prepare Form 2363 to change the filing requirement.

4. Question: What action do you take if taxpayer indicates Form 1120POL (Political Campaign Organization) was filed instead of Form 1120?

Answer: From the ICS CLOSE DEL RET menu select "Option G, Return Previously Filed," and the appropriate closing action. Prepare Form 2363 to change the filing requirement to 9 on the BMF.

5. Question: What action is required if the taxpayer states the corporation is exempt from filing because it is a non-profit organization?

Answer: Determine if the corporation has filed for tax exempt status. If so, find out the status of the request. If corporation has not applied, inform taxpayer that it must be filed and approved. Also request that the Form 1120 requested on the Del Ret be filed.

6. Question: You have a Del Ret requesting a Form 1120. The taxpayer is filing Form 990, having been granted exemption from income tax. How should this Del Ret be closed?

Answer: From the ICS CLOSE DEL RET menu select "Option D, No Return Secured/Final." When the submenu is displayed select the appropriate closing action.

7. Question: How do you close a Del Ret on Form 1120 for a non-existent corporation which has gone out of business and no one is willing to prepare the return?

Answer: See IRM 5.1.11.6.1.

8. Question: Taxpayer states return has not been filed, but that corporation showed a net loss. What action should be taken?

Answer: See IRM 5.1.11.6.1.

9. Question: You receive a Del Ret for a Form 1120. Investigation reveals the taxpayer is a subsidiary corporation being included in a consolidated return with a parent corporation. How do you close this Del Ret?

Answer: An election may be made for a subsidiary corporation to file with its parent. A copy of IRS Form 851, Affiliations Schedule, verifies the election status. Close the Del Ret by preparing Form 4844 to request input of TC 590 closing code 14. Write the EIN of the parent corporation on Form 4844.

10. Question: You have a Del Ret with a Form 1120 due for a stated period. Your investigation reveals that the taxpayer files a Form 1120 for a different period. How do you close the Del Ret?

Answer: From the ICS CLOSE DEL RET menu select "Option C, No Return Secured." When the submenu is displayed select the appropriate closing action. Prepare Form 2363 to change the fiscal year month (FYM). However, a short period return may be due and this possibility should be checked with the taxpayer.

### **Exhibit 5.1.11-3 (06-02-2004) Comprehensive List of Transaction Code 59X Closing Codes**

<b>Definition</b>	<b>Transaction Code</b>	<b>Closing Code</b>				
			CFf,			
<b>Return Secured</b>		ACS/ CS	SPF	CSCO	OTHER	
Taxable (before prepaid credits)	599	44	69 94		–	
Nontaxable (TC 150=0)	599	46	71 96		–	
Unassessable (Bankruptcy)	599	42	67 92		–	
IRC 6020(b) Unagreed or SFR for RO Program	599	38	63 38		–	

SFR Program Unagreed	599	–	–	88	–
IRC 6020(b) Agreed or SFR for RO Program	599	39	64	39	–
SFR Program Agreed	599	–	–	89	–
<b>Return Previously Filed</b>					
Filed as spouse on joint return	594	34	59	84	–
IRC 6020(b) Program	594	38	63	38	–
SFR Program		–	–	88	–
All other cases	594	33	58	83	–
<b>No Return Secured</b>					
Subsidiary Corporation filed under parent EIN	590	14	14	14	14
Not liable for return (BMF, NMF, EPMF only)	590	25	50	75	20
Income below filing requirement (IMF only)	590	26	51	76	–
Little or no tax due (P–5–133)	590	27	52	77	–
TP due refund	590	28	53	78	–
6020(b) — not/no longer liable	590–591	38	63	38	–
SFR — not/no longer liable	590–591	–	–	88	–
No longer liable (BMF, NMF)	591	25	50	75	97
TP is deceased (IMF)	591	25	50	75	97
<b>All Other Closing Transactions</b>					
IRC 6020(b)	593–598	38	63	38	–
SFR	593–598	–	–	88	–
All other cases	593, 595–598	32	57	82	97

## ADDITIONAL CODES FOR INPUT BY CAMPUS

Definition	Transaction Code	Closing Code
<b>System Generated Codes</b>		
Satisfying TC in an earlier module for the same MFT	591–593	00
Short year tax return	590, 591	01
Suppressed International delinquency	590	02
Generated when an open Del Ret module contains a dummy 150 and a TC 300	597	02
Suppressed prior to return due date	590	03
Alternative FR — not liable for this MFT and period	590	04
Return being processed	599	06
FR deleted	591	10



TC 598 posted for 65 cycles	597	12
Unpostable return coded 305	599	13
Systemic closure of non-filer aged inventory	597	44
Return in block out of balance prior to delinquency check	590	54
Generated by ICS when a TC 591 or TC 593 closes an earlier module for the same type of tax	591,593	66
Return in block out of balance after delinquency check	599	99
<b>Manually Generated Codes</b>		
Form 11 FR deleted after notice	591	11
Filed as a Subsidiary	590	14
Unprocessable return	599	17
Return in process on or after Program Completion Date	599	18
Suppressed in notice status	590	19

**Exhibit 5.1.11-4 (06-02-2004)**  
**Substitute for Return for Revenue Officer (SFR for RO) worksheet**

There is currently no description available for this image. For help with this image, please call the IRS.gov Helpdesk at 1-800-876-1715.

**Exhibit 5.1.11-5 (06-02-2004)**  
**Return Delinquency Processing Flow Chart**

There is currently no description available for this image. For help with this image, please call the IRS.gov Helpdesk at 1-800-876-1715.

[More Internal Revenue Manual](#)

The importance of obtaining as much information as possible on the first contact cannot be over emphasized. Obviously, this information will be the best basis for any proposed assessment. If, however, the taxpayer refuses to provide any information, there are many sources available to you. These sources are outlined in the following paragraphs.

#### EMPLOYMENT TAX RETURNS

To complete employment tax returns, (Forms 940, 941, 942, 943, and CT-1) the most important information you must find is the correct amount of wages paid. Without payroll records, you may need to estimate the payroll. On your visit to the taxpayer's business, you should ask, observe and make note of:

1. The number of employees
2. An acceptable wage for the work being done
3. The number of hours the employees work (do they work overtime)?
4. Whether the business has expanded in the last year
5. Whether the taxpayer changed operations recently
6. Ask to see copies of any employment tax returns or income tax returns.

If you cannot determine payroll from the taxpayer's records or estimate the payroll from your observations and some related questions, look for other records. The income tax return (FORMS 1120, 1065 and 1040 Schedule C) may show salary and wage expense, the last filed employment tax returns may show a typical payroll, or the state unemployment return may show wages paid by the employer for the period. The taxpayer may tell you the accountant has all the records. You should ask for the accountant's name, address and phone number. Also ask the taxpayer to give you a written statement giving you permission to discuss the tax delinquency with the accountant.

Sometimes you can't get sufficient information from the taxpayer or the accountant. When that happens there are other sources. Some of these sources are listed below:

1. The LRA on the TDI
2. Microfilm for prior returns from the Service Center
3. Copies of prior returns from the Service Center

You can then estimate the quarterly income tax withheld:

<u>Employees</u>		<u>Amount Withheld</u>		<u>Weekly Withholding Liability</u>
24	x	\$ 3.00	=	\$ 72.00
6	x	\$12.90	=	\$ 77.40
4	x	\$56.90	=	\$ 227.00
Total weekly liability				\$ 377.00
Weeks per quarter				x 13
Quarterly withholding liability				= \$ 4,901.00

Example 2

When you cannot use Circular E, use the standard flat percentage rate. Based on the quarterly payroll in example 1, the quarterly withholding liability would be \$8,751.60 (\$51,480 x .17 = \$8,751.60).

Multiply the FICA rates by wages paid to determine the last component necessary to compute the employment tax liability. The preparation of the return was covered in Module D. To complete the unemployment tax return (Form 940) you will take the total wage figure for the year along with any other applicable information and prepare the return.

THE PARTNERSHIP RETURN

Form 1065, U.S. Partnership Return of Income, is an information return required for the effective administration of the tax system. This return provides a report of a partnership's financial operations and each partner's share of income and credit. Each partner is then responsible for reporting their share of income and credit on their 1040. Congress has enacted a civil penalty for filing Form 1065 late. The penalty for late filing is \$50 per month or portion of a month (not to exceed 5 months) times the number of partners in the partnership during the year.

The information necessary to file a partnership's return of income under IRC section 6020(b) is the information necessary to assess the penalty:

1. The partnership's name
2. The partnership's address
3. The partnership's EIN and
4. The number of partners in the partnership (see figure 23-3).

Example 3

No. of Partners - 12 (Line J)

Computation would be:

12 (partners) x \$50.00 x (Number of months  
late to a maximum of 5 months)

EXCISE TAX RETURNS

Form 2290 Federal Use Tax Return on Motor Vehicles and the Form 720, Quarterly Federal Excise Tax Return on Diesel Fuel and Motor Fuel may be assessed under the IRC 6020(b) procedure. You will gather the information needed to prepare the return in the same manner that was discussed in the employment tax return part of this lesson. Some of the sources may be different. For instance state unemployment information would not be applicable but state motor vehicle information would be. Your objective is the same; to gather information from applicable sources enabling you to prepare a substantially correct return.

ADMINISTRATIVE PROCESS

If the taxpayer fails to file employment excise and partnership tax returns by the specified date, the return should be prepared under the authority of IRC 6020(b) using form 5604 Section 6020b action sheet. If required a field call must have been made prior to the recommendation.

The Collection Manager will review Form 5604 and related documentation including returns for accuracy and appropriateness of assessment. After approval, the manager will sign the recommendation and the Letter 1085(DO) or Letter 1616(DO) with attachments should be mailed.

Field support unit, the Revenue Officer clerical support or the R/O aide may provide all phases of the 6020(b) clerical review process. Each district will vary and the trainee should check with the OJI for clarification on District policy. A copy of all forms and returns should be kept in the R/O file.

Form 5604 is a 3 part snapset, Part 1 will go with the returns for assessment, Part 2 is a file copy for the responsible function and Part 3 is a control card that can be used at local office option.

## Lesson 25

### REFERRALS

#### INTRODUCTION TO THIS LESSON

#### WHY THIS LESSON IS IMPORTANT

In the course of working your cases you will encounter situations where taxpayers neglect or refuse to file, despite your efforts to secure the tax returns. These non-filer cases can be resolved by you in one of several ways: preparation of employment, excise, or partnership tax returns according to the provisions of IRC 6020(b); referral to the Examination Division (Exam) for income taxes (1040 and 1120 taxes); or referral to the Criminal Investigation Division (CID) for any non-filer case involving possible fraud on the part of the taxpayer.

This lesson will focus on the referral process. You must be able to identify possible fraud situations in your cases and know whether to refer cases of failure to file to Exam or CID. On the job your coach and group manager will help you make these determinations.

#### LESSON OBJECTIVES

At the end of this lesson you will be able to:

- 25-1. Select those cases which should be referred to the Examination Division.
- 25-2. Prepare Form 3449, Referral Report.
- 25-3. Select those cases which should be referred to the Criminal Investigation Division.
- 25-4. Prepare Form 3212, Referral Report.
- 25-5. Identify actions to take in situations involving forcible rescue of seized property.

#### SYMBOLS

Certain symbols are used to guide you through this lesson. These symbols are listed here along with their meaning:



Exercise. Complete the exercise or exercises that follow.



Answers to Exercises. The answers to the exercises in this lesson follow this symbol.

## EXAMINATION DIVISION REFERRALS

- ① Collection personnel should strive to secure voluntary compliance in every taxpayer contact. However, if after all administrative measures, including consideration of a summons, have been taken and the taxpayer continues to fail to file and no indications of fraud are present, a referral to the Examination Division is appropriate. The referral is submitted to your group manager on Form 3449. Referral Report.

### OBJECTIVES

At the end of this lesson you will be able to:

- 25-1. Select those cases which should be referred to the Examination Division.
- 25-2. Prepare Form 3449, Referral Report.

### CONTENTS

Form 3449  
Recommendation of Civil Penalties

The referral is based on information secured from the taxpayer, internal sources (Form W-2, latest filed return, Form 1099, etc.), and external sources (state employment records, third parties, etc.).

Review IRM 5280 for procedures to follow before making a referral to Examination.

### FORM 3449

The following is a copy of a Form 3449. The form has been broken into sections for discussion on the following pages.

**MATERIALS REQUIRED**

Form 3449, Referral Report  
Form 3212, Referral Report of Potential Fraud Case

**REFERENCES**

IRM 52(10)0

**ESTIMATED COMPLETION TIME**

2 hours

Form 3449 can also be used to refer the following types of cases to Examination Division:

RECOMMENDATION OF CIVIL PENALTIES

1. Recommendation of Civil Fraud Penalty

This can be used in cases where CID has withdrawn from a case.

Review IRM 5172.34.

2. Referrals Concerning Underreported Tax

If there appears to be a material difference between the tax listed on the return and the correct liability, and there are no indications of fraud, use Form 3449.

See IRM 52(10)2.3.

Remember: Refusal to file cases involving Forms 940, 941, 942, 943, 720, 1065, 2290, or CT-1 will not be referred to Exam. These returns should be prepared under authority of IRC Section 6020(b).

SUMMARY

If after all administrative measures, including consideration of a summons, have been taken, and the taxpayer fails to file, a referral to the Examination Division is appropriate. The referral is submitted to your group manager on Form 3449, Referral Report.

---

OBJECTIVES

You should now be able to:

- 25-1. Select those cases which should be referred to Examination Division.
  - 25-2. Prepare Form 3449, Referral Report.
-



Search

[Home](#) > [Tax Professionals](#)

Internal Revenue Manual

Forms Finder

[Search Help](#)

Contents

- [e-file Providers](#)
- [Enrolled Agents](#)
- [Enrolled Actuaries](#)

Resources

- [e-file](#)
- [Forms and Publications](#)
- [Where to File](#)
- [Contact My Local Office](#)
- [FAQs](#)
- [Taxpayer Advocate](#)

[Tax Pro News](#)[Tax Pro Events](#)[Subscription Services](#)[IRS Resources](#)[Tax Issues](#)[More Topics . .](#)

## Handbook 5.1

### General Handbook

## Chapter 11

### Delinquent Return Accounts

#### Contents

- [\[5.1\] 11.1 Delinquent Return Investigations](#)
  - [\[5.1\] 11.1.1 Taxpayer Contact](#)
  - [\[5.1\] 11.1.2 Full Compliance Check](#)
  - [\[5.1\] 11.1.3 Documentation](#)
  - [\[5.1\] 11.1.4 Unable to Locate](#)
  - [\[5.1\] 11.1.5 Cases Requiring Special Handling](#)
    - [\[5.1\] 11.1.5.1 Restricting Field Contact](#)
    - [\[5.1\] 11.1.5.2 Criminal Investigation Cases](#)
    - [\[5.1\] 11.1.5.3 Exempt Organizations](#)
    - [\[5.1\] 11.1.5.4 Wagering Taxes](#)
    - [\[5.1\] 11.1.5.5 Bankruptcy Cases](#)
    - [\[5.1\] 11.1.5.6 IRS Employee Return Delinquency](#)
  - [\[5.1\] 11.1.6 TDI Transfers](#)
    - [\[5.1\] 11.1.6.1 Transfer Without Prior Courtesy Investigation](#)
    - [\[5.1\] 11.1.6.2 Military Personnel](#)
    - [\[5.1\] 11.1.6.3 Other International Cases](#)
- [\[5.1\] 11.2 Research Tools](#)
  - [\[5.1\] 11.2.1 IRMF Transcripts](#)
  - [\[5.1\] 11.2.2 TDI Supplements](#)
  - [\[5.1\] 11.2.3 IDRS and CFOL Command Codes](#)
- [\[5.1\] 11.3 Secured Returns](#)
  - [\[5.1\] 11.3.1 Returns With Payment](#)
  - [\[5.1\] 11.3.2 Returns Without Full Payment](#)
- [\[5.1\] 11.4 Enforcement Criteria](#)
  - [\[5.1\] 11.4.1 Minimal or No Tax Due on Returns and Collectibility Factors](#)
- [\[5.1\] 11.5 Refusal to File -- Initial Activity](#)

- [\[5.1\] 11.6 Referrals to Criminal Investigation](#)
  - [\[5.1\] 11.6.1 Preparing and Processing Referrals](#)
  
- [\[5.1\] 11.7 Referrals to Examination](#)
  - [\[5.1\] 11.7.1 Preparation of Form 3449](#)
  - [\[5.1\] 11.7.2 Referrals Concerning Underreported Tax](#)
  - [\[5.1\] 11.7.3 Excise Tax Returns](#)
  - [\[5.1\] 11.7.4 Referrals to the Employee Plans/Exempt Organization Division \(EP/EO\)](#)
  - [\[5.1\] 11.7.5 Employer/Employee Relationship Questions](#)
  
- [\[5.1\] 11.8 Substitute for Returns](#)
  
- [\[5.1\] 11.9 IRC 6020\(b\) Authority](#)
  - [\[5.1\] 11.9.1 Taxpayer Contact](#)
  - [\[5.1\] 11.9.2 Preparation and Approval of Returns](#)
  - [\[5.1\] 11.9.3 Appeals of Unagreed IRC 6020\(b\) Cases](#)
  - [\[5.1\] 11.9.4 Preparing Returns for Assessment](#)
  - [\[5.1\] 11.9.5 Unable to Locate and Unable to Contact Cases](#)
  
- [\[5.1\] 11.10 TDI Completions](#)
  - [\[5.1\] 11.10.1 Transaction Codes](#)
  - [\[5.1\] 11.10.2 TC 590 -- Not Required to File for this Period Only](#)
  - [\[5.1\] 11.10.3 TC 591 -- Final](#)
  - [\[5.1\] 11.10.4 TC 593 -- Unable to Locate](#)
  - [\[5.1\] 11.10.5 TC 594 -- Return Previously Filed](#)
  - [\[5.1\] 11.10.6 TC 595 -- Referrals to Examination or EP/EO Divisions](#)
  - [\[5.1\] 11.10.7 TC 596 -- Referrals to Criminal Investigation](#)
  - [\[5.1\] 11.10.8 TC 597 -- Surveyed](#)
  - [\[5.1\] 11.10.9 TC 598 -- Shelved](#)
  - [\[5.1\] 11.10.10 TC 599 -- Taxable/Nontaxable Return Secured](#)
  - [\[5.1\] 11.10.11 Recalls](#)
  - [\[5.1\] 11.10.12 Credit Balances](#)
  - [\[5.1\] 11.10.13 Entity Changes](#)
  
- [\[5.1\] 11.11 Delinquent Investigation Account Listing \(DIAL\)](#)
  - [\[5.1\] 11.11.1 Matching Procedures](#)
  - [\[5.1\] 11.11.2 Collection Statute Expiration Date](#)
  - [\[5.1\] 11.11.3 Assessment Statute Expiration Date \(ASED\)](#)
  - [\[5.1\] 11.11.4 Large Dollar Accounts](#)
  
- [\[5.1\] 11.12 Delinquency Check Programs](#)
  - [\[5.1\] 11.12.1 Tax Liability of Entities and Individuals from Canada and Mexico](#)
  - [\[5.1\] 11.12.2 Rules and Restrictions with Respect to Collection Activities in Canada](#)
  
- [\[5.1\] 11.13 Heavy Vehicle Use Tax](#)
  - [\[5.1\] 11.13.1 Service Center Collection Branch Processing](#)
  - [\[5.1\] 11.13.2 Automated Collection Branch Processing](#)
  - [\[5.1\] 11.13.3 Collection Field Function \(Cff\) Processing](#)

- [Exhibit \[5.1\] 11-1 Index for Questions and Answers to Assist in the Disposition of TDI](#)
- [Exhibit \[5.1\] 11-2 Questions and Answers to Assist in the Disposition of TDIs \(Reference: IRM 5.1.11.9\)](#)
- [Exhibit \[5.1\] 11-3 Comprehensive List of Transaction Code 59X Closing Codes](#)
- [Exhibit \[5.1\] 11-4 DIAL Format](#)

## **[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] 11.1.5.4 (05-27-1999)****Wagering Taxes**

1. Collection Field function is responsible for securing delinquent wagering, occupational and/or excise tax returns, except when:
  - A. Evidence of criminal wagering or non-wagering activity or fraud is discovered.
  - B. Notification is received advising that the taxpayer is the subject of a criminal investigation.
  - C. Extensive scrutiny of records requires Examination Division involvement.

**[5.1] 11.1.5.5 (05-27-1999)**

**Bankruptcy Cases**

1. Stop all balance due enforcement actions upon learning that the taxpayer has filed a petition under any chapter in bankruptcy.
  - A. Determine the petition date and annotate on the TDI "Bankruptcy Code Petition------(date)." Do not demand payment for prebankruptcy periods.
  - B. Secure and process all delinquent returns in accordance with Section 11.3 of this IRM.

**[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] 11.1.6 (05-27-1999)**

**TDI Transfers**

1. Form 2650 TDA-TDI Transfer, is not required when transferring TDIs outside the jurisdiction of the area office unless accompanied by a TDAs on the same entity.
2. Intra-district TDI transfers require managerial approval.
3. Mail Letter 729(DO) to the taxpayer and initiate a Courtesy Investigation if:
  - A. The taxpayer fails to acknowledge receipt of Letter 729.
  - B. The post office doesn't provide notification of change of address within 30 days.

**[5.1] 11.1.6.1 (05-27-1999)**

**Transfer Without Prior Courtesy Investigation**

1. TDIs may be transferred without first requesting a Courtesy Investigation via Form 2209 if:
  - A. They accompany TDAs on the same taxpayer which are being transferred.
2. The TDIs, as issued, show an address in another district and:
  - A. Terminal research does not show a more current address within your district, the taxpayer is not incarcerated, and the address is not a P.O. Box or in care of a motel or hotel.
  - B. The transferee office requests or agrees to the transfer.
  - C. Either a Daily Transaction Register item, IDRS or correspondence received from the taxpayer or personal contact with the taxpayer provides a new address.
3. Corporate TDIs may be transferred only if the corporation itself, not merely one or more officers, is located in the transferee district's territory.
4. Joint or partnership TDIs may be transferred only if all the taxpayers reside in the transferee district's territory.
5. The taxpayer acknowledges receipt of Letter 729 or a similar letter, but does not respond sufficiently to close the TDI.

**[5.1] 11.1.6.2 (05-27-1999)**

**Military Personnel**

1. If a military taxpayer is stationed within the United States initiate a Courtesy Investigation when correspondence can't resolve the case.
2. If the military taxpayer is stationed outside the United States initiate a Courtesy Investigation if correspondence or if the taxpayer requests personal contact.
  - A. Courtesy Investigations will go to the Assistant Commissioner (International).
  - B. Transfer of the TDIs is not permitted.
  - C. Provide specific instructions since the Revenue Representative may not be familiar with Collection procedures.
  - D. Attach copies of the TDI and related documents.

**[5.1] 11.1.6.3 (05-27-1999)**

**Other International Cases**

1. Initiate a request for a courtesy investigation to the Assistant Commissioner (International) if:
  - A. The taxpayer has moved to an address outside the United States.
  - B. The case can't be resolved through correspondence.
  - C. The case meets LEM V criteria.
2. Prepare Form 2209, Courtesy Investigation proposing transfer of the TDI('s) and forwarded to: Internal Revenue Service, 950 L'Enfant Plaza S.W. Washington D. C. 20024 ATTN: OP:IN:C:HQ:CSU.
3. Send Form 2209 involving taxpayers having current addresses in Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa or any of the other territories possessions, to U.S. Internal Revenue Service, 2 Ponce de Leon Ave., 10th Floor, San Juan, PR 00918-1693.
4. Give specific instructions on the Form 2209 for each return to be secured or action to be taken.

### **[5.1] 11.2 (05-27-1999)**

#### **Research Tools**

1. There are several research tools available to assist in working nonfiler issues.
2. Principal among them are:
  - A. IRMF Transcripts
  - B. TDI supplements
  - C. CFOL command codes
  - D. IDRS command codes

### **[5.1] 11.2.1 (05-27-1999)**

#### **IRMF Transcripts**

1. If TDI supplement data is not available, you can request an IRMF transcript to obtain IRP data. Use CC IRPTR which will generate a request to Martinsburg Computing Center (MCC) each week.
2. CC IRPTR may be used to request IRMF transcripts on BMF taxpayers for CID or Examination referrals or in unable to locate cases.
3. You will receive the information in a paper format, usually within four weeks.
4. To facilitate input of CC IRPTR to IDRS, use Form 6632.

### **[5.1] 11.2.2 (05-27-1999)**

#### **TDI Supplements**

1. Request a TDI Supplement via IDRS using CC TSIGN, with the literal "D" . The following week, CC SUPRQ will display the supplement on the IDRS screen. The retention period for supplement data on IDRS is five days. If the CC SUPRQ is not used during the following week, the TDI Supplement data will drop off.
2. The TDI Supplement file may hold up to 5 years plus the current delinquent year (if multiple years are open). If the TDI has multiple periods and supplements are missing, a request may produce all of the missing supplements.
3. Use TDIRQ, request type "S" for TDI Supplement requests when no account data is on IDRS. Request type "S" will build a TDI compliance record for an existing account if one is not present. The following cycle, the supplement may be accessed using CC SUPRQ, as described in (1) and (2) above.
4. Form 4845, TDA/TDI Reassignment Request, may be used to maintain a weekly record of CC TSIGN "D" inputs so supplements may be secured the following week using CC SUPRQ.



**[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.

<b>If...</b>	<b>Then...</b>
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 <b>not</b> 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.

**[5.1] 11.9.3 (05-27-1999)**

**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] 11.9.5 (05-27-1999)**

#### **Unable to Locate and Unable to Contact Cases**

1. In unable to locate situations when the proprietors, partners or responsible officers and assets cannot be located:

<b>If</b>	<b>Then</b>
Their SSNs can be determined	Follow IRM Section 11.3 of this chapter for returns without full payment
Their SSNs cannot be determined	Closing the delinquency using TC 593 with the proper closing code. See Sections 11.1 and 11.9 of this chapter.

- In unable to contact situations:
  - A. Process the returns via prompt assessment  
or
  - B. Prepare a preassessment Form 53, Report of Currently Not Collectible Taxes, at the time the return is signed.

#### **[5.1] 11.10 (05-27-1999)**

#### **TDI Completions**

1. Disposition of the TDI will depend upon the circumstances of individual cases. Exhibits 11-1 and 11-2 furnish answers to a number of questions in the disposition of the TDI.
2. When the taxpayer does not file the required returns or does not submit sufficient information to satisfy all delinquent periods, the TDI cannot be closed. Appropriate entries will be made in the case history of the TDI regarding all actions taken including full compliance checks.

#### **[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] 11.10.5 (05-27-1999)****TC 594 -- Return Previously Filed**

1. If the return has been previously filed, the revenue officer should secure a signed copy of the return with proof of payment, if appropriate, and:
  - A. close the TDI by completing the TC594 block with closing code 58 and furnish fact of filing data in the history or on reverse of TDI; and
  - B. attach a signed copy of both the return and proof of payment to the TDI.
  - C. If a balance due remains, make a preassessment collection determination as required by Section 11.3 of this chapter.
2. If the taxpayer is unable to provide proof of payment, the revenue officer should:
  - A. secure a signed copy of the balance due return and process it as an original;
  - B. close the TDI by checking the TC599 block; and
  - C. make a preassessment collection determination required by Section 11.3 of this chapter.
3. Where there has been an entity change, a careful analysis of the facts should be made to determine for which entity the previously filed return was intended. If the return was not intended for the TDI entity, the TDI should be closed by TC 590 or 591 (closing code 50), as appropriate, and not by TC 594.
4. Check the "Recall" block if you see the original return, with DLN, with the same name and number or microfilm or terminal inquiry shows the tax module with a satisfactory closing transaction code.
5. If the taxpayer has filed jointly with spouse as the secondary SSN on the return, the revenue officer will verify fact of filing and close the delinquent period by entering TC 594 closing code 59. Fact of filing can be verified by requesting IDRS MCC transcripts, using CFOL with CCs INOLE, IMFOL or RTVUE or securing returns for the primary SSN and comparing the taxpayer's SSN with the secondary SSN. When the revenue officer discovers that the secondary SSN is incorrect on the jointly filed return, use Form 2363 Master File Entity Change to correct the secondary SSN of the entity. Attach any transcripts to case file. If fact of filing cannot be verified, secure original tax return and attach a copy of the return(s) to the case file.
6. TC 594 cannot be used if a taxpayer has a Form 1120 filing requirement but has filed a Form 1120S or vice versa.

**[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] 11.10.12 (05-27-1999)****Credit Balances**

1. When a credit balance exists, and TC 590, 591, or 593 is used:
  - A. check the Credit block on the face of the TDI.
  - B. complete the Credit Disposition section on the reverse of the TDI.
  - C. at local option, secure written managerial approval on the face of the TDI.
2. If the investigation is closed TC 594 cc 59, a check under that secondary spouse's social security number will indicate any credit balance that may exist. If there is credit, fill in the Credit Balance section on the face of the TDI and follow instructions in Section 11.9.12(1) of this chapter.
3. Line through the credit balance amount and make a notation on the TDI when it is determined from Master File Research or terminal inquiry that the credit has been cleared from the tax module. If the taxpayer is entitled to additional credit, insert the correct amount.
4. For a TDI module closed with a Transaction Code 590 or 591 reflecting an existing credit that should be refunded to the taxpayer, a signed no-liability (non-taxable) return should be secured. The return should be annotated "Input as original for Refund," and forwarded for processing as an original delinquent return. If the return cannot be secured, secure a signed statement of no liability from the taxpayer. If the investigation reveals that there is no tax due, but the taxpayer refuses to provide a signed return or statement of no liability, recommend that the credit be transferred to excess collections.
5. If the taxpayer does not claim a credit and the period for refunding an overpayment has not expired, research IDRS. If there are any outstanding balances on other modules, the credit may be transferred to them. If, after the transfer, any credit remains, apply it to excess collections.

**[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 ASSED 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 ASED 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.

**IRS Resources**

- [Compliance & Enforcement](#)
- [Contact My Local Office](#)
- [e-file](#)
- [Forms and Publications](#)
- [Frequently Asked Questions](#)
- [News](#)
- [Taxpayer Advocacy](#)
- [Where To File](#)

**Part 5. Collecting Process****Chapter 1. General Collecting Procedures****Section 11. Delinquent Return Accounts****5.1.11 Delinquent Return Accounts**

- 5.1.11.1 [Delinquent Return Program](#)
- 5.1.11.2 [Taxpayer Contact](#)
- 5.1.11.3 [Unable to Locate](#)
- 5.1.11.4 [Cases Requiring Special Handling](#)
- 5.1.11.5 [Secured Returns](#)
- 5.1.11.6 [No Return Secured](#)

**5.1.11.1 (06-02-2004)  
Delinquent Return Program**

1. The Return Delinquency program is worked in most functions of the service. Cases are created when a return is not filed by the program completion date (PCD) for Campus processing of timely filed returns. Delinquency checks are run against the Master File after the PCD. Delinquency checks of the Master File identify individual and business taxpayers who have not filed their returns and creates a case for each delinquent module(s). Notices are then sent to the taxpayer asking for the delinquent return. Achieving full compliance is the goal of resolution of the Del Ret module including securing the full payment of the tax liability with the delinquent return.

**5.1.11.1.1 (06-02-2004)  
Case Creation and Notice Issuance**

1. Two types of delinquency programs based on computer checks of taxpayer records are Stop-filers and Non-filers.
2. The case creation process identifies taxpayers that previously filed an individual income tax return last year and failed to file a current return. These cases are known as stop-filers. After taxpayers are identified, the IMF delinquency checks are generally run seven months after the due date of the return.
3. The IMF case creation process identifies individual taxpayers where we received third party information returns processing (IRP) documents (i.e. W-2, 1099, etc.). After taxpayers are identified, the IMF delinquency checks are generally run ten months after the due date of the return.
4. The BMF case creation program identifies business taxpayers that have an open filing requirement for a return that is not filed, and failed to file a current return or resolve the module. After taxpayers are identified, the BMF delinquency checks are made at least 5 weeks after the PCD date of each return and tax period.

**5.1.11.1.2 (06-02-2004)  
Taxpayer Delinquency Investigations (TDI Status)**

1. When the taxpayer fails to respond to delinquency notices a delinquent return (Del

Ret) module is generated and assigned an Inventory Delivery System (IDS) case prioritization code that determines where it will be assigned.

2. When a Del Ret module is issued on a taxpayer for a specific tax period, the potential liability for all unresolved previous and subsequent tax periods must be investigated.
3. The goal of these investigations is to bring the taxpayer into full compliance including securing the full payment of the tax liability with the delinquent return.
4. Del Ret cases can be worked as a stand-alone investigation or in combination with a balance due (Bal Due) account or other investigation. The latter is referred to as a "Combo case."

#### **5.1.11.1.3 (06-02-2004)**

##### **Initial Analysis**

1. When a Del Ret case is first assigned, review the complete case history to determine if all filing requirements have been satisfied. You must resolve all current compliance (non-filing and non-payment issues) and address future compliance issues as well.
2. There are several research tools available on IDRS and CFOL to help in reviewing non-filer issues and initial analysis of your case.
3. After researching the case history, IDRS, and CFOL, establish a plan of action to resolve the case.

#### **5.1.11.1.3.1 (06-02-2004)**

##### **IDRS/CFOL Command codes (CC)**

1. Use IDRS/CFOL command codes to determine the types of tax and the periods for which the taxpayer may be liable. Consider using:
  - A. IDRS command codes ENMOD, EINAD, SSNAD, SUMRY, TXMOD, and TDINQ.
  - B. CFOL command codes INOLE, BMFOL, IMFOL, RTVUE, ERTUV, IRPOL, SUPOL.
2. CFOL command codes are available even when IDRS is unavailable.
3. Document 6209 provides brief definitions of several command codes.
4. Refer to IRM 2.3, IDRS Terminal Responses for a complete list and definitions.

#### **5.1.11.1.3.1.1 (06-02-2004)**

##### **Command Code SUPOL**

1. Use this command code to display TDI Supplements for those taxpayers that have a TC140 posted to the IMF delinquent period.
2. If no TC140 posted on delinquent period, use CC IRPTR to obtain the IRP information.
3. New data is added just before the first TC140 is posted to the new IMF tax period, generally in late October or early November.
4. TDI Supplement information is available for the most recent six tax years (the current delinquent year plus the five prior years).
5. Case majors consist of IMF Entity, prior year 1040 information, birth and death information and IRP summary information.
6. Case minors consist of specific IRP information listing each Payee/Payer, type of income, and dollar amounts.

7. For further details, see IRM 2.3.58 CC SUPOL.

#### **5.1.11.1.3.1.2 (06-02-2004) Command Code IRPTR**

1. IRPTR (Information Returns Master File Transcript Request) allows you to request either on-line or hardcopy IRP transcripts (documents) from IRMF (Information Returns Master File). This command code is used when no TC140 is posted to the tax period.
2. Use IRPTR to request a particular Payee or Payer Taxpayer Identification Number (TIN) for up to six prior tax years.
3. Valid IRPTR definers are:
  - "H" Initial help screen
  - "E" Payee hardcopy (paper) transcript request
  - "R" Payer hardcopy transcript request
  - "L" Summary request IRPOL
  - "O" Payee online transcript request
  - "W" Sanitized version
4. Hardcopy transcripts have a scheduled shipping date. Requests are processed every Wednesday at noon EST. Allow up to 1 to 2 weeks from shipping date for receipt (See Exhibit 2.3.35-6 for a complete schedule). Contact your distribution center for the status of your transcripts.
5. For further details, see IRM 2.3.35 CC IRPTR.

#### **5.1.11.2 (06-02-2004) Taxpayer Contact**

1. When existing information is insufficient to resolve the delinquency investigation, the revenue officer should attempt initial contact with the taxpayer at the taxpayer's residence or place of business in accordance with guidelines and procedures set forth in IRM 5.1.10. While making field contact, the revenue officer should observe the taxpayer's standard of living, assets, number of employees and other pertinent information for assistance in determining potential liability and collection potential.

**Note:**

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.

2. If the Del Ret is not resolved during initial contact, the field investigation should include contacts with third parties as necessary to resolve the Del Ret (e.g., neighbors, business associates, employers, financial institutions) through other means. However, the revenue officer first must follow the Service's third party contact procedures for advising the taxpayer that third parties may be contacted and for keeping a record of such contacts. Refer to IRM 5.1.17 for further guidance.
3. Local management may provide additional tools for ensuring proper documentation of these actions. The case history should provide a cross-reference so that the information can be readily located.

#### **5.1.11.2.1 (06-02-2004) Taxpayer Rights**

1. Revenue officers must ensure that taxpayers' rights are protected as they conduct delinquency investigations.
2. 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.
3. Revenue Officers are required to document the case history that the taxpayer has been provided Publication 1.

#### **5.1.11.2.2 (06-02-2004)** **Taxpayer Interviews**

1. 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.
2. 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.
3. 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.
4. 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. Absent a summons, the taxpayer cannot be required to accompany the representative to the interview.
5. 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. Refer to IRM 5.1.1.7.6 for bypass procedures.
6. The revenue officer is free to pursue other avenues of enforcement such as IRC 6020 (b) procedures or referrals to Examination or Criminal Investigation when the information available warrants this action, whether there is an impasse or not.

#### **5.1.11.2.3 (06-02-2004)** **Full Compliance Check**

1. Determine and document that all returns are filed and paid during initial contact. A full compliance check will include reference to the following, as appropriate:
  - A. All required returns (i.e., Individual and Business) including information returns.
  - 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.

**5.1.11.2.3.1 (06-02-2004)****Documentation**

1. Use Integrated Data Retrieval System (IDRS) and 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 during initial analysis of the case.
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.
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. 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).
6. Document the pre-assessment collection determination for periods closed by TC 599 CC 69.

**5.1.11.3 (08-15-2001)****Unable to Locate**

1. All reasonable efforts should be made to locate the taxpayer before closing the case as unable to locate. See IRM 5.1.18 for appropriate locator sources. Group Manager approval is required for Unable to Locate Closures. The Group Manager will document the case history indicating his or her approval.

**5.1.11.4 (08-15-2001)****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. Special processing guidelines may apply to cases worked under Compliance Initiative Projects (CIP) formerly referred to as Returns Compliance Programs (See IRM 5.1.11.8, Delinquency Check Programs).

**5.1.11.4.1 (05-27-1999)****Restricting Field Contact**

1. When working cases on potentially dangerous taxpayers and taxpayers 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. See IRM 5.1.3.3, Armed Escorts for Revenue Officers.

**5.1.11.4.2 (05-27-1999)****Criminal Investigation Cases**

1. Del Rets with Case Code "914" identify taxpayers who are under investigation by the Criminal Investigation. Follow local procedures when working such Del Rets.
2. Del Rets with a case code "TC 912 " indicate a reversed TC 914 for the Del Rets period.



#### **5.1.11.4.3 (05-07-2002)** **Frivolous Non-filers**

1. Frivolous non-filers are Taxpayers that refuse to file or file non-processable returns based on arguments not supported by tax law. When processing frivolous non-filer cases, review Policy Statement P-5-133 and follow the appropriate actions specified in IRM 5.1.11.6 to secure a delinquent return.
2. Forward all non-processable and frivolous valid returns to the Ogden Campus. Frivolous correspondence should be associated with the open case. Replies to the document should come from the employee assigned to the case. Replies to non-valid requests should be coordinated with the Frivolous Return Program Coordinator in the appropriate Campus. If there is no record of an open case, refer the correspondence within 5 days of receipt via Transmittal Form 3210 to:

Ogden Compliance Center

Attn.: Frivolous Return Program, M/S 4450

P. O. Box 9036

Ogden Utah 84201

#### **5.1.11.4.4 (05-27-1999)** **Exempt Organizations**

1. Refer the case to the Territory Manager 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 Del Ret organization has merged with another organization, note the name and EIN of the surviving organization as well as the merger details.
2. Contact TE/GE Customer Account Services (877-829-5000) in Cincinnati and notify them of any changes that would impact their Exempt Organization Master-file.

#### **5.1.11.4.5 (05-27-1999)** **Wagering Taxes**

1. Collection Field function is responsible for securing delinquent wagering, occupational and/or excise tax returns, except when:
  - A. Evidence of criminal activity or fraud is discovered.
  - B. Notification is received advising that the taxpayer is the subject of a criminal investigation.
  - C. Extensive scrutiny of records requires Territory Manager involvement.

#### **5.1.11.4.6 (05-27-1999)** **Bankruptcy Cases**

1. Stop all balance due enforcement actions upon learning that the taxpayer has filed a petition under any chapter in bankruptcy.

- A. Secure and process all delinquent returns in accordance with Section 11.5 (2) of this IRM.
- B. Determine the petition date and docket number. Do not demand payment for pre-bankruptcy periods

#### **5.1.11.4.7 (06-02-2004)** **IRS Employee Return Delinquency**

- 1. IRS employee Del Rets are identified by SELECTION CODE 92.

**Note:**

Starting with Tax Year 2001, IRS employee Del Ret cases where the BOD is WI will be identified by SELECTION CODE 02.

- 2. Area offices will designate an experienced revenue officer and back-up to work IRS employee cases.
- 3. These cases bypass ACS and are systemically assigned to the Area ICS/Entity Quality Analyst (IQA) via the Integrated Collection System (ICS).
  - A. The IQA is responsible for receipt, control and assignment of these cases. The IQA will notify the Area Director (AD), or a designated member of the AD's staff, by secure email of all IRS employee cases within their area. These cases will be identified by Taxpayer Identification Number, name, and address as shown on the latest tax return.
  - B. The AD will ultimately be responsible for identifying any conflict of interest in assignment of IRS employee cases.
- 4. Potential RRA98 §1203 (b)(8), "willful failure to file a federal tax return", or (b)(9), "willful understatement of federal tax liability", violations are generally identified through the Employee Tax Compliance (ETC) program. Do **NOT** refer these cases to TIGTA.

**Note:**

If elements of potential fraud are identified, refer the taxpayer to Criminal Investigation (CI). See IRM 5.1.11.6.2 for guidance in preparing and processing CI referrals.

- 5. IRS employee cases are worked like any other taxpayer delinquency investigation, with the following exceptions:
  - A. Do **NOT** refer these cases to Examination. Proceed with Substitute for Return (SFR) processing if the case meets the criteria in IRM 5.1.11.6.3
  - B. The Del Ret modules are systemically blocked from closure under the provisions of Policy Statement P-5-133.
- 6. If a delinquent return is secured, follow the procedures in IRM 5.1.11.5. Record the following information in the ICS history:
  - 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 DECEASED " when applicable.

G. A copy of the closed investigation should be retained in the employee file.

7. Due to the sensitive nature of IRS employee cases, revenue officers designated to work them are advised to protect them against inappropriate disclosures.

#### **5.1.11.4.8 (05-27-1999)**

##### **Del Ret Transfers**

1. Intra-Area Del Ret transfers are input by your manager using ICS and require managerial approval.
2. Initiate a Courtesy Investigation to propose a transfer if:
  - A. The taxpayer fails to acknowledge receipt of Letter 729, or
  - B. You are unable to confirm a change of address
3. Indicate the potential taxpayer address in the "**Action Information**" portion, and specify the action required in the "**Action Requested**" portion of the request for a Courtesy Investigation.

#### **5.1.11.4.8.1 (05-27-1999)**

##### **Transfer Without Prior Courtesy Investigation**

1. Del Rets may be transferred without first requesting a Courtesy Investigation if:
  - A. They accompany Bal Dues on the same taxpayer which are being transferred
  - B. The Del Rets, as issued, show an address in another area, and;
  - C. Terminal research does not show a more current address within your area, the taxpayer is not incarcerated, and the address is not a P.O. Box or in care of a motel or hotel, or;
  - D. The transferee office requests or agrees to the transfer, or the transferee office requests or agrees to the transfer, or;
  - E. Correspondence received from the taxpayer or personal contact with the taxpayer provides a new address
2. The taxpayer's address must be changed on ICS before the transfer. You must also select the reason for the transfer and secure managerial approval.
3. Corporate Del Rets may be transferred only if the corporation itself, not merely one or more officers, is located in the transferee area's territory.
4. Joint or partnership Del Rets may be transferred only if all the taxpayers reside in the transferee area's territory.
5. Del Rets may be transferred if the taxpayer acknowledges receipt of Letter 729 or a similar letter, but does not respond sufficiently to close the Del Ret.

#### **5.1.11.4.8.2 (05-27-1999)**

##### **Military Personnel**

1. If a military taxpayer is stationed within the United States, initiate a Courtesy Investigation when correspondence cannot resolve the case.
2. If the military taxpayer is stationed outside the United States, initiate a Courtesy Investigation if correspondence or if the taxpayer requests personal contact.
  - A. Courtesy Investigations will go to the Director, Compliance Area 15.

- B. Transfer of the Del Rets is not permitted.
- C. Provide specific instructions since the Revenue Representative may not be familiar with Collection procedures.
- D. Attach copies of the Del Ret and related documents.

#### **5.1.11.4.8.3 (05-27-1999)** **Other International Cases**

1. Initiate a request for a Courtesy Investigation to the Director, Compliance Area 15 if:
  - A. The taxpayer has moved to an address outside the United States.
  - B. The case cannot be resolved through correspondence.
  - C. The case meets LEM 5 criteria.
2. The Courtesy Investigation proposing transfer of the Del Rets to Area 15 (International) will be issued to the appropriate office depending on the address entered in the ICS " **Action Information**" box.
3. Give specific instructions in the "**Action Requested**" box on the Courtesy Investigation request for each return to be secured or action to be taken.

#### **5.1.11.4.9 (06-02-2004)** **Delinquent Refund Hold Program**

1. Delinquent return Refund Hold procedures are found in IRM 25.12.1.1 [Delinquent Return Refund Hold Program Overview](#) . This multifunctional handbook contains the criteria for holding a taxpayer's refund while investigating the delinquent return(s) and the functional procedures for screening, working and monitoring these cases. The flowchart found in [IRM Exhibit 25.12.1-1](#) gives an overall picture of the Delinquent Return Refund Hold Program.
2. The Service holds individual income tax refunds, debtor master file offsets and credit elects when a current year return is filed with a refund (see LEM 25.12) AND the taxpayer has at least one module within six years prior which:
  - A. Is in TDI Status 03 or
  - B. Is assigned to ASFR or
  - C. Has an open AIMS record.
3. The Delinquent Return Refund Hold program delays issuing an income tax refund up to six months while the Service investigates a return delinquency. The refund is released to the taxpayer after it is used to offset any balance due on the delinquent return(s)
4. Beginning in early 2004, a revenue officer may refer any *Select Code*, stand-alone Del Ret module with a Refund Hold indicator to the automated substitute for return (ASFR) process using the appropriate ICS closure, after attempts to secure the return (s) have failed.
5. Area Office monitoring of Refund Hold cases is done in the Planning and Special Programs (PSP) function. This function will monitor the Refund Hold case(s) and maintain contact with the revenue officer assigned to the case. This will ensure that all time-frames are met .

#### **5.1.11.5 (05-27-1999)** **Secured Returns**

1. Advise the taxpayer that all tax, penalty and interest is immediately due when a delinquent return is secured.
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 TC 520 CC XX has been input. If there is no TC 520 CC XX, contact Insolvency **immediately** so they may determine if a freeze code is necessary before sending the return to the Campus for processing. Close the Del Ret module on ICS using the appropriate sub-menu option for Bankruptcy. Send a copy of all balance due returns to Insolvency. See IRM 5.9 Bankruptcy.
3. Date-stamp all delinquent returns secured in Collection with an official "Received" date stamp, by the securing employee, control clerk, or other designated employee. Write TC 599 CC XX (applicable closing code) on the left margin of the return and close the Del Ret module on ICS using the Return Secured closing option and appropriate sub-menu option. See section 11.7.1 of this IRM.
4. Refer the return to Criminal Investigation function as described in Section 11.6.2 of this IRM, if a delinquent return appears to have fraud potential related to a questionable refund,
5. In some cases a taxpayer may have returns with a refund due and have a balance due on other returns. Attach Form 13133 to the balance due returns to expedite processing. The refund returns will subsequently post and offset to the balance due module.
6. Acceptance of faxes and signature stamps to resolve post-filing issues and on secured delinquent returns is allowed in the following instances:
  - Filing of original tax return via fax is only allowed as part of a return perfection process (e.g. securing missing schedule or missing signature) initiated by the IRS or in post-filing/non-filing activities, where contact with the taxpayer has been made and documented
  - Return preparers may sign original returns, amended returns, or requests for filing extensions using a signature stamp. Taxpayers, however, must continue to sign their returns with an original signature or other authorized alternative (e. g. PIN).
  - Preparer/taxpayer signature stamps will not be permitted when signing other documents such as inquiry/resolution related documents

#### **5.1.11.5.1 (05-27-1999) Returns With Payment**

1. Penalties and interest should be computed and included in the full amount due. 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 LEM 5.1 , attach 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. 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. For ICS module closure instructions see section 11.7.1 of this IRM under Option A, "Return Secured " .

#### **5.1.11.5.2 (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 5.1.10). If full payment of all money due is not secured, the revenue officer should make all reasonable efforts to collect

full payment. If the taxpayer is unable to pay the liability in full, the revenue officer will 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 5.16, 5.2 Reports, and 5.4 Collection Support).
2. Write "TC 599 CC 69" on the return and close the ICS Del Ret Module (See section 11.7.1 of this IRM) when the liability is resolved by 1a or b, above. If a Collection Information Statement was secured, verify the information contained on the Collection Information Statement without delaying the processing of the return. When there will be a delay in verification and there will not be a continuing open assignment, issue an "ICS only" module to complete the investigation.
  3. If the subsequent investigation reveals assets that can be used to collect the liability, the revenue officer should have his/her group manager request the issuance of the Bal Due via CC STAUP or RWMSL.
  4. Request a prompt assessment per IRM 5.1.14, if enforced collection action appears necessary.
  5. If the taxpayer is in bankruptcy, write TC 599 and the appropriate taxable or nontaxable CC on the return. Close the ICS Del Ret module using option A, Return Secured and sub-menu action C, Unassessable (Bankruptcy)
  6. See section 11.6.10 and 11.7.1 of this IRM for the appropriate case and ICS closing actions for returns prepared and filed under IRC 6020(b). If the return is unagreed or no response, write TC 599 CC 63 on the return. If the case is agreed or the return is signed by the Taxpayer, indicate TC 599 CC 64 on the return.
  7. BMF or IMF accounts closed with closing codes 63 or 64 with TC 599 will receive a first notice from the Master File and then will be accelerated to Bal Due status 26 the following week. Therefore, the revenue officer must ensure that the taxpayer receives Publication 1 and Publication 594, when the Bal Due is issued and Taxpayer contact is made.
  8. Close the ICS only module as an erroneously created module if a Bal Due is received for a return processed per (2) above and no further action is needed.
  9. Initiate a Trust Fund Recovery investigation on any secured trust fund returns, if required.

#### **5.1.11.6 (05-07-2002) No Return Secured**

1. Collection employees will not solicit delinquent returns when information is discovered that a taxpayer's failure to file a required return is willful or there is any indication of fraud. The employee will suspend activities, promptly report the findings to the Area Fraud Coordinator and process a referral to Criminal Investigation if warranted. See IRM 25.1 and Section 11.6.2 of this IRM.
2. Set a specific date for filing a return(s) during initial contact if the return is not secured, no willful failure to file is established, and no indications of fraud exist.
3. Inform the taxpayer 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 that enforcement action may be taken.
4. 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.

5. Enforcement actions processed by Collection employees include:
  - A. Summons, see IRM 5.17.6;
  - B. Processing of employment, excise tax and partnership returns under 6020(b) of the Internal Revenue Code, see Section 11.6.10 of this IRM;
6. Collection employees may refer a Del Ret for enforcement to secure a return. Enforcement referrals include:
  - A. Referral to Examination, see Section 11.6.4 of this IRM;
  - B. Referral to the Automated Substitute for Return (ASFR) unit, see Section 11.6.5 of this IRM;
  - C. Preparation of Individual Income Tax Return as a Substitute for Return (SFR for RO), see Section 11.6.3 of this IRM;

#### **5.1.11.6.1 (05-07-2002) Enforcement for a Return**

1. The application of enforcement procedures will depend upon the facts of each case. Policy Statement P-5-133 outlines general guidelines and factors to consider when determining whether to pursue enforcement of filing requirements.
2. Specific Factors which must be considered when making an enforcement determination are:
  - A. Degree of flagrancy
  - B. History of noncompliance;
  - C. Impact on future voluntary compliance;
  - D. Whether the delinquency involves trust fund monies collected;
  - E. Special circumstances peculiar to a specific taxpayer, class, industry or type of tax;
  - F. Existence of income from illegal sources
  - G. Minimal or no Tax due (See LEM 5.2.4)
  - H. Cost to the service to secure a return with respect to anticipated tax revenue (See LEM 5.2.4).
  - I. Bankruptcy; contact Insolvency.
3. Filing requirements will normally be enforced for a six year period. However, all unfiled returns should be requested and the taxpayer may file for all open periods regardless of the age of the delinquency.
4. If, after consideration of the factors above, a determination is made that more or less than six years of filing requirements will be enforced, the revenue officer will document the case history with the facts and reasons supporting this decision. Managerial approval is required.
5. 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 making a field call on October 1,2000, the enforcement period will cover tax years 1994 through 1999.
6. Policy Statement P-5-133 allows an investigating employee to close a Del Ret without enforcement because the non-filing is not willful, and:

- A. There would be no tax due on the delinquent return; or
  - B. There would be minimal tax due on the return (minimal is defined in LEM 5.2.4); or
  - C. The cost to the Service to secure a return would exceed anticipated revenue. Anticipated revenue should be examined and calculated on a case-by-case basis over the length of the Collection Statute. Consideration should also be given to the impact of not filing a Federal Tax Lien for assessments not pursued based on a P-5-133 determination.
7. Generally, the non-filer's current ability to pay will not be the primary 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 non-filer does not have or will not have the ability to pay some if not all of the tax liability over the 10 year statutory collection period.
8. The following are examples of situations where we would not pursue 6 years of returns because the cost to secure the return would exceed anticipated revenue:
- 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.
9. The following returns should be secured and should not be closed under the provisions of P-5-133:
- A. nontaxable returns such as those in Form 990 series;
  - B. Form 1065, U.S. Partnership Return of Income.
  - C. IRS employee returns
10. "Net tax due" on employment tax returns is determined before the application of credits. See LEM 5.2.4 for P-5-133 thresholds
11. Inform the taxpayer, if personally contacted on a potential refund return, that a refund will only be issued if a return is filed within three years of the due date of the return.

#### **5.1.11.6.1.1 (05-07-2002)** **P-5-133 Closures**

- 1. The investigating employee will take the following actions for each Del Ret closed under the provisions of P-5-133:
  - a. Document the result of the field contact, or, if applicable, the reasons why a field call was not made along with the applicable provision of P-5-133 (e.g. minimal tax due) and;



- b. Compute the anticipated tax due for each period and include in the ICS closing narrative (if required);
- c. Select ICS Option C, No Return Secured and the P-5-133 sub-menu closing action (See section 11.7.3 of this IRM)
- d. Secure managerial approval

#### **5.1.11.6.2 (05-27-2002)** **Referrals to Criminal Investigation**

1. The Fraud Handbook, IRM 25.1, 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 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 Fraud Referral Specialist.
4. The revenue officer is responsible for identifying potential fraud and referring that taxpayer to the Criminal Investigation. The majority of criminal fraud cases will be established based on violations of:
  - A. A taxpayer's willful failure to file a return (IRC Section 7203) (See LEM 5);
  - B. A taxpayer's willful failure to pay taxes owed (Section 7203);
  - C. A taxpayer's willful submission of a false financial statement under penalty of perjury (IRC Sections 7206(1) and 7206(4));
  - D. A taxpayer's failure to collect and deposit in a special trust fund account (IRC Section 7512 and 7215).
  - E. A taxpayer's evasion of payment (IRC Section 7201).
  - F. A taxpayer's willful failure to collect or pay over tax (IRC Section 7202).
  - G. A taxpayer's submission of fraudulent returns, statements, or other documents (IRC Section 7207).

#### **5.1.11.6.2.1 (05-27-2002)** **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 Handbook, IRM 25.1.
2. Procedures for processing a fraud referral to Criminal Investigation (CI) are as follows:
  - A. If the revenue officer suspects fraud, he/she will discuss the issues with the group manager;
  - B. If the group manager concurs, a conference will be held with the group manager, the revenue officer and the Fraud Referral Specialist (FRS);
  - C. With the concurrence of the FRS and the group manager, the revenue officer will input ICS Sub Code 910 to the taxpayer case. Sub Code 910 will remain intact until the group manager and the FRS concur on its removal;
  - D. The revenue officer will fully develop the fraud referral with advice and guidance from the FRS and group manager;

- E. If firm indications of fraud are determined, the revenue officer will prepare Form 2797. The fraud referral should be a detailed, factual presentation of the taxpayer's affirmative acts of fraud and the evidence supporting those affirmative acts and the taxpayer's willful intent;
  - F. Form 2797 should be submitted to the group manager and FRS for approval;
  - G. After approval the FRS will submit the Form 2797 to the CI Lead Development Center (LDC);
  - H. The CI LDC will process Form 2797 and promptly forward it to the appropriate CI Supervisory Special Agent (SSA);
  - I. Within 10 workdays of receipt of the Form 2797, the CI SSA will hold a five-way conference with the Collection group manager, revenue officer, the FRS, and the CI Special Agent. The purpose of the conference is to evaluate the fraud referral;
  - J. CI has 30 days to evaluate the fraud referral and to make a determination to accept it or decline it. A request for an extension of time would require the approval of the Special Agent in Charge (SAC). A second five-way meeting will be held to discuss the final determination of the case.
3. Once CI has accepted the fraud referral, CI will input TC 914, Active Criminal Investigation assignment. The TC 914 will actually close the module(s), however the revenue officer must do the following:
- A. For IMF cases, go to the ICS Del. Ret. Module Summary screen, press the <F6> key, and then select **Option "F", CI Referral (IMF only)**. This will close the Del. Ret. module as an acceptance to CI.
  - B. For BMF cases, once the TC 914 posts to IDRS, the revenue officer will receive a notification that the case is closed.

#### **5.1.11.6.3 (05-05-2003) Substitute for Return for Revenue Officers**

1. A referral to Substitute for Return for Revenue Officers (SFR for RO) processing may be an appropriate enforcement option after the revenue officer has completed a field investigation and the taxpayer failed to file a required income tax return(s).
2. Revenue officers, GS-09 and above have the authority to prepare a Substitute for Return (SFR) under Internal Revenue Code (IRC) Section 6020(b).
3. See LEM 5.1.11 for current limitations of SFR for RO referrals and note that a case may be appropriate for a referral to Automated Substitute for Return processing, (ASFR) if not appropriate for SFR for RO.

#### **5.1.11.6.3.1 (05-05-2003) Criteria for SFR for RO Processing**

1. Fraud is not involved (See IRM 25.1) and there is no indication of a pending Criminal Investigation (CI) referral.
2. A determination has been made that a return must be secured (e.g. a refund is not due and P-5-133 does not apply, See IRM 5.1.11.6).
3. A Summons has not been issued and is not appropriate. Do **NOT** pursue SFR for RO if issuance of a Summons will result in a return filed by the taxpayer, or the Summons if issued, would be appropriate for referral.
4. There is a verified location for the taxpayer. A taxpayer or representative address must be verified through:
  - taxpayer or representative contact,

- third party contact, or
- a receipt for delivered mail, signed by the taxpayer

**Note:**

If a location for the taxpayer cannot be secured, consider an Unable to Locate (UTL) disposition instead. A Postal Tracer will NOT satisfy this criterion.

5. Assets and/or income are available to satisfy all or part of the SFR assessment within the statutory period for collection.
6. Sufficient Informational Returns (IRP) data is recorded for the delinquent tax year(s). This determination requires a thorough analysis of the case and documentation of field investigation observations. This criterion is very important to the integrity of the SFR for RO process since IRP income documents are the only income amounts used to complete the SFR and determine income tax due.
  - Gross income amounts from IRP are used to prepare the SFR.
  - The SFR for RO process allows a standard deduction, one exemption and adds self-employment tax, if applicable.
  - The only credits used in SFR for RO computations are withholding and prepayments.
  - Along with a thorough case analysis, revenue officers may wish to research recently (past two years) filed returns and compare the adjusted gross income from the filed return(s) to the IRP income reported for the Del Ret tax year in making the "sufficient IRP" determination.
  - IRP income totals should generally equal or exceed the adjusted gross income from a Taxpayer's recently filed return. If the previously filed return(s) shows a non-recurring item of income, such as, sale of stock or property then, do not consider such items when comparing current IRP data to the prior AGI.
  - The comparison of current IRP to prior year AGI will not produce a reliable observation if the source of income or style of living has changed since the last return filed. Examples would be retirement, or a change from W-2 income to self-employed.
  - DO NOT use SFR for RO to resolve the HINF Del Ret if the use of posted IRP income to compute tax due results in a grossly understated income tax. A referral to Examination should be considered instead.
7. Observations from a field call should always confirm a decision that sufficient IRP is recorded to process the HINF case as a SFR for RO referral. Generally, an Examination Referral is prepared for a HINF Delinquent Return case NOT meeting the "Sufficient IRP recorded" criterion for SFR for RO.
8. Although all income for a self-employed individual may not be recorded as IRP, the missing income is usually offset by the SFR tax computation that allows 1 exemption, a standard deduction and no deductions or expenses related to 1099B and 1099 Misc/ NEC income.

#### **5.1.11.6.3.2 (05-05-2003) Worksheet Preparation**

1. The SFR Worksheet initiates a SFR for RO referral, so proper completion of the document is vital. All Worksheets must be approved by the group manager prior to referral to Memphis. The SFR for RO Worksheet is the source document that provides Tax Examiners (TEs) the necessary information to compute the tax liability and issue correspondence. All SFR for RO referral worksheets must meet current referral criteria (see LEM 5.1.11) and indicate "HINF" in red at the top. See IRM

Exhibit 5.1.11-4 for a copy of the worksheet. A copy of the worksheet is also located on ICS as a Macro.

2. The table below describes the required entries in each section of the worksheet:

Section	Required Information
Section (1)	Complete the Taxpayer and Revenue Officer contact information. A space for managerial approval is located in this section. Indicate and attach CFINQ if applicable (CFINQ rep#).  List all IRP income from the IRPTRL summary on the SFR for RO Worksheet under the appropriate Tax Year column and pre-printed payer-document. An exemption amount is also pre-printed. Record total IRP reported withholdings in this section and list prepayment totals in the last row under the appropriate year. *Note that the revenue officer must indicate on the worksheet if the 10% Early IRA distribution penalty applies in the row under 1099R (*Early Distrib) and compute the 10% penalty amount if the penalty is applicable (age 59½ or younger). Information provided in this Section is used to create the SFR Tax Report. <u>Be sure to list only IRP income documents only!</u>
Section (2) Issues	
Section (3)	Indicate each estimated payment or prepayment amount and date. This information is used for computation of penalties.

3. Label the worksheet "HINF" and attach the following documentation:

- IRP summary documents for each Del Ret year;
- TXMOD, each period referred and;
- CFINQ, if applicable to Del Ret Tax Year (Use CFINQ with REP#) ;

4. Secure Group Manager approval on the completed SFR Worksheet package and forward the approved SFR Worksheet with appropriate attachment(s) via F3210 to:

Memphis Campus

PO BOX 30396

Stop 8231 M

Memphis, TN 38130-0396

5. Close the ICS Del Ret Module as an "**Option E, Exam referral**".

#### **5.1.11.6.4 (05-27-1999) Referrals to Examination**

1. A Referral to Examination for preparation of an individual Substitute for Return (SFR) may be made if the revenue officer has completed a field investigation, the taxpayer fails to file a required return(s), and it is determined that the failure to file is not willful or there is no indication of fraud. See Section 11.6.2 of this IRM and See IRM 25.1 Fraud Handbook for definitions of willfulness and indications of fraud criteria.
2. Individual non-filer referrals to Examination are currently restricted, (see LEM 5.1.11 for criteria) and are inappropriate for Automated Substitute for Return (ASFR) or SFR for RO processing (see Section 11.6.3 of this IRM).
3. Do not refer the taxpayer to Examination if:

- The case may be closed by criteria established in Section 11.6.1.1 of this IRM
- The taxpayer is an IRS employee
- The IMF case can be referred as an SFR for RO using the criteria established in Section 11.6.3 of this IRM
- All attempts to locate the taxpayer or their legal representative have been unsuccessful

**Exception:**

Make a referral if the taxpayer has material current income and/or clear ownership of substantial assets that may be attached to satisfy a potential tax liability even if you are unable to contact or locate the taxpayer.

4. Refer to Examination only those Business Master File (BMF) taxpayers that cannot have returns prepared under authority of Internal Revenue Code section 6020(b) or where there is an employee classification issue.

[More Internal Revenue Manual](#)

[Accessibility](#) | [FirstGov.gov](#) | [Freedom of Information Act](#) | [Important Links](#) | [IRS Privacy Policy](#) | [U.S. Treasury](#)

# Internal Revenue Service The Digital Daily

[Home](#) | [Tax Stats](#) | [About IRS](#) | [Careers](#) | [FOIA](#) | [The Newsroom](#) | [Accessibility](#) | [Site Map](#) | [Español](#) | [Help](#)

Search

Forms Finder

[Search Help](#)

Contents

[e-file Providers](#)  
[Enrolled Agents](#)  
[Enrolled Actuaries](#)

Resources

[e-file](#)  
[Forms and Publications](#)  
[Where to File](#)  
[Contact My Local Office](#)  
[FAQs](#)  
[Taxpayer Advocate](#)

[Tax Pro News](#)

[Tax Pro Events](#)

[Subscription Services](#)

[IRS Resources](#)

[Tax Issues](#)

[More Topics . .](#)

[Home](#) > [Tax Professionals](#)

Internal Revenue Manual

## Part 5

### Collecting Process

## Chapter 18

### Liability Determination

## Section 2

### Business Returns IRC 6020(b) Processing

#### Contents

- [5.18.2 Business Returns IRC 6020\(b\) Processing](#)
  - [5.18.2.1 IRC 6020\(b\)](#)
  - [5.18.2.2 What Is Business Returns IRC 6020\(b\) Processing?](#)
  - [5.18.2.3 Research Criteria for BMF Return--IRC 6020\(b\) Processing Research](#)
    - [5.18.2.3.1 Service Center Collection Branch \(SCCB\) 6020\(b\) Processing](#)
    - [5.18.2.3.2 Automated Collection System \(ACS\) I9 Inventory](#)
    - [5.18.2.3.3 ACS Support Group Automated A6020\(b\) Procedures](#)
    - [5.18.2.3.4 Organization, Function, and Program \(OFP\) Codes for A6020\(b\)](#)
    - [5.18.2.3.5 Federal and State Information Sharing Agreements](#)
    - [5.18.2.3.6 A6020\(b\) Program](#)
    - [5.18.2.3.7 System Security](#)
  - [5.18.2.4 A6020\(b\) Inventory Status Codes Procedures](#)
    - [5.18.2.4.1 A6020\(b\) Lists, Reports, and Duties](#)
    - [5.18.2.4.2 A6020\(b\) Lists and Reports](#)
    - [5.18.2.4.3 A6020\(b\) Rejection Lists](#)
    - [5.18.2.4.4 A6020\(b\) New Account Lists](#)
    - [5.18.2.4.5 A6020\(b\) Overage Lists](#)
    - [5.18.2.4.6 A6020\(b\) Tax Examiner Duties](#)
    - [5.18.2.4.7 Rejection List/Tax Examiner Duties](#)
    - [5.18.2.4.8 New Account List/Tax Examiner Duties](#)
    - [5.18.2.4.9 New Account Centralized Authorized File \(CAF\) Research List](#)
    - [5.18.2.4.10 New Account S3 Research List](#)
    - [5.18.2.4.11 New Account Undelivered Mail List](#)
    - [5.18.2.4.12 A6020\(b\) Tax Examiner Screens](#)
    - [5.18.2.4.13 Administrator Menus, Duties, and Screens](#)
    - [5.18.2.4.14 Administrator Menus and Duties](#)
    - [5.18.2.4.15 A6020\(b\) Administrator Screens](#)
    - [5.18.2.4.16 Administrator Reports](#)
    - [5.18.2.4.17 Database Administrator \(DBA\) Duties](#)
    - [5.18.2.4.18 Follow-up to Responses](#)
    - [5.18.2.4.19 Processing Returns Received](#)
    - [5.18.2.4.20 Final Return Received](#)
    - [5.18.2.4.21 Unsigned Returns Received](#)
    - [5.18.2.4.22 Not Liable for Returns](#)

- [5.18.2.4.23 Inquiries and Responses](#)
- [5.18.2.4.24 Undelivered Mail](#)
- [5.18.2.4.25 Undelivered Mail System \(UMS\)](#)
- [5.18.2.4.26 No Response Follow-up, Taxpayer Unagreed 6020\(b\) Processing](#)
- [5.18.2.4.27 IDRS Research on 6020\(b\) Accounts](#)
- [5.18.2.4.28 Processing 6020\(b\) Returns](#)
- [5.18.2.4.29 Late Responses Received After 6020\(b\) Returns Processed](#)
- [5.18.2.4.30 Research Table for Late Responses](#)
- [5.18.2.4.31 Manual 6020\(b\) Procedures](#)
- [5.18.2.4.32 Basis of Tax for 6020\(b\) Modules](#)
- [5.18.2.4.33 6020\(b\) Packages](#)
- [5.18.2.4.34 Review Before Mailing](#)
- [5.18.2.4.35 Cases With Power of Attorney \(POA\) Indicators](#)
- [5.18.2.4.36 6020\(b\) Follow-Up](#)
- [5.18.2.4.37 6020\(b\) Return Processing](#)
- [5.18.2.4.38 Manual Processing: Return Pending File](#)
- [Exhibit 5.18.2-1 Internal Revenue Code 6020\(B\) Processing Flowchart](#)
- [Exhibit 5.18.2-2 Contents of the Generic Status Research Listing](#)
- [Exhibit 5.18.2-3 A6020\(B\) Status Codes](#)
- [Exhibit 5.18.2-4 View and Update Screen](#)
- [Exhibit 5.18.2-5 View Option](#)
- [Exhibit 5.18.2-6 Modules Option](#)
- [Exhibit 5.18.2-7 Next Module Option](#)
- [Exhibit 5.18.2-8 CAF Option](#)
- [Exhibit 5.18.2-9 Wage Option](#)
- [Exhibit 5.18.2-10 Review, Input, or Update Wage Option](#)
- [Exhibit 5.18.2-11 Using the Update Option](#)
- [Exhibit 5.18.2-12 Status Option](#)
- [Exhibit 5.18.2-13 Screens for Tax Returns 943 and 1065](#)
- [Exhibit 5.18.2-14 Screen for Changing the Status of All Modules](#)
- [Exhibit 5.18.2-15 Screen for Changing the Status of One Module](#)
- [Exhibit 5.18.2-16 Status Screen](#)
- [Exhibit 5.18.2-17 Comments Option](#)
- [Exhibit 5.18.2-18 6020\(B\) Inventory Management Menu](#)
- [Exhibit 5.18.2-19 Queue Cases for Printing Menu](#)
- [Exhibit 5.18.2-20 Number of 1085 Packages Ready to be Printed](#)
- [Exhibit 5.18.2-21 Revise Header Menu](#)
- [Exhibit 5.18.2-22 IDS 6020\(B\) Report Menu](#)
- [Exhibit 5.18.2-23 IDS Print Menu](#)
- [Exhibit 5.18.2-24 DBA Menu](#)

---

**5.18.2.1 (08-01-2001)**  
**IRC 6020(b)**



1. IRC 6020(b) provides a way to prepare returns and secure assessments from non-filing business taxpayers who:
  - o Have an open filing requirement
  - o Are required to file a return
  - o Do not file a return as required
2. Exhibit 5.18.2-1 provides an overview of this section in flowchart format.

### 5.18.2.2 (08-01-2001)

#### What Is Business Returns IRC 6020(b) Processing?

1. Internal Revenue Code Section 6020(b) is the authority given to the Commissioner of the Internal Revenue Service to prepare and process returns for non-filing taxpayers.
2. Delegation Order No. 182 (Rev. 7), extends 6020(b) authority to Internal Revenue Agents; Tax Auditors; Revenue Officers; GS-9 and above; Collection Support function managers, GS-9 and above; Service Center Collection Branch Managers GS-9 and above; Automated Collection Branch Unit Managers, GS-11 and above; Customer Service Collection Branch Managers, GS-10 and above; and Tax Resolution Representatives, GS-9 and above.

### 5.18.2.3 (08-01-2001)

#### Research Criteria for BMF Return--IRC 6020(b) Processing Research

1. Process a return under the provisions of IRC 6020(b) for Business Master File (BMF) returns if:
  - o The entity appears to be liable for the return
  - o The person required to file the returns does not file it
  - o Attempts to secure the returns fail
2. The following BMF returns with corresponding Master File Tax (MFT) codes are the returns usually prepared under the provisions of IRC 6020(b):

TAX RETURN	RETURN TITLE	RETURN MFT
Form 720	Quarterly Federal Excise Tax Return	03
Form 940	Employer's Annual Federal Unemployment Tax Return	10
Form 941	Employer's Quarterly Federal Tax Return	01
Form 943	Employer's Annual Return for Agricultural Employees	11
Form 1065	U.S. Partnership Return of Income	06
Form 2290	Federal Use Tax Return on Highway Motor Vehicles	60

3. Do NOT propose assessments on cases with the following characteristics: **See LEM 5.18.2.3**
4. **See LEM 5.18.2.3**
5. **See LEM 5.18.2.3**

### 5.18.2.3.1 (08-01-2001)

#### Service Center Collection Branch (SCCB) 6020(b) Processing

1. **See LEM 5.18.2.3.1**

#### **5.18.2.3.2 (08-01-2001)**

### **Automated Collection System (ACS) I9 Inventory**

1. Letters (LT)18 are mailed at the time of case assignments to ACS for modules with 6020(b) indicators. The LT18 advises that a 6020(b) return may be prepared if the return is not filed. Cases are assigned to ACS inventory I9.

#### **5.18.2.3.3 (08-01-2001)**

### **ACS Support Group Automated A6020(b) Procedures**

1. The service center support branch provides ACS support for automated and manual ACS 6020(b) cases. The automated program will be the national standard with manual procedures as a back-up in case of hardware and/or software problems. The A6020(b) program resides on the Inventory Delivery System (IDS).

#### **5.18.2.3.4 (08-01-2001)**

### **Organization, Function, and Program (OFP) Codes for A6020(b)**

1. Each service center is responsible for working their 6020(b) inventory. Report time spent working A6020(b) cases using OFP code 63700.

#### **5.18.2.3.5 (08-01-2001)**

### **Federal and State Information Sharing Agreements**

1. Federal and state information sharing agreements exist, requiring sharing of information regarding the 6020(b) assessments. Agreements usually require the sharing of information as tax returns are assessed.

**NOTE:**

Be careful of taxpayer information disclosure which may occur if you give more information than the federal and state agreement specifies to share with the taxpayer's state of residence.

2. Maintain the integrity of the agreement by:
  - o Sharing weekly information regarding return assessments using information from Status code reports (Report definitions follow in Section 3)
  - o Providing information specified in the agreement to your federal/state coordinator

#### **5.18.2.3.6 (08-01-2001)**

### **A6020(b) Program**

1. A download tape from ACS is run after the weekly IDRS update of ACS. The download tape is loaded onto the IDS stand-alone system. The download allows IDS to maintain the most current information available for the A6020(b) Program.

**NOTE:**

Follow unauthorized access (UNAX) guidelines regarding working 6020 (b) cases and researching associated taxpayer identification numbers (TINs) to resolve return delinquencies.

**5.18.2.3.7 (08-01-2001)****System Security**

1. The IDS users for A6020(b) have a separate login and password for the Pyramid system.
2. See **LEM 5.18.2.3.7**
  - o See **LEM 5.18.2.3.7**

**NOTE:**  
Access levels are: view only, update capabilities, managerial inventory control, and database system administrator (SA) activities.
3. A separate login in the Information Services area is needed for the SA input and output of files.
4. Changes made to Status codes for each module are stored as a history record in the system.
  - A. See **LEM 5.18.2.3.7**
5. See **LEM 5.18.2.3.7**
  - A. A separate menu option is available for viewing and printing the security log.
  - B. Printed copies of the security log are to be retained until no longer needed for administration purposes. The information will be archived in the A6020 (b) program and available for reprinting when necessary.

**5.18.2.4 (08-01-2001)****A6020(b) Inventory Status Codes Procedures**

1. Down-loading of ACS information each week continuously updates the inventory in A6020(b) and brings in new cases assigned to S3 and S6 inventories.
2. The A6020(b) inventory has several different Status codes to assign in which the cases depend on:
  - o Characteristics of the case
  - o Progression of the case within the automated system
3. Generation of Letter (L) 1085 packages is based on requests by the manager or system administrator. See **LEM 5.18.2.4:**
4. Review the list of A6020(b) Status codes in Exhibit 5.18.2-3, A6020(b) Status Codes.

**5.18.2.4.1 (08-01-2001)****A6020(b) Lists, Reports, and Duties**

1. Lists and Reports help to determine what is necessary for each case. The duties of tax examiners and group administrators in working the listings and inputting information into the A6020(b) program may vary for each service center depending on resources and sign-on capabilities.
2. Tax Examiner duties and the capability to sign-on to IDS may vary at each service center.

**5.18.2.4.2 (08-01-2001)****A6020(b) Lists and Reports**

1. Listings for the automated program include the Rejection, New Account and Overage Lists. These lists are produced as part of each weekly ACS download and contain cases that require further research.
  - A. Research to see changes necessary for case to enter the A6020(b) program.
  - B. Research to find the information for manual input to change case Status for the case to continue through the A6020(b) process.
  - C. Research to see if the case needs re-assignment to the call-site.
  - D. Research to see if information is available for closure.
  - E. Check the ACS follow-up date to ensure there has been enough time allowed to complete the 6020(b) process. Input comments or extend the follow-up date as needed.

**NOTE:**

The follow-up date is necessary to keep the case from systemic removal from ACS.

2. Check the following items as part of the research.

**NOTE:**

Ensure the following ACS call-site investigation guidelines are met before sending the case to the Service Center ACS Support group.

- A. Attempt contact by telephone a minimum of three times. If there is no telephone number, contact directory assistance.
- B. Reassign the case to I2, NPL for further research of locator services to obtain a telephone number or address for the entity if directory assistance is not productive.
- C. Demand the filing of all delinquent returns and obtain the necessary information to prepare each and all delinquent returns on all taxpayer accounts. Issue a LT18.
- D. LPS or wage information is available.

**5.18.2.4.3 (08-01-2001)****A6020(b) Rejection Lists**

1. Rejection lists contain cases not entering the automated program. The cases will be listed on the New Account Reject List and will not be added to the IDS system. Each type of rejection will be on a separate page and each call-site will have its own report. The research lists will include:
  - o TIN
  - o Name control
  - o Function Unit
  - o Reject Code--ENTY; ATDA; 1LPS; 2LPS; LEM; MOLD; BMOD
2. The rejection lists and the errors that cause rejection from the program are as follows:
  - o **See LEM 5.18.2.4.3**
3. Research to identify the reason for rejection. See Working Lists and Reports below.
4. Generate rejection lists using the following menus:
  - o **See LEM 5.18.2.4.3**
5. Selecting the reject. MMDDYYYY allows for viewing and/or printing the reject lists.

**5.18.2.4.4 (08-01-2001)****A6020(b) New Account Lists**

1. New account and research lists show:
  - o New cases with CAF indicator
  - o New cases with undelivered mail indicator
  - o New cases coming into service center inventory 3 (S3)
2. Research lists contain the following:
  - o TIN
  - o Name Control
  - o Function Unit Assignment Code
  - o Tax Period (TXPD)
  - o MFT
  - o Credit

**NOTE:**

The undelivered mail list also contains up to two names for the entity and the address from which mail was returned.

3. The following listing contains all of the New Account Lists, the Status the cases will be moved to and the criteria within a case that causes it to appear on the list:
  - o New Account CAF Research List (**Status 010**): CAF cases are identified by the CAF indicator on at least one module. Research for power of attorney (POA) address and name. Accounts with a CAF indicator need additional information included in the modules in A6020(b) before the Letter 1085 package can be printed and mailed. Input on IDS which modules have each POA and each POA's address
  - o New Account S3 Research List (**Status 001**): After each upload of IDS from ACS there may be additional inventory coming into S-3 inventory. The new S-3 cases will need research before conversion to Status 019. The New Account S-3 Research List identified the newest **See LEM 5.18.2.4.4**
  - o New Account Undelivered Mail List: The new entity has an undelivered mail indicator which causes it to be included on this rejection list but otherwise meets the criteria for A6020(b)
  - o Generic Status Research Listing: The system administrator or manager has the capability of printing a generic listing for all of the Status codes. See Exhibit 5.18.2-2 for the information contained on the generic listing

**5.18.2.4.5 (08-01-2001)****A6020(b) Overage Lists**

1. Certain Status codes do not systemically change to the next step in the A6020(b) Program. An overage listing can be created after the administrator requests a run of the Overage and Auto Update Program. Cases will be shown on a list if they have been in a Status code for a specified number of days. The list(s) indicate that a case needs to be started through the process; has been in a particular Status long enough and now needs research to determine if additional work needs to be completed; or that the case needs to be moved to the next Status.
2. Overage lists contain:
  - o Taxpayer Identification Number
  - o Master File Tax Code (MFT)
  - o Name Control
  - o Follow-up Date
  - o Number of days overage
3. See **LEM 5.18.2.4.5**.

**5.18.2.4.6 (08-01-2001)****A6020(b) Tax Examiner Duties**

1. The following explanation of the A6020(b) program lists and reports in IRM 5.18.2.4.2 summarize the duties of tax examiners. Other duties regarding taxpayer responses to the L-1085 packages follow in IRM 5.18.2.4.24.
2. Responses to the L-1085 package in which the taxpayer requests an appeal of the proposed tax assessment should not be forwarded directly to Appeals function. Resolve the taxpayers' issues or confer with your manager regarding referral to the Appeals function. Respond to the taxpayer to:
  - A. Resolve differences.
  - B. Clarify the proposed assessment.
  - C. Advise of the balance due after the reconsideration.
  - D. Advise the taxpayer of the remaining balance due.
  - E. Forward any unresolved issues to Appeals.
3. If during a taxpayer contact it appears there may be a hardship situation complete Form 911, Application for Taxpayer Assistance Order, and refer the taxpayer to the Taxpayer Advocate Service (TAS). See IRM Part 13 or IRM 21.1.3.17 for more information.

#### 5.18.2.4.7 (08-01-2001)

### Rejection List/Tax Examiner Duties

1. Cases are rejected from entering into the A6020(b) program if the case does not contain certain criteria.
2. Research the rejected cases to see if the case can be closed or if the case can be changed to allow it to be down-loaded to A6020(b).
3. Duties regarding rejection lists (by rejection list title) are shown in the following tables:
  - o See LEM 5.18.2.4.7

**NOTE:**

<b>If</b>	<b>Then</b>
INFORMATION is found	<b>See LEM 5.18.2.4.7</b>
THERE is no other information available	RE-ASSIGN the case to IO with comments regarding why the case is being reassigned

- See LEM 5.18.2.4.7

<b>If</b>	<b>Then</b>
INFORMATION is found	DOCUMENT in comments and reassign the case TOS3.
THERE is no other information available	REASSIGN the case to IO with comments regarding why the case is being reassigned.

- See LEM 5.18.2.4.7

<b>If</b>	<b>Then</b>
INDICATORS of fraud exist	REFER the case to CI or Exam based on IRM 5.19.2.
NO indication of fraud	<b>See LEM 5.18.2.4.7</b>
Remaining modules are not eligible for 6020(b)	REASSIGN the case to TO IO, 01, 6020 REJ.

- Enter comments regarding changes to the case in the entity's comment screen on the ACS system. Update of the entity usually allows the case to enter the A6020(b) Program on the next weekly upload. The case will enter IDS A6020(b) as Status 001 or 002.
- Close any entities on rejection lists that can be closed without sending the case back to

the call site, if information found while researching the case meets IRM closing criteria for return delinquencies.

**NOTE:**

See LEM 5.18.2.4.7

- Take the necessary action to move the account to the appropriate team function if, after research, the case is to be rejected to IO, 01, 6020RE.
- Do not attempt to close the cases on IDS because the system rejected the case from being loaded into the system.

**5.18.2.4.8 (08-01-2001)****New Account List/Tax Examiner Duties**

1. Actions required vary depending on the type of new account list and what is required to ensure the cases are worked by A6020(b).
  - A. New account lists are defined in IRMs 5.18.2.9 and 5.18.2.10.

**5.18.2.4.9 (08-01-2001)****New Account Centralized Authorized File (CAF) Research List**

1. Research CAF on Corporate Files On Line (CFOL) CC CAFOL or IDRS CC CFINQ .

**NOTE:**

Some taxpayers may have more than one representative and may require entry of information on both to different tax periods. At times, only one of the multiple representatives may have the indicator showing eligibility for receiving tax information. (See the input screens in IRM 2.4.11 for input of the CAF name and addresses.)

2. See Exhibit 5.18.2.8 for additional information regarding input of CAF information into modules on A6020(b).
3. Specific authorization is displayed if representative has authorization for that particular module. **The values of authorization are:**
  - A = Attorney
  - B = Certified Public Accountant
  - C = Enrolled Agent
  - D = Officer
  - F = Family Member
  - G = Enrolled Actuary
  - H = Unenrolled Return Preparer
4. Research and process as follows:

<b>If</b>	<b>Then</b>
CAF is present	RESEARCH to find the CAF and INPUT POA's name, address and phone number on IDS.
CAF is input	CHANGE the Status to 001 if the tax or wage information has not been input.
INPUT information to the modules	CHANGE to Status 019.
NEW or updated CAF information received	UPDATE CAF and input comments to ACS.

**5.18.2.4.10 (08-01-2001)****New Account S3 Research List**

1. Research ACS comments to determine what information will be used to prepare a 6020(b) return. The listing has space available for wage, taxes, withholding, number of partners, etc.
2. If comments do not provide information, check the module/(MOD) screen and/or IDRS for LPS data.
3. Document the information on your listing.
4. Update the comments with the information used to prepare the delinquent returns.
5. See LEM 5.18.2.4.10
6. See LEM 5.18.2.4.10
7. See LEM 5.18.2.4.10
8. See LEM 5.18.2.4.10

#### 5.18.2.4.11 (08-01-2001)

### New Account Undelivered Mail List

1. Move cases to A6020(b) Status 095 if mail is returned undeliverable and follow the actions in the following table.

If	Then
No new address	REASSIGN the case to ACS TO10, 01, UDMAIL
Mail returned and a new module shown on the New Account Undelivered Mail List	<ol style="list-style-type: none"> <li>1. Input comments to ACS.</li> <li>2. Show research completed.</li> <li>3. Show reason for rejection.</li> <li>4. Reassign to ACS TO10 , 01, UDMAIL</li> </ol>

#### 5.18.2.4.12 (08-01-2001)

### A6020(b) Tax Examiner Screens

1. Working in the A6020(b) system is necessary to research and change information in the cases and modules or to change the Status of the entities. Tax Examiners use the majority of the screens for input of information into A6020(b) cases.
2. Input
  - o POA names and addresses for modules with CAF indicators
  - o See LEM 5.18.2.4.12.
3. Suspend mail-outs if problems are identified prior to packages being mailed by changing the Status codes of the cases to the prior Status.

**NOTE:**

The next request for cases to print will re-generate the cases that were suspended and remain in Status 001 or 002. Any change will require a Status code change in the A6020(b) system.

4. Cases systematically continue through the IDS system if the Status codes are not changed. See Exhibits 5.18.2-4 through 5.18.2-7 to see the A6020(b) screens available for input and review of entity information on IDS.
  - o EXHIBIT 5.18.2-4, VIEW AND UPDATE SCREEN
  - o EXHIBIT 5.18.2-5, VIEW OPTION
  - o EXHIBIT 5.18.2-6, MODULES OPTION
  - o EXHIBIT 5.18.2-7, NEXT MODULE OPTION
  - o EXHIBIT 5.18.2-8, CAF OPTION
  - o EXHIBIT 5.18.2-9, WAGE OPTION
  - o EXHIBIT 5.18.2-10, REVIEW, INPUT, OR UPDATE WAGE OPTION
  - o EXHIBIT 5.18.2-11, USING THE UPDATE OPTION
  - o EXHIBIT 5.18.2-12, Status OPTION
  - o EXHIBIT 5.18.2-13, SCREENS FOR TAX RETURNS 943, 945 AND 1065
  - o EXHIBIT 5.18.2-14, SCREEN FOR CHANGING THE Status OF ALL



**MODULES**

- o EXHIBIT 5.18.2-15, SCREEN FOR CHANGING THE Status OF ONE MODULE
- o EXHIBIT 5.18.2-16, Status SCREEN
- o EXHIBIT 5.18.2-17, COMMENTS OPTION

**5.18.2.4.13 (08-01-2001)****Administrator Menus, Duties, and Screens**

1. The manager or administrator duties include overall control of working the inventory of cases coming into the system, the number of cases to print each week, Letter 1085 package print jobs and system reports.

**5.18.2.4.14 (08-01-2001)****Administrator Menus and Duties**

1. The system administrator has various menus that need to be changed or information input to reflect local information to the letter 1085 or to request the L-1085 packages to print.
2. See Exhibits 5.18.2-18 through 5.18.2-24 for the Administrator screens in the A6020(b) program.
3. Coordinate between the IDS and ACS administrators to ensure weekly downloads from ACS each week.
4. Assign the review and research on ACS/IDRS of Status 019 cases to ensure the cases meet 6020(b) criteria.
5. Re-assign cases to the call-site manager if cases are found that do not meet 6020 (b) criteria.
6. Document the A6020(b) program by entering comments for why the case is being returned to the call-site.
7. Move the case to A6020(b) Status 095.

**5.18.2.4.15 (08-01-2001)****A6020(b) Administrator Screens**

1. The A6020(b) program allows managers, management designees, or the database administrator to change information on the L-1085, request print jobs, and view or print reports.
2. Input local information for the L-1085 into the A6020(b) program.

**NOTE:**

The service center address, telephone, best time to call and signature information usually remains the same for each week.

3. Input the date of the letter for each printing of L-1085 packages.
4. Use the Inventory Management Menu to select the number of cases in inventory for printing, check for mail and Run Auto Update to show the changed Status codes and printing Overage Reports. See Exhibit 5.18.2-18 for an example of the menu.
5. Queue Form 940, 941 cases for creating an electronic media tape for electronic processing. (Only for entities with Form 940, Form 941 delinquencies).
6. Use the screens to see the number of cases in Status 019 ready for L-1085 printing, how to change the letter information and how to select the number of letters to print.
7. The first screen shows the inventory of cases in Status 019 by call-site. Exhibit 5.18.2-19 for an example of the menu.

**NOTE:**

This is the first screen of the Queue Cases for Printing selection. The

screen shows the number of cases on IDS waiting to start the A6020(b) process for the Letter 1085 package printing.

8. Select the number of cases you want to print by call site and the date you want to show for the date the letter was mailed . See Exhibit 5.8.2-20 which shows the menu to select the number of 1085 packages to print and enter the date of the letter
  - o Ensure the date input allows for reviewing the notices
  - o Ensure you allow time for separating notices and preparing the notices for mail-out
9. Use the Revise Header Menu in Exhibit 5.18.2-21 to revise office and signature information including:
  - o Address
  - o Phone number
  - o Name and title of the signing official
  - o Include with the telephone number the best time to call
10. Run Auto-Update and Overage Report: The Auto-update Report shows cases that have spent the designated number of days required within a specific Status and have now entered a Status which require additional research or contact. The Overage Report shows cases which have been in a particular Status more than the number of days allowed.
11. Follow these instructions to print any recent output file (including the Mailing Label file-see NOTE below):
  - A. Log on to 6020b
  - B. Go to #7 "Listings and Reports" on the IDS 6020(b) Main Menu
  - C. Go to #4 "Change Default Printer" on the IDS 6020(b) Report Menu. The listing of available printers is displayed and you type in your selection.
  - D. Go to #3 "Report Utility" on the IDS 6020(b) Report Menu. The listing of available "stb" reports is displayed and you type in a selection at the "Name of Report" prompt.
  - E. The report listing is sent to the specified printer

**NOTE:**

**See LEM 5.18.2.4.15**

#### **5.18.2.4.16 (08-01-2001)**

##### **Administrator Reports**

1. There are several reports that can be generated by the A6020(b) program. The reports show:
  - o **See LEM 5.18.2.4.16**
2. The Report Menu in Exhibit 5.18.2-22 allows printing of management and system reports. The following is a list of the reports. **See LEM 5.18.2.4.16**
3. **See LEM 5.18.2.4.16**

#### **5.18.2.4.17 (08-01-2001)**

##### **Database Administrator (DBA) Duties**

1. The database administrator has several duties which are required to:
  - A. Keep the information in the database up to date.
  - B. Prepare the print tapes for printing of the Letter 1085 packages.
  - C. Prepare the print tapes for printing the mail labels.
  - D. Print the auto-update and overage reports.
2. **See LEM 5.18.2.4.17**
3. The administrator's duties include:
  - o **See LEM 5.18.2.4.17**

**5.18.2.4.18 (08-01-2001)****Follow-up to Responses**

1. Use the tables in the following sections to research follow-up actions to taxpayer response of a signed return, final return, no return due, or return of unsigned Letter 1085 package.

**NOTE:**

Follow the Unauthorized Access (UNAX) guidelines when conducting your work.

**5.18.2.4.19 (08-01-2001)****Processing Returns Received**

1. Mark returns in the left column by vertically inputting TC 599 closing code 39 per the following table.

<b>If</b>	<b>Then</b>
Taxpayer signs the 6020(b) returns	<ol style="list-style-type: none"> <li>1. Process after marking the returns with TC 599 cc39.</li> <li>2. Input TC 599cc39 "BB" on IDRS.</li> <li>3. Submit returns for processing.</li> <li>4. Update ACS Comments.</li> </ol>
Taxpayer corrects the 6020(b) returns or submits original returns	<ol style="list-style-type: none"> <li>1. Process after marking the returns with TC 599 cc39.</li> <li>2. Input TC 599 cc39 "BB" on IDRS.</li> <li>3. Submit returns for processing.</li> <li>4. Update ACS Comments.</li> </ol>

- Move the case within A6020(b) by changing the Status code to the Status code that applies to the situation or return received. Possible changes to the Status code are Status codes:

- 513
- 514
- 523
- 524

**NOTE:**

Status code 5XX causes a systematic change of the Status code to 026. Status code 026 allows time for the return to be processed and assessed.

**5.18.2.4.20 (08-01-2001)****Final Return Received**

1. To respond to receipt of a final return follow IRM 5.19.7 procedures for processing final returns.
2. Use CC FRM 49 to Input the return to IDRS.
3. Use TC 591 cc38 to close all remaining modules of the MFT on the delinquency.
4. Resolve credits per IRM 5.19.2.
5. Move any modules with due dates after the final return received to IDS Status 097. Include comments on ACS as documentation for the closures.

**5.18.2.4.21 (08-01-2001)****Unsigned Returns Received**

1. If the taxpayer returns the 6020(b) returns unsigned with no letter assume no further correspondence is being sent. By-pass time remaining for the taxpayer's response and process the case as follows:
  - A. Change A6020(b) Status code to 022 for pre-assessment research.
  - B. Research each tax period to ensure there are no assessments or comments on IDS to stop return submission.
  - C. Bypass requirement to print second copies of the returns by changing Status to 026.
  - D. Prepare the returns inputting TC599 cc38. Obtain the manager's signature on each return.
  - E. Submit returns for processing.

**5.18.2.4.22 (08-01-2001)****Not Liable for Returns**

1. If the taxpayer states that the entity is not liable to file the return, or if the entity is out of business, follow the table in IRM 5.18.2.4.23.
2. Change the modules with no delinquent return due in the A6020(b) program to Status code 097.
3. Include the reason for discontinuing the 6020(b) (e.g., the date the business closed, the date the business last had employees, etc.).

**5.18.2.4.23 (08-01-2001)****Inquiries and Responses**

1. Follow the instructions in the following table for taxpayer inquires and responses.

<b>If</b>	<b>Then</b>
Inquiry is by phone or in writing	<ol style="list-style-type: none"> <li>1. Verify EIN and entity information with IDRS and ACS information.</li> <li>2. Analyze correspondence for a new address, telephone number and levy sources.</li> <li>3. Update ACS Comments.</li> </ol>
Inquiry is new address or address correction from taxpayer	INPUT address change to IDRS. Use cc ENREQ.
Inquiry is telephone number(s) and/or Levy Sources.	<ol style="list-style-type: none"> <li>1. INPUT telephone number(s) to IDRS. Use cc TELEA .</li> <li>2. INPUT telephone number(s) to ACS Entity Screen in the appropriate fields.</li> <li>3. Input Levy Sources on ACS and IDRS Levy Screens.</li> </ol>

• The instructions in the following tables contain actions to take in regard to taxpayer inquires and responses when the business:

- Closed
- Is not liable to file returns
- Previously filed
- Filed under another number
- Contains information to prepare the return
- Will file the delinquent return

- Requests we work with a POA

<b>Taxpayer Responses</b>	
<b>If</b>	<b>Then</b>
Inquiry results in levy sources	<ol style="list-style-type: none"> <li>1. Input levy source to IDRS. (cc LEVYE).</li> <li>2. Update the ACS levy screen.</li> </ol>
Correspondence includes a delinquent return	<ol style="list-style-type: none"> <li>1. Verify address, EIN, MFT and tax period on ACS as well as IDRS.</li> <li>2. Input ACS comments.</li> <li>3. Code return with TC599 cc39 in margin.</li> <li>4. Input TC599 cc39 to IDRS using CC FRM49</li> <li>5. Forward return for processing.</li> </ol>
A final return	<ol style="list-style-type: none"> <li>1. Follow steps above including writing "Final" on the return.</li> <li>2. Analyze for ability to close other MFTs and tax periods.</li> <li>3. Resolve any credit balance on account per IRM 5.19.2.4.9.</li> <li>4. Input TC591 cc 38 to the first subsequent period after the final return.</li> </ol> <p>Move any modules with due dates after the Final Return to Status 097 on IDS and update ACS.</p>

<b>Taxpayer is Out of Business</b>		
<b>If</b>	<b>And</b>	<b>Then</b>
Correspondence indicates the taxpayer is out of business	No date is provided	<ol style="list-style-type: none"> <li>1. Send ACS LT14 to request taxpayer provide specific date.</li> <li>2. Input ACS comments.</li> <li>3. Destroy correspondence.</li> </ol>
Correspondence indicates the taxpayer is out of business	Date provided is prior to earliest TDI period	<ol style="list-style-type: none"> <li>1. Input ACS comments.</li> <li>2. Destroy correspondence.</li> <li>3. Input TC 591 cc 25 on IDRS using FRM49 on the earliest tax period for each applicable MFT.</li> <li>4. Resolve any credits per IRM 5.19.2.4.9.</li> </ol>
Correspondence indicates the business closed	Closure date is after the earliest TDI period	<ol style="list-style-type: none"> <li>1. Input TC 591 cc 38 on IDRS using FRM49 on the TDI period subsequent to the quarter taxpayer went out of business.</li> <li>2. Resolve any credits on those periods per IRM 5.19.2.4.9.</li> <li>3. Inform the taxpayer he remains liable for returns due prior to closing. (See example below) Send LT14</li> <li>4. Input comments on ACS.</li> <li>5. Destroy correspondence.</li> </ol>

<p>For example: the taxpayer has open TDIs for Form 941 quarters 199512 through 199612 and Form 940 for period ending 199512 and 199612</p>	<p>The taxpayer states he went out of business on December 30, 1995</p>	<p>The taxpayer is still liable for the quarterly 941 for 199512 and the 940 for period ending 199512.</p> <ol style="list-style-type: none"> <li>1. INPUT TC 591 cc 38 on the Form 941/199603 quarter and the Form 940 for the period ending 199612.</li> <li>2. Inform the taxpayer that he/she is still liable for the Forms 941 and 940 for the period ending 199512.</li> </ol>
<p>Taxpayer not liable to file</p>	<p>Taxpayer will not be liable to file in the future</p>	<ol style="list-style-type: none"> <li>1. Verify EIN, MFT and tax period on ACS and IDRS.</li> <li>2. Input TC 591 cc 38 to IDRS (CC FRM49.) To the earliest tax period for each MFT.</li> <li>3. Resolve any credit balance on the account per IRM 5.19.2.4.9. Examine other open MFT filing requirements to see if they can be satisfied or closed as final.</li> <li>4. Input ACS Comments.</li> </ol>
<p>Taxpayer is not liable to file</p>	<p>Taxpayer will be liable to file future returns.</p>	<ol style="list-style-type: none"> <li>1. Verify EIN, MFT and Tax Period on ACS and IDRS.</li> <li>2. Input TC590 cc 38 to IDRS using CC FRM49 on each not liable period.</li> <li>3. Resolve any credit balance on the account per IRM5.19.2.4.9.</li> <li>4. Input comments to ACs.</li> </ol>
<p>Taxpayer previously filed the return(s)</p>	<p>IDRS indicates return (s) filed</p>	<ol style="list-style-type: none"> <li>1. Update ACS comments to show return(s) have been filed.</li> <li>2. If manual processing, pull and destroy the related returns that have posted from the 6020(b) Package Return Pending File.</li> </ol>
<p>Taxpayer previously filed the return</p>	<p>IDRS indicates an open TDI</p>	<ol style="list-style-type: none"> <li>1. Research CC EINAD for all possible name lines to determine if there are multiple EINs for the taxpayer. Input ACS Comments.</li> <li>2. Tell taxpayer to submit a copy of the return with an original signature (via telephone or C Letter). Transfer to call site contact Function.</li> </ol>

Taxpayer indicates delinquent returns were filed	Taxpayer shows a different EIN	Research both EINs on IDRS.
Filed under a different EIN or Taxpayer gives a different EIN.	SUMRY (IDRS) shows no data available	<ol style="list-style-type: none"> <li>1. Check INOLE for any open filing requirement.</li> <li>2. Request MFTRA on both EINs to verify returns were filed.</li> </ol>
Filed return(s) under a different EIN	SUMRY/MFTRA research shows the returns were filed as indicated	<ol style="list-style-type: none"> <li>1. Close the filing requirement on the incorrect EIN using TC 591 cc 38.</li> <li>2. Resolve any credit balances per IRM 5.19.2.4.9.</li> <li>3. Update ACS comments to show action.</li> <li>4. Contact taxpayer to inform of case resolution.</li> </ol>
Research is completed	Research does not resolve EIN discrepancy	Input ACS comments to document research actions. Reassign TO, IO, 01, 6020 REJ.
Research indicates returns not filed under either EIN	Research is completed	<ol style="list-style-type: none"> <li>1. Reassign case TOIO, 01, 6020 REJ.</li> <li>2. Update ACS comments to show research completed.</li> </ol>
Liable for filing the tax return	Response includes information to complete a return	<ol style="list-style-type: none"> <li>1. Prepare a return based on taxpayer figures. Note: Input "taxpayer provided information" on center of return top margin.</li> <li>2. Input comments on ACS that the assessment has been prepared using taxpayer's information.</li> <li>3. Mail return and appropriate letter telling the taxpayer to sign and file return within 10 days.</li> </ol>
Tax return is prepared using information from the taxpayer.	Return is not filed within the suspense period	Process the return as a 6020 (b) return based on taxpayer figures.
Contact made with the taxpayer.	Taxpayer promises to file delinquent return(s).	<ol style="list-style-type: none"> <li>1. Input ACS comments.</li> <li>2. Advise taxpayer that if the return(s) are not received by deadline, the 6020(b) return (s) will be processed.</li> <li>3. Leave case in appropriate 6020(b) suspense inventory.</li> </ol>

Correspondence or contact made with the taxpayer	Contact is not sufficient to resolve delinquency.	<ol style="list-style-type: none"> <li>1. Input ACS comments.</li> <li>2. Contact taxpayer and acknowledge response.</li> <li>3. Request information or return(s) necessary to close the case.</li> <li>4. Advise taxpayer that 6020 (b) process will continue.</li> <li>5. Leave case in appropriate 6020(b) suspense inventory.</li> </ol>
Another person is authorized to act for him/her--Power of Attorney (POA )	Form 2848 is attached	<ol style="list-style-type: none"> <li>1. Input POA information in NOTES on ACS.</li> <li>2. Route POA Form 2848 to be processed.</li> <li>3. Respond to the taxpayer or POA as necessary with LT14.</li> </ol>
Taxpayer gives us information that a POA has authority to resolve the matter	No Form 2848 is attached	<ol style="list-style-type: none"> <li>1. Research IDRS cc CFINQ to determine if POA is on CAF file.</li> <li>2. Input ACS comments.</li> <li>3. Advise taxpayer to file POA Form 2848 and that the 6020(b) process will continue.</li> </ol>

**5.18.2.4.24 (08-01-2001)****Undelivered Mail**

1. A6020(b) does not accept new cases with an undelivered mail indicator. These show on a rejection list.
2. Assign the case to the call site by changing the assignment from S-3 or S-6 to TOIO if new address information is not available. Input comments "UD Indicator Present" .

**5.18.2.4.25 (08-01-2001)****Undelivered Mail System (UMS)**

1. ACS support TEs, do not work the UMS Program. Undelivered mail is processed in the Undelivered Mail System (UMS).
2. Enter appropriate taxpayer information from the undelivered letter and destroy.
3. Do not upload comments to ACS. UMS completes upload.
4. Change inventory code on ACS from S-3 or S-6 to TOIO.
5. Change the Status code to 095 if the case received an undeliverable mail indicator while in A6020(b).
6. UMS researches for new address.

**5.18.2.4.26 (08-01-2001)****No Response Follow-up, Taxpayer Unagreed 6020(b) Processing**



1. Cases move to Status 022 after 60 days (105 days if the letter is addressed outside the United States) have elapsed after mailing of the Letter 1085 package. A listing prints showing entities to research.
2. Use this listing to research ACS and IDRS for taxpayer responses to the Letter 1085.
  - o Modules will remain in Status 022 until they are manually moved
  - o Cases in Status 022 after 21 days will be listed on an overage list
3. Research IDRS to determine if returns are posting. ACS may show additional taxpayer contacts.
4. Move researched modules that are ready for printing of returns for assessment into Status 023.

#### **5.18.2.4.27 (08-01-2001)**

#### **IDRS Research on 6020(b) Accounts**

1. Determine if the modules are still open, if there are any reasons not to go forward with 6020(b) assessment, and what action is needed.
2. Verify that all modules are still delinquent. Compare IDRS to IDS.
3. Research EINAD for possible EINs. Use CC SUMRY to verify the modules are in ACS and not assigned to another function. If the entity has been reassigned, follow the procedures for moving modules or accounts to IDS Status 097.
4. See **LEM 5.18.2.4.27**.
5. See **LEM 5.18.2.4.27**.

#### **5.18.2.4.28 (08-01-2001)**

#### **Processing 6020(b) Returns**

1. When the case is assigned to Status 023, it automatically goes to 025 and returns print. Each tax return prints with the required statement: "Prepared Under the Authority of IRC 6020(b)."
2. Prepare returns for processing by:
  - o Writing vertically on the side of the return: TC 599 cc38
  - o Having return signed by a GS-9 manager or above

**NOTE:**

A signature stamp or electronic signature is acceptable.

3. Input into the comments section of ACS and A6020(b) a general note including the date the 6020(b) returns were submitted for assessment and a follow-up date.
4. Cases in Status 025 more than 75 days appear on a research listing to determine if the assessment posted. Use listing as a check-list and for research comments.

**NOTE:**

See **LEM 5.18.2.4.28**.

#### **5.18.2.4.29 (08-01-2001)**

#### **Late Responses Received After 6020(b) Returns Processed**

1. "Late responses" are returns and/or correspondence received after the 6020(b) returns have been processed.
2. Take the following actions:
  1. Verify EIN, entity and tax period.
  2. Analyze response for new address, telephone number and levy sources and input new information to IDRS.
  3. Adjust account, if appropriate;
  4. Input comments and new information if account is still on ACS.
  5. If a Form 3870 (Request for Adjustment) is received from the district office, adjust the account as requested.

#### 5.18.2.4.30 (08-01-2001)

### Research Table for Late Responses

1. Use the following table as a guide when late responses are received.

If the Late Response	And	Then
CONTAINS an unprocessed signed return	6020(b) EIN is correct and the return has posted.	1. ADJUST TC 150 amount per taxpayer figure. 2. ASSESS TC 270 on corrected tax amount from due date of the return per IRM 5.5.9. 3. ADJUST TC186 4. USE taxpayer's return for the adjustment source document 5. INPUT TC 560 using IDRS REQ77 per IRM 5.5.7 to change the Assessment Statute Expiration Date (ASED) date. 6. Input 59939 BB on IDRS.
REVEALS taxpayer's return has been processed	The IRC 6020(b) EIN is correct	1. Adjust IRC 6020(b) assessment. Use correspondence or return as the source document.
CONTAINS taxpayer's unprocessed signed return (s)	6020(b) EIN incorrect and return has posted	1. ABATE entire 6020(b) assessment under incorrect EIN. 2. INPUT TC 971 per IRM 5.5.1. Use a copy of the return as a source document. 3. DELETE filing requirements of incorrect EIN using TC 591 cc 38. 4. PROCESS return(s) under correct EIN.
CONTAINS taxpayer's unprocessed signed return (s)	The IRC 6020(b) return (s) have been sent for assessment but not posted	1. ESTABLISH control base. 2. When the IRC 6020(b) returns post, ADJUST the tax and penalties as stated above under taxpayer's response/posted return. 3. ATTACH copies of the correspondence as the source document for each module.

STATES taxpayer is not liable for 6020(b) assessment(s)	MAY be liable for future returns	1. ABATE IRC 6020(b) assessment and use correspondence as the source document for each module. 2. INPUT TC 590 CC 38 to close each module.
States taxpayer is not liable for 6020(b) assessment(s).	NOT liable for future returns	1. FOLLOW steps above to abate entire assessment. 2. INPUT TC591 cc38.
INCLUDES a request for an installment agreement	IRC 6020(b) assessment has been processed but not yet posted	SEND letter advising taxpayer of following: 1. FINAL processing of the amount is incomplete. 2. SUBMIT installment plan request after first notice of assessment is received. 3. MAKE payments to minimize penalty and interest. 4. DESTROY correspondence.

**5.18.2.4.31 (08-01-2001)****Manual 6020(b) Procedures**

1. The manual procedures will be used in the event the A6020(b) program is not available for 6020(b) return processing. Manual instructions contain the same referral criteria of cases from ACS as well as apply to the same BMF tax returns.
2. See IRM 5.18.2.3 for the BMF returns subject to 6020(b) processing.

**5.18.2.4.32 (08-01-2001)****Basis of Tax for 6020(b) Modules**

1. The basis of the 6020(b) tax assessment is the amount of wages or tax liability secured from contact with nonfiler.

**NOTE:**

Document the A6020(b) module history as to the method used and basis for the tax for all cases not using Last Period Satisfied (LPS) wage or tax as the basis.

2. Use the following to calculate the total amount of the wages or tax per quarter if you do not have the total monthly wage amount: **See LEM 5.18.2.4.32.**
3. **See LEM 5.18.2.4.32.**
4. **See LEM 5.18.2.4.32.**
5. **See LEM 5.18.2.4.32.**

**5.18.2.4.33 (08-01-2001)****6020(b) Packages**

1. Employment and excise tax returns are prepared in sets with each set containing an original and one copy.
2. Keep the copy of each original in the IRC 6020(b) return pending file.

**NOTE:**

Show the following statement below the signature area of both returns:  
 "This return was prepared and executed under the authority of IRC 6020 (b)." The statement identifies the origin of the returns if they are erroneously received in other SC functions.

3. Include the following items as part of the 6020(b) package:
  - o Letter 1085 (ACS) addressed to the taxpayer (and a second Letter 1085 to the POA)
  - o An original return for each proposed IRC 6020(b) assessment
4. Input ACS history code OADT, 45, 1085(ACS) or 1616(ACS ) and show tax periods mailed in the comments.

**5.18.2.4.34 (08-01-2001)****Review Before Mailing**

1. The unit manager reviews proposed packages prior to mailing for:
  - o Mathematical and technical errors
  - o The proper wage and tax figures
2. Forward the package for mailing.

**5.18.2.4.35 (08-01-2001)****Cases With Power of Attorney (POA) Indicators**

1. Prepare a second Letter 1085 package if a case shows a POA on file (CAF).
2. Send original Letter 1085(ACS) and prepared returns to the taxpayer.
3. Send copies to the representative for only the MFT and tax periods the POA covers.
4. Retain one copy of the letter and original tax return for each proposed assessment period in the IRC 6020(b) return pending file.

**5.18.2.4.36 (08-01-2001)****6020(b) Follow-Up**

1. Review and research the case if it is still in inventory after 60 days (105 days if addressed outside the U.S.). Use instructions in IRM 5.18.2.4.26.
2. Remove the copy of the prepared returns and the Letter 1085(ACS) from the IRC 6020(b) return pending file.
3. Review ACS to see if the taxpayer has responded with information to close the case or if the return should be processed.

**5.18.2.4.37 (08-01-2001)****6020(b) Return Processing**

1. Route the return to the unit manager for review and signature.
2. Input on IDRS the TC 599 cc 38 for each period.
3. Attach the letter to the return for the oldest period involved and forward the returns for processing.
4. Input OADT, 28, 6020(b) to allow time for the modules to drop off ACS if all modules are satisfied on the account.
5. Enter TOI9 (TOI9, 28, NEWMOD) if there are TDI modules remaining (modules not included in the IRC 6020(b) package)
6. Transfer TO I7, then, Enter TFQU if there are only non-IRC 6020(b); (e.g., Form 1120) modules in Sn.

#### 5.18.2.4.38 (08-01-2001)

### Manual Processing: Return Pending File

1. Maintain a file of manually prepared returns with corresponding Letters 1085 (ACS) pending taxpayer response.
2. Attach a copy of the applicable letter to the oldest return in the IRC 6020(b) processing package.
3. File the returns in alpha or TIN order by response date of the letter.
4. Purge this file upon receipt of responses or other documents and/or at the conclusion of the 70 day suspense period.

#### [Exhibit 5.18.2-1 \(08-01-2001\)](#)

### [Internal Revenue Code 6020\(B\) Processing Flowchart](#)

#### Exhibit 5.18.2-2 (08-01-2001)

### Contents of the Generic Status Research Listing

#### Research Listings contain the following elements:

Taxpayer Identification Number

Name Control

Master File Tax Code (MFT)

Period - Tax Periods or Modules

Date - Date of the Listing

Function Unit - Inventory Assignment Code

Assess

Dollars Proposed for Assessment

Wage Computation Method (LPS - Last Period Satisfied, C - Credit, W - Wages, N - None)

#### Exhibit 5.18.2-3 (08-01-2001)

### A6020(B) Status Codes

A6020(b) Status Codes				
Status	Definition	Follow-up (Listing/Days)	Systematic Change To Next Status	Next Status
001	Pre-Assessment Research ACS, IDRS/ICS Research Inventory	A new case list shows new cases each week. Overage list in 30 days.	No Manual change is required	008/019/095/097

**Exhibit 5.18.2-3 (08-01-2001)****A6020(B) Status Codes**

The cases coming into Inventory for the first time are systematically listed on "S3 New Case Listing." An over-age report generates listing cases that remain in S3 inventory over 30 days. Cases in S3 may not meet the criteria for using the LPS tax or wage amount. S3 indicates that the taxpayer has been contacted and some information has been provided that is more up to date regarding wages, employees or tax liability. All S3 accounts will have to be researched on ACS or IDRS to determine what information has been provided. The information is then added to the module screens and the status changed according to the information available. Cases can be sent to a holding status, assessment status, or closed status from this status code.

**Exhibit 5.18.2-3 (08-01-2001)****A6020(B) Status Codes**

002	New S-6 Account, meets 1085 eligibility	00	Yes	019
		30	No	019

**Exhibit 5.18.2-3 (08-01-2001)****A6020(B) Status Codes**

Inventory from ACS S-6 is systemically loaded into A6020(b) and placed in status 002. The Form 940 and Form 941 status 002 cases automatically transfer to status 019 as the information from the last return filed is being used for the 6020(b). Cause with returns that need information manually input will stay in Status 002 until information is input and the case must be updated to status 019.

**Exhibit 5.18.2-3 (08-01-2001)****A6020(B) Status Codes**

005	Cases Not On ACS Download	21	Yes	097
			No	050

**Exhibit 5.18.2-3 (08-01-2001)****A6020(B) Status Codes**

Cases not on ACS need research to see if an error occurred.

**Exhibit 5.18.2-3 (08-01-2001)****A6020(B) Status Codes**

006	Case No Longer On ACS	30	No	019/095/097
-----	-----------------------	----	----	-------------

**Exhibit 5.18.2-3 (08-01-2001)****A6020(B) Status Codes**

Status 006 is a non-systemic "hold" area. Cases are manually placed in status 006 and have no specific criteria. Generally status 006 will be cases from status 001 which need additional research or waiting for additional information. Status 006 may be used as an alternative to leaving cases that have already been reviewed in status 001.

**Exhibit 5.18.2-3 (08-01-2001)****A6020(B) Status Codes**

The use of status 006 will allow status 001 to contain only the cases that were not previously reviewed or researched. Use of status 006 is not mandatory but may be helpful in managing the inventory. An overage report lists accounts that remain in status 006 more than thirty days.

**Exhibit 5.18.2-3 (08-01-2001)****A6020(B) Status Codes**

010	Centralized Authorization File (CAF) Indicator- Manual Input	30	No	001/019/095/097
-----	---	----	----	-----------------

**Exhibit 5.18.2-3 (08-01-2001)****A6020(B) Status Codes**

The system will assign all cases with a CAF Indicator to status 010. A listing of the new status 010 cases prints with the weekly ACS download. An overage report will generate if cases remain in 010 over 30 days. The power-of-attorney address must be input before reassigning the case to 019.

**Exhibit 5.18.2-3 (08-01-2001)****A6020(B) Status Codes**

019	Ready for 1085 Preparation-Account ready for manager to select for printing.	An overage report can be generated showing cases that have been in status 019 for over 30 days.	Yes (after print request)	020
			No	006/095/097

**Exhibit 5.18.2-3 (08-01-2001)****A6020(B) Status Codes**

Inventory in 019 is available for selection and the start of the 6020(b) process. The 019 list should be reviewed to ensure the cases meet A6020(b) criteria before requesting the printing of Letter 1085 packages. The case may reside in status 019 and require suspension of the printing of returns if there are problems or other unforeseen circumstances. The status 019 has the capability of being manually changed to 006, 095, or 097.

**Exhibit 5.18.2-3 (08-01-2001)****A6020(B) Status Codes**

020	1085 Package Request	00	Yes, if printed.	021
			No	019

**Exhibit 5.18.2-3 (08-01-2001)****A6020(B) Status Codes**

If there is a printer problem requiring the request to be resubmitted, the status can be changed to 019. Assignment to status 020 causes the packages to automatically be printed by sending it to 021. New modules will no associate to a case once the case reaches status 020.

**Exhibit 5.18.2-3 (08-01-2001)****A6020(B) Status Codes**

021	Letter 1085 Package Generated	45	Yes	022
		Within 45 days	No	006/022/040/050/096/097/5xx

**Exhibit 5.18.2-3 (08-01-2001)**  
**A6020(B) Status Codes**

---

1. Updated ACS with comments that the Letter 1085 packages were printed and mailed.
2. If the taxpayer responds with information that supports that a return is not required, the case can be suspended or closed. After 45 days (from the date of the Letter 1085) the case systemically changes to 0222.

[Exhibit 5.18.2-3 \(08-01-2001\)](#)  
[A6020\(B\) Status Codes](#)

[Exhibit 5.18.2-4 \(08-01-2001\)](#)  
[View and Update Screen](#)

[Exhibit 5.18.2-5 \(08-01-2001\)](#)  
[View Option](#)

[Exhibit 5.18.2-6 \(08-01-2001\)](#)  
[Modules Option](#)

[Exhibit 5.18.2-7 \(08-01-2001\)](#)  
[Next Module Option](#)

[Exhibit 5.18.2-8 \(08-01-2001\)](#)  
[CAF Option](#)

[Exhibit 5.18.2-9 \(08-01-2001\)](#)  
[Wage Option](#)

[Exhibit 5.18.2-10 \(08-01-2001\)](#)  
[Review, Input, or Update Wage Option](#)

[Exhibit 5.18.2-11 \(08-01-2001\)](#)  
[Using the Update Option](#)

[Exhibit 5.18.2-12 \(08-01-2001\)](#)  
[Status Option](#)

[Exhibit 5.18.2-13 \(08-01-2001\)](#)  
[Screens for Tax Returns 943 and 1065](#)

[Exhibit 5.18.2-14 \(08-01-2001\)](#)  
[Screen for Changing the Status of All Modules](#)

[Exhibit 5.18.2-15 \(08-01-2001\)](#)  
[Screen for Changing the Status of One Module](#)

[Exhibit 5.18.2-16 \(08-01-2001\)](#)  
[Status Screen](#)

[Exhibit 5.18.2-17 \(08-01-2001\)](#)  
[Comments Option](#)



[Exhibit 5.18.2-18 \(08-01-2001\)](#)

[6020\(B\) Inventory Management Menu](#)

[Exhibit 5.18.2-19 \(08-01-2001\)](#)

[Queue Cases for Printing Menu](#)

[Exhibit 5.18.2-20 \(08-01-2001\)](#)

[Number of 1085 Packages Ready to be Printed](#)

[Exhibit 5.18.2-21 \(08-01-2001\)](#)

[Revise Header Menu](#)

[Exhibit 5.18.2-22 \(08-01-2001\)](#)

[IDS 6020\(B\) Report Menu](#)

[Exhibit 5.18.2-23 \(08-01-2001\)](#)

[IDS Print Menu](#)

**Exhibit 5.18.2-24 (08-01-2001)**

**DBA Menu**

See LEM 5.18.2.

**Internal Revenue  
Manual**

**Part 5 Collecting Process Chap. 18 Liability (08-01-2001)  
Determination Sec. 2 Business Returns IRC 6020  
(b) Processing**

**IRS Resources**

- [Compliance & Enforcement](#)
- [Contact My Local Office](#)
- [e-file](#)
- [Forms and Publications](#)
- [Frequently Asked Questions](#)
- [News](#)
- [Taxpayer Advocacy](#)
- [Where To File](#)

**Part 5. Collecting Process****Chapter 17. Legal Reference Guide for Revenue Officers****Section 1. General Information****5.17.1 General Information**

- 5.17.1.1 [Purpose](#)
- 5.17.1.2 [Local Law Section](#)
- 5.17.1.3 [Functions and Organization of Office of Chief Counsel](#)
- 5.17.1.4 [Operating Divisions and their Field Offices](#)
- 5.17.1.5 [Collection and Summonses — Assistant Chief Counsel \(Collection, Bankruptcy & Summonses\)](#)
- 5.17.1.6 [Department of Justice](#)
- 5.17.1.7 [United States Attorney](#)
- 5.17.1.8 [Revenue Officer's Role](#)

**5.17.1.1 (09-20-2000)  
Purpose**

1. The Legal Reference Guide for Revenue Officers is intended to make available to revenue officers and other personnel engaged in collection efforts the fundamentals of legal knowledge needed in their daily activities. The results of recent legislation and recent court decisions have been incorporated into the revised text.
2. While the Legal Reference Guide for Revenue Officers has been established as a Handbook keyed to the Internal Revenue Manual, it is not the source of procedural instructions. Revenue officers and other Internal Revenue Service personnel must still look to the basic Manual provisions outside the Handbook for such instructions.
3. Constant study and use of the information contained in the Handbook is needed for it to be most beneficial; however, such study is not intended to make lawyers of the users and it is not a substitute for any required referral of cases through proper channels to Counsel.

**5.17.1.2 (09-20-2000)  
Local Law Section**

1. In order to maintain a comprehensive reference guide, field counsel will ordinarily prepare supplementary material discussing the impact of local law on subject matter of the Handbook.
2. The choice of subject matter to be included in the local law material is discretionary between the field counsel office and the functions of the Service requesting advice on such matters.
3. So far as it is feasible, the numbering sequence in local law material corresponds to that of the Handbook. For example, if the local law material deals with the filing of notice of lien, it should be keyed to IRM 5.17.2 of the Handbook.

**5.17.1.3 (09-20-2000)**

## Functions and Organization of Office of Chief Counsel

### 5.17.1.3.1 (09-20-2000)

#### Statutory Basis

1. There is established in the Department of the Treasury the office of General Counsel and the office of an Assistant General Counsel, who serves as Chief Counsel of the Internal Revenue Service. 31 U.S.C. 301(f); I.R.C. § 7803(b)(1). The Chief Counsel is appointed by the President with the advice and consent of the Senate, but the Commissioner recommends to the President a candidate for appointment as Chief Counsel and, if necessary, recommends the removal of the Chief Counsel. I.R.C. §7803(a)(2)(B), (b)(1).
2. The Chief Counsel is the chief law officer for the Internal Revenue Service. The Chief Counsel reports directly to the Commissioner except as follows. The Chief Counsel reports solely to the General Counsel with respect to legal advice or interpretation of the tax law relating solely to tax policy. The Chief Counsel reports to both the Commissioner and the General Counsel with respect to legal advice or interpretation of the tax law not relating solely to tax policy, and with respect to tax litigation; if there is any disagreement between the Commissioner and the General Counsel on any such matter, it is submitted to the Secretary or Deputy Secretary for resolution. I.R.C. § 7803(b)(3).
3. All personnel in the Office of Chief Counsel report to the Chief Counsel. I.R.C. §7803 (b)(4).
4. There is also created an Office of Special Counselor to the Commissioner for Practice. Included under this office is the Director of Practice.

### 5.17.1.3.2 (09-20-2000)

#### General Statement

1. About one-third of the office of Chief Counsel attorneys work in the vicinity of Washington, D.C., for the most part in connection with the work of the National Office. About two-thirds of the attorneys are assigned to counsel field offices or to Operating Division Counsel.

### 5.17.1.3.3 (09-20-2000)

#### General Organization

1. The Chief Counsel has an immediate staff consisting of the Deputy Chief Counsel (Operations) and Deputy Chief Counsel (Technical), and a number of Special Counsel, Associate Chief Counsel, and Division Counsel.

### 5.17.1.3.4 (09-20-2000)

#### National Office Functions

1. The National Office functions involve planning and directing policies and programs with respect to legislation, regulations, interpretative rulings and opinions, litigation, and advisory services, pertaining to the laws administered by the Internal Revenue Service. The work is handled by the Offices of Associate Chief Counsel (Income Tax & Accounting), (Passthroughs & Special Industries), (Corporate), (Financial Institutions & Products), (International), (Procedure & Administration), (Tax Exempt & Government Entities), (Criminal Tax), and (General Legal Services); and by the Office of the Counsel to the National Taxpayer Advocate.
2. The Associate Chief Counsel (Procedure & Administration) includes the Assistant Chief Counsel (Administrative Provisions & Judicial Practice), Assistant Chief Counsel (Collection, Bankruptcy & Summonses) [CBS], and Assistant Chief Counsel (Disclosure & Privacy Law).

### 5.17.1.4 (09-20-2000)

#### Operating Divisions and their Field Offices

### 5.17.1.4.1 (09-20-2000)

## Operating Division Counsel

1. The function of each operating division counsel office is to serve the respective level of the operating division to which that office is assigned. The division counsel reports directly to the Chief Counsel. Additional division counsel offices will be managed by area counsel or associate area counsel.
2. Operating division counsel, and their respective field offices, have been created for the operating divisions of: Large & Midsize Business, Tax Exempt & Governmental Entities, Criminal Investigations, Small Business & Self Employed (SB/SE), and Wage & Investment Income (WI). In the field, operating division counsel for SB/SE will also serve WI.
3. Division counsel for SB/SE will work closely with CBS to render legal advice for collection matters.

### 5.17.1.4.2 (09-20-2000)

#### SB/SE Operating Division Counsel, and Area and Associate Area Counsel

1. The SB/SE Operating Division Counsel, and Area and Associate Area Counsel, provide the large variety of legal services which the Office of the Chief Counsel renders in connection with collection of federal taxes (except those involving Alcohol, Tobacco and Firearms matters), summonses, damage suits for failure to release levy or unauthorized collection actions, and defense to or suits to obtain injunctions other than promoter injunctions. A prime concern is with the legal problems involved in the collection of delinquent accounts, i.e., those with which revenue officers are directly concerned.
2. Certain matters involving initial action by the field offices are subject to review in the National Office to insure consistency of treatment and uniformity of approach. However, most SB/SE functions have been delegated to area and associate area counsel for final disposition in order to provide prompt and readily available legal service to the field offices of the Internal Revenue Service handling SB/SE and WI issues and to accomplish the broad responsibilities implicit in the handling of the wide range of legal problems in the collection area. Each such counsel, through his or her staff, handles legal work with respect to:
  - A. Collection and protection of the tax claims and liens of the United States in proceedings under 11 USC (Bankruptcy), federal and state receiverships, corporate dissolutions, decedents' estates, and assignments for the benefit of creditors;
  - B. Protection of priority rights of federal tax liens in foreclosure actions by mortgagees or other lien holders in partition suits, condemnation suits, interpleader suits and in suits to quiet title;
  - C. Applications filed for the discharge of property from the effect of federal tax liens or for the release of such liens and applications for subordination of federal tax liens and for certificates of nonattachment;
  - D. Offers in compromise and installment agreements;
  - E. Enforcement of summonses, third-party contact issues, and certain disclosure problems;
  - F. Taking of affirmative action, whether by way of a separate suit or intervention in a pending proceeding, to collect taxes (with the exception of Alcohol, Tobacco, and Firearms taxes) with a view to reducing tax claims to judgment, enforcing federal tax liens (including the appointment of a receiver), opening safe deposit boxes, enforcing a levy, asserting transferee liability, seeking to collect on bonds, and asserting liability against third parties paying or providing wages;
  - G. Recommendations to the United States Attorney with respect to petitions for writ of entry;

- H. Proposals of settlement of pending litigation to be effected through the Department of Justice;
  - I. Defense of injunction suits to restrain the assessment or collection of federal taxes (except with respect to Alcohol, Tobacco, and Firearms matters);
  - J. Recommendations concerning administrative claims for damages regarding unlawful collection actions, release of liens, and violation of the automatic stay under sections 7432 and 7433;
  - K. Release of the Government's right under Section 28 U.S.C. 2410 or IRC 7425 (d) to redeem property which has been the subject matter of a foreclosure proceeding in which the United States has been properly named a party, or given adequate notice of nonjudicial sale;
  - L. Actions for the perpetuation of testimony;
  - M. Handling of legal matters with respect to leases, bonds, contracts and other similar matters;
  - N. Jeopardy levies, and the administrative and judicial review procedures under section 7429;
  - O. Determination of trust fund recovery penalty.
3. Field attorneys assigned to SB/SE area or associate area counsel units will provide legal advice on various collection matters to Service personnel in the SB/SE and WI Operating Divisions. In addition, the area or associate area counsel, through his or her staff, renders legal advice to the offices of the respective commissioner, service center director, and field offices, on matters not within the scope of the above listed functions. In connection with this type of activity, which is vital to the success of any organization operating on a decentralized basis, visitation programs have been established so that legal personnel make regular periodic visits to the field offices located throughout the counsel office's service area.
  4. The area or associate area counsel legal staff also maintains day-to-day contacts with the United States Attorneys' offices, and the appropriate Trial Section of the Tax Division, Department of Justice, charged with the ultimate responsibility for the trial of certain proceedings in the federal and state courts. Upon request, the area or associate area counsel and his or her staff furnish appropriate legal services to the United States Attorney and the Department of Justice, which may include preparation of suit or defense letters, authorizing the institution of legal proceedings or the defense of a civil action against the United States and setting forth the pertinent legal issues and the Internal Revenue Service's position thereon. Area or associate area counsel attorneys may also be selected as Special Assistant United States Attorneys (SAUSAs) and appear on behalf of the Service in various types of bankruptcy proceedings.
  5. Not the least of the services rendered by the area or associate area counsel and his or her staff is their participation, sometimes in conjunction with the Chief Counsel's National Office staff, in the various training programs for revenue officers and other personnel concerned with collection matters, which includes preparation and maintenance of a Local Law Section for the Legal Reference Guide.

#### **5.17.1.5 (09-20-2000)**

#### **Collection and Summonses — Assistant Chief Counsel (Collection, Bankruptcy & Summonses)**

1. Assistant Chief Counsel (CBS) will provide legal interpretations of tax law involving collection, bankruptcy and summons matters that will directly implicate the work of the revenue officer.
2. The CBS function has a dual responsibility — technical and litigation assistance. Not only does CBS provide interpretations of tax law within its areas of responsibility, but it also provides litigation assistance to SB/SE area counsel and associate area counsel for certain actions brought by or against the United States. In certain litigation

matters, a suit or defense letter must be referred to the Assistant Chief Counsel (CBS) for review and approval before referral to the Department of Justice. Those cases or issues include: requests for appointment of a receiver, suits for enforcement of a levy where the 50% penalty is sought, suits for judicial approval of service of John Doe summonses, summons cases raising third-party contact issues under section 7602(c), injunction suits to stop pyramiding in no equity seizure situations, suits for damages under sections 7432 and 7433, suits to assert tort liability for converting property subject to the federal tax lien, suits involving a bona fide dispute with another Government agency, or collection-due-process actions brought under sections 6320 or 6330. A complete listing of matters requiring prereview by the Assistant Chief Counsel (CBS) is found in CCDM Part 34(613).

3. In its role of providing technical guidance in order to achieve uniformity in positions and treatment of taxpayers, CBS prepares various guide materials, such as Chief Counsel Directives Manual Part 34, the texts for various training programs, Chief Counsel Notices, Chief Counsel Advice and Service Center Advice, the maintenance of advisory and technical contact with operating division and other field office counsel, and the utilization of systems of advance consideration and post review. CBS is also responsible for reviewing Internal Revenue Manual revisions and updates for matters involving collection issues.
4. CBS is responsible for preparing all recommendations regarding appellate and certiorari matters for the Office of Chief Counsel in all cases under its jurisdiction.
5. CBS serves as principal legal advisor to the Chief Counsel, the Operating Division Counsel, and the operating division of SB/SE, on matters concerning collection, bankruptcy and summonses.
6. Even though issues of collection, bankruptcy and summonses, as more particularly described above in IRM 5.17.1.4, will most often concern the SB/SE function, those issues may also concern other operating divisions. In cases where this occurs, the area counsel or associate area counsel or operating division counsel of these other functions may request technical advice from the Assistant Chief Counsel (CBS).

#### **5.17.1.6 (09-20-2000) Department of Justice**

1. The Department of Justice through its staff of attorneys and the United States Attorneys in the field are the Government's representatives in the courts of the federal and state judicial systems and, as such, represent the Internal Revenue Service. The Chief Counsel's office furnishes such assistance as may be necessary, including recommendations on offers in settlement, suit and defense letters in support of the Service's position on pertinent issues, and recommendations with respect to appeal or certiorari of a court's decision, often conferring with Justice Department's attorneys on various matters.

#### **5.17.1.7 (09-20-2000) United States Attorney**

1. In the field there is usually close contact between the United States Attorneys and field office counsel. Field office counsel furnish such assistance to the United States Attorneys as may be necessary, including preparing pleadings, interviewing witnesses, taking depositions, and participating in conferences with taxpayers' representatives. Chief Counsel staff attorneys in SB/SE offices may be designated to act as Special Assistant United States Attorneys (SAUSAs) to represent the Service's interests in bankruptcy proceedings; when so acting, they are subject to supervision by the United States Attorney or the Tax Division of the Department of Justice, whichever is responsible for the case.

#### **5.17.1.8 (09-20-2000) Revenue Officer's Role**

1. From what has preceded, it is obvious that the all-important collection of the revenue is the result of joint efforts involving many individuals and offices both inside and outside the Internal Revenue Service. In order for a revenue officer to have a proper perspective of his or her role and better understand his or her duties as well as the duties and responsibilities of others, it is important that a revenue officer be familiar

with the various interrelationships of the offices involved in tax collection work.

2. While revenue officers are not expected to have the comprehensive knowledge of the law required of attorneys, it is hoped that they will gain a sufficient understanding from the material in the following sections to recognize the legal problems that might call for reference to Counsel for consideration. Whenever litigation involving collection matters is pending or the institution of affirmative legal action to effect collection is being considered, revenue officers will, in the main, be investigators of facts and will be required to prepare reports concerning any facts ascertained. The lawyers charged with the responsibility of handling SB/SE cases must rely upon the administrative personnel of the Internal Revenue Service for investigation of the facts in any case. The importance of the revenue officer as an investigator and fact finder cannot be too strongly emphasized. See IRM 5.17.12 on Investigations and Reports.

[More Internal Revenue Manual](#)

---

[Accessibility](#) | [FirstGov.gov](#) | [Freedom of Information Act](#) | [Important Links](#) | [IRS Privacy Policy](#) | [U.S. Treasury](#)

Search

[Home](#) > [Tax Professionals](#)

Internal Revenue Manual

Forms Finder

[Search Help](#)
[Contents](#)

- [e-file Providers](#)
- [Enrolled Agents](#)
- [Enrolled Actuaries](#)

[Resources](#)
[e-file](#)

- [Forms and Publications](#)
- [Where to File](#)
- [Contact My Local Office](#)
- [FAQs](#)
- [Taxpayer Advocate](#)

[Tax Pro News](#)
[Tax Pro Events](#)
[Subscription Services](#)
[IRS Resources](#)
[Tax Issues](#)
[More Topics . .](#)

## Part 4 Examining Process

### Chapter 23 Employment Tax Handbook

#### Section 11 Delinquent Return Procedures

##### Contents

- [4.23.11 Delinquent Return Procedures](#)
  - [4.23.11.1 Overview: Initial Delinquency Procedure](#)
  - [4.23.11.2 Nontaxable Delinquent Returns](#)
  - [4.23.11.3 Processing Delinquent Returns](#)
  - [4.23.11.4 Delinquent Return Package](#)
  - [4.23.11.5 Delinquent Tax Returns Secured \(Other than Employment Tax Returns\)](#)
  - [4.23.11.6 Delinquent Employment Tax Returns Secured](#)
  - [4.23.11.7 Delinquency Penalty on Timely But Unsigned Return](#)
  - [4.23.11.8 Refusal to File Delinquent Returns](#)
  - [4.23.11.9 Retroactive Enforcement](#)
  - [4.23.11.10 Substitute for Employment Tax Returns](#)
  - [4.23.11.11 Referral to the Criminal Investigation](#)
  - [4.23.11.12 Referral to Tax Exempt and Government Entities](#)
  - [4.23.11.13 Referral to Examination](#)

##### 4.23.11.1 (04-21-1999)

#### Overview: Initial Delinquency Procedure



1. This section outlines the procedures for delinquent returns.
2. In the interest of conserving resources and reducing multiple contacts with taxpayers, examiners will attempt to determine whether the taxpayer is fulfilling all Federal tax obligations during the course of either a compliance check or an examination of an assigned return.
3. When an examiner discovers during any examination that a taxpayer has failed to file required Federal tax returns, he/she will, before soliciting any returns:
  - A. Determine the taxable periods for which the taxpayer was required to file returns.
  - B. Ascertain the reasons why the taxpayer failed to file the required returns.
  - C. Determine whether any indications of fraud exist.
4. When information is developed indicating that the taxpayer's failure to file a required return or returns is willful, or if there is any other indication of fraud, the case will be referred to Criminal Investigation. In such cases the examiner will not solicit delinquent returns, payment of tax, or any agreement from the taxpayer. If the taxpayer furnishes delinquent returns to the examiner or indicates he/she intends to file delinquent returns, the examiner will notify Criminal Investigation through proper channels.
5. If it is determined that indications of fraud are not present, the taxpayer will be advised that he/she is required to file all delinquent returns without regard to the number of years or taxable periods involved. In addition, all taxes, penalties and interest are immediately due. The taxpayer will be asked to deliver the returns promptly to the examiner, together with a written statement under penalty of perjury, giving all the facts which caused the delay. The statement should also include any reasons which the taxpayer believes would establish reasonable cause for failure to file.
6. The examiner will set a specific date for receiving the return(s). The taxpayer will be informed that failure to tender the delinquent return(s) by the specific date will be considered as a definite refusal to file under the provisions of the Code.
7. When a taxpayer is advised to file all required delinquent returns but refuses to file, or states he/she is unable to file all of the returns, a determination will be made as to the extent the filing requirements should be enforced. This determination must be consistent with the criteria in Policy Statement P-5-133. Any deviation from the general six year guideline will be approved by the group manager.
8. For delinquent information returns and employee wage statements, see sections 4.23.7.10 and 4.23.8.10 of this Handbook.

#### **4.23.11.2 (04-21-1999)**

### **Nontaxable Delinquent Returns**

1. There are some nontaxable delinquent employment tax returns filed for which additional tax is developed as the result of examinations. Ordinarily, since the returns as filed were nontaxable, they were processed without considering the delinquency features or without securing from the taxpayer any statement of reasonable cause for delay in filing. In such cases, the examiner will, after considering the statement of the taxpayer, recommend assertion or non-assertion of the delinquency penalty in the examination report. Any appropriate comments as to the recommendation for assertion or non-assertion of the penalty will be incorporated in the report transmittal or workpapers.

#### **4.23.11.3 (04-21-1999)**

### **Processing Delinquent Returns**

1. Examiners securing delinquent returns will advise the taxpayer that all tax, penalty and interest is immediately due.
2. All delinquent returns will be date stamped with an official received date stamp by the securing employee and forwarded immediately for processing.
3. If a delinquent return appears to have fraud potential, refer the return to Criminal Investigation.
4. In some cases a taxpayer may have returns with a refund due and have a balance due on other returns. Attach a separate Document 6469 to each return to expedite processing and check the box "Delinquent Return." The refund returns will subsequently post and offset to the balance due module.
5. Attach a Form 3198 to the case jacket, noting whether or not the Delinquency Penalty should be assessed.

#### **4.23.11.4 (04-21-1999)**

##### **Delinquent Return Package**

1. Delinquent and Substitute Returns must be established on AIMS as soon as it is known that an examination will be made or when examination time is first applied.
2. Forward the tax return package to Case Processing Support. The package should be assembled in the following manner:
  - A. Face of folder--Form 3198, Special Handling Notice, or Form 9231, Collection-Employment Tax Examination Handling/Routine Instructions,
  - B. Inside left of folder--Form 5345, Examination Request Master File. The appropriate push code must be used when establishing the case on AIMS in order to hold the TC 424 at Master File until the TC 150 posts.
  - C. Inside right of folder, Form 3198, or Form 9231 attached to each return, document 6469, Expedite Processing Cycle, attached to each return, current transcript (60 days) attached to each return, returns or Substitutes for Returns, other documents.
3. The examiner will retain a copy of the return and transcript of account to be used for the subsequent examination. It should be clearly marked as a copy.
4. Such examination will be made as soon as possible after the returns are received, and to the extent deemed necessary.

#### **4.23.11.5 (04-21-1999)**

##### **Delinquent Tax Returns Secured (Other than Employment Tax Returns)**

1. In situations where the examiner secured delinquent returns not within his/her examination responsibility, the examiner will file the returns with the appropriate service center under existing Manual procedures. Also, if the examiner feels the returns need to be screened further or examined by another operating division, the examiner should prepare Form 5666 (TE/GE Information Return Report) or Form 5346 (Examination Information Report), and attach a copy of the delinquent return(s) to the information report. The group manager, after approving the information report, will forward the documents to the appropriate operating division for consideration. (To ensure uniformity when forwarding information to Examination, the TE/GE examiner, may use Form 5346.)
2. All delinquent returns will be date stamped with an official received date stamp by the securing examiner. In some cases a taxpayer may have returns with a refund due and have a balance due on other returns. Attach a separate Document 6469 to each return to expedite processing. The refund returns will subsequently post and offset to the balance due module.
3. Attach Form 3198 to each return indicating whether or not the Delinquency Penalty should be assessed.

**4.23.11.6 (04-21-1999)****Delinquent Employment Tax Returns Secured**

1. Once an employment tax examination has begun, the examiner will generally not solicit delinquent employment tax returns. The examination and Form 2504, Agreement to Assessment and Collection of Additional Tax and Acceptance of Overassessment, will report the correct figures. This procedure precludes a no-change report if the taxpayer files a delinquent employment tax return during the course of the examination.
2. If the taxpayer submits the delinquent employment tax returns, the examiner will inspect the returns to determine whether to accept the returns as filed or to begin an examination. If the reported tax is correct, the procedures outlined in section 11.3 will be followed.
3. When a delinquent employment tax return is received from a taxpayer, the examiner will determine whether failure to file and failure to pay penalties are to be asserted. See Policy Statement P-2-7, the Penalty Handbook, regarding acceptable reasonable causes for failure to file. The examiner's recommendation for assertion or non-assertion of the penalties will accompany each delinquent return.
4. Delinquent returns secured by the examiner must be processed with the examiner's recommendation for assertion of applicable penalties whether or not the taxpayer agrees to the assertion of penalties. These requirements preclude affording appeal rights prior to assessment of the penalties. The taxpayer should be advised of post-assessment penalty appeal procedures. The taxpayer does not have to pay the penalties to get an administrative appeal.

**4.23.11.7 (04-21-1999)****Delinquency Penalty on Timely But Unsigned Return**

1. It is the policy of the Service (see Policy Statement P-2-11) not to assert a delinquency penalty if an unsigned tax return is timely filed on the prescribed form and accompanied by proper payment, provided that:
  - A. The taxpayer upon request subsequently files a proper return.
  - B. The facts surrounding the failure to sign the return clearly indicate there was no willful intent to disobey the taxing statute, and gross negligence is not involved.
2. When it is necessary to rely upon a taxpayer's failure to sign a return as a defense to the statute of limitations, the delinquency penalty may be asserted to support the Service's position that the statutory period of limitations does not begin to run until a valid return has been filed.

**4.23.11.8 (04-21-1999)****Refusal to File Delinquent Returns**

1. When a taxpayer is advised to file all required delinquent returns but refuses to file, states inability to file, or neglects to file within the time frame set, a determination will be made as to the extent the filing requirements should be enforced. The application of enforcement procedure will depend upon the facts of each case. This determination must be consistent with the criteria in Policy Statement P-5-133 and the guidelines outlined below.

**4.23.11.9 (04-21-1999)****Retroactive Enforcement**

1. The extent to which enforcement of delinquency procedures will be undertaken will necessarily depend upon the facts of each case. As a general rule, enforcement should not extend beyond six prior years. But enforcement for shorter or longer periods, or not at all, may be determined where such action appears to be in the best interest of the Government from the standpoint of reasonableness, salutary effect on compliance, and prudent deployment of resources. (See P-5-133.)
2. Specific factors that should be taken into account include:
  - A. Degree of flagrancy.
  - B. Special need to enforce compliance in a specific area.
  - C. Whether the delinquency involves trust fund monies collected but not paid over.
  - D. Special circumstances peculiar to a specific taxpayer, class, industry or type of tax.
  - E. Expenditure of resources required in relation to anticipated results in terms of revenue, provided there are no other overriding considerations.
  - F. Period of enforcement used by other IRS activities, in returns compliance programs in the same tax area.
3. Delinquency procedures will generally be enforced if a taxpayer has failed to file a one-time return. In other cases when contact is made with a delinquent taxpayer, delinquency procedures should ordinarily be followed through for at least one period. However, the circumstances of each individual case must be taken into consideration. (Refusal to file cases referred to Examination or TE/GE after contact has been made by examiners are required to be fully documented prior to such referral.)
4. If it is determined that enforcement should extend beyond a six-year period, the examiner will document the case file by outlining the facts of the case and the reasons why enforcement for the longer period is recommended. Such recommendations must receive group manager approval, prior to enforcement.
5. If it is determined that delinquency procedures need not be enforced for the full period of the delinquency if less than six years, the case file must fully document justification for the shorter period. Such determination must receive group manager approval prior to enforcement, except in cases where the examiner is satisfied, as a result of information that is available or received from the taxpayer, that there would be no net tax due for the years for which delinquency procedures are not to be enforced.

#### **4.23.11.10 (04-21-1999)**

### **Substitute for Employment Tax Returns**

1. If a taxpayer fails to file delinquent employment tax returns when requested by the examiner, a "Substitute for Return" will be prepared. It will be prepared on the return form prescribed for use in making such a return and will be processed with Document 6469, Expedite Processing Cycle, attached. The substitute for return will contain the following entries:
  - o "Substitute for Return Prepared by (Collection, Examination or TE/GE)" entered in red ink on face of return.
  - o Taxable period.
  - o Name and address of the taxpayer.
  - o Employer Identification Number.
2. For returns where the taxpayer does not have a TIN, the examiner should contact the entity section of the service center to secure a TIN. Do not delay the processing of the delinquent/substitute package. Prepare the package in the normal manner, annotating Form 3198, "Taxpayer does not have a TIN."
3. Submit return package and Form 5345 to Case Processing Support.
4. Line item amounts (tax base data) should not be shown on the "Substitute for Return" since the total tax liability for the period will be taken into account in the

- examiner's report. The "Substitute for Return" will become a permanent part of the record in the case even though the taxpayer may subsequently file a return.
5. The examiner will recommend assertion or nonassertion of the delinquency penalty in the examination report, report transmittal, workpapers and Form 3198, as appropriate. Further, the examiner will compute any delinquency penalty recommended on the total tax due for the period involved.
  6. If a "Substitute for Return" is prepared and the taxpayer executes a waiver on Form 2504, the Form 2504 constitutes a return under IRC 6020(a) and the failure to pay penalty under IRC 6651(a)(2) applies to the amount not paid by the due date of the return. The failure to pay penalty under IRC 6651(a)(2) does not apply in cases where the taxpayer does not execute a waiver and to returns prepared under IRC 6020(b). See 8.7 and 8.8 of Section 8 for procedures on failure to pay and failure to deposit penalties.
  7. The appropriate standard preliminary letters, identified in 9.10 of Section 9, will be used in all cases in which there has been a failure to file returns. Normal Appeal procedures apply to substitute returns.

#### **4.23.11.11 (04-21-1999)**

##### **Referral to the Criminal Investigation**

1. Cases are referred to Criminal Investigation by using Form 2797 (Referral Report for Potential Fraud Cases) or Form 3212 (Referral Report for Potential Fraud Cases). If a case involving a collateral examination results in a fraud referral, the effected examination areas will coordinate the referral. The general guidelines for fraud procedure are outlined in 8.5 of Section 8.

#### **4.23.11.12 (04-21-1999)**

##### **Referral to Tax Exempt and Government Entities**

1. If Collection or Examination personnel encounter a responsible officer of an exempt organization who refuses to file a required exempt organization return, he/she should prepare Form 5666 (TE/GE Information Report) or Form 5346 (Examination Information Report). The group manager, after approving the information return, will forward it to TE/GE for consideration.

#### **4.23.11.13 (04-21-1999)**

##### **Referral to Examination**

1. Prior to making a referral to Examination, Collection and TE/GE personnel should refer to the procedures outlined in the manual for refusal to file procedures.

**Internal Revenue Manual Part 4 Examining Process Chap. 23  
Employment Tax Handbook Sec. 11  
Delinquent Return Procedures**

**(04-21-1999)**

Search

[Home](#) > [Tax Professionals](#)

Internal Revenue Manual

Forms Finder

[Search Help](#)
[Contents](#)

- [e-file Providers](#)
- [Enrolled Agents](#)
- [Enrolled Actuaries](#)

[Resources](#)
[e-file](#)

- [Forms and Publications](#)
- [Where to File](#)
- [Contact My Local Office](#)
- [FAQs](#)
- [Taxpayer Advocate](#)

[Tax Pro News](#)
[Tax Pro Events](#)
[Subscription Services](#)
[IRS Resources](#)
[Tax Issues](#)
[More Topics . .](#)

## Part 4 Examining Process

### Chapter 4 AIMS/Processing Handbook

#### Section 9 Delinquent and Substitute for Return Processing

##### Contents

- [4.4.9 Delinquent and Substitute for Return Processing](#)
  - [4.4.9.1 Introduction](#)
  - [4.4.9.2 Research](#)
    - [4.4.9.2.1 Spousal Research](#)
    - [4.4.9.2.2 Transcripts](#)
      - [4.4.9.2.2.1 CI Freeze](#)
      - [4.4.9.2.2.2 TC 150 Present on MF](#)
        - [4.4.9.2.2.2.1 Dummy/SFR](#)
      - [4.4.9.2.2.3 TC 595](#)
        - [4.4.9.2.2.3.1 Automatic TC595](#)
        - [4.4.9.2.2.3.2 Reversing TC 595](#)
  - [4.4.9.2.3 TC 595](#)
- [4.4.9.3 Establishing AIMS Controls](#)
  - [4.4.9.3.1 Form 5345](#)
  - [4.4.9.3.2 Form 5354](#)
- [4.4.9.4 AIMS Control When TP has No TIN](#)
- [4.4.9.5 Delinquent Returns](#)
  - [4.4.9.5.1 Name](#)
    - [4.4.9.5.1.1 Incorrect Name](#)
  - [4.4.9.5.2 Address](#)
  - [4.4.9.5.3 SSN/EIN](#)
  - [4.4.9.5.4 Forms/Schedules](#)
  - [4.4.9.5.5 Signature](#)
  - [4.4.9.5.6 Tax Period](#)
  - [4.4.9.5.7 Date Received](#)
  - [4.4.9.5.8 Photocopy of Return](#)
  - [4.4.9.5.9 Original Return](#)
  - [4.4.9.5.10 Form 3198](#)

- [4.4.9.5.10.1 Penalties](#)
- [4.4.9.5.10.2 TC 971](#)
- [4.4.9.5.11 Document 6469 -- BMF Returns](#)
  - [4.4.9.5.11.1 Document 6469 -- IMF Returns](#)
- [4.4.9.5.12 Payment](#)
- [4.4.9.5.13 Transcript](#)
- [4.4.9.5.14 Return Package](#)
- [4.4.9.6 Substitutes for Return](#)
- [4.4.9.7 Processing Delinquent/SFR Packages](#)
  - [4.4.9.7.1 Transcript](#)
    - [4.4.9.7.1.1 TC 150](#)
    - [4.4.9.7.1.2 No Account on MF](#)
    - [4.4.9.7.1.3 MF Name Line](#)
  - [4.4.9.7.2 Payments/Credits](#)
  - [4.4.9.7.3 Sending to Service Center](#)
    - [4.4.9.7.3.1 Exceptions](#)
- [4.4.9.8 Group Closing Actions](#)
- [4.4.9.9 AIMS Skeletal Record](#)
  - [4.4.9.9.1 No Data on AIMS](#)
  - [4.4.9.9.2 Full AIMS Record](#)
- [4.4.9.10 Final Processing of Delinquent/SFR Cases](#)
  - [4.4.9.10.1 Form 5344](#)
  - [4.4.9.10.2 Blocking Series](#)
  - [4.4.9.10.3 Refund Barred](#)
  - [4.4.9.10.4 Refund Allowed](#)
- [4.4.9.11 Processing of a Delinquent Return if a SFR Has Posted](#)
  - [4.4.9.11.1 Form 3177](#)
    - [4.4.9.11.1.1 Alternate Procedure \(IMF Only\)](#)
  - [4.4.9.11.2 Form 5344](#)
    - [4.4.9.11.2.1 Return Line Item Entries](#)
    - [4.4.9.11.2.2 Penalty Amounts](#)
- [4.4.9.12 No TIN](#)
  - [4.4.9.12.1 Temporary SSN](#)
  - [4.4.9.12.2 Permanent EIN](#)
- [4.4.9.13 Monitoring the Delinquent/SFR Suspense File](#)
- [4.4.9.14 Delinquent/Substitute Returns With Payments](#)
  - [4.4.9.14.1 BMF Returns](#)
  - [4.4.9.14.2 IMF Returns](#)
  - [4.4.9.14.3 No TIN](#)
- [4.4.9.15 Delinquent Returns with Expired Refund Statute Expiration Dates](#)

---

#### **4.4.9.1 (02-08-1999)**

##### **Introduction**

1. This section contains procedures for processing and closing delinquent returns and substitute for returns (SFR).

#### **4.4.9.2 (02-08-1999)**

##### **Research**

1. Before securing a delinquent return or preparing an SFR, the examiner must request research. Use Form 6882 or perform on-line research using Command Code IMFOL/BMFOL/INOLE.

#### **4.4.9.2.1 (02-08-1999)**

##### **Spousal Research**

1. Form IMF accounts, both the primary and secondary SSNs are to be researched for prior filing and for pending assessment activity.

#### **4.4.9.2.2 (02-08-1999)**

##### **Transcripts**

1. A transcript of the account must be attached to each delinquent or SFR when submitted to Case Processing Support. The transcript will be used by Case Processing Support to perform their verification responsibilities and will be forwarded to the service center with the return. Also attach a copy of the transcript to the copy of the return retained for examination.

#### **4.4.9.2.2.1 (02-08-1999)**

##### **CI Freeze**

1. If a CI freeze ("-Z" ) is present on the account, coordinate with CI to determine if Examination can work the case.

#### **4.4.9.2.2.2 (02-08-1999)**

##### **TC 150 Present on MF**

1. Do not submit as SFR if a TC 150 has posted. See Text 4.4.9.11 for instructions for processing a delinquent return after the posting of as SFR.

#### **4.4.9.2.2.2.1 (02-08-1999)**

##### **Dummy/SFR**

1. A TC 150 posting with no tax liability followed by a TC 240 posting for \$500 (W-4 penalty) indicates that the service center has posted a dummy return. Any adjustments must be made as subsequent adjustments (i.e. TC 300).

#### **4.4.9.2.2.3 (02-08-1999)**

##### **TC 595**

1. If research shows that the taxpayer is in TDI status (Master File status 02) input a TC 595 with Closing Code 57 to close the Collection control. Extreme care should be taken when using this transaction code since it will prevent the issuance of TDI notices to the taxpayer.

#### **4.4.9.2.2.3.1 (02-08-1999)**

##### **Automatic TC595**



1. For all tax years in TDI status 03, inputting a TC 424 with a push code of 020, 021 or 037 will automatically generate a TC 595.

#### **4.4.9.2.2.3.2 (02-08-1999)**

#### **Reversing TC 595**

1. The TC 595 must be reversed by Examination if a determination is made to not pursue the examination. The posting of a TC 150 (not an SFR) also satisfies the TC 595 and a reversal is not necessary.

#### **4.4.9.3 (02-08-1999)**

#### **Establishing AIMS Controls**

1. Establish the nonfiler account on AIMS as soon as it is known that an examination will take place or when examination time is first applied.

#### **4.4.9.3.1 (02-08-1999)**

#### **Form 5345**

1. When completing Form 5345 to establish a nonfiler, the following items must be entered:
  - A. Item 5, Return Requested, enter a "1" or a "3" . Do not leave blank, since the return is not to be requested.
  - B. Item 9, Push Code, enter 020, 021, or 037. A push code must be used when establishing the case on AIMS in order to hold the TC 424 at Master File until the TC 150 posts.
  - C. Item 17, Reason for Request, write "DELINQUENT RETURN SECURED BY EXAMINATION" , "EXAM/SFR" or "NONFILER" , as appropriate.

#### **4.4.9.3.2 (02-08-1999)**

#### **Form 5354**

1. Form 5354 can also be used to provide Non Master File (NMF) AIMS inventory (IVL) and statute (Table 4.0/4.1) controls since the Master File establishment will remain a skeletal record until a TC 150 posts.

#### **4.4.9.4 (02-08-1999)**

#### **AIMS Control When TP has No TIN**

1. If the taxpayer does not have a TIN, request a dummy TIN (via Command Code AMTIN7). Establish NMF AIMS control using Form 5354. See IRM 4.4.9-12 when TP has no TIN.

#### **4.4.9.5 (02-08-1999)**

#### **Delinquent Returns**

1. Upon receipt of a delinquent return, ensure that the following items are completed:

#### **4.4.9.5.1 (02-08-1999)**

##### **Name**

1. The taxpayer's name must be typed or printed legibly, with no strikeouts. When possible, it must duplicate the name used on a previously filed return with the same taxpayer identification number (TIN). The name used with a recently acquired EIN should duplicate the taxpayer's Form SS-4.

#### **4.4.9.5.1.1 (02-08-1999)**

##### **Incorrect Name**

1. If the name is not correct, prepare or secure a corrected return and solicit the taxpayer's signature on the corrected delinquent return. Mark an "X" across the face of the incorrect return. Write the word "Invalidated" , sign and date below the notations.

#### **4.4.9.5.2 (02-08-1999)**

##### **Address**

1. Verify with the taxpayer that the address shown on the return is the taxpayer's current address.

#### **4.4.9.5.3 (02-08-1999)**

##### **SSN/EIN**

1. Verify the TIN shown on the return is correct by researching Master File. If the taxpayer does not have a TIN, see IRM 4.4.9.12.

#### **4.4.9.5.4 (02-08-1999)**

##### **Forms/Schedules**

1. Verify that all W-2's, required forms and schedules are present and the computations are correct. Examination is responsible for the accuracy of the return and no further verification is performed.

#### **4.4.9.5.5 (02-08-1999)**

##### **Signature**

1. Verify the presence of the taxpayer's original signature and the date the return was signed.

#### **4.4.9.5.6 (02-08-1999)**

##### **Tax Period**

1. Verify the current or appropriate year's tax form (depending on local service center preference) was used.

#### **4.4.9.5.7 (02-08-1999)**

##### **Date Received**

1. Date stamp the delinquent return when it is received. If a date stamp is not available, annotate on the return in the upper left side margin, "Received" , the date received, and the examiner's name and title.

#### **4.4.9.5.8 (02-08-1999)**

### **Photocopy of Return**

1. Make a copy of the delinquent return. On the copy, write in red on the top margin EXAM HAS ORIGINAL DELINQUENT RETURN--PROCESS THIS COPY AS AN ORIGINAL . Leave room in upper right corner for DLN to be entered by service center.

#### **4.4.9.5.9 (02-08-1999)**

### **Original Return**

1. Write in red on top margin of the original return, "DELINQUENT RETURN SECURED BY EXAMINATION--COPY PROCESSED AS ORIGINAL." Retain the original delinquent return and close it out with the Examination administrative file when the examination is completed. See IRM 4.4.9.8, Group Closing Actions.

#### **4.4.9.5.10 (02-08-1999)**

### **Form 3198**

1. Attach Form 3198 to EACH RETURN (copy) being submitted.

#### **4.4.9.5.10.1 (02-08-1999)**

### **Penalties**

1. Annotate the Form 3198 if any penalties should or should not be assessed. **Note:** If you do not want penalties assessed on the return that you are sending to the center for processing, enter the applicable codes next to the filing status box.
- 2.

J--Do not assess Failure to Deposit Penalty (Forms 720, 940, 941, 943, 945, 1042)

M--Do not assess Failure to Pay Penalty

P--Do not assess Estimated Tax Payment Penalty

R--Do not assess Delinquency Penalty

#### **4.4.9.5.10.2 (02-08-1999)**

### **TC 971**

1. If a dummy TC 150 has posted annotate the Form 3198 to request a TC 971, Action Code 13 be input. See IRM 104.3.9.11.

#### **4.4.9.5.11 (02-08-1999)**

### **Document 6469 -- BMF Returns**

1. Attach Document 6469 to the front of EACH BMF return being submitted. Check box for "DELINQUENT RETURN" . It is essential that a separate Document 6469 be prepared for each tax period. If there are multiple tax periods for the same taxpayer indicate on the first Document 6469, "BLOCK TOGETHER -- Related tax periods/do not separate" . See IRM 4.4.14.2.

#### **4.4.9.5.11.1 (02-08-1999)**

##### **Document 6469 -- IMF Returns**

1. Document 6469 is only needed for IMF returns if the return is being processed as a partial assessment pending a further examination and credits/payments on the module are to be frozen. See Text 4.4.14.2 for more information.

#### **4.4.9.5.12 (02-08-1999)**

##### **Payment**

1. If payment is secured, prepare Form 3244-A following normal procedures. Indicate payment as advanced payment of deficiency, TC 640. Attach a copy of the 3244-A to the delinquent return. See IRM 4.4.9.14 for more information.

#### **4.4.9.5.13 (02-08-1999)**

##### **Transcript**

1. Attach to the delinquent return copy, a recent (not more than 60 days old) transcript which reflects the taxpayer's failure to file. (Attaching a current transcript is mandatory.) Attach a copy of the same transcript to the original return.

#### **4.4.9.5.14 (02-08-1999)**

##### **Return Package**

1. Forward the return package (the copy of the return, Form 3198, copy of 3244-A, and Document 6469, if applicable) to Case Processing Support no later than the day after the return is received.

#### **4.4.9.6 (02-08-1999)**

##### **Substitutes for Return**

1. When preparing SFRs, the procedures listed below must be followed:
  1. Prepare a "dummy/SFR" for each tax period.
  2. Use the current or appropriate year's tax form depending on local service center preference. If using current form, cross out the tax period and write the SFR tax period in red using "YYYYMM" format.
  3. Using the nonfiler's name from Master File, enter a bracket in front of the last name in red.
  4. Use the nonfiler's correct SSN/EIN If the nonfiler does not have a SSN/EIN, see Text 4.4.9.12, No TIN.
  5. For IMF returns, use either "single" or "married filing separate" filing status for each "Dummy/SFR" . For "married filing separate" , show the spouse's name and SSN (if available) . DO NOT use joint filing status.
  6. Use the current date as the received date in "MMDDYYYY" format.
  7. Code the entity with a "P" code (partial entity) in red above the first name area.

8. Do not enter an address on "dummy SFR" . Use Form 2363 to update an address to Master File.
9. Allow exemptions for 65 or over, if applicable.
10. Enter Return Processing Codes "L" (dummy return) and "K" (delinquent return statute cleared) to the right of Line 23 on Form 1040 in red.
11. Write "EXAM/SFR" across the top margin of the return in red.
12. Make a copy of the SFR. Retain the copy and close it with the Examination administrative file when the examination is completed.
13. Attach Form 3198 to each return being submitted.
14. Attach Document 6469 to the front of EACH BMF return being submitted. Check box for "Substitute for Return" . If you have multiple tax periods for the same taxpayer you may indicate on the first Form 6949, "BLOCK TOGETHER --Related tax periods/do not separate" and forward as a package. Document 6469 is not required for IMF SFRs.
15. Attach to the original SFR a recent (not more than 60 days old) transcript which was used in the determination of the taxpayer's failure to file. (Attaching current transcript is mandatory.) Also attach a copy of the transcript to the copy of the SFR.
16. Forward the return package (original SFR, Form 3198, transcript and Document 6469, if applicable) to Case Processing Support.

#### **4.4.9.7 (02-08-1999)**

#### **Processing Delinquent/SFR Packages**

1. Upon receipt Case Processing Support will review and perfect delinquent and SFR packages. Verify that procedures in IRM 4.4.9.5, for delinquent returns and IRM 4.4.9.6 for SFRs were followed. Return to originator if packages are not prepared correctly.

#### **4.4.9.7.1 (02-08-1999)**

#### **Transcript**

1. Review the transcript attached to the delinquent/SFR. Verify the transcript matches the return. If the name and SSN on the delinquent/SFR does not match the transcript then reject the package back to the initiator. If the return is annotated "Taxpayer unwilling to obtain SSN/EIN" , see IRM 4.4.9.6, No TIN.

#### **4.4.9.7.1.1 (02-08-1999)**

#### **TC 150**

1. Verify that there is no previous TC 150 posting on the transcript. If there is a TC 150 on the module, send the package back to the initiator explaining that a return has already posted for the taxpayer.

#### **EXCEPTION:**

If the TC 150 is for a dummy/SFR and the package contains a delinquent return see IRM 4.4.9.11.10, Processing of a Delinquent Return if a SFR Has Posted.

#### **4.4.9.7.1.2 (02-08-1999)**

#### **No Account on MF**

1. If there is no account present on Master File prepare Form 2363 (TC 000) to add the account to Master File.

**4.4.9.7.1.3 (02-08-1999)****MF Name Line**

1. If the delinquent/SFR period is PRIOR TO the first time Master File reflects a name line (return filing) for the taxpayer prepare Form 2363 (TC 013) to replace or establish name line for tax year indicated by new name line.

**4.4.9.7.2 (02-08-1999)****Payments/Credits**

1. If payments/credits were transferred from the taxpayer's account to the Excess Collections File and the Refund Statute Expiration Date has not expired, complete Form 8765 and forward it to Service Center Accounting to have the credits transferred back. Attach a transcript of the account showing the payment/credit.

**4.4.9.7.3 (02-08-1999)****Sending to Service Center**

1. Forward the return package to your service centers Receipt and Control Branch on Form 3210.

**4.4.9.7.3.1 (02-08-1999)****Exceptions**

1. Send all excise tax return packages to the Cincinnati Service Center for processing.
  - A. Send 20-day Ultimate Vendor Claims to:  
Internal Revenue Service  
PO Box 312  
Covington, KY 41012-0313
  - B. Send all other original returns, amended returns and claims to:  
Internal Revenue Service  
Cincinnati, OH 4999-0002
  - C. Payments and returns of Forms 2290 must be sent daily by overnight express to Cincinnati Service Center.
2. If a delinquent return requires quick assessment processing, DO NOT send the package to the service center.

**4.4.9.8 (02-08-1999)****Group Closing Actions**

1. When the examination is completed and the delinquent return/SFR administrative file is closed from the group, the following items must be present:
  - A. The original delinquent return or copy of the SFR.
  - B. Form 5344 with special attention to the completion of Items 37 and 414 for secured delinquent returns sent to the service center to be processed. The statute of limitations begins with the received date of a secured delinquent return. Enter the correct statute date in Item 14 of Form 5344.  
**NOTE:**  
Write in the top margin of the Form 5344, Original Return--SFR (on SFR cases) or Copy Processed as Original (on secured delinquent returns.)
  - C. An Examination Report, Form 4549, Form 1902B, or Form 4666. (A

report is not required if a delinquent return is accepted as filed.) See e below.

**NOTE:**

The delinquency penalty, if assessed on the original return, must be adjusted and included in the examination report. If the estimated tax penalty is applicable, it is also asserted by the examiner on the examination report.

- D. Form 895, if required. (Make note of TC 150 date per transcript, on all SFR.)
- E. Form 3198 instructions. If a delinquent return is secured after the SFR (dummy 150) has posted, notate on Form 3198 that the return is incorporated into the examination report.
- F. A current transcript (not more than 60 days old) is mandatory.
- G. An AMDISA print must be attached to Form 5344 if a Form 5546 and labels are not available.

**4.4.9.9 (02-08-1999)**

**AIMS Skeletal Record**

- 1. If the examination is completed but AIMS still shows a skeletal record, suspense the case (awaiting the posting of the TC 150) in the group, Case Processing Support, or other specified location depending on local option. See IRM 4.4.9.13, Monitoring the Delinquent/SFR Suspense File.

**4.4.9.9.1 (02-08-1999)**

**No Data on AIMS**

- 1. For cases with no data on AIMS, return the case to the group for preparation or re-input of Form 5345.

**4.4.9.9.2 (02-08-1999)**

**Full AIMS Record**

- 1. If the data base is a full record, close as in IRM 4.4.9.10 below.

**4.4.9.10 (02-08-1999)**

**Final Processing of Delinquent/SFR Cases**

- 1. Following are the processing instructions for processing delinquent/SFR cases.

**4.4.9.10.1 (02-08-1999)**

**Form 5344**

- 1. If a secured delinquent return is being closed accepted as filed, use DC 01. Complete Item 37 and 414 on all secured delinquent returns regardless of disposal code.

**4.4.9.10.2 (02-08-1999)**

**Blocking Series**

1. Use an original return blocking series. An original return blocking series is used to prevent generating a CP notice telling the Files area to pull the original return and associate it with the copy. Since the original return is only a dummy return (for SFR cases) or a copy of a secured delinquent return, it is not necessary for Files to pull the "original." Write in the top margin of the Form 5344, Original Return--SFR (for SFR cases) or Copy Processed as Original (for secured delinquent return cases) to alert the Files area that there will be an SFR copy or an original return without a DLN in the case file.

#### **4.4.9.10.3 (02-08-1999)**

##### **Refund Barred**

1. If an SFR posted, the Refund Statute Expiration Date has expired, the TC 30X will result in a refund, and the credit is going to be move to the Excess Collection File, then take the following steps:
  1. Enter Hold Code 4.
  2. Input an IDRS history item showing excess credits are being moved.

#### **4.4.9.10.4 (02-08-1999)**

##### **Refund Allowed**

1. If the date the TC 30X posts to Master File, is greater than 3 years from the SFR TC 150 date, the refund will be automatically frozen and a D Freeze generated. To release the refund, enter a TC 290 for \$0.00 with a Priority Code of 4. Cycle the TC 290 so it posts after the TC 30X.

#### **4.4.9.11 (02-08-1999)**

##### **Processing of a Delinquent Return if a SFR Has Posted**

1. When Case Processing Support receives a request to either process the return as a partial assessment or as a final closure, Case Processing Support must process the delinquent return and penalties using current assessment procedures and the following guidelines.

#### **4.4.9.11.1 (02-08-1999)**

##### **Form 3177**

1. Use Form 3177 to request the input with CC REQ 77 of a TC 971 Action Code 13. Inputting the TC 971 does the following:
  - A. It shows on Master File that the return has been secured and is in Examination.
  - B. It causes Master File to use the IRS received date to compute the ASSED.
  - C. It sets the duplicate return freeze at Master File if it is NOT input the same cycle as the final closing. Therefore, if the TC 971 is not input the same cycle as the final closing, be sure to input the appropriate priority code (1 or 3) in order to bypass this duplicate return freeze.
  - D. It produces an AIMS weekly update if not input the same cycle as the final closing.

#### **4.4.9.11.1.1 (02-08-1999)**

##### **Alternate Procedure (IMF Only)**



1. In addition to the procedures in Text 4.4.9.5, code the return with Computer Condition Code (CCC) 4. CCC 4 will allow both the return information to be sent to the Return Transaction File and a TC 976 to Master File (-A freeze & CP36 will not be generated).

**NOTE:**

Do not do both of the procedures.

**4.4.9.11.2 (02-08-1999)****Form 5344**

1. Complete Form 5344 in the normal manner with special attention given to the following items:
  1. Do not make an entry in Item 06, "Interest to Date" or "Item 08, Agreement Date" .
  2. Enter Disposal Code 08 in Item 13.

**4.4.9.11.2.1 (02-08-1999)****Return Line Item Entries**

1. The following line items must be taken from the return and entered on the Form 5344 using the appropriate reference/transaction codes.
  - A. Adjusted Gross Income
  - B. Taxable Income
  - C. Self Employment Income (including TIP Income, Medicare, etc.).
  - D. Withholding Credit (estimated tax payments must not be included since payments are already posted to Master File.)
  - E. Excess FICA
  - F. Tax Liability
  - G. Self Employment Tax
  - H. Earned Income Credit
  - I. Exemptions
  - J. All other applicable items

**4.4.9.11.2.2 (02-08-1999)****Penalty Amounts**

1. Case Processing Support must enter the appropriate penalty amount based on information provided by the examiner on Form 3198.
  - A. The Estimated Tax Penalty (TC 170) will be computed by the RA/TA.
  - B. The Failure to File Penalty (TC 160) will be computed by the RA/TA.
  - C. The Failure to Pay Penalty (TC 270) must be recomputed by ESP using CC COMPAF on IDRS. The " from date" will be provided by the RA/TA which will be the due date of the return. The "to date" will be the earlier of the 23C date of the assessment or the full payment date. The computation of failure to pay penalty must also consider payments made to the account after the due date. Use these dates when inputting COMPAF. See IRM 20.1.2, Failure to Pay Penalties.

**4.4.9.12 (02-08-1999)****No TIN**

1. Group -- For returns where the taxpayer does not have a TIN, request that the taxpayer submit Form SS-4 for EIN to the Internal Revenue Service, or Form SS-5 for SSN to the Social Security Administration. Also request the taxpayer to furnish the IRS with the SSN assigned by SSA as soon as possible. Do not delay the processing of the delinquent/SFR package.
  1. Prepare the package in the normal manner.
  2. Annotate Form 3198 Taxpayer Does Not Have a TIN.
  3. Submit return package and Form 5345 to Case Processing Support.

#### **4.4.9.12.1 (02-08-1999)**

##### **Temporary SSN**

1. Case Processing Support -- Fax the following information to the service center Entity Control section to obtain an IRS identification number (IRSN):
  - A. Taxpayer's current name as well as any previous name(s) used by taxpayer
  - B. Taxpayer's current address
  - C. Filing status
  - D. Form number; i.e., 1040, etc.
  - E. Tax period
  - F. Area office and phone number
  - G. Reason for the request (Requesting IRSN for the purpose of a temporary SSN.)
2. Entity Control will provide the temporary SSN within 2 workdays of the receipt of the fax and is responsible for adding the account to Master File. The temporary SSN always begins with a "9" and ends with an asterisk.
3. Case Processing Support--enter the temporary SSN on the return and forward it the service center for processing. Enter the temporary SSN on the Form 5345, input it on AIMS, and forward it to the group.

#### **4.4.9.12.2 (02-08-1999)**

##### **Permanent EIN**

1. If the taxpayer will not request their own EIN, then Case Processing Support will contact the service center Entity Control section to obtain the assignment of a permanent EIN.

#### **4.4.9.13 (02-08-1999)**

##### **Monitoring the Delinquent/SFR Suspense File**

1. Secure a transcript to verify the status of TC 150.

##### **IF the TC 150 has**

##### **THEN**

posted, and a full account is not present	take the necessary action AIMS to establish on AIMS (may by "hanging" 424). Once established Once established, close the case in the normal manner.
not posted	attach a history sheet to the front of the case file to record each follow-up action.

If 12 cycles or more have elapsed since the input of TC 424, contact Service Center Examination Branch processing function for the status.

- At a minimum, pull each case in the Suspense File once a month for follow-up action.

**4.4.9.14 (02-08-1999)****Delinquent/Substitute Returns With Payments**

1. In most circumstances, the examining officer will process any payments received with the delinquent return. When processing the delinquent or SFR return, credits on the module should be handled as follows:

**4.4.9.14.1 (02-08-1999)****BMF Returns**

1. Attach Document 6469 to the return stating "Freeze Prepayment Credits -- Use Computer Condition Code "X" .

**4.4.9.14.2 (02-08-1999)****IMF Returns**

1. If the return is a secured delinquent return and a TC 424 is posted at Master File, a TC 570 will not freeze the prepayment credits pending the outcome of an examination. If multiple returns were secured, process the balance due years first and cycle in the refund years to ensure the refunds are applied to the balance due years.
2. If the return is a SFR-Dummy TC 150, the blocking series will automatically generate a TC 570 which will hold the credits on the module. No special handling is required.

**4.4.9.14.3 (02-08-1999)****No TIN**

1. If the taxpayer does not have a valid SSN/EIN, Case Processing Support will obtain a temporary SSN or a valid EIN in accordance with procedures outlined in IRM 4.4.9.12. Case Processing Support will process the payment to Collection with the temporary SSN or valid EIN as follows:
  1. Prepare Form 3244-A, Payment Posting Voucher, and forward the original and the payment to Collection for processing.
  2. Attach a copy of Form 3244-A to the original delinquent return.
  3. Forward a copy of Form 3244-A to the examining officer for association with the return being maintained for the examination.

**4.4.9.15 (02-08-1999)****Delinquent Returns with Expired Refund Statute Expiration Dates**

1. This procedure relates to the processing of a delinquent return that is NOT an original delinquent that is being sent to the service center for posting of TC 150.
2. When processing any delinquent return where the examining officer has determined that a refund is due the taxpayer, ensure that the Refund Statute Expiration Date (RSED) has not expired. When the RSED has expired, the refund cannot be issued to the taxpayer. Process the Form 5344 using a Hold Code 4 to freeze the expired refund. Determine whether the taxpayer owes a balance due on the tax period being processed. The refund may be used to pay off any balance due on the module being processed, but it CANNOT be used to offset any outstanding balance due on any other tax periods. The refund is to be sent to the Excess Collections File via Form 8758, Excess Collections File Addition.
3. Per Form 3198, issue the appropriate claims disallowance letter to the taxpayer

---

**Internal Revenue Manual Part 4 Examining Process Chap. 4 AIMS/  
Processing Handbook Sec. 9 Delinquent and  
Substitute for Return Processing (02-08-1999)**

---

[IRS Privacy and Security Policy](#) | [Contact Us](#) | ©2001 IRS.gov

**IRS Resources**

- [Compliance & Enforcement](#)
- [Contact My Local Office](#)
- [e-file](#)
- [Forms and Publications](#)
- [Frequently Asked Questions](#)
- [News](#)
- [Taxpayer Advocacy](#)
- [Where To File](#)

**Part 4. Examining Process****Chapter 4. AIMS Processing****Section 9. Delinquent and Substitute for Return Processing****4.4.9 Delinquent and Substitute for Return Processing**

- 4.4.9.1 [Introduction](#)
- 4.4.9.2 [Research](#)
- 4.4.9.3 [Payments](#)
- 4.4.9.4 [Establishing AIMS/ERCS Controls](#)
- 4.4.9.5 [Delinquent Return Secured - No TC 150 Posted](#)

**4.4.9.1 (02-01-2006)  
Introduction**

1. This section contains procedures for processing and closing delinquent returns secured by examination and substitute for returns (SFR).

**4.4.9.2 (02-01-2006)  
Research**

1. Before forwarding a secured delinquent return for the posting of the TC 150, or requesting an SFR, the examiner must request research. Use Form 6882, IDRS/Master File Information Request, or perform online research using Command Code IMFOL/BMFOL/INOLE.

**4.4.9.2.1 (02-01-2006)  
Spousal Research**

1. For IMF accounts, both the primary and secondary SSN's must be researched for prior filing and/or pending activity.

**4.4.9.2.1.1 (02-01-2006)  
Closing Controls if TP has Filed as the Spouse on a Joint Return**

1. If you discover that your non-filer taxpayer filed as the spouse on a joint return, the disposition depends on the type of controls you have on the account.
  - If you have controls for the primary SSN on the filed return, or will establish controls, transfer the time applied on ERCS on your non-filer case to the primary SSN's case. Complete Form 10904, Request for Record Deletion from AIMS(disposal code 38) and forward the form to your AIMS/ERCS Analyst following local procedures.
  - If you do not have controls for the primary SSN on the filed return, nor plan on establishing controls, complete Form 10904, Request for Record Deletion from AIMS(disposal code 38) and forward the form along with the workpapers to your AIMS/ERCS following local procedures. Do not modify the time on the case.

#### **4.4.9.2.2 (02-08-1999) Transcripts/IDRS**

1. Review transcript/IDRS to see if any of the following are present.

##### **4.4.9.2.2.1 (02-01-2006) CI Freeze**

1. If a CI freeze ("-Z" ) is present on the account, coordinate with CI to determine if Examination can work the case. If CI approves, use Push Code 049 on the requisition. This will cause the TC 424 to bypass the CI unpostable. A TC 150 does not have to be on the module to use Push Code 049. If there is no TC 150, the account will remain a skeletal record for 26 months and then age off of AIMS. Push Code 036 will unpost if there is a CI freeze at Master File. You cannot request an SFR if the account has a CI freeze.

##### **4.4.9.2.2.2 (02-01-2006) TC 150 Present on MF**

1. Do not send a delinquent return to the campus or request an SFR if a TC 150 has posted.

##### **4.4.9.2.2.2.1 (02-08-1999) Dummy Present on MF**

1. A TC 150 posting with no tax liability followed by a TC 240 posting for \$500 (W-4 penalty) indicates that the campus has posted a dummy return. Any adjustments must be made as subsequent adjustments (i.e. TC 300).

##### **4.4.9.2.2.3 (02-08-1999) TC 595**

1. If research shows that the taxpayer is in TDI status (Master File status 02) input a TC 595 with Closing Code 57 to close the Collection control. Extreme care should be taken when using this transaction code since it will prevent the issuance of TDI notices to the taxpayer.

##### **4.4.9.2.2.3.1 (02-01-2006) Automatic TC 595**

1. For all tax years in TDI status 03, inputting a TC 424 with a push code of 020, 021, 036 or 037 will automatically generate a TC 595.

##### **4.4.9.2.2.3.2 (02-08-1999) Reversing TC 595**

1. The TC 595 must be reversed by Examination if a determination is made to not pursue the examination. The posting of a TC 150 (not an SFR) also satisfies the TC 595 and a reversal is not necessary.

##### **4.4.9.2.2.4 (02-01-2006) Credits on the Module**

1. SFR's - For both BMF and IMF, the computer generated SFR will automatically freeze the prepayment credits.
  - BMF - the posting of the SFR TC 150 will generate a TC 570 if there are credits on the module when the SFR posts.
  - IMF - the posting of the SFR TC 150 will generate a TC 570 if there are credits on the module or credits post to the module after the SFR posts.
2. Secured Returns (No TC 150 Posted) - If payments are posted to the module and you want to prevent the credits from refunding when the TC 150 posts, enter the following

codes on the Form 13133, Expedite Processing Cycle.

- BMF - Enter an "X" in the box to the left of the CCC "X" . See IRM 2.24.1.
- IMF - Enter an "X" in the box to the left of the CCC "3" . See IRM 2.24.1.

#### **4.4.9.3 (02-01-2006)**

##### **Payments**

1. If payment is secured, prepare Form 3244-A, Payment Posting Voucher- Examination following procedures found in IRM 4.4.24, Payments and Remittances.

#### **4.4.9.4 (02-01-2006)**

##### **Establishing AIMS/ERCS Controls**

1. Before AIMS/ERCS Controls can be established, research must be conducted. Instructions vary depending on type of return.
  - If you secure a delinquent return and there is no TC 150 posted, See *IRM 4.4.9.5*.
  - If your case file contains an SFR, See *IRM 4.4.9.6.3*.
  - If you need to generate an SFR, See *IRM 4.4.9.6.2*.
  - If you secure a delinquent return and want to accept it as filed and there is a TC 150 posted, See *IRM 4.4.9.7.3*.
  - If you secure a delinquent return with audit potential and there is a TC 150 posted, See *IRM 4.4.9.7.4*.
2. Most non-filer accounts are created at the campus. For non-filer cases that are created in the field, establish the non-filer account on AIMS/ERCS as soon as it is known that an examination will take place or when examination time is first applied. For secured delinquent returns, establish AIMS/ERCS control as soon as a return is secured or time is first applied whichever is earlier.

#### **4.4.9.4.1 (02-01-2006)**

##### **Form 5345, Examination Request**

1. Form 5345-Bis the Examination Request for Non-ERCS (Examination Return Control System) Users
2. Form 5345-Dis the Examination Request for ERCS Users

#### **4.4.9.4.1.1 (02-01-2006)**

##### **Form 5345-B, Examination Request Non-ERCS Users**

1. When completing Form 5345-B, Examination Request Non-ERCS Users, to establish a non-filer directly onto IDRS, include the following entries:
  - A. Return Requested, do not leave blank which denotes return requested, since there is no return to request. Enter a "1" , which denote Form 5546, Examination Return Charge-Out& labels requested, or a "3" , which denotes, No Form 5546, Examination Return Charge-Out, No Labels, No Return requested.
  - B. Push Code, enter 020, 021, 036 or 037. A push code must be used when establishing AIMS controls if there is no TC 150 posted at Master File. The Push Code holds the TC 424 at Master File until a TC 150 posts. Use 020 for delinquent returns. Use 021 if no return is secured and an SFR is not desired at the present time. Use 036 to cause a computer generated SFR to post to Master File. If input before close of business Thursday, the TC 150 will post on Saturday (if the TC

424 does not unpost).  
Use 037 for potential CID Referral/Non-filer.

C. Source Code

Use 024 for non-filers not related to any other return. This source code should rarely be used.

Use 025 for the primary return of the non-filers built in Memphis.

Use a related non-filer source code for returns related to returns already open.

D. Reason for Request must be entered and consistent with the Push Code used:

If Push Code 020 - write: "DELINQUENT RETURN SECURED BY EXAMINATION " .

If Push Code 021 - write: "NONFILER" .

If Push Code 036 - write: "EXAM/SFR" .

If Push Code 037 – write: "POTENTIAL CI / NONFILER" .

#### 4.4.9.4.1.2 (02-01-2006)

#### Form 5345-D, Examination Request ERCS (Examination Return Control System) Users

1. When completing Form 5345-D, Examination Request ERCS Users to establish a non-filer via ERCS, include the following entries:

A. Do you want the original return? --- Answer "N" for no, since there is no return to request.

B. Do you want Labels? --- "Y" for yes and " N" for no.

C. Push Code, enter 020, 021, 036 or 037. Provide the appropriate push code for each tax period listed. A push code must be used when establishing AIMS controls if there is no TC 150 posted at Master File. The Push Code holds the TC 424 at Master File until a TC 150 posts.

Use 020 for delinquent returns.

Use 021 if no return is secured and an SFR is not desired at the present time.

Use 036 to cause a computer generated SFR to post to Master File. If input before close of business Thursday, the TC 150 will post on Saturday (if the TC 424 does not unpost).

Use 037 for potential CID Referral/Non-filer.

D. Source Code:

Use 24 for non-filers not related to any other return. This source code should rarely be used.

Use 25 for the primary return of the non-filers built in Memphis.

Use a related non-filer source code for returns related to returns already open.

E. Reason for Request must be entered and consistent with the Push Code used:

If Push Code 020 - write: "DELINQUENT RETURN SECURED BY EXAMINATION " .

If Push Code 021 - write: "NONFILER" .

If Push Code 036 - write: "EXAM/SFR" .

If Push Code 037 – write: "POTENTIAL CI / NONFILER" .

#### 4.4.9.4.2 (02-01-2006)

#### AIMS Control When TP does not have a TIN

1. For returns where the taxpayer does not have a TIN, the group should request that the taxpayer submit Form SS-4, Application for Employer I.D. Number, for EIN to the Internal Revenue Service, or Form SS-5, Application for a Social Security Number Card (Original, Replacement or Correction), for SSN to the Social Security Administration. Also request the taxpayer furnish the IRS with the SSN assigned by SSA as soon as possible.

2. In the interim, the group should request a dummy TIN (via Command Code AMTIN7) from the local AIMS/ERCS unit. Establish NMF AIMS control using Form 5354, Examination Request Non-Master File. See *IRM 4.4.9.4.2*. for additional information.



The NMF control is to provide AIMS/ERCS controls until a TIN is secured. After the TIN is secured, close the NMF control with a DC 28.

3. If the taxpayer will not request their own EIN, contact the campus Entity Control section to obtain the assignment of a permanent EIN.
4. A computer generated SFR cannot be done on a temporary or invalid TIN.
5. The case cannot be forwarded to CCP for closing unless a TIN has been secured.

#### **4.4.9.5 (02-01-2006)**

##### **Delinquent Return Secured - No TC 150 Posted**

1. Upon receipt of a delinquent return, ensure that the following items are completed:

#### **4.4.9.5.1 (02-08-1999)**

##### **Name**

1. The taxpayer's name must be typed or printed legibly, with no strikeouts. The name used with a recently acquired EIN should duplicate the taxpayers' Form SS-4, Application for Employer I.D. Number.

#### **4.4.9.5.1.1 (02-01-2006)**

##### **Incorrect Name**

1. If the name is not correct, prepare or secure a corrected return and solicit the taxpayer's signature on the corrected delinquent return. Mark an "X" across the face of the incorrect return. Write the word "Invalidated" , sign and date below the notations. Keep the invalidated return in the case file.

#### **4.4.9.5.2 (02-01-2006)**

##### **Address**

1. Verify with the taxpayer that the address shown on the return is the taxpayer's current address. If it is not, cross out the address on the return and enter the taxpayer's current address. Compare the address on the return with the address on ENMOD or INOLES. The posting of the return will update the address at Master File but it will delay the posting of the TC 150 by one cycle. If the address is different and you do not want a one cycle delay, prepare a Form 2363 reflecting the address change and fax it to Centralized Case Processing (CCP). Fax numbers for CCP can be found in the Contact Listing posted to the AIMS website: <http://sbse.web.irs.gov/AIMS>.

#### **4.4.9.5.3 (02-08-1999)**

##### **SSN/EIN**

1. Verify the TIN shown on the return is correct by researching Master File. If the taxpayer does not have a TIN, See *IRM 4.4.9.4.2.*

#### **4.4.9.5.4 (02-08-1999)**

##### **Forms/Schedules**

1. Verify that all W-2's, required forms and schedules are present and the computations are correct.

#### **4.4.9.5.5 (02-08-1999)**

##### **Signature**

1. Verify the presence of the taxpayer's original signature and the date the return was signed.

#### **4.4.9.5.6 (02-01-2006)**

##### **Prior Year Return**

1. To call attention to a prior year return, enter the tax period in YYYYMM format in bold

numbers above the tax period printed on the form. If the appropriate tax year form was not used, Submissions Processing will accept a current year form.

#### **4.4.9.5.7 (02-08-1999) Date Received**

1. Date stamp the delinquent return when it is received. If a date stamp is not available, annotate on the return in the upper left side margin, "Received" , the date received, and the examiner's name and title.

#### **4.4.9.5.8 (02-01-2006) Research Master File/Establishing Case on ERCS/AIMS**

1. BMF - Check ENMOD or INOLES.
  - Does the entity already exist? If it does **not**, complete a Form 2363 and fax to CCP. To create an account, enter an "X" in box to the right of the Trans Code 000 and enter the earliest tax year that you are working. If input successfully, the account will establish the Monday after the 2nd weekend from the input date. Do not send the return to Submissions Processing until the account is created.
  - ERCS controls can be requested even though an account does not exist.
  - AIMS controls cannot be requested until the account is created.
2. IMF - Check ENMOD or INOLES.
  - An account does not have to exist for an IMF return to post. The posting of an IMF TC 150 will create the module.
  - ERCS controls can be requested even though an account does not exist.
  - AIMS controls cannot be requested until the account is created either by the posting of the return, or submission of Form 2363. To create an account, enter an "X" in box to the right of the Trans Code 000 and enter the earliest tax year that you are working. Fax the form to CCP. If input successfully, the account will establish the Monday after the 2nd weekend from the input date. If you are creating an account, do not send the return to Submissions Processing until the account is created.

#### **4.4.9.5.8.1 (02-01-2006) Filing Requirement**

1. BMF: Displayed as "Filing Requirements" on ENMOD and INOLES.
  - For income tax returns, check to see if there is a filing requirement for an income tax return. If there is a filing requirement, ensure that it is consistent with the secured return. Example: If the filing requirement is for a Form 1065 or Form 1120S and you secure a Form 1120, a Form 2363 must be completed (check Item 016, Change misc. codes), enter the appropriate filing requirement code and fax to CCP. See Document 6209 for a list of filing requirement codes.
  - If no filing requirement is present, it is not necessary to create one unless you are attempting to post a Form Form 1120S . Entity must show that an 1120S election was filed or the TC 150 will unpost UPC 310 RC 4. For all other returns, the posting of the return will create the filing requirement.
  - For non-income tax returns, a filing requirement is not necessary. The posting of the return will create a filing requirement.
2. IMF: Displayed as MAIL-FR>XX on ENMOD; Displayed as MFR XX on INOLES.
  - A filing requirement is not necessary. The posting of the return will create a

filing requirement.

#### **4.4.9.5.9 (02-01-2006) Photocopy the Return**

1. Make a copy of the delinquent return to maintain in the case file. On the copy, write in red on the top margin COPY OF RETURN . The original return will be filed under the TC 150 DLN. The examination should be conducted using "Copy of Return Procedures" which will cause the original return to be pulled and associated with the copy under the TC 421 DLN after the case is closed.

#### **4.4.9.5.10 (02-01-2006) Original Return**

1. Write in red on top margin of the original return, "DELINQUENT RETURN SECURED BY EXAMINATION." The original return WILL NOT be returned to the group but will be filed under the TC 150 DLN. When case is closed with a Copy of Return blocking series, Files will pull the original return, associate it with the Exam case file which will be filed under the TC 421 DLN.

#### **4.4.9.5.11 (02-01-2006) Form 13133, Expedite Processing Cycle**

1. Attach a completed Form 13133, Expedite Processing Cycle to the front of EACH return paying special attention to the following:
  - Check box for "DELINQUENT RETURN" . It is essential that a separate Form 13133, Expedite Processing Cycle be prepared for each tax period. If there are multiple tax periods for the same taxpayer indicate on the first Form 13133, Expedite Processing Cycle, "BLOCK TOGETHER—Related tax periods/do not separate "
  - Contact name - This can be the Examining Officers' Information or the group secretary.

#### **4.4.9.5.11.1 (02-01-2006) Penalties**

1. If you want penalties assessed, make NO notations in the penalty area of the Form 13133, Expedite Processing Cycle. Failure to Pay, Failure to Deposit, Failure to File, and Estimated Tax Penalty, are all automatically computer generated and assessed if applicable.

**Note:**

Certain penalties such as the Fraudulent Failure to File (FFTF) penalty, cannot be assessed during the initial processing of the return. This penalty must be put on an RAR, a Form 5344, Examination Closing Record prepared, and assessed as a partial or during the final closing of the examination. If you enter an "R" on the Form 13133, Expedite Processing Cycle, you will not have to abate the previously assessed Failure to File (FTF) before assessing the FFTF.

2. If you DO NOT WANT penalties assessed during the initial processing of the TC 150, notate this on the Form 13133, Expedite Processing Cycle by putting an "X" in the box to the left of the applicable Computer Condition Codes/Return Processing Code..

<b>CCC</b>	<b>Definition</b>
	BMF
D	Do Not assess Failure to Pay Penalty
J	Do NOT assess Failure to Deposit Penalty (Forms 720, 940, 941, 943, 945, and 1042).
R	Do NOT assess Failure to File Penalty

8	Do NOT assess Estimated Tax Penalty
IMF	
M	Do NOT assess Failure to Pay Penalty
P	Do NOT assess Estimated Tax Penalty
R	Do NOT assess Failure to File Penalty

#### 4.4.9.5.12 (02-01-2006) Statute Issues

1. Secured delinquent returns may have RSED and ASED issues.

#### 4.4.9.5.12.1 (02-01-2006) Refund Statute of Expiration Date (RSED)

1. If the IRS received date is later than the RSED (Refund Statute Expiration Date) but the post mark is on or prior to the RSED, DO NOT enter a Computer Condition Code (CCC) as stated below. By NOT entering a CCC, the campus will forward the delinquent return to the Statute Unit. The Statute Unit will code the return to allow a refund to be released if it is a refund return. The refund will not be released if this process is not followed.

#### 4.4.9.5.12.2 (02-01-2006) Assessment Statute of Expiration Date (ASED)

1. If the normal ASED has expired or is within 3 months of expiration, a code must be entered on the Form 13133, Expedite Processing Cycle which will cause the return to bypass the statute unit. Examination has verified the ASED therefore it is not necessary to have the return go to the statute unit. On the Form 13133, Expedite Processing Cycle place an "X" in the box to the right of the:
  - A. "K" for IMF
  - B. "W" for BMF

#### 4.4.9.5.13 (02-01-2006) Sending the Returns to Submissions Processing

1. After all the steps above are completed, the delinquent return, Form 13133, Expedite Processing Cycle and Form 3210 must be mailed to Submissions Processing at the appropriate campus using the table below.

##### IMF returns:

With International Aspects, send to:	IRS PO Box 245 Philadelphia, PA 19020
All other IMF send to:	IRS: Stop 515 310 Lowell Street Andover, MA 05501

##### If group securing BMF return is in LMSB, send to:

IRS - Stop 6054  
1973 North Rulon White Blvd.  
Ogden, UT 84404

##### If group securing BMF return is Not in LMSB, send to:

With International Aspects send to:	PO Box 245 Philadelphia, PA 19020
All other BMF, send to:	IRS - Stop 31 201 W. Rivercenter Blvd. Covington, KY 41011

#### 4.4.9.5.13.1 (02-01-2006) Monitoring for the Posting of the TC 150

1. The group will monitor for the posting of the TC 150. The ERCS Overage Requisitions Report may be helpful in monitoring for the posting.
2. When the TC 150 posts, AIMS and ERCS will become full records.
3. If AIMS and ERCS do not become full records within 6 weeks, the following steps should be followed to determine the cause of the delay.

##### Review CC TXMOD

---

a. If pending (PN) TC 150, wait 1-2 weeks for TC 150 to post.

---

b. If rejected (RJ) TC 150, the return may not post for some time. For BMF, refer to IRM 3.12.38, Error Resolution - General Instructions, Exhibit 21 if the ERS-STC-CD is present. For IMF, refer to IRM 3.12.37, Error Resolution - General Instructions.

---

Research CC UPTIN to see if TC 150 unposted.

---

a. UPC and reason code identifies the reason why the transaction went unpostable. Refer to Document 6209, Section 8.

---

b. Status Code identifies the status of the unpostable.

A = Opened/Assigned

B = Special Closure

C = Suspense

---

c. Contact your local AIMS/ERCS analyst who will in turn contact the person working the unpostable to offer assistance in resolving the unpostable.

---

Research prior and subsequent tax periods to see if return posted to the wrong tax period. If so, contact Centralized Case Processing and request that Reprocessing procedures be initiated.

4. If after 8 weeks there is no record of a posted TC 150, pending TC 150, rejected TC 150 or unposted TC 150, resubmit the return to Submissions Processing. Notate on the copy of the return "Original return was lost, process as original" .

#### 4.4.9.5.14 (02-01-2006) Group Procedures After Delinquent Return TC 150 Has Posted

1. Follow normal examination procedures paying special attention to the following.
  - Use the amounts from the delinquent return as the starting figures on the RAR.
  - Notate in red at the top of the copy "Copy of Return" and include in case file.
  - Identify the return on RGS as a "Copy of Return" to ensure proper blocking series on the Form 5344, Examination Closing Record.

#### 4.4.9.5.14.1 (02-01-2006) No Change to Original Return

1. If no changes are warranted, close case as a no-change case and include the following entries on the Form 5344, Examination Closing Record.
  - Item 13, Disposal Code of 01
  - Item 37, Delinquent Return. This entry should reflect a " T" for the first return secured, an "R" for the subsequent returns secured. See IRM 4.4.12.4.47, Examined Closings, Surveyed Claims, and Partial Assessments.
  - Item 414, Delinquent Return Amount. This entry should reflect the refund or balance due shown on the return. See IRM 4.4.12.4.72, Examined Closings, Surveyed Claims, and Partial Assessments.

2. Prepare a "no change" RAR.

#### **4.4.9.5.14.2 (02-01-2006) Changes to Original Return**

1. If changes are warranted, follow normal closing procedures for changed cases but include the following entries on the Form 5344, Examination Closing Record.
  - Item 13, Disposal Code - use the applicable disposal code of the examination, agreed, unagreed, etc.
  - Item 37, Delinquent Return. This entry should reflect a " T" for the first return secured, an "R" for the subsequent returns secured. See IRM 4.4.12.4.47, Examined Closings, Surveyed Claims and Partial Assessments..
  - Item 414, Delinquent Return Amount. This entry should reflect the refund or balance due shown on the return. See IRM 4.4.12.4.72, Examined Closings, Surveyed Claims and Partial Assessments.

[More Internal Revenue Manual](#)

[Accessibility](#) | [FirstGov.gov](#) | [Freedom of Information Act](#) | [Important Links](#) | [IRS Privacy Policy](#) | [U.S. Treasury](#)

Search

[Home](#) > [Tax Professionals](#)

Internal Revenue Manual

Forms Finder

[Search Help](#)

Contents

- [e-file Providers](#)
- [Enrolled Agents](#)
- [Enrolled Actuaries](#)

Resources

- [e-file](#)
- [Forms and Publications](#)
- [Where to File](#)
- [Contact My Local Office](#)
- [FAQs](#)
- [Taxpayer Advocate](#)

[Tax Pro News](#)[Tax Pro Events](#)[Subscription Services](#)[IRS Resources](#)[Tax Issues](#)[More Topics . .](#)

## Handbook 4.3.20

### Frivolous Filers/Non-filers Handbook

## Chapter 1

### Frivolous Filers/Non-filers Procedures

#### Contents

- [\[4.3.20\] 1.1 Overview](#)
- [\[4.3.20\] 1.2 Examination Procedures Applicable to Family Estate Trusts](#)
- [\[4.3.20\] 1.3 Organizations Claiming to Be Churches, Related Individuals, and Tax Avoidance](#)
  - [\[4.3.20\] 1.3.1 Examination Division Guidelines for Cases Involving IRC 170\(c\) Contribution Deductions and Assignment of Income](#)
- [\[4.3.20\] 1.4 Actions Not Subject to the Church Tax Inquiry and Examination Procedures of IRC 7611](#)
  - [\[4.3.20\] 1.4.1 General](#)
  - [\[4.3.20\] 1.4.2 Third-Party Records](#)
  - [\[4.3.20\] 1.4.3 Routine Requests](#)
  - [\[4.3.20\] 1.4.4 Inquiry or Examination Concerning Tax Liability of a Person or Organization Other Than a Church](#)
  - [\[4.3.20\] 1.4.5 Criminal Investigations, Failure to File, Etc.](#)
  - [\[4.3.20\] 1.4.6 Certain Assessments of Tax](#)
  - [\[4.3.20\] 1.4.7 Church Tax Inquiries and Examinations](#)
  - [\[4.3.20\] 1.4.8 Church Tax Examination](#)
  - [\[4.3.20\] 1.4.9 Limitations on Additional Inquiries and Examinations](#)
- [\[4.3.20\] 1.5 Disclosure to Correct Misstatement of Fact](#)
- [Exhibit \[4.3.20\] 1-1 Family Estate Trust--Special Notification Letter](#)
- [Exhibit \[4.3.20\] 1-2 Regional Commissioner's Letter Approving Examination of Church Books of Account](#)
- [Exhibit \[4.3.20\] 1-3 Statement of Administrative and Constitutional Rights](#)

- [Exhibit \[4.3.20\] 1-4 Church Tax Inquiry Letter \(Letter 1745\(P\)\)](#)  
[Date last amended 10/25/1996](#)

### **[4.3.20] 1.1 (04-30-1999)**

#### **Overview**

1. This handbook provides information and instruction for frivolous filers/non-filers and organizations claiming to churches, related individuals, and tax avoidance.

### **[4.3.20] 1.2 (04-30-1999)**

#### **Examination Procedures Applicable to Family Estate Trusts**

1. The examination of a family estate trust generally will result in a no-change (with adjustments) to the Form 1041. This is because the income and allowable expenses are transferred to the grantor's Form 1040. An examination of the scheme may, however, results in an overassessment to the trust if a tax liability had been assessed on the return as filed. An overassessment may also be created on a beneficiary's return if a distribution had been made from the trust and the examination results in nonrecognition of the income splitting scheme.
2. When a family estate trust is examined, the examining officer should make every effort to solicit an agreement for the deficiency on the adjusted Form 1040. This may be accomplished by discussion with the taxpayer or his/her representative, as well as providing the taxpayer or representative copies of the appropriate cases. In appropriate instances, examiners should communicate these cases to taxpayers or representatives by preparing letters appropriate to the case.
3. If the examination results in an agreed Form 1040 (of the grantor), the examiner will make all appropriate adjustments to the related returns under normal procedures.
4. In unagreed family estate trust cases, if examination of the scheme would result in a no-change or an overassessment to the related Form 1041, 1040NR, or beneficiary's Form 1040, then Examination will close these returns to the Service Center and a special notification letter (L-1456(DO)), (Exhibit 4.3.20.1-1) will be sent to the trust and beneficiaries. This letter advises the taxpayer that the return is being closed with no-change to the reported tax liability. It informs the taxpayer of the Service's position regarding transfer of the income and expenses to the grantor's return, and advises the taxpayer to file a protective claim for refund if a potential overassessment exists on the return.
5. In unagreed cases, the examiner will attach to the front of the grantor's case file a Form 3198, Special Handling Notice, with the following instruction to Examination Support and Processing: "Enclosed is an unagreed case involving the grantor of a family estate trust. Send Special Notification Letter L-1456(DO) to the trust and beneficiaries (list attached)." The examiner will list the names and addresses of the trust and beneficiaries on a sheet of paper and attach it to the back of Form 3198.
6. In unagreed cases, attach Form 1308, Notice to Delay Allowance of Overpayment, to the trust and beneficiary returns to prevent refunds being paid to the trust or beneficiaries prior to the disposition of the grantor's case.
7. In unagreed cases, if the related trust or beneficiary return is a no change or an overassessment, it need not accompany the grantor's case to Appeals. However, the examiner should include the following information in the grantor's case file:
  - A. copy of the related 1041;
  - B. copy of the trust instrument;
  - C. computation of adjustments attributable to the trust return; and,
  - D. the notes in the examiner's workpapers identifying all of the related 1040 returns.



8. Examination of the grantor's Form 1040 should be performed in the district where the grantor resides. The former **IRM 4591** provides guidelines for the transfer of returns between districts.
9. Instructions for preparing examination reports in unagreed cases where an alternative position is involved are set out in the former **IRM 4264.3**.
10. During every field and office interview examination, the examiner will determine if return preparer identification and/or conduct violations exist. The procedures in the Penalty handbook, Return Preparers Program, will be followed. Examiners should be alert for situations where a return preparer relationship exists, but no return preparer is identified on the tax return.
11. Taxpayers are responsible for the accuracy of their returns even if they engaged a return preparer. Consideration should be given to referral for criminal prosecution under Section 7201, Attempt to Evade or Defeat Tax, and Section 7203, Willful Failure to File Return, Supply Information, or Pay Tax. In the event a criminal referral is not appropriate, consideration should be given to civil penalties when appropriate. The determination will be made on a case-by-case basis. The facts and circumstances in each case will govern the imposition of a penalty. Guidelines to be used in the application of the negligence penalty imposed by IRC 6662 are found in the former **IRM 4563.1**. Examiners should recommend the assertion of the negligence penalty in appropriate cases. Guidelines to be used in the application of the civil fraud penalty will be found in the former **IRM 4563.41 and 4563.42**.

**[4.3.20] 1.3 (04-30-1999)**

**Organizations Claiming to Be Churches, Related Individuals, and Tax Avoidance**

1. Examination's involvement with the books and records of churches will generally be limited to those situations where transactions between a church and individuals other than a church relate to the tax liability of those other individuals. In these situations, the Examination may use the usual procedures and summonses described in section 1.4.4.
2. The examination of the books and records of a church for the purposes of determining the initial or continuing qualifications of an organization under IRC 501(c)(3), whether the church engaged in an excess benefit transaction subject to tax under IRC 4958, whether an organization is one to which deductible contributions may be made, or the amount of tax, if any, imposed by the Code upon the church, are exclusively in the jurisdiction of the EP/EO Division. This usually does not include a Form 1120 filed by an organization claiming to be a church that lost its exempt status. In this situation Form 1120 would be under the jurisdiction of Examination.
3. Although a form 1120 filed by a church is under the jurisdiction of Examination, EP/EO division should be consulted if the church was recognized exempt within five years of the year for which it filed Form 1120, and the issue involves transfer of funds or property to an individual. This is because IRC 4958 contains a "five year lookback rule" under which an excess benefit transaction may be subject to the IRC 4958 taxes if the organization was exempt at any time during the five year period ending on the date of the excess benefit transaction.

**[4.3.20] 1.3.1 (04-30-1999)**

**Examination Division Guidelines for Cases Involving IRC 170(c) Contribution Deductions and Assignment of Income**

1. IRC 7611 contains strict procedures for Service contacts with churches. Generally, by enacting IRC 7611, Congress increased the restrictions on the Service concerning church tax inquiries and examinations. As explained in the Conference Report accompanying the Deficit Reduction Act of 1984, H.R. Rep. No. 98-861, 98th Cong., 2d Sess. 1101(1984), 1984-3 C.B. Vol. 2 355, two competing considerations motivated Congress. While wanting to protect churches from undue interference by the Service, Congress recognized that an increasing number of taxpayers had, in recent years, used the church form primarily as a tax avoidance device. Congress believed that the Service can pursue individuals who use the church form in this manner.
2. The guidelines provided herein are intended to aid examiners in gathering sufficient facts in each case to resolve the issues. The examiner's goal is to complete the examination whenever possible, without having to request a collateral examination by EP/EO.
3. As explained in 1.4.4 of this handbook, the restrictions of IRC 7611 do not apply when the examination or inquiry relates primarily to the tax status or liability of persons other than the church, rather to the tax status of the church itself. These inquiries or examinations may include, but are not limited to:
  - A. inquiries or examinations regarding the inurement of church funds to a particular individual or individuals or to another organization, which may result in the denial of all or part of such individual's or organization's deduction for charitable contributions to the church, unless the examination may result in the excise tax on excess benefit transactions imposed by IRC 4958.
  - B. inquiries or examinations regarding the assignment of income or services or contributions to a church, or
  - C. inquiries or examinations regarding a vow of poverty by an individual or individuals followed by a transfer of property or an assignment of income or services to the church.
4. The examiner may inquire of a church regarding these matters without being considered to have commenced a church tax inquiry and may proceed to examine church records relating to these issues (including enforcement of a summons for access to such records) without following the requirements applicable to church tax examinations, subject to the general rules regarding examinations of taxpayer books and records.
5. Congress intended that inquiries or examinations conducted outside the church audit procedures will be limited to the determination of facts and circumstances specifically relating to the tax liabilities of the individuals or other organizations in question. For example, in an inurement case, the IRS could request information or examine church records regarding amounts of money, property, or services transferred to the individual or individuals in question (including wages, loans, or non-contractual transfers), the use of church funds for personal expenses, or other similar matters, outside of the church audit procedures. In an assignment of income case, the IRS could request information or examine church records relevant to an individual's assignment of particular income, donation or property, or transfer of a business to a church.

#### **[4.3.20] 1.4 (04-30-1999)**

### **Actions Not Subject to the Church Tax Inquiry and Examination Procedures of IRC 7611**

1. IRC 7611 was enacted to expand the protection of IRC 7605(c) and Treas. Reg. 301.7605-1(c) provided the Service minimize contacts with churches to only those necessary to insure compliance with the tax laws.

**[4.3.20] 1.4.1 (04-30-1999)****General**

1. The Tax Reform Act of 1984 added IRC Section 7611, which supersedes IRC 7605(c) and sets restrictions and guidelines that the Service must follow in any tax inquiry or examination of a church, or any organization claiming to be a church. IRC 7611 would also apply to a Form 1120 filed by an organization claiming to be a church but which has lost its exempt status. A "church tax inquiry" is defined as any inquiry to a church (other than an examination) to serve as a basis for determining whether a church--
  - A. is exempt from tax under 501(a) because of its status as a church, or
  - B. is carrying on an unrelated trade or business (within the meaning of IRC 513) or otherwise engaged in activities that may be subject to taxation.
2. Under section 7611, the Service may begin a church tax inquiry only when the appropriate Regional Commissioner (or higher Treasury official) reasonably believes, based on facts and circumstances recorded in writing, that the organization may not qualify for tax exemption as a church; maybe carrying on an unrelated trade or business (within the meaning of section 513); or may be otherwise engaged in activities subject to tax.
3. The information supporting a reasonable belief can be obtained from many sources, including but not limited to newspaper or magazine articles; television and radio reports (a transcript should be obtained, if possible); documents on file with the Service (e.g., a Form 990-T filed by the church); records concerning the church in the possession of third parties; or informants. A Form 1120 filed by an organization claiming to be a church would satisfy the reasonable belief requirement.
4. The facts and circumstances forming the basis for a reasonable belief must be derived from information lawfully obtained by the Service. Information obtained from informants must not be known to be unreliable.
5. The failure of a church to respond to repeated (two or more) inquiries concerning the tax liability of other persons or to routine requests by the Service may be considered a reasonable basis to commence a church tax inquiry.
6. The failure of a church to respond to repeated (two or more) requests by the Service for information needed to locate third-party records is a factor, but not a conclusive factor, in determining if there is reasonable cause for commencing a church tax inquiry. The requests along with the failures to respond, should be documented by the function making the requests. If, after informal discussions with EP/EO, the requesting function believes that a church tax inquiry is still warranted, the formal request will be made in writing to the Chief, EP/EO Division of the key district servicing the requesting district or service centers. Whether the matter should be referred to EP/EO or worked in Examination depends on who has jurisdiction over the return filed by the church. While in most cases this will be EP/EO, Examination does have jurisdiction over a Form 1120 filed by a revoked (or otherwise non-exempt) church. Examination cannot audit a Form 1120 of an organization claiming to be a church without following the procedures of IRC 7611, even though the organization is not tax exempt.
7. All contacts with a church, no matter how informal or well-intentioned, must be made under the provisions of IRC 7611 unless they fall under one of the exceptions listed in sections 1.4.2 through 1.4.6 of this handbook.
8. The restrictions of IRC 7611 do not apply to an examination of a religious organization that does not claim to be a church.
9. IRC 7611 specifically excludes certain Service inquiries to churches from the restrictions it imposes. These exclusions are discussed in sections 1.4.2 through 1.4.6 of this handbook.

**[4.3.20] 1.4.2 (04-30-1999)****Third-Party Records**

1. The restrictions of IRC 7611 do not apply to records relating to the church held by third parties, such as canceled checks in the possession of a bank. If the documents are not provided voluntarily after the request, a summons under section 7602 may be issued. If the records are held by a third-party recordkeeper as defined in section 7609(a)(3), the procedures in section 7609 must be followed, see summons handbook.
2. The restrictions of IRC 7611 do not apply to requests made to the church for information needed to locate third-party records. Such information includes the church's chartered name, the state and year in which it was incorporated, and the location of its bank accounts. Section 1.4.1:(6) discusses the effect of a church's failure to provide such information.
3. Information obtained from third-party records may provide the "reasonable belief" , as discussed in section 1.4.1:(2), necessary to initiate a church tax inquiry and examination. However, the Service may not determine that a church is not entitled to exemption, impose an excise tax under IRC 4958 on an excess benefit transaction engaged in by a church or assess tax on unrelated business income against a church solely on the basis of third-party records, without first complying with the procedures of IRC 7611. This limitation does not apply to assessments of tax other than income tax resulting from loss of exemption or for unrelated business income (for instance, assessments of social security or other employment taxes). A church's failure to provide information necessary to locate third-party records may be a factor in determining if there is reasonable cause for commencing a church tax inquiry.

**[4.3.20] 1.4.3 (04-30-1999)****Routine Requests**

1. The restrictions of IRC 7611 do not apply to routine requests.
2. Routine requests include requests for information concerning:
  - A. the filing or failure to file any tax or information return;
  - B. compliance with income tax or FICA withholding responsibilities;
  - C. supplemental information needed to complete the mechanical processing of any incomplete or incorrect return filed;
  - D. information needed to process letter ruling requests or applications for exemption or foundation classification;
  - E. information necessary to process and periodically update registrations for tax-free transactions (excise tax), elections for exemption from windfall profits tax; or employment tax exemption requests by a church;
  - F. information identifying a church that is used by the Service to update its Cumulative List of Tax Exempt Organizations (publication No. 78) and other computer files; and
  - G. confirmation that a specific business is or is not owned or operated by a church.
3. Repeated (two or more) failures by the church to respond to routine requests may support a reasonable belief for commencement of a church tax inquiry.

**[4.3.20] 1.4.4 (04-30-1999)****Inquiry or Examination Concerning Tax Liability of a Person or Organization Other Than a Church**

1. The restrictions of IRC 7611 usually does not apply to inquiries or examinations to determine the tax status or liability of a person or organization other than the church, though such inquiries or examinations will not be routinely undertaken. When circumstances warrant, the Service can do the following without complying with the provisions of IRC 7611 when the information is requested during an examination or investigation of a person or organization other than a church:
  - A. Request information or inspect church records regarding amounts of money, property, or services transferred to the person or persons in question, including wages or salary, loans, or other transfers;
  - B. Request information or inspect church records concerning the use of church funds for personal expenses of the person or persons in question; or
  - C. Request information or inspect church records relevant to a person's assignment of income, donations of property or transfer of a business to a church.
2. If an inquiry concerns payments to, or transactions with an individual who may be a "disqualified person" under IRC 4958 (generally, someone in a position to exercise substantial influence over the affairs of the church), Examination should coordinate with EP/EO Division, as the individual may be subject to the taxes imposed by IRC 4958 on excess benefit transactions. An inquiry, or an examination of a church to determine if it engaged in an excess benefit transaction is conducted by EP/EO Division and is subject to the IRC 7611 procedures.
3. Examination of church records to determine the liability of persons or organizations other than the church cannot be used to avoid the intended purpose of IRC 7611. For example, the Service should not seek to examine a contributor or membership list in the possession of a church, without observing the restrictions of IRC 7611, if the purpose for seeking the list is to determine the overall financial structure of the church, rather than verifying a contribution from an individual. The contributor list should also not be used to target individuals for an examination. However, information learned during an examination of church records to determine the liability of individuals or organizations other than the church may support a reasonable belief to commence a church tax inquiry.
4. Inquiries or examinations concerning the tax liability of a person or organization other than a church are subject to the general rules regarding examinations of taxpayer books and records.

**[4.3.20] 1.4.5 (04-30-1999)**

**Criminal Investigations, Failure to File, Etc.**

1. The restrictions of IRC 7611 do not apply to: any criminal investigation; any willful attempt to defeat or evade any tax; or any knowing failure to file a return.

**[4.3.20] 1.4.6 (04-30-1999)**

**Certain Assessments of Tax**

1. The restrictions of IRC 7611 do not apply to termination assessments under IRC 6851 or jeopardy assessments under IRC 6861.

**[4.3.20] 1.4.7 (04-30-1999)**

**Church Tax Inquiries and Examinations**

1. The church tax inquiry procedure provides an opportunity for the church to satisfy the Service's concerns expeditiously without a formal examination. The church tax inquiry procedures are not synonymous with the pre-examination letter procedures of prior law. While church tax inquiries and church examinations are usually done by and are under the jurisdiction of EP/EO (a Form 1120 filed by an organization claiming to be a church is worked by Examination), it is important that Examination personnel involved with church related issues are generally aware of the procedures involved with a church tax inquiry and examination under IRC 7611. Only an overview of these procedures is presented here. For a comprehensive discussion of the church tax inquiry and examination procedures, see the former IRM 7(10)71.
2. Once the reasonable belief requirements in section 1.4.1:(2) have been met, the EP/EO key District (Examination, in the case of Form 1120) prepares the church tax inquiry notice for the Regional Commissioner's signature (Exhibit 4.3.20.1-4).
3. IRC 7611(a)(3)(B) requires that the notice include:
  - A. an explanation of the concerns giving rise to and the general subject matter of the inquiry. This should be sufficiently specific to enable the church to understand the particular area of church activities or behavior at issue. The Service is not required to share particular items of evidence with the church, or to identify its source of information, if providing such information would be damaging to the inquiry or the Service's sources.
  - B. a general explanation of the provisions of the Internal Revenue Code that authorize the inquiry or that otherwise may be involved in the inquiry.
  - C. a general explanation of applicable administrative and constitutional provisions with respect to the inquiry (Exhibit 4.3.2:1-3), including the right to a conference with the Service before an examination of church records.
4. Although not required by IRC 7611, the notice of church tax inquiry should include a list of questions relevant to the inquiry. The particular questions asked will depend on the information in the Service's possession and the reasons for the inquiry. The letter should not request the church to submit church records, as these records may be inspected only on examination.
5. IRC 7611 imposes strict time limits on church tax inquiries. The church must be allowed a minimum of 15 days to respond to the church tax inquiry notice. Therefore, a notice of examination cannot be sent until at least 15 full days after the notice of inquiry is sent. If a notice of examination is not sent within 90 days from the date of the notice of tax inquiry, the inquiry must be terminated with no change to the organization's tax status or liability.

#### **[4.3.20] 1.4.8 (04-30-1999)**

#### **Church Tax Examination**

1. When the church fails to respond to the notice of church tax inquiry or any follow-up letter, or when the church's response does not resolve the Service's concerns, the EP/EO Key District will prepare a notice of examination for the signature of the Regional Commissioner (Exhibit 4.3.20.1-2).
2. The notice of examination cannot be mailed until 15 days after date of the notice of church tax inquiry was mailed and must be mailed at the least 15 days before the date the examination begins. A final determination must be made within 2 years from the notice of examination.
3. The notice of examination must be signed by the Regional Commissioner.
4. A copy of the notice of examination must be provided to the Regional Counsel at the time the notice is mailed to the organization. The Regional Counsel has 15 days to provide a nonbinding advisory opinion to the Regional Commissioner. The Regional Commissioner will take any objection by the Regional Counsel into account when determining whether to proceed with the examination.
5. The notice of examination must contain:

- A. a copy of the church tax inquiry notice;
  - B. a description of the church records and activities the Service seeks to examine;
  - C. an offer of a conference between the church and the Service to resolve concerns relating to such examination; and
  - D. a copy of all documents collected or prepared by the Service for use in the examination, disclosure of which is required by the Freedom of Information Act (5 U.S.C. 552), as supplemented by IRC 6103 (relating to disclosure and confidentiality of tax return information). Documents that would be exempt from disclosure under the Freedom of Information Act or IRC 6103 need not be furnished to the church. The Service is not required to furnish all documents it may have on the organization, only those that were used to determine that an inquiry and examination were necessary. Documents that would reveal the existence or identity of a confidential informant shall not be provided to the church.
6. When signed by the Regional Commissioner the notice of examination will be mailed from the region. The notice must be mailed "certified mail, return receipt requested." The signed return receipt, or return receipt evidencing refusal to accept the letter, must be attached to the file copy of the notice of examination. The memorandum to the Regional Counsel should be transmitted when the notice of examination is mailed.
  7. After the notice is mailed, the case file should be returned to the initiating key district office. The key district is responsible for monitoring the statutory time limit for completing the examination. The key district should calculate the two year examination period from the date the notice of examination was mailed and note it prominently on the front of the file. The expiration date of the two-year period for completing the examination should be determined and noted prominently on the front of the file.
  8. Delegation Order No. 137 (Rev. 2), Authority to Perform Functions Relating to Church Tax Inquiries and Examinations, in the former IRM 1229, Handbook of Delegation Orders, authorizes District Directors to hold conferences described in (5)(c) above and to execute agreements to suspend the periods for completing church tax inquiries or examinations. The authority to perform these functions may be redelegated no lower than group manager level.

#### **[4.3.20] 1.4.9 (04-30-1999)**

### **Limitations on Additional Inquiries and Examinations**

1. No church tax inquiry or examination may begin for a five year period unless the previous examination resulted in a revocation, notice of deficiency or assessment, or a request for any significant change in church operations, including a significant change in accounting practices.
2. The five year limitation period referred to in paragraph (1) begins on the date the notice of examination was mailed to the church in connection with a previous examination. If the Service previously issued a church tax inquiry notice, but did not proceed to issue a notice of examination, the five year limitation period begins on the date the notice of inquiry was mailed. If the 90-day period or the two-year period was suspended in the earlier inquiry or examination, the five-year limitation period is extended for a time equal to the length of the earlier suspension, unless the prior examination was actually concluded within two years of the notice of examination.
3. The five year limitation on a church inquiry or examination does not apply under the following conditions:
  - A. Approval in writing is obtained from the Assistant Commissioner (Employee Plans and Exempt Organizations), or
  - B. The issues involved are not the same as or similar to the issues involved in the previous inquiry or examination. A determination of similarity of issue

depends on the substance rather than legal classification. For example, unrelated business income from a different source will be considered as involving a different issue.

**[4.3.20] 1.5 (04-30-1999)**

**Disclosure to Correct Misstatement of Fact**

1. IRC Section 6103(k)(3) allows the Commissioner, subject to the approval of the Joint Committee on Taxation, to disclose return information or any other information necessary to correct misstatements of fact when it is determined that such a correction of the record is necessary for tax administration purposes. (See Policy Statement P-1-185).
2. All examination personnel should be alert to situations where we should be pursuing Joint Committee approval to correct misstatements of fact. An example would be when leaders promoting frivolous argument schemes make false claims about their personal tax situations and IRS dealings with them. In such situations, as is explained in text (11)30 of the former IRM 1272, Disclosure of Official Information Handbook, the local Disclosure Officer should be informed immediately.

**Exhibit [4.3.20] 1-1 (04/30/99)**

**Family Estate Trust--Special Notification Letter**

Date:	Person to Contact:
	Contact Telephone Number:
	Refer Reply to:
	Form: 1041
	Name of Trust:
	Tax Year(s):

**Exhibit [4.3.20] 1-1 (04/30/99)**

**Family Estate Trust--Special Notification Letter**

We are closing this case with no change to the tax liability shown on the above return.

[ ] In a related case, the Internal Revenue Service has taken the position that the gross income of the trust and all allowable deductions are those of the trust grantor and were reported in error by the trust. If this position is sustained, there may be an overassessment (decrease in tax) on the trust return.

[ ] In a related case, the Internal Revenue Service has taken the position that the gross income of the above trust and all allowable deductions are those of the trust grantor. If this position is sustained, distribution from the trust will not be taxable to you, and there may be an overassessment (decrease in tax) on your income tax return. If there is a potential overassessment on your return, to protect yourself against expiration of the statute of limitations for the tax years involved, you should file a claim for refund or an amended return within the time prescribed by law. However, if the statute of limitations has expired, the relief provisions of sections 1311 through 1314 of the Internal Revenue Code may apply.

Sincerely yours,

District Director



**Exhibit [4.3.20] 1-2 (04/30/99)****Regional Commissioner's Letter Approving Examination of Church Books of Account**

(To be individually typed on appropriate letterhead)  
Notice of Church Examination Second Letter

**Exhibit [4.3.20] 1-2 (04/30/99)****Regional Commissioner's Letter Approving Examination of Church Books of Account**

Person to Contact:
Contact Telephone Number:
CERTIFIED MAIL

Dear Sir or Madam:

On (enter date or dates), we sent you a Notice of Church Tax Inquiry within the meaning of section 7611(a) of the Internal Revenue Code to notify you of concerns we have about your [tax liability] [exempt status]. A copy of that letter and a copy of the information that caused our concern are attached as required by section 7611(b)(3) of the Code. (The following paragraph should be used if the organization responded to the church tax inquiry)

[[Thank you for your letter of [enter date], in response to the Notice of Church Tax Inquiry. However, we still think an examination of [describe records or activities to be examined] may be necessary to resolve our concerns. Accordingly, as provided by law, we are sending this Notice of Church Examination. Before we begin an examination or take action based on information in our possession, you have the right to a conference with Service officials to try to resolve our concerns and alleviate the need for further action. A conference may help define the issues and limit the scope of any examination. You must request a conference before the beginning of an examination, which will not begin sooner than 15 days from the date of this letter.]]

(The following paragraph should be used if the organization has not responded to the church tax inquiry notice and any follow-up)

[[We have no record of receiving a reply to the Notice of Church Tax Inquiry. Accordingly, as provided by law, we are sending this Notice of Church Examination. If you do not provide information to answer our questions within 15 days of the date of this letter and you do not request the conference you are afforded by section 7611(b)(2)(B) of the Code, we may undertake an examination of [describe records and activities to be examined]. You have the right to a conference to attempt to resolve our concerns before we begin an examination. You must request the conference before the beginning of the examination, which may not begin until 15 days after the date of this letter.]]

(The following paragraphs may be appropriate in certain exceptional cases if the Service possesses information to issue an adverse determination without formal examination).

[We initiated a church tax inquiry and, as provided by law, we are sending this Notice of Church Examination to obtain information that we think is material to a determination of your tax status. If you fail to provide this information in a satisfactory and timely manner, the Service may in lieu of examination make a determination in your case based on the information we now possess or may acquire from other sources. This determination could result in a proposal to (revoke) (deny) your exemption from Federal income tax. Before we begin an examination or take action based on information in our possession, you have the right to a conference with Service officials to try to resolve our concerns and alleviate the need for further action.]

[If we determine you are not exempt, the Service will notify the appropriate State officials, in accordance with section 6104(c) of the Code, that you are not an organization described in section 501(c)(3). The Service will also consider your organization to be a taxable entity.]

(The following paragraphs should be used in all cases).

We have enclosed a copy of all documents collected or prepared by the Service for use in the examination and disclosure of which is required by the Freedom of Information Act (5 U.S.C. 552), as supplemented by section 6103 of the Code (relating to disclosure and confidentiality of tax return information).

If you would like a conference, please contact the person whose name and telephone number are listed above to arrange a mutually convenient time. If we do not hear from you within 15 days from the date of this letter, you will be contacted to arrange a time for the examination or you will be notified of the action the Service will take based on information in our possession.

Thank you for your cooperation.

Sincerely yours,

Regional Commissioner

Enclosures

Copy of Church Tax Inquiry Notice and Enclosures

Other Documents Required by IRC 7611(b)(3)

Letter 1904(P) (Rev. 2-85)

**Exhibit [4.3.20] 1-3 (04/30/99)**

**Statement of Administrative and Constitutional Rights**

The First Amendment of the Constitution provides that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. . ." The first clause is referred to as the Establishment Clause; the second is the Free Exercise Clause. The Establishment Clause prohibits government sponsorship of religion. Central to this prohibition are the concepts of government neutrality and the separation between church and state. The Supreme Court has held that the Free Exercise Clause of the First Amendment is an absolute prohibition against the regulation of religious beliefs. The First Amendment provides substantial protection for lawful conduct grounded on religious beliefs. However, the government may limit religiously motivated conduct when the limitation is essential to accomplish an overriding governmental interest.

Section 7611 of the Internal Revenue Code provides the following protections to organizations claiming to be churches or conventions or associations of churches:

(1) The IRS may begin a church tax inquiry only if an IRS Regional Commissioner reasonably believes, on the basis of facts and circumstances recorded in writing, that an organization claiming to be a church or convention or association of churches may not qualify for exemption, may be carrying on an unrelated trade or business (within the meaning of section 513 of the Code), or may otherwise be engaged in taxable activities.

(2) If a tax inquiry is begun, the IRS is required to provide written notice at the beginning of the inquiry. The Notice of Church Tax Inquiry must contain an explanation of the concerns that gave rise to the inquiry and the general subject matter of the inquiry. It must also contain an explanation of the provisions of the Code that authorize the inquiry and a general explanation of applicable administrative and constitutional provisions with respect to the inquiry.

(3) If the IRS wishes to examine a church's records or religious activities, the Regional Commissioner must personally approve the examination and must provide an additional written notice (Notice of Church Examination) to the church at least 15 days prior to the examination. At the same time notice is given to the church, the Regional Commissioner must notify the appropriate IRS Regional Counsel of the proposed examination. The Regional Counsel is then allowed 15 days to file a nonbinding advisory

opinion about the examination. The church's Notice of Church Examination is required to include the following: copy of the Notice of Church Tax Inquiry previously provided; a description of the church records and activities which the IRS wishes to examine; a copy of all documents collected or prepared by the IRS for use in the examination that are required to be disclosed under the Freedom of Information Act (5 U.S. C. 552) as supplemented by section 6103 of the Code; and an offer of a conference with the IRS to discuss the concerns which gave rise to the inquiry and the general subject matter of the inquiry prior to the examination. The Notice of Church Examination sent to the church may be mailed no less than 15 days after the Notice of Church Tax Inquiry. The Notice of Church Examination however must generally be mailed within 90 days after the Notice of Church Tax Inquiry or the IRS is required to end the inquiry without change to the church's tax status.

(4) Failure of the IRS to substantially comply with the above requirements may result in a stay of summons enforcement proceedings to gain access to church records until the requirements are satisfied.

(5) The IRS is generally required to complete any church inquiry or examination not later than two years after the date on which the Notice of Church Examination was mailed to the church. The two-year period may be extended by mutual agreement between the church and the IRS. It is also suspended during certain judicial proceedings and during any period in excess of 20 days but not in excess of six months, during which a church or its agents fail to comply with any reasonable IRS request for church records or other information. However, in the case of a church tax inquiry in which there is no Notice of Church Examination, the IRS is generally required to complete the inquiry within 90 days after the date on which the Notice of Church Tax Inquiry was mailed to the church.

(6) The IRS is limited initially to an examination of church records relevant to the church's tax-exempt status for the three most recently completed tax years preceding the date of the Notice of Church Examination. If the church is not exempt for any of these three years the IRS may examine relevant records for the six completed tax years immediately preceding the Notice of Church Examination. Church records of a year earlier than the third or sixth completed taxable years may be examined if material to a determination of tax-exempt status during the three or six-year period. For examinations relating to unrelated business taxable income, when no return is filed, the IRS may assess tax for the six most recently completed taxable years preceding the date of the Notice of Church Examination. Church records of a year earlier than the sixth year may be examined if material to a determination of unrelated business income tax liability during the six year period. For examinations involving issues other than determination of exempt status or unrelated business income tax liability, there is no limit on the taxable periods that may be examined if no return has been filed. If a tax return has been filed by a church, the normal rules for determining tax liability or assessing tax apply. In addition, if there has been a willful attempt to defeat or evade tax, a knowing failure to file a return, or if there is a criminal investigation, the provisions of section 7611, including any special limitation periods, do not apply.

(7) The IRS Regional Counsel must approve, in writing, an adverse determination concerning the tax-exempt status of an organization claiming to be a church, an adverse determination concerning the right of an organization claiming to be a church to receive tax deductible contributions, or the issuance of a notice of tax deficiency to a church following a church tax examination.

(8) Organizations claiming to be churches are entitled to bring a

declaratory judgment action under section 7428 once the IRS issues a revenue agent's final report proposing to revoke or deny the church's tax exempt status.

(9) If an inquiry or examination is begun within five years of the date of the Notice of Church Examination (or if no Notice of Church Examination is sent, a Notice of Church Tax Inquiry), it must be approved by the IRS Assistant Commissioner for Employee Plans and Exempt Organizations. This approval is not required if the second examination does not involve the same or similar issues as the preceding inquiry or examination or if the first inquiry or examination resulted in a change to the organization's exempt status, an assessment of unrelated business income tax or other tax, or a recommendation for a substantive change in the church's operations, including accounting practices.

Notice 729(2-85)

**Exhibit [4.3.20] 1-4 (04/30/99)**  
**Church Tax Inquiry Letter (Letter 1745(P))**  
**Date last amended 10/25/1996**

(To be individually typed on appropriate letterhead)

Church Tax Inquiry Letter

**Exhibit [4.3.20] 1-4 (04/30/99)**  
**Church Tax Inquiry Letter (Letter 1745(P))**  
**Date last amended 10/25/1996**

Person to Contact:
Contact Telephone Number:
CERTIFIED MAIL

Dear Sir or Madam:

The Internal Revenue Service is responsible for administering the Internal Revenue laws of the United States, including those that apply to organizations exempt from Federal income tax. To carry out that responsibility, section 7602 of the Internal Revenue Code authorizes the Service to determine the correctness of any tax return, make a return when none has been filed, or to determine the tax liability of any person or organization. However, section 7611 imposes restrictions on the Service in conducting tax inquiries and examinations of churches and conventions or associations of churches.

In passing section 7611, Congress intended to ensure that the Internal Revenue Service carry out its obligation to resolve questions concerning the [tax liability, if any,] [or] [tax-exempt status] of churches and organizations claiming to be churches, with due regard for both the rights of church organizations and the responsibility of the Service to enforce the Internal Revenue laws.

Because I reasonably believe that you may [not be tax-exempt as a church under section 501(a)] [or that you may] [be liable for federal income or other tax], this letter is notice of the beginning of a church tax inquiry under section 7611(a). I am sending this letter because I believe it is necessary to resolve questions about your [liability for unrelated business income tax] [liability for employment taxes] [tax-exempt status as a church under section 501(a)]. Our concerns are caused by (insert explanation).

[A list of specific questions about your operations is attached. Please answer each question completely. If your response resolves our concerns about your (tax liability) (exempt status), it will not be necessary to pursue this matter further.]

Attached, as required by section 7611(a)(3)(B)(ii), is a statement of your administrative and constitutional rights during a tax inquiry and examination. Your rights include the right to a conference with Service representatives to discuss our concerns before the Service begins an examination. You will be formally offered the opportunity for a conference in the notice of examination, if a notice of examination is sent to you.

[Please reply within 15 days of the date of this letter to the (insert district office official and address). If we do not hear from you within that time, we may issue a Notice of Church Examination letter, as explained in the attached statement of rights.] If you have any questions, please contact the person whose name and telephone number are shown above.

Thank you for your cooperation.

Sincerely yours,

Regional Commissioner

Enclosure[s]:

[Questions]

Statement of Administrative and Constitutional Rights

Letter 1745(P) (Rev. 9-86)

**Internal Revenue Manual Hndbk. 4.3.20 Chap. 1 Frivolous Filers/Non- (04-30-1999)  
filers Procedures**

**IRS Resources**

- . [Compliance & Enforcement](#)
- . [Contact My Local Office](#)
- . [e-file](#)
- . [Forms and Publications](#)
- . [Frequently Asked Questions](#)
- . [News](#)
- . [Taxpayer Advocacy](#)
- . [Where To File](#)

**Part 4. Examining Process****Chapter 11. Examining Officers Guide (EOG)****Section 6. Changes in Accounting Methods****4.11.6 Changes in Accounting Methods**

- . [4.11.6.1 References for Changes in Accounting Methods](#)
- . [4.11.6.2 Overview for Changes in Accounting Methods](#)
- . [4.11.6.3 Adoption of a Method of Accounting](#)
- . [4.11.6.4 Requirement To Secure Consent To Make A Method Change](#)
- . [4.11.6.5 IRC Section 481 and "Cut-off" Method](#)
- . [4.11.6.6 Procedures for Obtaining Consent](#)
- . [4.11.6.7 Procedures for Implementing Involuntary \(Service-imposed\) Change](#)
- . [Exhibit 4.11.6-1 IRC Section 481\(a\) Adjustment Calculation](#)
- . [Exhibit 4.11.6-2 IRC Section 481\(b\) Tax Limitation Computation](#)
- . [Exhibit 4.11.6-3 Summary of Differences Between Voluntary Method Change Procedures](#)
- . [Exhibit 4.11.6-4 Summary of Citations for Key Terms and Concepts](#)
- . [Exhibit 4.11.6-5 Summary Worksheet for Method Change Requests Pursuant to "Consent of Director" Provisions of Rev. Proc. 97-27, Rev. Proc. 99-49 and Rev. Proc. 2002-9](#)
- . [Exhibit 4.11.6-6 "Non-Objection" Letter](#)
- . [Exhibit 4.11.6-7 "Objection" Letter](#)

**4.11.6.1 (05-13-2005)****References for Changes in Accounting Methods**

1. The following references are for Changes in Accounting Methods:
  - . IRC section 446 - General Rule for Methods of Accounting
  - . IRC section 481 - Adjustments Required by Changes in Method of Accounting
  - . Treas. Regs. 1.446 and 1.481
  - . IRM 4.2.3 - Examination Techniques
  - . LMSB Change in Accounting Method Site: [http://lmsb.irs.gov/hp/pftg/change\\_method/](http://lmsb.irs.gov/hp/pftg/change_method/)
  - . Rev. Ruling 90-38 - Although the Commissioner is authorized to consent to a retroactive accounting method change, a taxpayer does not have a right to a retroactive change, regardless of whether the change is from a permissible or impermissible method.
  - . Rev. Proc. 97-27 - This advance consent (voluntary change) revenue procedure provides the general procedures under Treas. Reg. 1.446-1(c) for obtaining the consent of the Commissioner of Internal Revenue to change a method of accounting for federal income tax purposes. Rev. Proc. 97-27 was

modified by Rev. Proc. 2002-19.

- Rev. Proc. 2002-9 - This automatic consent (voluntary change) revenue procedure provides the procedures by which a taxpayer may obtain automatic consent to change the methods of accounting described in the Appendix. Pronouncements issued subsequent to the publication of Rev. Proc. 2002-9 that refer to this revenue procedure have modified it to include in its Appendix other methods of accounting. Prior automatic consent procedures include Rev. Proc. 97-37, Rev. Proc. 98-60 and Rev. Proc. 99-49. Rev. Proc. 2002-9 was modified by Rev. Proc. 2002-19 and Rev. Proc. 2002-54.
- Rev. Proc. 2002-18 - This revenue procedure provides the procedures under IRC section 446(b) and Treas. Reg. section 1.446-1(b) for changes in method of accounting imposed by the Service (involuntary changes). Examiners should refer to this procedure when raising an accounting method change issue during an examination. This revenue procedure also provides the procedures that the Service (other than examiners) may use for accounting method issues resolved by the Service on a non-accounting method change basis. This revenue procedure is effective for examiner's reports issued on or after July 1, 2002.
- Rev. Proc. 2002-19 - This revenue procedure modifies Rev. Proc. 97-27 and Rev. Proc. 2002-9 to provide new procedures for obtaining consent for a change of accounting method. This procedure introduced a method change without audit protection for an "issue pending" for a tax year under examination, and shortened the spread period for a taxpayer-favorable (negative) IRC section 481(a) adjustment.
- Publication 538 (Rev. 3/2004) - Accounting Periods & Methods

**Note:**

Changes in taxpayer accounting methods is a highly technical area. This chapter is designed to provide a brief overview and is not meant to be the exclusive research tool.

#### **4.11.6.2 (05-13-2005) Overview for Changes in Accounting Methods**

1. The term "method of accounting" is not specifically defined in the Code or regulations. In general, an accounting method is a set of rules used to determine when and how income and expenses are taken into account for federal income tax purposes.
2. Taxable income must be computed under the method of accounting regularly used by the taxpayer in keeping its books. However, variations between financial and tax reporting are allowed where other IRC requirements, such as IRC sections 162 and 263, are met and the method of accounting clearly reflects income. If no method of accounting has been regularly employed or if the method employed does not clearly reflect income, the computation will be made under a method that, in the opinion of the Commissioner, clearly reflects income. A method of accounting will not be regarded as clearly reflecting income unless all items of income and expenses are treated with reasonable consistency. However, consistency alone is not the sole criteria for an accurate determination of income. Key concepts in determining what constitutes a method of accounting are (1) timing and (2) consistency.
3. Timing: Treas. Reg. 1.446-1T(e)(2)(ii)(a) provides that a change in the method of accounting includes a change in the overall plan of accounting, as well as a change in the treatment of any material item. A material item is any item which involves the proper time for inclusion of the item in income or the taking of a deduction. In determining whether a practice involves the proper time for inclusion of an item in income or taking of a deduction, the relevant question is generally whether the practice permanently changes the amount of taxable income over a taxpayer's lifetime. If the practice does not permanently change taxable income over a taxpayer's lifetime, but does or could change the taxable year in which taxable income is reported, it involves timing and is therefore a method of accounting. See Rev. Proc. 91-31. Generally, if the issue involves *when* an item is deductible or included in income, as opposed to *whether*, the issue involves timing, and may be a method of

accounting.

4. **Consistency:** Treas. Reg. 1.446-1T(e)(2)(ii)(a) further provides that although a method of accounting may exist without a pattern of consistent treatment of an item, a method of accounting is not established in most instances without consistent treatment. The treatment of a material item in the same way in determining the gross income or deductions in two or more consecutively filed tax returns (without regard to any change in status of the method as permissible or impermissible) represents consistent treatment of that item for purposes of Treas. Reg. 1.446-1T(e)(2)(ii)(a). If a taxpayer treats an item properly in the first return that reflects the item, however, it is not necessary for the taxpayer to treat the item consistently in two or more consecutive tax returns to have adopted a method of accounting. If a taxpayer has adopted a method of accounting under these rules, the taxpayer may not change the method by amending its prior income tax return(s). See Rev. Rul. 90-38.
5. A change in the characterization of an item may constitute a change in method of accounting if the change has the effect of shifting income from one period to another. For example, a change from treating an item as income to treating the item as a deposit is a change in method of accounting. See Rev. Proc. 91-31.
6. A change in method of accounting does not include correction of mathematical or posting errors, or errors in the computation of tax liability (such as errors in computation of the foreign tax credit, net operating loss, percentage depletion, or investment credit). Likewise, a change in method of accounting does not include a change in treatment resulting from a change in underlying facts. See Treas. Reg. 1.446-1T(e)(2)(ii)(b).
7. The following is a non-exclusive list of accounting method issue areas commonly encountered by examiners:
  - Capitalization issues - IRC sections 263(a) and 263A relative to inventory, tangible assets and intangible assets,
  - Accounting for liabilities that involve timing - IRC section 461(h),
  - Accounting for when income is recognized - IRC section 451,
  - Depreciation method change issues involving changes in recovery periods, conventions, or depreciation methods. (See Chief Counsel Notice 2004-007 and field guidance for depreciation changes posted on the LMSB Change in Accounting Method Site.)
  - Inventory valuation issues including LIFO inventory - IRC sections 471 and IRC section 472,
  - Accrual to Cash - Rev. Proc. 2002-28 and
  - Accounting for long-term contracts - IRC section 460

#### **4.11.6.3 (05-13-2005)**

##### **Adoption of a Method of Accounting**

1. A taxpayer filing its first return may adopt any permissible method of accounting. See Treas. Reg. 1.446-1(e)(1). Once the taxpayer adopts a proper method of accounting by filing its return using such method, it may not adopt a different method of accounting by the filing of an amended return.
2. However, a taxpayer filing its first return using an improper method of accounting may change to a proper method by the filing of an amended return. The amended return MUST be filed prior to the filing of the next year's return. See Rev. Rul. 72-491, 1972-2 C.B. 104.
3. Two returns filed for consecutive years using an improper method, establishes a method of accounting from which consent to change is required. Amended returns may not be used to change such method. See Rev. Proc. 90-38.



**4.11.6.4 (05-13-2005)****Requirement To Secure Consent To Make A Method Change**

1. IRC section 446(e) and Treas. Reg. 1.446-1(e) state that, except as otherwise provided, a taxpayer must secure the consent of the Commissioner before changing from an "adopted" or "established" method of accounting for federal income tax purposes. Treas. Reg. 1.446-1(e)(3)(i) requires that, in order to obtain the Commissioner's consent to make a method change, a taxpayer must file a Form 3115, Application for Change in Accounting Method, during the taxable year in which the taxpayer desires to make the proposed change. See also Rev. Proc. 97-27, section 5.01 and Rev. Proc. 2002-9, section 6.02.
2. Unless specifically authorized by the Commissioner, a taxpayer may not make a retroactive change in method of accounting, regardless of whether the change is from a permissible or an impermissible method. See Rev. Rul. 90-38.

**4.11.6.5 (05-13-2005)****IRC Section 481 and "Cut-off" Method**

1. Whenever a change in method of accounting is either imposed on or initiated by a taxpayer, there is a possibility for duplication or omission of income or deductions relating to transactions occurring in a year prior to the year of change.

**4.11.6.5.1 (05-13-2005)****IRC Section 481(a) Concept**

1. A change in method of accounting generally requires an adjustment under IRC section 481(a). IRC section 481(a) requires those adjustments necessary to prevent amounts from being duplicated or omitted to be taken into account when the taxpayer's taxable income is computed under a method of accounting different from the method used to compute taxable income for the preceding taxable year. When there is a change in method of accounting to which IRC section 481(a) is applied, income for the taxable year preceding the year of change must be determined under the method of accounting that was then employed, and income for the year of change and the following taxable years must be determined under the new method of accounting as if the new method had always been used.

**4.11.6.5.2 (05-13-2005)****IRC Section 481(a) Adjustments**

1. The IRC section 481(a) adjustment is computed as of the beginning of the taxable year for which the method is being changed (year of change). Simply stated, the adjustment represents the cumulative difference (without regard to the statute of limitations) between the present and proposed methods. The IRC section 481(a) adjustment may increase income (positive adjustment) or decrease income (negative adjustment). In addition to the following example, see Exhibit (1) for a more detailed example of computing an adjustment under IRC section 481(a).

**Example:**

A taxpayer that is not required to use inventories uses the overall cash receipts and disbursements method and changes to an overall accrual method. The taxpayer has \$120,000 of income earned but not yet received (accounts receivable) and \$100,000 of expenses incurred but not yet paid (accounts payable) as of the end of the taxable year preceding the year of change. A positive IRC section 481(a) adjustment of \$20,000 (\$120,000 accounts receivable less \$100,000 accounts payable) is required as a result of the change.

**4.11.6.5.3 (05-13-2005)****Spread Periods for IRC Section 481(a) Adjustments**

1. A net positive IRC section 481(a) adjustment increases income and may be referred to as a "taxpayer-unfavorable" adjustment. A net negative IRC section 481(a) adjustment decreases income and may be referred to as a "taxpayer-favorable" adjustment. When a taxpayer uses a voluntary method change procedure (e.g., Rev. Proc. 97-27) or a regulation provision, generally a net negative IRC section 481(a)

adjustment is taken into account in the year of change (pursuant to Rev. Proc. 2002-19 effective for years ending on or after December 31, 2001). A net positive IRC section 481(a) adjustment is taken into account over four years starting with the year of change. When the Service imposes a method change (involuntary method change) as a result of an examination, in general the entire net positive or negative IRC section 481(a) adjustment is taken into account in the year of change. See Rev. Proc. 2002-18 for involuntary method change procedures.

#### **4.11.6.5.4 (05-13-2005)**

##### **Mandatory IRC Section 481(b) Tax Limitation Computation**

1. When the Service imposes a method change (involuntary method change) as a result of an examination and there is a net positive IRC section 481(a) adjustment in excess of \$3,000, it is mandatory that IRC section 481(b) be applied. IRC section 481(b) provides a limitation on the tax under Chapter 1 of the Internal Revenue Code for the taxable year of change that is attributable to the adjustments required under IRC section 481(a) and Treas. Reg. section 1.481-1 if the entire amount of the adjustment is taken into account in the year of change. See Exhibit (2) for an example of tax computation under IRC section 481(b).

#### **4.11.6.5.5 (05-13-2005)**

##### **Method Change Using the "Cut-off" Method**

1. The Commissioner may determine that certain changes in method of accounting will be made without an IRC section 481(a) adjustment using a "cut-off" method. Under a cut-off method, only the items arising on or after the beginning of the year of change (or other operative date) are accounted for under the new method of accounting. Any items arising before the year of change (or other operative date) continue to be accounted for under the taxpayer's former method of accounting. See, for example, IRC section 263A (which generally applies to costs incurred after December 31, 1986, for non-inventory property), IRC section 461(h) (which generally applies to amounts incurred on or after July 18, 1984), and IRC section 1.446-3 (which applies to notional principal contracts entered into on or after December 13, 1993). Because no items are duplicated or omitted from income when a cut-off method is used to effect a change in accounting method, no IRC section 481(a) adjustment is necessary. The cut-off may be used in a taxpayer-initiated method change only where specifically allowed or required by statute, regulation or by the Commissioner in published guidance.

#### **4.11.6.6 (05-13-2005)**

##### **Procedures for Obtaining Consent**

1. A taxpayer may use the following procedures to obtain the required consent to change its method of accounting:
  - A. Special procedures established by statutes, regulations or IRS publications
  - B. Automatic consent procedures (Rev. Proc. 2002-9 and successors)
  - C. Advance consent procedures (Rev. Proc. 97-27 and successors)
2. Exhibit (3) summarizes the differences between the advance consent procedure and the automatic consent procedure.
3. Exhibit (4) summarizes the citation for key terms and concepts used in the voluntary method change arena.

#### **4.11.6.6.1 (05-13-2005)**

##### **Special Procedures Established by Statute, Regulations or IRS Publications**

1. Normally, a taxpayer uses the general automatic consent procedures (Rev. Proc. 2002-9 and successors) or the general advance consent procedures (Rev. Proc. 97-27 and successors) to request consent to change its method of accounting. In some instances, however, a statute, regulation or IRS publication may establish unique procedures, terms and conditions for obtaining consent to change a method of accounting. For example see IRC sections 174, 263A, 448, and 460 and the related

treasury regulations. Thus, it is important that the examiner determine the authority being used to support the change in method of accounting.

#### **4.11.6.6.2 (05-13-2005)**

##### **Voluntary Change - Advance Consent (Rev. Proc. 97-27 and Successors)**

1. Rev. Proc. 97-27 contains procedures for obtaining advance consent to change a method of accounting. In general, these procedures apply to all accounting method changes initiated by a taxpayer, except those accounting method changes that must be made under the automatic consent procedures (Rev. Proc. 2002-9 or successors) or special procedures established by statutes, regulations or IRS publications.
2. The "advance consent" Revenue Procedure 97-27:
  - A. Is effective for Forms 3115 filed on or after May 15, 1997.
  - B. Requires payment of user fee.
  - C. Requires Form 3115 to be filed with the Commissioner during year of change. For example, a calendar year taxpayer must file the Form 3115 from January 1st through December 31st of the year of change.
  - D. Provides that taxpayer receive accounting method change ruling letter (consent) prior to implementing a method change.
  - E. For years ending on or after December 31, 2001, the IRC section 481(a) adjustment period is four taxable years for a net positive adjustment for an accounting method change, and one taxable year for a net negative adjustment for an accounting method change. See Rev. Proc. 2002-19.

#### **4.11.6.6.3 (05-13-2005)**

##### **Voluntary Change - Automatic Consent (Rev. Proc. 2002-9 and Successors)**

1. Rev. Proc. 2002-9 contains general procedures for obtaining automatic consent to change certain methods of accounting which are described in the Appendix of Rev. Proc. 2002-9 or subsequent pronouncements. These procedures are the exclusive procedures for obtaining consent to make any of these specific accounting method changes.
2. The "automatic consent" Revenue Procedure 2002-9:
  - A. Is effective for taxable years ending on or after December 31, 2001.
  - B. Requires no user fee,
  - C. Requires timely duplicate filing of the Form 3115,
    - (i) The original Form 3115 must be attached to the timely filed (including extensions) return for the year of change. A copy of Form 3115 must be filed with Office of Chief Counsel no earlier than the first day of year of change, and no later than the date the original Form 3115 is filed with the timely filed federal Income Tax return. For example, a calendar year taxpayer who files its year X1 return (with proper extensions) on September 1, X2 may file a copy of the Form 3115 with the Office of Chief Counsel during the year of change, or no later than September 1, X2 to obtain consent to the change for the year X1.
    - (ii) Under certain circumstances, an automatic six-month extension to file Form 3115 is granted from the due date of the return (excluding extensions) - [See Rev. Proc. 2002-9 section 6.02(2)(b)(i)].
  - D. Provides that, if the taxpayer fully complies with the provisions of the revenue procedure, the taxpayer is "deemed" to have been granted consent for the requested method change and, if applicable, receives audit protection for

years prior to year of change. See Rev. Proc. 2002-9 section 7,

- E. For taxable years ending on or after December 31, 2001, the IRC section 481 (a) adjustment period is four taxable years for a net positive adjustment for an accounting method change, and one taxable year for a net negative adjustment for an accounting method change. See Rev. Proc. 2002-19,
3. In determining whether an automatic method change was properly made, the examiner should first consider the automatic change revenue procedure in effect for the year the taxpayer made the change to verify the specific method change is included in the Appendix of the procedure. If not, the examiner should then check to see if the change was addressed in any subsequent pronouncement that modified the automatic consent procedure. Finally, the examiner should verify the taxpayer properly followed the terms and conditions for that specific change in the applicable procedures.

#### 4.11.6.6.4 (05-13-2005)

##### Audit Protection Resulting from a Voluntary Method Change

1. Most accounting method changes are granted with *audit protection*, which means that the Service will not require the taxpayer to change its method of accounting for the same item for a taxable year prior to the year of change. For example, a taxpayer has been using an impermissible method of accounting for several years for certain items. In 2003, the taxpayer files an application under Rev. Proc. 2002-9 to change to a proper method of accounting for such items. If the change is made with audit protection, the Service would not be able to propose an adjustment for the improper method of accounting for such items in an examination of an earlier taxable year. Rev. Proc. 97-27 section 9; Rev. Proc. 2002-9 section 7.
2. The Service has provided specific exceptions to audit protection in some pronouncements. See, for example, the automatic consent procedures (Rev. Proc. 2002-9) which indicate that audit protection is not granted for specified method changes. Examiners should determine what method change was made and determine if audit protection was granted for that specific method change.

#### 4.11.6.6.5 (05-13-2005)

##### Scope Limitations for Voluntary Method Changes

1. In general - The scope limitations are the rules within a voluntary method change procedure that indicate when (in what circumstances) the taxpayer may or may not use such guidance to request a voluntary method change. For example, a scope limitation generally prohibits taxpayers from requesting consent for a method change once they have been contacted for examination. This scope limitation is subject to several exceptions, as discussed in (3), below.
2. Waiver of scope limitations - In some instances, the scope limitations that would otherwise apply to a voluntary method change request may be waived by statute, regulation, or IRS publication. A scope limitation waiver may be limited to certain circumstances or to certain taxable years. For example, some procedures may indicate that scope limitations are waived unless the accounting method to be changed is an "issue under consideration," while other procedures may indicate that scope limitations are waived only for a certain taxable year or years. Accordingly, examiners need to review carefully the applicable guidance to determine the nature and extent of scope limitations applicable to a given voluntary method change request. See, for example, Treas. Reg. section 1.263(a)-4(p)(2); section 1.263(a)-5(n)(2); and Rev. Proc. 2004-23 section 4.01(1).
3. Taxpayers under examination - The general rule (scope limitation) is that a taxpayer may not request a voluntary method change while under examination for any year. However, this general rule has the following exceptions:
  - A. 90-day window - The taxpayer may file a Form 3115 within the first 90 days of a taxable year if (1) the taxpayer has been under examination for at least 12 consecutive months as of the first day of the taxable year, and (2) the method which the taxpayer seeks to change is not an issue under consideration or an issue that has been placed in suspense. This window allows taxpayers under continuous examination an opportunity to use the voluntary change

procedures.

- B. 120-day window - The taxpayer may file a Form 3115 within the 120-day period following the date an examination ends, provided the change requested is not an issue under consideration or an issue that has been placed in suspense at the time the form is filed.
- C. Consent of director - If the taxpayer is under examination and is not in one of the two windows described above, they may request the examiner's permission (director consent) to submit a Form 3115. The team/group manager, as delegated by the director, will normally consent to the filing of the application unless the method of accounting to be changed would ordinarily be included as an item of adjustment in the year(s) for which the taxpayer is under examination. For example, a taxpayer changing from a proper method of accounting (to go to another proper method) would normally receive director consent because its proper method of accounting would not be an item of adjustment.
- D. Changes lacking audit protection - If a method change is (i) eligible for the automatic consent procedures (listed in the appendix of Rev. Proc. 2002-9 or elsewhere), and (ii) the description of the change indicates that the change is made *without* audit protection (for example, Rev. Proc. 2002-9, appendix section 4B.01), then the taxpayer may make the change, even if it is under examination. This allows the taxpayer to get on a proper method on a going-forward basis, but does not preclude the agent from pursuing the method as an audit issue in the back years, because no audit protection is given.
- E. Issue pending - A taxpayer under examination may make a voluntary change on a prospective basis *without the benefit of audit protection for prior years* if, at the time the Form 3115 is filed, the accounting method is an "issue pending" for any taxable year under examination. For this purpose, an issue is pending for any taxable year under examination if the Service has given the taxpayer written notification indicating an adjustment is being made or will be proposed with respect to the taxpayer's method of accounting. The issue pending exception was added by Rev. Proc. 2002-19.

#### **4.11.6.6.6 (05-13-2005)** **"Issue Under Consideration"**

1. "Issue under consideration" is a relevant concept when a taxpayer desires to make a voluntary method change and use the 90-day or 120-day windows found in the scope limitations of Rev. Proc. 97-27 or Rev. Proc. 2002-9. A taxpayer's method of accounting for an item is an issue under consideration for the taxable years under examination if the taxpayer receives written notification (for example, by examination plan, information document request (IDR), or notification of proposed adjustments or income tax examination changes) from the examining agent(s) specifically citing the treatment of the item as an issue under consideration. See Rev. Proc. 97-27 or Rev. Proc. 2002-9 for examples of what is an issue under consideration.

#### **4.11.6.6.7 (05-13-2005)** **Director Consent to File Form 3115 While Under Examination**

1. Nature of "director consent." The "director consent" provision allows a taxpayer under examination to file a Form 3115 (by obtaining "director consent" for such filing) when the taxpayer would otherwise be prohibited from filing a Form 3115.
  - A. Director consent is consent to the *filing* of a Form 3115; it does not constitute approval of the method change request itself.
  - B. Director consent does not constitute the consent of the Commissioner under IRC section 446(e) to change a method of accounting.
2. When should the "Consent" be granted? The "Consent" should be granted in the following circumstances:
  - A. When a change is requested from an impermissible method of accounting

- where the impermissible method was adopted in a year subsequent to the year (s) under examination; or
- B. When the taxpayer wants to change from a permissible method of accounting; or,
- C. When the examiner does not intend to raise a method of accounting issue for years under examination for the accounting method change requested by the taxpayer.
3. How is a request for director consent processed? An examiner faced with a request for director consent from a taxpayer should do the following:
- A. If a taxpayer under examination wants to obtain the "Consent " to file a Form 3115, the taxpayer should be asked to put the request in writing.
- B. A copy of the Form 3115 (if available) that is the subject of the taxpayer's request should be attached to the taxpayer's request.
- C. If not otherwise provided on the Form 3115 presented, the taxpayer should be requested to provide the following information with the request:
- (1) Description of the method of accounting the taxpayer is changing from.
  - (2) Description of the method of accounting the taxpayer is changing to.
  - (3) The tax years currently under examination.
  - (4) The examiner's name and telephone number.
  - (5) The year of change requested by the taxpayer.
  - (6) The reason(s) for requesting the method change.
  - (7) The entity for which the method change is being requested (e.g. Parent or specific subsidiary)
  - (8) What authority is being used by the taxpayer for the requested method change (e.g. Rev. Proc. 97-27, Rev. Proc. 2002-9, regulation, etc.)
  - (9) If Rev. Proc. 2002-9 is being used, the specific Appendix section that is the basis for the method change requested including the assigned method change number found in the instructions to the Form 3115.
  - (10) If a pronouncement is the authority (such as a Rev. Proc., Rev. Rul, or regulation section, etc.) the specific cite to such pronouncement should be obtained. (e.g., Rev. Rul. 2002-46)
- D. The request should be processed as expeditiously as possible as this involves coordination between the taxpayer, Area office, or National Office Chief Counsel.
- E. The request should be routed through the examiner to the team manager or group manager with the Form 3115 and a completed Summary Worksheet (see Exhibit 5) with a recommendation of response ("objection" or "non-objection" ). Note that each area may establish its own procedure as to the physical flow of the request from the taxpayer.
- F. If there are questions about the request, call your Area's technical coordinator or the LMSB Change in Accounting Method (CAM) Technical Advisor.
4. Who should sign the "letter" ? In response to a taxpayer's request for "consent of director" , the Service will provide a written letter of "objection" or "non-objection" to the filing of a Form 3115. Each Area may establish its own procedure as to who may sign the letter. The team/group manager has been delegated authority to sign the letter as follows:
- A. The SBSE Delegation Order 4.40 includes group manager level for signing the letters.
- B. The LMSB Delegation Order 029-193 includes the team manager level for signing the letters.
- C. See Exhibit (6) for a pro forma "non-objection" letter.
- D. See Exhibit (7) for a pro forma "objection" letter.

5. What is the physical flow of the response letter to the taxpayer? Each Area may establish its own procedure as to the physical flow of the letter to the taxpayer. The following is a recommended procedure:
  - A. Once the response letter is signed, it should be routed to the examiner from the team manager/group manager.
  - B. Then the signed response letter is given or sent to the taxpayer by the examiner.
6. What should the examiner do about closing the current years? The request for "consent of director" to file a Form 3115 in the current year should have no impact on the conduct of the examination of the selected filed returns.
  - A. In "Non-objection" situations, the year of change is generally a year not yet filed. Accordingly, if there is a question or issue identified for the year of change, the historical file should be documented or an information report for such year of change should be prepared.
  - B. If there is an "Objection" to the filing of a Form 3115, the current years would be closed when the necessary method change issues have been completed and reported in the Revenue Agent Report (RAR) pursuant to Rev. Proc. 2002-18.
7. What happens if the examination function objects? If the examination function properly objects to a request, the change in method of accounting may not be made under either Rev. Proc. 97-27 or Rev. Proc. 2002-9.
  - A. Taxpayer may request technical advice under Rev. Proc. 2004-2 (or any successor) to determine if the "objection" was proper.
  - B. Generally, "objection" indicates the issue will be raised as part of the examination. Accordingly, the method change is made by the examiner in the RAR. A change resulting in a IRC section 481(a) adjustment will ordinarily be made in the earliest taxable year under examination with a one year IRC section 481(a) adjustment period. See Rev. Proc. 2002-18 section 5.
8. What if there are concerns with the requested change? After review of the Form 3115, the examiner may have questions or concerns with the request, such as:
  - A. The examiner believes the taxpayer is using the wrong pronouncement (e.g. Rev. Proc. 2002-9 instead of Rev. Proc. 97-27 or vice versa) to request such method change.
  - B. The examiner is aware that the National Office Chief Counsel is not processing, or is rejecting, such accounting method change requests; or
  - C. The examiner believes the taxpayer is changing to an improper accounting method.

The examiner should advise the taxpayer of the concern and document the fact that the taxpayer was advised of the concern. If a non-objection letter is otherwise appropriate, issue the non-objection letter.

- A. The examiner should document the historical file, or file an information report, so the concerns are considered in examination of the year of change.
- B. If the request was made pursuant to an "advance consent" procedure, the examiner may contact the Chief Counsel attorney assigned to the request to discuss the concerns.
- C. The examiner may include in the non-objection letter the concerns that have been identified.

#### 9. Circumstances which may occur relative to a request for "Consent" :

- A. National Office Chief Counsel personnel may call the taxpayer or examiner to confirm information or verify that the taxpayer has secured a non-objection letter. Effective coordination between the examiner, taxpayer and the National Office person is necessary to ensure that the appropriate letter, if applicable, is processed timely.
- B. Generally, the taxpayer is required to obtain the consent of the director prior to filing the Form 3115. However, the taxpayer may be in a hurry to process the Form 3115 to meet the timely filing requirement. Thus, the taxpayer may want to file their Form 3115 before receiving the "non-objection " letter from the examiner. If the situation is not egregious, advise the taxpayer to file its Form 3115 without the letter and indicate on such Form 3115 that the "non-objection" letter is in the process of being obtained.
- C. For Forms 3115 filed using Rev. Proc. 97-27, the examiner may call National Office Chief Counsel at (202) 622-4780 to obtain the name and number of the technician assigned; the status of Form 3115; or to discuss any concern(s) relative to the Form 3115 filed.
- D. For Forms 3115 filed under Rev. Proc 2002-9 the examiner may call National Office Chief Counsel at (202) 622-4780 to verify that the Form 3115 has been filed.
- E. If an examiner has any questions, he or she may call the LMSB Technical Advisor for Change in Accounting Methods.

#### **4.11.6.6.8 (05-13-2005)**

#### **Compliance Responsibilities Regarding Voluntary Changes**

1. Responsibilities for Pre-filing - An examiner has the following responsibilities with respect to a request from a taxpayer under examination that desires to file a Form 3115 to make a voluntary change in accounting method in a year not yet filed.
  - (a) Ascertain:
    - Whether the 90-day window or 120-day window applies
    - Whether the issue is under consideration
    - Whether the issue is pending (if yes, audit protection does not apply)
    - Whether director consent should be issued - see IRM section 4.11.6.6.7
    - Whether specific guidance applies to the requested change (e.g., Rev. Rul. 2002-46, Rev. Proc. 2004-34, etc.) and whether the taxpayer has used the proper procedure
  - (b) The Examiner may coordinate with Chief Counsel regarding:
    - Whether the 90-day window or 120-day window applies
    - Whether there is an issue under consideration
    - Whether there is an issue pending
    - Whether the director will consent (e.g., incidences where the Form 3115 is filed simultaneously with headquarters and the examiner)
2. Responsibilities for Post-filing - An examiner should consider the following as potential areas of inquiry when examining a tax return in which a taxpayer has implemented a change in accounting method under a voluntary method change procedure.
  - (a) Rev. Proc. 97-27 filing:



- Was the ruling letter granting consent to the change followed?
- Did the taxpayer change to a proper method of accounting?
- Is the IRC section 481(a) amount correct?
  - > May correct without a Technical Advice Memorandum (TAM)
- A TAM is necessary if it is determined by the examiner that the ruling letter should be revoked or modified.

(b) Rev. Proc. 2002-9 filing:

- Was the change within the scope of the Rev. Proc.?
- Did the taxpayer fully comply with the procedure?
- Does this change lack audit protection?
- Did the taxpayer change to a proper method as specified in the Appendix?
- Is the IRC section 481(a) amount correctly computed?
  - > May purify the method change as an examination adjustment when deemed appropriate.
  - > If the method change is invalid, may raise an unauthorized method change issue.
- TAM is necessary if a method change was made in compliance, but the examiner believes the method change should be revoked or modified.

#### **4.11.6.7 (05-13-2005)**

##### **Procedures for Implementing Involuntary (Service-imposed) Change**

1. Rev. Proc. 2002-18 provides the general procedures for changes in method of accounting imposed by the Service. This revenue procedure provides terms and conditions, for a Service-imposed change in method of accounting, that are intended to encourage taxpayers to voluntarily request a change from an impermissible method of accounting prior to being contacted for examination. Under this approach, a taxpayer that is contacted for examination and required to change its method of accounting by the Service ("involuntary change" ) generally receives less favorable terms and conditions when the change results in a positive 481(a) adjustment than the taxpayer would have received if it had filed an application to change its method of accounting ("voluntary change" ) before the taxpayer was contacted for examination. For example, an involuntary change generally is made with an earlier year of change and a shorter 481(a) adjustment period for a positive adjustment, and a voluntary change generally is made with a current year of change and a longer 481(a) adjustment period for a positive adjustment.

#### **4.11.6.7.1 (05-13-2005)**

##### **Effect of Rev. Proc. 2002-18 on Authority of Examination, Appeals and Counsel**

1. Revenue procedure 2002-18 sets forth procedures for Examination, Appeals, and Counsel for the government to resolve accounting method issues. It does not alter Examination's authority to examine the returns of a taxpayer. It provides parameters for Examination to resolve accounting method issues, but does not limit or expand Examination's authority to resolve any issues under any applicable Delegation Order (e.g., Delegation Order No. 236, Application of Appeals Settlement to Coordinated Examination Program Taxpayers, and Delegation Order No. 247, Authority of Examination Case Managers to Accept Settlement Offers and Execute Closing Agreements on Industry Specialization Program and International Field Assistance Program Issues). This revenue procedure also does not alter or limit the authority of Appeals or Counsel for the government to resolve or settle any issues.

#### **4.11.6.7.2 (05-13-2005)**

## Circumstances When a Service-imposed Method Change May Be Encountered

1. Examiners will be faced with potential accounting method change issues in three situations:
  1. The examiner determines that the accounting method used by the taxpayer does not clearly reflect income or is improper - IRC section 446(b) issue.
  2. The taxpayer has changed their method of accounting without obtaining the consent of the Commissioner - IRC section 446(e) issue.
  3. The taxpayer has filed an amended return or claim (formal or informal) which constitutes a "retroactive" change in accounting method. - IRC section 446(e) issue. See Rev. Rul. 90-38.

### 4.11.6.7.3 (05-13-2005)

#### IRC Section 446(b) - Accounting Method Used Does Not Clearly Reflect Income

1. Sections 446(b) and 1.446-1(b)(1) provide that if a taxpayer does not regularly employ a method of accounting that clearly reflects income, the computation of taxable income must be made in the manner that, in the opinion of the Commissioner, does clearly reflect income. The Commissioner has broad discretion in determining whether a taxpayer's method of accounting clearly reflects income, and the Commissioner's determination must be upheld unless it is clearly unlawful. Once the Commissioner has determined that a taxpayer's method of accounting does not clearly reflect income, the Commissioner has broad discretion in selecting a method of accounting which properly reflects income. The selection may be challenged only upon showing an abuse of discretion by the Commissioner. The Commissioner does not have discretion to require a taxpayer to change from a method of accounting that clearly reflects income to a method that, in the Commissioner's view, more clearly reflects income.
2. Accordingly, the first determination that the examiner must make is whether or not the accounting method being used (adopted) for an item by the taxpayer is permissible. The examiner must first make a concerted effort to understand what accounting method is being used by the taxpayer for the item(s) in question. This determination may entail having the taxpayer walk the examiner through transactions, journal entries, or other books and records. Generally, examples of journal entries shown by the taxpayer based upon hypothetical data should be verified with actual transactional data including actual journal entries that are contained in the books and records. After the examiner acquires an understanding of the taxpayer's transactions and accounting method for items, the examiner needs to ascertain what accounting treatment(s) is (are) permissible based upon Service position.
3. Generally, there are established Service positions as to what are proper methods of accounting for items. However, if the examiner is unable to ascertain Service position or if there is no official Service position and the examiner believes there is an accounting method issue, the examiner may consider seeking advice (formal or informal) from local field counsel, the Office of Chief Counsel, or LMSB Technical Advisors.
4. If the accounting method used for item(s) by the taxpayer is impermissible, the examiner may propose an adjustment with respect to that method only by changing the taxpayer's method of accounting pursuant to Rev. Proc. 2002-18, in order to place the taxpayer on a proper method of accounting for such item(s).

### 4.11.6.7.4 (05-13-2005)

#### IRC Section 446(e) - Taxpayer Changed Method Without Obtaining Prior Consent

1. IRC section 446(e) provides that, except as otherwise provided, a taxpayer must secure the consent of the Commissioner before changing a method of accounting for federal income tax purposes. The Commissioner may require a taxpayer that has changed a method of accounting without the Commissioner's consent to change back to its former method. The commissioner may do so even when the taxpayer changed from an impermissible to a permissible method. The change back to the former method may be made in the taxable year the taxpayer changed without consent, or if

that year is closed by the running of the period of limitations, in the earliest open year. For example, the Service may change a taxpayer back to its former impermissible method of accounting if the taxpayer changed to a permissible method of accounting without the Commissioner's consent and miscalculated the IRC section 481(a) adjustment, even where the statute of limitations has expired for the year of change. See Rev. Proc. 2002-18, section 2.06.

2. While the examiner may allow an unauthorized method change, such action should only be taken as an exception. The examiner, using professional judgement, should consider the following factors when applying the exception:
  - A. Benefit to taxpayer/Cost to government- The examiner should quantify the time-value-of-money benefit the taxpayer will receive by allowing the taxpayer's non-compliance with the consent requirements. Specifically, the examiner should determine the impact (including restricted interest computations) of not moving the year of change from the earliest year under examination to the current year. The supposition that the method change the taxpayer made without consent may have been granted if the taxpayer had complied with the consent requirements should not be a consideration.
  - B. Jurisdiction of oversight - The examiner should determine the proper procedure the taxpayer should have followed to implement the change, and what the taxpayer circumvented by making the unauthorized change. For example, if the taxpayer should have followed Rev. Proc. 97-27, the taxpayer would have paid a fee (e.g., \$1,200) and received a ruling letter with terms and conditions specified by Chief Counsel. . In addition, the taxpayer did not put the Service on notice that the change has been made, nor make representations regarding that change, by filing a Form 3115.
  - C. Utilization of resources- The examiner should analyze the impact on the examination for expending the time and resources required for the necessary compliance oversight of the unauthorized method change as opposed to other potential areas of examination.
  - D. Fairness to all - The examiner should consider the disparity that results if the taxpayer's unauthorized change in method of accounting is allowed while the similarly situated taxpayer not under examination must file a Form 3115 and make the change in a later year. Also, the examiner should consider any negative impact on compliance (by representatives and taxpayers) that may result from the examiner's action.
3. The examiner should fully explain in the workpapers the rationale for proposing or not proposing the unauthorized method change issue. If a change in method of accounting issue is not proposed, the examiner should document that all items are treated in a manner that prevents the duplication or omission of items of income or deduction. The examiner should contact the CAM Technical Advisors for assistance in addressing these arguments if necessary.

#### **4.11.6.7.5 (05-13-2005)**

#### **IRC Section 446(e) - Taxpayer Files Amended Return or Claim (formal or informal) to Make "Retroactive" Change in Accounting Method**

1. Error correction or retroactive accounting method change? Often, during the conduct of an examination, the examining agent will encounter a claim (formal or informal) requesting an adjustment. The examiner should carefully review such claim to determine whether the claim constitutes (i) the correction of an error in taxable year(s) under examination, or (ii) a request for a retroactive change in method of accounting for a year under examination.
2. When should examination impose a retroactive accounting method change proposed by the taxpayer?
  - A. Taxpayer's existing method of accounting is impermissible. If the claim constitutes a request for a retroactive change in method of accounting, the examiner should determine whether the taxpayer's existing method of accounting is permissible. If the taxpayer's existing method of accounting is *permissible*, the examiner should NOT impose the method change requested

by the taxpayer in an RAR. Rather, the examiner should advise the taxpayer to request consent to make the method change on a prospective basis in the current year. Stated another way, the examiner should not impose retroactive changes from one permissible method to another; these "permissible to permissible" changes should be initiated by the taxpayer under the voluntary method change procedures (Rev. Proc. 97-27 and Rev. Proc. 2002-9).

- B. If the taxpayer's existing method of accounting is impermissible, the examiner should consider the following factors in determining whether to impose a retroactive method change requested by the taxpayer.
- (i) Is the change the product of Service-initiated examination activity? In general, the Service should make a taxpayer-requested method change when the adjustment is fairly considered the product of *Service-initiated* examination activity. In making this determination, the examiner should consider all relevant facts and circumstances, including whether the examiner has submitted request(s) for extensive information for an item, and whether the taxpayer has substantially and appropriately complied with any such requests.

**Note:**

- (1) Activities undertaken in response to a taxpayer claim (formal or informal) are not considered to be "Service-initiated examination activity."  
 (2) Activities undertaken to review a taxpayer-initiated method change (authorized or unauthorized) for a year under examination are not considered to be "Service-initiated" examination activity.  
 (3) As a general matter, the examining agent, in his/her discretion, determines the scope of an examination. Accordingly, the examining agent has wide discretion in choosing what sort of examination activities to initiate.

(ii) Is an item substantially similar to an item for which the Service has initiated examination activity? To the extent the examiner or taxpayer identifies item(s) which are "substantially similar" to an item for which the *Service* has initiated examination activity, these item(s) should be included in any proposed method change.

**Note:**

- (1) An item is "substantially similar" if it is governed by the same subsection of the Code and/or regulations **AND** relates to the same type of expenditure, income item or property for which the Service is imposing a change in method of accounting for the taxable period.  
 (2) Imposing a method change for a "substantially similar" item generally does not require a substantial amount of additional audit resources because the item involves the same legal authority and accounting entries as other items for which the Service has already initiated examination activity under the audit plan. Accordingly, if imposing the method change requested by the taxpayer would divert substantial resources from the focus of the planned examination, the change probably does not involve a "substantially similar" item.

3. Declining to impose a retroactive accounting method change requested by taxpayer. Generally, it is not appropriate for a taxpayer to obtain more advantageous terms and conditions by requesting a change in accounting method after being contacted for examination. In addition, routine consideration of taxpayer requests for retroactive method changes would consume substantial examination resources and thereby impede the Service's enforcement efforts. The Service's refusal to make taxpayer-requested retroactive method changes is consistent with equitable tax administration, since the taxpayer chooses the original method of accounting and may change from an impermissible method on a prospective basis by filing a Form 3115.

If questions exist, the examiner should contact the CAM Technical Advisor. If the examiner deems it necessary to decline to initiate an accounting method change, the examiner should recommend that the taxpayer request consent to make a voluntary method change pursuant to the appropriate administrative procedure. In addition, the examiner should coordinate with the taxpayer and provide the "director consent," if necessary, to facilitate the taxpayer's request.

4. Change in Service's position. Where the Service has changed its position with respect to a particular method of accounting (i.e., it recognizes the permissibility of a method which it previously viewed as impermissible), a taxpayer may request that the examiner allow a change to the previously controverted method in the years under examination via formal or informal claim. Whether to allow a retroactive change based on a change in position is a determination that is appropriately made at the National Office Chief Counsel level. In at least one "unique and extraordinary " circumstance, retroactive change has been allowed within a specified time period. See Rev. Proc. 91-31 (allowed retroactive change in reaction to the decision in Indianapolis Power & Light, 493 U.S. 203 (1990)). The determination as to whether and when such changes should be allowed should not be made by the examiner, as such a practice would result in disparate treatment (differing determinations and differing terms of change) among taxpayers under examination and disparate treatment between taxpayers under examination and those not under examination. Examiners may contact the CAM Technical Advisor and submit a request for technical advice if warranted.
5. Correction of an error. Where an examiner determines that an error correction is necessary and it is not a method change issue, the examiner should make such error correction for the years under examination regardless if the adjustment is positive or negative.

#### 4.11.6.7.6 (05-13-2005)

##### Terms of an Involuntary Change Imposed By the Examiner

1. Using professional judgment in accordance with auditing standards, an examining agent will make findings of fact and apply Service position on issues of law to determine whether an issue is an accounting method issue and whether the taxpayer's method of accounting is permissible. The term "accounting method issue" means an issue regarding whether the taxpayer's accounting treatment of an item is proper, but only if changing the taxpayer's treatment of such item could constitute a change in method of accounting. See Treas. Reg. 1.446-1(e)(2) and Rev. Proc. 2002-18, sections 2.01 and 3.01.
2. An examining agent who determines that a taxpayer's method of accounting is impermissible, or that a taxpayer changed its method of accounting without obtaining the consent of the Commissioner may propose an adjustment with respect to that method only by changing the taxpayer's method of accounting. Failure to recognize and properly treat an accounting method issue as a change in method of accounting can result in a permanent overstatement or understatement of a taxpayer's lifetime taxable income. See Rev. Proc. 2002-18, section 5.02
3. An examining agent changing a taxpayer's method of accounting will select a new method of accounting by properly applying the law to the facts determined by the agent. The method selected must be a proper method of accounting and will not be a method contrived to reflect the hazards of litigation. See Rev. Proc. 2002-18, section 5.03
4. An examining agent changing a taxpayer's method of accounting will make the change in a year under examination. Ordinarily, the change will be made in the earliest taxable year under examination, or, if later, the first taxable year the method is considered to be impermissible. However, in appropriate circumstances, an examining agent may defer the year of change to a later taxable year. See Rev. Proc. 2002-18 section 5.04(1).
5. An examining agent changing a taxpayer's method of accounting ordinarily will impose a 481(a) adjustment, subject to a computation of tax under IRC section 481(b) (if applicable). See Exhibits (1, 2). However, an examining agent should use a cut-off method to make a change (other than a change within the LIFO inventory method as defined in Rev. Proc. 97-27 section 3.09, or a change in method of accounting for intercompany transactions (see Treas. Reg. 1.1502-13) when a statute, regulation or administrative pronouncement of the Service effective for the year of change directs that the change be made using a cut-off method. See, e.g., IRC section 174. In addition, an examining agent may use a cut-off method to make a change in appropriate circumstances. See Rev. Proc. 2002-18 section 5.04(2).
6. The IRC section 481(a) adjustment, whether positive or negative, will be taken into

account entirely in the year of change. See Rev. Proc. 2002–18, section 5.04(3).

#### **4.11.6.7.7 (05-13-2005)**

##### **Finalization of a Service-imposed Method Change**

1. An examining agent changing a taxpayer's method of accounting will provide written notice that an accounting method issue is being treated as an accounting method change. Resolution of an accounting method issue without notice will not establish a new method of accounting. Written notice is a statement in the RAR that a method change is being proposed pursuant to IRC section 446 and 481. To implement a Service-imposed method change, it is recommended that the taxpayer and the Service execute a closing agreement in which the taxpayer agrees to the change and the terms and conditions of the change. If the taxpayer and the Service execute a closing agreement finalizing the change, the notice will be provided in the closing agreement. Rev. Proc. 2002-18 provides a model closing agreement. Such closing agreement is not mandatory.
2. The written notice must include:
  - A. A statement that the accounting method issue is being treated as an accounting method change or a clearly labeled IRC section 481(a) adjustment; and
  - B. A description of the new method of accounting.
3. If the taxpayer and the Service execute a closing agreement, the change is final as of the date of the agreement (unless otherwise provided by a federal court). In the absence of such an agreement, a Service-imposed accounting method change is final only upon the expiration of the period of limitations for filing a claim for refund under 6511 for the year of change or the date of a final court order requiring the change.
4. The Service should make the adjustments necessary to effect a Service-imposed accounting method change to the taxpayer's returns for the taxable years under examination, before Appeals, or before a federal court. These adjustments include the adjustments to taxable income necessary to reflect the new method (including the IRC section 481(a) adjustment required as a result of the change), and any collateral adjustments to taxable income or tax liability resulting from the change.
5. If the taxpayer does not use the new method on any return filed prior to the date a Service-imposed change becomes final, and does not file amended returns to reflect the change, the Service should make the adjustments necessary to reflect the change for the affected taxable years if and when it examines those returns.

#### **Exhibit 4.11.6-1 (05-13-2005)**

##### **IRC Section 481(a) Adjustment Calculation**

When a change in method of accounting occurs, the tax accounts of the taxpayer are restated on the first day of the year of change as if the taxpayer had always used the new method of accounting, and the new method of accounting is used to determine income from that day forward. The tax accounts at the close of the preceding tax year remain as determined under the old method, which is also used to determine taxable income for that year.

As a result of the mismatch between the old and new methods, some items may be treated in inconsistent ways under the old and new accounting methods, which could distort the lifetime income of the taxpayer. For example, a taxpayer switching from cash to accrual would establish an accounts payable on the first day of the year of change for its expenses incurred on credit. An omitted deduction would occur, because the expenses were not deductible under the cash method when incurred and will not be deductible under the accrual method when they are paid.

To address this problem IRC section 481 requires that the taxpayer take into account any adjustments required to offset duplications or omissions of income or expense that result from a change in method of accounting.

<b>Distortion</b>	<b>Offsetting adjustment</b>
Omitted deduction	Negative IRC § 481 adjustment amount
Omitted income	Positive IRC § 481 adjustment
Duplicated deduction	Positive IRC § 481 adjustment
Duplicated income	Negative IRC § 481 adjustment
	Net IRC § 481 adjustment

*Philip L Firetag v. Commissioner*, 86 AFTR Par. 2000-5503, (4th Cir. 2000)

*Earthquake Sound Corp. v. Commissioner*, T.C. Memo. 2000-112

*Suzy's Zoo v. Commissioner*, 114 T.C. No. 1 (2000)

*Rankin v. Commissioner*, 138 F.2d 1286, 1288 (9th Cir. 1998)

*National life Ins. Co. v. Commissioner*, 103 F.3d 5, 7 (2d Cir. 1996)

*Primo Pants Co. v. Commissioner*, 78 T.C. 705, 723 (1982)

*Graff Chevrolet Company v. Commissioner*, 343 F.2d 568, 572 (5th Cir. 1965)

The following illustrates the computation of the IRC section 481(a) adjustment due to the change from accounting for and deducting workers compensation when incurred to accounting for and deducting such items in the year paid. This method change is necessary to change to a proper method of accounting pursuant to IRC section 461 (h). The adjustment is the duplicated expense caused by the difference in balance sheet account amounts per return (old accounting method) and as corrected (new accounting method) on the first day of the year of change.

#### Example of the required calculation under § 481(a)

Assume that calendar year 2001 is the earliest year under exam. This would be the year of change

<u>Account</u>	<u>1/1/2001</u>	<u>12/31/2001</u>
Workers Compensation (accrued not paid)	\$1,000,000	\$1,500,000

#### **FACTS**

- T/P's accounting practice since 1988 has been to deduct when accrued.
- T/P paid \$1,000,000 in 2001 – which was accrued and deducted in 2000.
- T/P accrued and deducted \$1,500,000 in 2001 – which will be paid in 2002.

#### **LAW**

- The tax accounting rule is to deduct only when paid.
- A "timing issue" is involved because the issue is when an item is deductible, not if an item is deductible.
- A *Change in Accounting Method* is necessary to deduct when paid and *not* when accrued.

#### **SOLUTION**

- A "Service Initiated" change in accounting method is made during exam.
- The "NEW" accounting method begins as of 1/1/2001 – the earliest year under examination
- All payments for worker's compensation made *after* 1/1/2001 are deducted when paid.
- Payments made after 1/1/2001 that were accrued and deducted prior to 1/1/2001 will result in a double deduction.
- An adjustment is required pursuant to IRC § 481(a) to prevent the double deduction.

The § 481(a) adjustment is \$1,000,000 – the balance sheet amount at the beginning of the year of change. The current year adjustment is \$500,000 – the difference between the balances at the beginning and the end of the year. These amounts are separately and clearly identified in the RAR.

#### **Exhibit 4.11.6-2 (05-13-2005)** **IRC Section 481(b) Tax Limitation Computation**

If such adjustments increase the taxpayer's taxable income for the year of the change by more than \$ 3,000, then the tax for such year that is attributable to the adjustments shall not exceed the lesser of:

- The tax attributable to taking such adjustments into account in
1. computing taxable income for the taxable year of the change under IRC § 481(a) and Treas. Reg. 1.481-1, or

- The aggregate of the increases in tax that would result if the
2. adjustments were included ratably in the taxable year of the change and the two preceding taxable years.

Note: While this IRC § 481(b) may limit the tax, it does not change the year in which the tax is due. **This computation is mandatory for examiners changing a taxpayer's method of accounting.**

IRC § 481(b)(2) provides a second alternative limitation on the tax for the taxable year of change. If the taxpayer establishes from his books and records what its taxable income would have been under the new method of accounting for one or more consecutive taxable years immediately preceding the taxable year of the change, then the tax attributable to the IRC § 481(a) adjustments shall not exceed the smallest of the following amounts:

- The tax attributable to taking the adjustments into account in
1. computing taxable income for the taxable year of the change under IRC § 481(a) and Treas. Reg. 1.481-1;
  2. The tax attributable to such adjustments computed under the 3-year allocation provided in IRC § 481(b)(1), if applicable; or
  3. The net increase in the taxes that would result from allocating that portion of the adjustments to the one or more consecutive preceding taxable years under the new method of accounting and from allocating the balance thereof to the taxable year of the change.

Steps for computing the tax.

- Compute the increase in tax for the year of the change that is attributable to the adjustments required under IRC § 481(a).
1. Calculate this increase by taking the difference in tax that would be due in the year of change with the IRC § 481(a) adjustment and the tax computed for such year without the IRC § 481(a) adjustment.
- Compute the tax attributable to the IRC § 481(a) adjustments for the taxable year of the change and the two preceding taxable years as if an amount equal to one-third of the net amount of such adjustments had been received or accrued in each of such taxable years.
2. Calculate this increase by taking the excess of the tax for such year computed *with* the allocation of one-third of the net adjustments to such taxable year over the tax computed *without* the allocation of any part of the adjustments to such year.

- If taxpayer satisfies the conditions set forth in IRC § 481(b)(2), compute the tax attributable to the IRC § 481(a) adjustments for the taxable year of the change and the consecutive taxable year or years immediately preceding the taxable year of the change for
3. which the taxpayer can establish his taxable income under the new method of accounting. Calculate this increase by taking the excess of the tax for such year computed with the allocation of the net adjustments to such taxable year over the tax computed without the allocation of any part of the adjustments to such year.



For the purpose of computing the increase in taxes, net operating loss under IRC § 172 or capital loss carryback or carryover under IRC § 1212 should be considered. This would include the net increase or decrease in tax attributable to any taxable year preceding the year of change to which no adjustment is allocated under IRC § 481(b)(1) or (2), but which is affected by a net operating loss or by a capital loss carryback or carryover determined with reference to taxable years to which the adjustments under IRC § 481(b)(1) or (2) are allocated.

*S Corporations and IRC § 481*

In the case of a change in method of accounting by an S Corporation, the adjustments required by IRC § 481(a) shall be made on the S Corporation's return. However, the limitations on tax under IRC § 481(b) shall apply to the individual shareholders. IRC § 481(b) applies to a shareholder of an electing small business corporation whose taxable income is increased by more than \$3,000 as a result of such adjustments to the corporation's ordinary income.

*Partnership returns and IRC § 481*

In the case of a change in method of accounting by a partnership, the adjustments required by IRC § 481(a) shall be made on the partnership return. However, the limitations on tax under IRC § 481(b) shall apply at the partner level. IRC § 481(b) applies to a partner whose income is increased by more than \$3,000 as a result of a IRC § 481(a) adjustment to the partnership's ordinary income.

**Exhibit 4.11.6-3 (05-13-2005)**

**Summary of Differences Between Voluntary Method Change Procedures**

Rev. Proc. 97-27	Rev. Proc. 2002-9
"Advance consent" or "formal consent"	"Automatic consent"
Applies to all changes other than changes subject to the automatic consent procedures.	<p>Applies only to certain changes designated for automatic consent. (These changes are consolidated in the APPENDIX of the most recent version of the automatic consent procedures (currently Rev. Proc. 2002-9) and include changes allowed pursuant to subsequent pronouncements. For new automatic changes that are not yet included in the APPENDIX, see the Change in Accounting Method TA website.)</p> <p>A taxpayer using the automatic procedures for a change that is not eligible for automatic consent <i>does not</i> receive consent under IRC § 446 (e). The taxpayer must amend its returns to go back to the old method and then seek consent under Rev. Proc. 97-27</p>
Taxpayer gets a consent letter.	Taxpayer does not get a consent letter.
National Office reviews change request before issuing the consent letter.	<p>No review is conducted before consent is granted. "Post-consent" review may be conducted by the National Office (if the Form 3115 is selected) or by examiners (if taxpayer is audited).</p> <p>If "post-consent" review indicates that taxpayer has not complied with all the procedures, terms and conditions, the National Office or the examiner may require the taxpayer to make the appropriate modifications, or may revoke the method change consent.</p>

Taxpayer must wait to receive its consent letter before filing.	Taxpayer gets automatic consent and may file on the new method without waiting. (Consent is only valid, however, to the extent that the taxpayer complies with the terms and conditions of Rev. Proc. 2002-9.)
One Form 3115 filed with National Office.	Two Forms 3115 required: a copy of Form 3115 is filed with National Office, and original is attached to a timely filed return for the year of change.
Taxpayer must file <i>during</i> the year of change	Taxpayer has through the <i>extended due date of the return</i> for the year of change to complete its filing.
Taxpayer filing is acknowledged.	Taxpayer gets no acknowledgement of filing.
User fee is charged	No user fee is required

**Exhibit 4.11.6-4 (05-13-2005)**  
**Summary of Citations for Key Terms and Concepts**

Summary of Citations for Key Terms and Concepts		
Rev. Proc. 97-27 and Rev. Proc. 2002-9		
(As modified and amplified by Rev. Proc. 2002-19)		
Terms and Concepts	Rev. Proc. 97-27 Ref: Section	Rev. Proc. 2002-9 Ref: Section
Change in method of accounting defined	2.01	2.01
No retroactive method change	2.04	2.04
Method change IRC section 481 (a) adjustment	2.05	2.05
Method change cut-off	2.06	2.06
Applicable provisions defined	---	3.02
Under Examination	3.07	3.08
Examination begins	3.07(1)(a)	3.08(1)(a)
Examination ends	3.07(1)(a)(i)-(iii)	3.08(1)(a)(i)-(iii)
Issue under consideration	3.08	3.09
Scope limitations *	4.02 *	4.02 *
IRC section 481(a) adjustment period *	5.02(3) *	5.04 *
90-day Window	6.01(2)	6.03(2)
120-day window	6.01(3)	6.03(3)
Consent of Director	6.01(4)	6.03(4)
Changes lacking audit protection	---	6.03(5)
Issue Pending *	6.01(5) *	6.03(6) *
Compliance with revenue procedure	8.03	9.02
Audit Protection	9	7
Review by the Director	11	9

\*As modified and amplified by Rev. Proc. 2002-19 for years ending on or after 12/31/2001.

**Exhibit 4.11.6-5 (05-13-2005)**  
**Summary Worksheet for Method Change Requests Pursuant to " Consent of Director" Provisions of Rev. Proc. 97-27, Rev. Proc. 99-49 and Rev. Proc. 2002-9**

Date: _____			
Taxpayer Name: _____			
Form: _____			
Address: _____			
EIN: _____			
Taxpayer Contact Person: _____		TEL.# _____	
_____		_____	
Manager: _____		TEL.# _____	
_____		_____	
Examiner: _____		TEL.# _____	
_____		_____	
Years under exam currently : _____			
Year of change requested: _____			
Applicable Revenue Procedure: _____			
For Rev. Proc. 2002-9 (only) Change #: _____			
Regulation or Code Section _____			Rev. Rul. _____
_____			_____
Taxpayer is requesting a change in accounting method from _____			
_____ and is requesting a change to _____			
_____			
Is the method of accounting to be changed a change from an impermissible method that was adopted subsequent to the years under examination?			
(If yes, a non-objection letter is appropriate.)			
Yes: _____ No: _____		_____	
_____		_____	
If yes, please explain: _____			
_____			
_____			
Is the method of accounting to be changed a result of an unauthorized method change made in a year under exam? (If yes, an objection letter is appropriate.)			
Yes: _____ No: _____		_____	
_____		_____	
If yes, please explain: _____			
_____			
_____			
Is the method of accounting to be changed a type that would ordinarily be included as an adjustment issue for the years under examination? (If yes, an objection letter is appropriate.)			
Yes: _____ No: _____		_____	
_____		_____	
If yes, please explain: _____			
_____			
_____			
Do you otherwise object to the taxpayer using subsection 6.01(4) of Revenue Procedure 97-27 (or Section 6.03(4) of Rev. Proc. 2002-9) to request a method change for the year indicated above?			
Yes: _____ No: _____		_____	
_____		_____	

If yes, please explain: _____							
_____							
_____							
Is this request being made pursuant to Section 6.03(5) of Rev. Proc. 2002-9 or Section 6.03(6) of Rev. Proc. 2002-9 as modified by Rev. Proc. 2002-19 or Section 6.01(5) of Rev. Proc. 97-27 as modified by Rev. Proc. 2002-19?							
Yes: _____ No: _____							
If yes, then the "Director's consent" provision is not applicable. Please indicate which provision is being used by the taxpayer.							
_____							

**Exhibit 4.11.6-6 (05-13-2005)**  
**"Non-Objection" Letter**

Example of "Non-Objection" Letter

Taxpayer Name: \_\_\_\_\_  
 (If only for a specific subsidiary, note the name of such subsidiary)

\_\_\_\_\_

Address: \_\_\_\_\_

EIN: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

Dear Taxpayer:

\_\_\_\_\_

This letter grants consent to the filing of an application for consent to a change in accounting method as described below pursuant to [insert Rev. Proc. 97-27 section 6.01(4) or Rev. Proc. 2002-9 section 6.03(4) of ], subject to the terms and conditions contained therein. This letter does not grant or constitute consent to a change in accounting method, and cannot be relied upon to establish implicit or explicit consent to a change in accounting method.

\_\_\_\_\_

Currently, the taxable years ended \_\_\_\_\_ through \_\_\_\_\_ for your Form(s) \_\_\_\_\_ are under examination.

\_\_\_\_\_

The year of change requested by you is the year-ended \_\_\_\_\_

\_\_\_\_\_

You are requesting to change from \_\_\_\_\_ to \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

This letter is not a determination as to whether or not the method change(s) requested is (are) within the scope of (insert Rev. Proc. 97-27 or Rev. Proc. 2002-9).

\_\_\_\_\_

If you have any questions concerning this matter, please call \_\_\_\_\_ at \_\_\_\_\_

\_\_\_\_\_

Sincerely,

\_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_

**Exhibit 4.11.6-7 (05-13-2005)**

## "Objection" Letter

### Example of "Objection" Letter

Taxpayer Name: \_\_\_\_\_  
(If only for a specific subsidiary, note the name of such subsidiary)

Address: \_\_\_\_\_

EIN: \_\_\_\_\_

Date: \_\_\_\_\_

Dear Taxpayer:

This is in response to your request for a change in accounting method pursuant to [Rev. Proc. 97-27 section 6.01(4), or Rev. Proc. 2002-9 section 6.03(4)]. Currently, the taxable years ended \_\_\_\_\_ through \_\_\_\_\_ for your Form(s) \_\_\_\_\_ are under examination.

The year of change requested by you is the year ended \_\_\_\_\_

You are requesting to change from \_\_\_\_\_  
\_\_\_\_\_ to \_\_\_\_\_  
\_\_\_\_\_

We do object to your filing of this request for a change in accounting method. [We object because the method of accounting to be changed is an item of adjustment for the years currently under examination] or [We object because this request is not a "Director's Consent " Request]

If you have any questions concerning this matter, please call \_\_\_\_\_ at \_\_\_\_\_

Sincerely,

\_\_\_\_\_  
Title

[More Internal Revenue Manual](#)

[Accessibility](#) | [FirstGov.gov](#) | [Freedom of Information Act](#) | [Important Links](#) | [IRS Privacy Policy](#) | [U.S. Treasury](#)

Internal Revenue Service

Director  
Internal Revenue  
Service Center

Southwest Region

Department of the Treasury  
801-629-1754 NOT TOLL FREE  
P.O. Box 9941, Ogden, Utah 84409  
M/S 7000

November 2, 1993

Dear Mr.

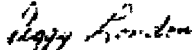
This is in response to your Privacy Act request dated October 15, 1993.

The document locator numbers identified in your request are for Substitute for Returns, Form 1040. As stated in our prior response, these documents are available through routine processing procedures. Please refer to the enclosed page from Internal Revenue Manual 1372.

Delegation orders which authorize Internal Revenue Service employees to create substitutes for returns do not exist. This is part of a processing procedure located in an Internal Revenue Manual. If you wish to obtain a copy of the appropriate manual, you should address your inquiry to:

Internal Revenue Service  
Attn: FOI Reading Room  
P.O. Box 388  
Ben Franklin Station  
Washington, DC 20044

Sincerely,



J<sup>r</sup> Jay Hammer  
Disclosure Officer

Enclosure

Chapter 100  
**5480 Substitute for Return Program Handbook**

[Supplemented by MS 5G-362 National Disaster/Emergency Relief Program Expiration Date: July 31, 1992]

[Supplemented by MS CR 5G-376 Reconsideration of Deficiency Assessments Expiration Date: January 26, 1995]

[Supplemented by MS 5G-388 Multi-Functional TDI Refund Hold Program Expiration Date: August 1, 1995]

**110 (9-4-93)**  
**Purpose**

(1) The Substitute for Return (SFR) program was developed to deal with taxpayers who have not filed individual income tax returns and for whom income information is available to substantiate a significant income tax liability without costly field investigation.

(2) The purpose of this program is to determine and assess the correct tax liability by:

- (a) securing a valid voluntary income tax return from the taxpayer, or
- (b) computing tax, interest, and penalties based upon Information Returns Program (IRP) information submitted by payers, or other internally available information.

**120 (9-4-93)**  
**Background**

Effective October 1, 1986, following delegation of authority to issue Statutory Notice of Deficiency (see Delegation Order No. 77, as revised of IRM 1229, Handbook of Delegation Orders) Service Center Collection Branches (SCCB) assumed responsibility for the Substitute for Return program.

(2) SCCB prepares Forms 1040 under authority of Internal Revenue Code 6020(B) and issues Statutory Notices of Deficiency as authorized by Internal Revenue Code 6212.

(3) In this handbook, the words "CAUTION" and "NOTE" appear throughout the text as a reminder to be careful when following prescribed procedures. As with all major programs, there will be exceptions which must be considered during case resolution.

(4) All new cases are downloaded from Integrated Data Retrieval System (IDRS) to the Automated Substitute for Return (ASFR) System at the time of Taxpayer Delinquency Investigation (TDI) analysis. The ASFR weekly batch analysis program performs processing through the final assessment (TC 290) action.

(5) Report time spent on the ASFR program under the following Organization, function, and program codes:

- (a) ASFR processing 810-62150\*
- (b) ASFR correspondence 810-62158

(c) Note: \* volumes on this program code must be adjusted by the volume of correspondence in order to avoid duplicate counts.

**130 (9-4-93)**  
**Coordination With Other Programs**

(1) The ASFR function will follow the guidelines for the Problem Resolution Program found in IRM 541(15) and Processing Timeliness and Correspondence Guidelines in IRM 5413.1:(1).

RECEIVED

MAR 7 1988

File 4200

MAR 03 1988

date: Assistant Regional Commissioners (Collection)  
 to: Assistant Regional Commissioners (Examination)  
 Assistant Commissioner (International) IN  
 Attn: Director, Office of Management, Planning and Research IN:M  
 (Information Copies to Service Center Directors)  
 from: Director, Office of Field Operations CO:O:SC *Grant A Newman*  
 Director, Office of Examination Program EX:E *Dianna Brant*  
 National Office

OFFICE OF ARC (COLLECTION)  
WESTERN REGION

subject: Substitute for Return Program

When Collection assumed responsibility for working Substitute for Return (SFR) referrals in October 1986, the scope of the program was expanded dramatically. Now that the Service Center Collection Branches (SCCBs) are beginning to make assessments on large numbers of cases, several issues have come up that require clarification. The issues are discussed in detail in Attachment I. Please ensure that all field personnel, specifically ACS, Cff, and appropriate SCCB employees receive a copy of this memorandum, including the attachment.

Another major issue that requires clarification is a taxpayer electing joint filing status when a Notice of Deficiency (90-day Statutory Notice) has been issued or when a separate return has already been filed.

✓ Once a Notice of Deficiency has been issued IRC 6013(b) specifically states that a taxpayer cannot elect joint filing status, if a petition is then filed with the U.S. Tax Court. This restriction applies on an independent basis in all cases; there are no extenuating circumstances or exceptions to the rule.

The Service has historically interpreted this provision to bar joint filing entirely during the 90-day period, with no exception for whether or not a petition was filed with the U.S. Tax Court. The recent Tax Court decision in the Phillips case (86 TC433), which is currently on appeal to the U.S. Court of Appeals, has caused some doubt as to the proper handling of both substitute for returns and joint filing status issues. To clarify this situation, and because Examination receives the unagreed fallout from this program, National Office Examination is expediting a written opinion from the Office of Chief Counsel. In the meantime, joint filing status should not be allowed once the 90-day Statutory Notice has been issued, for any reason, and Examination should continue to select these returns during the screening process.





Assistant Regional Commissioners (Collection)  
Assistant Regional Commissioners (Examination)  
Assistant Commissioner (International) IN  
Attn: Director, Office of Management, Planning and Research IN:M  
(Information Copies to Service Center Directors)

✓ In addition to the above restriction, when a separate return has already been filed, two other statutory restrictions prevent joint filing status under any circumstances:


(1) The first applies when a joint return is submitted when three years have passed since the original due date of the return (without regard to extensions).

(2) The second restriction applies if the taxpayer fails to pay the tax shown on the joint return in full at the time of filing.

✓ In other words, if a separate return has previously been filed, a taxpayer can elect to file jointly if three years have not passed since the original due date of the return, the joint tax is paid in full, and a Notice of Deficiency has not been issued.

It should be noted that joint returns submitted prior to issuance of the Notice of Deficiency can be accepted as original filings if no prior returns have been filed by the taxpayers, since the three restrictions noted above will not apply.

In accordance with IRM 5480, all returns received from taxpayers under the SFR Program must be screened by Examination. Prior to issuance of the Notice of Deficiency, a taxpayer can elect joint filing status, Examination can select the return during the screening process, and the normal processing actions can be taken by Collection. However, once the Notice of Deficiency has been issued, the Notice itself serves as an original filing under IRC 6020(b), and any subsequent taxpayer filing constitutes an amended return. Therefore, a TC 290 posting is not appropriate after the Notice of Deficiency has been issued since it serves to restrict the Service's position if the case is petitioned with Tax Court. Instead, if Examination selects a return filed during the 90-day period, input TC 595 cc 88 and process the return with a TC 977. The relevant portions of section 860 of IRM 5480 pertaining to the processing of returns filed during the 90-day period will be revised.



Assistant Regional Commissioners (Collection)  
Assistant Regional Commissioners (Examination)  
Assistant Commissioner (International) IN  
Attn: Director, Office of Management, Planning and Research IN:M  
(Information Copies to Service Center Directors)

Section 850 of IRM 5480 mentions revising the 90-day Statutory Notice. Based on the above clarification, this phrase will be eliminated. If a 90-day Statutory Notice should be revised based on information and/or a return submitted by the taxpayer, Examination will issue a supplemental report.

There are proposed Revenue Procedures dealing with the Rescission of Statutory Notice of Deficiency as provided in Section 1502(a) of the Tax Reform Act of 1986. The current approach to this provision is conservative and is not intended for Collection's use during SFR processing. However, Collection is coordinating with Chief Counsel on a broader interpretation of this authority to address the potential customer relations problem when returns and/or correspondence are received after the Statutory Notice of Deficiency has been issued. This change would relieve taxpayers of the burden of paying taxes they may not owe and having to subsequently file for a refund of those taxes. The rescission would be consistent with the Commissioner's goal of providing taxpayer service, fairness, reducing problems, and warding off unfavorable publicity. We will keep you advised of our progress.

If there are any questions, please have your regional staff contact Jennifer Morrison on FTS 343-9672, or Jan Rocks on FTS 566-8600.

Attachment

Adjustments

Recently, a Manual Supplement was issued, 5G-337, which contains guidelines for requesting adjustments on SFR assessments. As stated in this document, the only time an SFR assessment can be adjusted is if one or more of the following criteria are met: the taxpayer never received the statutory notice; the taxpayer was mentally incapable of understanding the notice; or the taxpayer, due to unusual circumstances, was not able to gather the information necessary to file his own return. This last category is to be used only in unique situations and with caution.

There has been a great deal of misunderstanding about what can or cannot be done with an SFR assessment, and what is an acceptable excuse for processing an adjustment. These cases are treated the same as any other audit adjustment, since technically an SFR case is the result of a correspondence audit. As mentioned above, the circumstances which justify an adjustment are very limited. An SFR assessment is different from a BMF 6020(b) assessment. A legal statutory notice of deficiency is issued, and the taxpayer has the right to go to U.S. Tax Court. Once the assessment is made, the taxpayer loses the right to make several elections that could have been taken if he/she had voluntarily filed a return. In effect, the IRS makes the election for him/her and the assessment becomes a legal debt. Unless one of the above three conditions exists, we cannot take any action to adjust the balance due until the assessment has been full paid. At that time the taxpayer may file a claim.

Undelivered Mail

There have been some questions and concerns with the volume of undelivered mail processing in SFR. If research does not obtain a new address we are discontinuing SFR processing on these cases to avoid inflating our inventory and increasing the risk of invalid assessments. In this situation input TC 593 CC 88. IRM 5480, texts 720 and 833, will be revised accordingly. To enhance our processing, Fresno's SCCB is testing tape-to-tape address research with a credit bureau for SFR/ASFR. We will keep you advised of its progress and make it available as soon as possible.

Credit Balances

One additional item that should be addressed is credit balance conditions. If a TDI period undergoing SFR processing is closed TC 590 or 591, it is important that special care be taken to resolve any credit balance remaining on that module. Follow the procedures found in IRM 5422.7 when this situation is encountered.

cc: MGRS

Internal Revenue Service  
**memorandum**

DEC 16 1988

DISTRICT DIRECTOR

date: DEC 12 1988 1988 DEC 16 PM 2:04 5480  
IRS

to: District Directors  
Western Region SACRAMENTO DISTRICT  
(Simultaneous copies to Chiefs, Collection Division)

from: Assistant Regional Commissioner (Collection) C  
Western Region *[Signature]*

subject: Substitute for Return Program

The attached National Office memorandum on the above subject, dated October 24, 1988, is forwarded for your information.

If there are any questions, please have a member of your staff contact Rick Bazick on FTS 461-6806 or SAM 202-0027.

Attachment

COLLECTION DIVISION

	RESP	ACTION	CORD	INFO
CHIEF, FB I				
CHIEF, FB II				
CHIEF, FB III				
CHIEF, SPF				
CHIEF, I & S				
STAFF ASST.				
MGMT. ANAL.				
CADRE MGR.				

RECEIVED SACTO DIS. DIR.		
DATE: 12-16-88		
DIST.	RESP.	INFO.
DD		
ADD		✓
PEC		
EEG		
PAC		
DPCS		
RM		
C		✓
L		
CI		
TS		
QC		
C75 Cent:		

COI-89-0205

Internal Revenue Service  
**memorandum**

date: **OCT 24 1988**

to: Assistant Regional Commissioners (Examination and Collection)  
Assistant Commissioner (International) IN  
Attn: Director, Office of Management, Planning and Research IN:M  
(Information Copies to Service Center Directors)  
from: Assistant Commissioner (Examination) EX *Robert Johnson*  
Assistant Commissioner (Collection) CO *John T. Oler*

subject: Substitute for Return Program

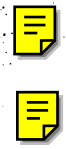
This memorandum serves as a follow-up to our joint memorandum on the Substitute for Return Program (SFR) issued on March 1, 1988. In that memorandum, we stated our intention to clarify the issue of joint filing status on SFR cases by requesting an interpretation from Chief Counsel, while temporary procedures were provided in the interim. This memorandum incorporates the opinion of Chief Counsel on the issue, as well as the recent decision of the U.S. Court of Appeals for the District of Columbia in Phillips, #87-1398.

Prior to the appellate decision in Phillips, the position of Chief Counsel has been that the statutory provisions of IRC 6013(b) do not prevent the allowance of joint filing status to qualifying taxpayers after the Notice of Deficiency has been issued (or separate return filed), as long as the following three conditions are all met:

- 1) the joint return is filed within 3 years of the original due date of the return (not including extended due dates),
- 2) the taxpayers must not file a petition with the U.S. Tax Court for the year in question, and
- 3) the taxpayers must pay the tax reflected on the joint return at or before the time of filing the joint return.

The Service chose not to pursue the IRC 6020(b) issue (regarding what constitutes a valid substitute for return) in the Phillips case, and only appealed the joint filing status issue of IRC 6013(b) to the circuit court. The only evidence of a substitute for return submitted to the Tax Court in Phillips was an incomplete Form 1040 with only entity information on it, the so called "dummy return." Since the Tax Court found that the "dummy return" submitted alone did not constitute a substitute for return, no prior separate return had been filed by the taxpayer, and nothing in the case prevented the application of joint rates. As a result, the Court of Appeals found for the taxpayer.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50



Assistant Regional Commissioners (Examination and Collection)  
Assistant Commissioner (International) IN  
Attn: Director, Office of Management, Planning and Research IN:M

IRS • PHOTO COPY • UNIT • PRINT • SWIR

We believe that a properly prepared SFR case file, including a Form 1040 with only entity information, a complete examination report, and a Notice of Deficiency, is supportable in court. Therefore, the issuance of a Notice of Deficiency on a thoroughly prepared SFR case file constitutes a separate filing, and the limitations on joint filing as itemized in the second paragraph of this memorandum would be applicable. Other recent court decisions have supported this position (see Smallridge, 86-2 USTC 9764, in which the Tenth Circuit Court of Appeals upheld a Tax Court decision for the Service; and Conovitz, 39 TCM 929). Therefore, we will follow the guidelines above in all our future preparations of SFR cases.

We acknowledge that in some circumstances it will be administratively difficult to resolve joint filing issues, especially when the return or request arrives toward the end of the 90-day period or when the return raises other issues not previously addressed in the Notice of Deficiency. Ideally, we would like to have enough time to be able to review all of the taxpayer's information, determine what additional information might be needed, and prepare a detailed response with enough remaining time for the taxpayer to petition the Tax Court. However, in many cases we do not have this luxury.

To the extent possible, we should expedite a response to the taxpayer during the 90-day period, including all related joint filing status issues (spousal income, joint tax rates, exemptions) and other allowable items, and inform the taxpayer that the statutory period for filing a petition with the Tax Court has not been, and cannot be, extended by either party. Reasons for disallowance of unallowable or unsubstantiated items should be included in our response. If a phone number is available and there is little time left for the taxpayer to file a petition, we should call the taxpayer to inform him/her of our decision and follow it up with a written response.

If the taxpayer agrees with our examination report and the only outstanding issue is full payment, Collection personnel should contact the taxpayer immediately (by telephone, if possible), advising him/her of the amount and deadline for submitting payment.

Assistant Regional Commissioner (Examination and Collection)  
Assistant Commissioner (International) IN  
Attn: Director, Office of Management, Planning and Research IN:M

5  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100

We will continue to allow unrestricted joint filing status prior to issuance of the Notice of Deficiency or the filing of a separate return. All returns filed under the SFR Program, whether before or after issuance of the Notice, should be screened by Examination for audit potential before processing and assessment. The procedures provided in the previous memorandum for handling returns filed during the 90-day period should still be followed.

Returns filed during the 90-day period require a signed examination report or waiver of restrictions to be considered agreed and allow for assessment of tax and penalties. Therefore, supplemental reports should be used to secure agreements to reduced tax liabilities in Notice of Deficiency cases. Where Collection personnel work taxpayer responses, they can use Examination's supplemental report procedures.

We would like to emphasize the importance of training in the examination of SFR cases because of the multitude of tax issues that may arise during our contacts with taxpayers in this program. Since any number of unusual and complex issues can be raised on returns filed under the SFR Program, we need to ensure that front-line personnel are provided with broad tax law awareness modules so as to be able to recognize potential examination issues and identify such other compliance problems as tax fraud.



Discussions with the field and other functions have shown that there are inconsistencies in the handling of the statute of limitations in Substitute for Return cases. We would like to call your attention to the fact that, under IRC 6501(b)(3), the preparation and filing of an SFR return by the Service does not begin the tolling of the statute of limitations. The normal "3 years from filing/2 years from payment" limitations on assessment do not begin until the taxpayer voluntarily files a return or signs an agreement to a tax assessment proposed by the Service.



If you have any questions, please have a member of your staff contact Duke Lokka in Examination at FTS 566-6474 or Lois Barley in Collection at FTS 343-9673.

Internal Revenue Service  
**memorandum**

JAN 11 1969

5240

date: December 23, 1988  
 to: All Districts  
 Serviced by Ogden Service Center  
 from: Director C:4000  
 Ogden Service Center

RECEIVED SACTO DIS. DIR.		
DATE: 1-9-89		
DIST.	RESP.	INFO.
DD		
ADD		✓
PRO		
EEO		
PAO		
DPSS		
RM		
C		✓
E		✓
CI		✓
TS		
QC		
Cys Sent:		

subject: Substitute for Return (SFR) Cases - Joint Filing Issue

The Service's policy to not allow a joint filing election more than 3 years from the original date of the return if either an SFR assessment has been made, or a 90-day letter proposing assessment has been issued, continues to generate concern from the district offices. While we share the concerns, we are following the established policy and will continue to do so until there is a change.

Attached for your information is a briefing paper we sent to the Regional Commissioner, Southwest Region, expressing our reservations about this policy. This information has also been forwarded to the National Office. We have been informed the National Office is reconsidering this position. There are indicators that a change may be made to this policy; however, in the interim we are obligated to continue the practice of disallowing the election of joint filing status under the above conditions.

We would appreciate it if you would communicate this information to your staff.

*Bob Wenzel*  
 Director

Attachment

cc: ARC(Coll)SWR, MWR, WR  
 ARC(Exam)SWR, MWR, WR  
 ARC(CI)SWR, MWR, WR

TR

FIELD BRANCH III 1/17/89

	RESP	ACTN	COR	INFO
3100				✓
3200				✓
3300				✓
3400				✓
3500				✓
3600				✓
FB III	✓			
FILE				

COLLECTION DIVISION

	RESP	ACTION	COR	INFO
CHIEF, FB I				✓
CHIEF, FB II				✓
CHIEF, FB III				✓
CHIEF, FB IV				✓
CHIEF, FB V				✓
CHIEF, FB VI				✓
CHIEF, FB VII				✓
CHIEF, FB VIII				✓
CHIEF, FB IX				✓
CHIEF, FB X				✓
CHIEF, FB XI				✓
CHIEF, FB XII				✓
CHIEF, FB XIII				✓
CHIEF, FB XIV				✓
CHIEF, FB XV				✓
CHIEF, FB XVI				✓
CHIEF, FB XVII				✓
CHIEF, FB XVIII				✓
CHIEF, FB XIX				✓
CHIEF, FB XX				✓
CHIEF, FB XXI				✓
CHIEF, FB XXII				✓
CHIEF, FB XXIII				✓
CHIEF, FB XXIV				✓
CHIEF, FB XXV				✓
CHIEF, FB XXVI				✓
CHIEF, FB XXVII				✓
CHIEF, FB XXVIII				✓
CHIEF, FB XXIX				✓
CHIEF, FB XXX				✓
CHIEF, FB XXXI				✓
CHIEF, FB XXXII				✓
CHIEF, FB XXXIII				✓
CHIEF, FB XXXIV				✓
CHIEF, FB XXXV				✓
CHIEF, FB XXXVI				✓
CHIEF, FB XXXVII				✓
CHIEF, FB XXXVIII				✓
CHIEF, FB XXXIX				✓
CHIEF, FB XL				✓
CHIEF, FB XLI				✓
CHIEF, FB XLII				✓
CHIEF, FB XLIII				✓
CHIEF, FB XLIV				✓
CHIEF, FB XLV				✓
CHIEF, FB XLVI				✓
CHIEF, FB XLVII				✓
CHIEF, FB XLVIII				✓
CHIEF, FB XLIX				✓
CHIEF, FB L				✓
CHIEF, FB LI				✓
CHIEF, FB LII				✓
CHIEF, FB LIII				✓
CHIEF, FB LIV				✓
CHIEF, FB LV				✓
CHIEF, FB LVI				✓
CHIEF, FB LVII				✓
CHIEF, FB LVIII				✓
CHIEF, FB LIX				✓
CHIEF, FB LX				✓
CHIEF, FB LXI				✓
CHIEF, FB LXII				✓
CHIEF, FB LXIII				✓
CHIEF, FB LXIV				✓
CHIEF, FB LXV				✓
CHIEF, FB LXVI				✓
CHIEF, FB LXVII				✓
CHIEF, FB LXVIII				✓
CHIEF, FB LXIX				✓
CHIEF, FB LXX				✓
CHIEF, FB LXXI				✓
CHIEF, FB LXXII				✓
CHIEF, FB LXXIII				✓
CHIEF, FB LXXIV				✓
CHIEF, FB LXXV				✓
CHIEF, FB LXXVI				✓
CHIEF, FB LXXVII				✓
CHIEF, FB LXXVIII				✓
CHIEF, FB LXXIX				✓
CHIEF, FB LXXX				✓
CHIEF, FB LXXXI				✓
CHIEF, FB LXXXII				✓
CHIEF, FB LXXXIII				✓
CHIEF, FB LXXXIV				✓
CHIEF, FB LXXXV				✓
CHIEF, FB LXXXVI				✓
CHIEF, FB LXXXVII				✓
CHIEF, FB LXXXVIII				✓
CHIEF, FB LXXXIX				✓
CHIEF, FB LXXXX				✓
CHIEF, FB LXXXXI				✓
CHIEF, FB LXXXXII				✓
CHIEF, FB LXXXXIII				✓
CHIEF, FB LXXXXIV				✓
CHIEF, FB LXXXXV				✓
CHIEF, FB LXXXXVI				✓
CHIEF, FB LXXXXVII				✓
CHIEF, FB LXXXXVIII				✓
CHIEF, FB LXXXXIX				✓
CHIEF, FB LXXXXX				✓
CHIEF, FB LXXXXXI				✓
CHIEF, FB LXXXXXII				✓
CHIEF, FB LXXXXXIII				✓
CHIEF, FB LXXXXXIV				✓
CHIEF, FB LXXXXXV				✓
CHIEF, FB LXXXXXVI				✓
CHIEF, FB LXXXXXVII				✓
CHIEF, FB LXXXXXVIII				✓
CHIEF, FB LXXXXXIX				✓
CHIEF, FB LXXXXXX				✓
CHIEF, FB LXXXXXXI				✓
CHIEF, FB LXXXXXXII				✓
CHIEF, FB LXXXXXXIII				✓
CHIEF, FB LXXXXXXIV				✓
CHIEF, FB LXXXXXXV				✓
CHIEF, FB LXXXXXXVI				✓
CHIEF, FB LXXXXXXVII				✓
CHIEF, FB LXXXXXXVIII				✓
CHIEF, FB LXXXXXXIX				✓
CHIEF, FB LXXXXXXX				✓
CHIEF, FB LXXXXXXXI				✓
CHIEF, FB LXXXXXXXII				✓
CHIEF, FB LXXXXXXXIII				✓
CHIEF, FB LXXXXXXXIV				✓
CHIEF, FB LXXXXXXXV				✓
CHIEF, FB LXXXXXXXVI				✓
CHIEF, FB LXXXXXXXVII				✓
CHIEF, FB LXXXXXXXVIII				✓
CHIEF, FB LXXXXXXXIX				✓
CHIEF, FB LXXXXXXX				✓



December 2, 1988

Regional Commissioner  
Southwest Region

Director C:4000  
Ogden Service Center

Substitute for Return (SFR) - Joint Filing (IRC 6013)

This memorandum is intended to provide you with information about a concern that we have in the SFR area. This concern has been discussed with Jim Kopidlansky and Jack Miller by Tim Towns of my staff. Kopl has stated that he will pursue this matter with the National Office Examination function.


Background: We have previously raised our concern and disagreement with some of the directions provided on SFR processing in the March 1, 1988, joint memorandum from the Assistant Commissioners, Examination and Collection (Attachments 1 and 2). Our concerns, along with action you have taken, have had an impact on changing the policy on reconsideration cases and allowing assessment in undelivered mail cases (Attachments 3, 4 and 5).

The issue of allowing joint filing in certain SFR situations, however, remains a problem for us. The October 24, 1988, joint memorandum from the Assistant Commissioners, Examination and Collection (Attachment 6) restates the position that the issuance of a Notice of Deficiency on an SFR case will prevent the taxpayer from filing a joint return if the return is filed more than 3 years from the original due date. We have several reservations about this decision.


Legal Arguments: IRC 6013 provides for taxpayers to elect joint filing status. IRS 6013(b) limits the changing to a joint election after a separate return has been filed (Attachment 7). It is the Service's position that a separate return prepared by the Service under IRC 6020(b) constitutes a filed return for purposes of IRC 6013(b)(2). This position is stated in Revenue Ruling 70-632 (Attachment 8). Once a separate return has been filed the taxpayer can only make the change to joint filing in this situation if he meets the criteria in IRC 6013(b)(2). This position was upheld in *Durovic vs. Commissioner* 54 TC 1364(1970) and in numerous subsequent cases.

Although there has been some interpretation that IRC 6013(b)(2) implies that a joint election cannot be made after 3 years from the due date of the return, regardless of whether there was an original filing or not, this is clearly not the case. Revenue Ruling 72-539 states that a joint election can be made at any time if the return for the year in question had never been filed previously (Attachment 9).

Regional Commissioner  
Southwest Region

Recently judicial decisions in Phillips vs. Commissioner 86 TC 433,440 (1986), and Britt vs. Commissioner TC Memo 88-419, Docket No. 663-87, 09-06-88 (Attachments 9 and 10) have held that the return filed under 6020(b) does not constitute a return for the purposes of IRC 6013(b). 

Counsel in Western Region on April 22, 1988, issued an opinion that taxpayers should be allowed to make a joint election on an untimely filed return as long as neither spouse has previously filed a return (Attachment 11). Western Region adopted this position pending direction from the National Office (Attachment 12).

Problems: The SFR program should have as its ultimate goal the securing of a correct return and collection of the proper tax. Additionally, we want to bring taxpayers into voluntary compliance with the tax laws. Although we may be able to advance the legal argument that the taxpayer must pay the higher tax resulting from a separate return, does this support the above objectives? 

Currently taxpayers are allowed to file joint returns more than 3 years from the due date as long as a Notice of Deficiency has not been issued. This means that a non-filing taxpayer we have either chosen not to pursue or where we have not yet issued the Notice of Deficiency, gets the benefit of the joint election, while a taxpayer in the same situation who has had an SFR Notice of Deficiency issued cannot.

Another possible scenario could be a delinquent taxpayer that has not filed a return since 1981. Because of the recent National Office decision not to pursue years 1983 and prior, we would only issue a Notice of Deficiency on 1984 and subsequent. If the taxpayer voluntarily filed all delinquent returns as joint returns, we would allow the joint filing for 1982 and 1983, but not for 1984.

The matter could be further complicated by the recent Mulder vs. Commissioner decision that found our Notice of Deficiency invalid since we did not make sufficient attempts to locate the most current address for the taxpayer. We could be faced with a situation where we make an assessment based on undelivered mail, but subsequently locate the taxpayer while attempting to collect the TDA. The taxpayer could argue that we do not have a valid Notice of Deficiency and, therefore, he/she should be able to make a joint election.

Under our current reconsideration system, if the statutory notice was not received by the taxpayer, we would allow the taxpayer to provide us with the required information. There is no policy now on whether we would allow joint filing in this situation.

Regional Commissioner  
Southwest Region

There is currently no procedure to advise taxpayers that in SFR proceedings, once a Notice of Deficiency is issued, we will not accept a return with a joint filing election if the return is more than 3 years past due. We should inform the taxpayers in our letters that if they do not file a return prior to issuing a Notice of Deficiency, they may be barred from filing a joint return.

There are no guidelines on how we should process returns when we will not allow the joint filing election. Procedures need to be developed for the various situations that may occur. (For example, how is a joint return with additional income from a spouse not included in our SFR proposal to be processed in order to ensure consistent handling of taxpayers?)

District office personnel, including problem resolution officers, have apprised us of the difficulties they have encountered. We have had incidents where Ogden has not allowed the joint filing election, but the district offices have accepted the return and processed an adjustment. Revenue officers have experienced problems in collecting assessments that are significantly greater than would exist if joint filing was allowed.

Summary: There are two different interpretations of the applicability of IRC 6013(b) to SFR cases. The Service has chosen to hold to the position that this section applies to SFR cases, hence a joint filing election cannot be made on returns over 3 years delinquent. There are numerous problems resulting from this decision including questions as to how this decision assists the Service in accomplishing its goals. Are we collecting the proper amount of tax? Does this decision warrant the highest degree of public confidence in our fairness? Does this interpretation of IRC 6013(b) help us achieve voluntary compliance? What is being done to advise the public of their rights and responsibilities in this area? We believe that this decision is not in keeping with our mission statement. Furthermore, there are many unresolved issues that need to be dealt with if the Service's position remains that joint elections cannot be made in these cases. These issues deal primarily with consistency in approach.

Recommendation: The above discussed problems could be resolved if the Service's policy was that IRC 6013(b) applies only to a taxpayer's filed return, not to Service prepared returns.

If you or your staff have any questions regarding the above, please have them contact Tim Towns at FTS 586-7175.

Director

Attachments

MAR 16 1989

FROM NATIONAL OFFICE OF DIRECTOR 03/13/1989 08:14  
DISTRICT DIRECTOR

Internal Revenue Service  
memorandum

1989 MAR 10 PM 12:24 pss

IRS

SACRAMENTO DISTRICT

date:

to: Assistant Regional Commissioners (Examination and Collection)

from: Assistant Commissioner (Examination) EX *KL Enger*  
Assistant Commissioner (Collection) CO *Robert Johnson*

17 MAR 1989

subject: Substitute for Returns and Joint Filing Status

We have attached a copy of a Notice from the Office of Chief Counsel, Tax Litigation Division, that is being issued to all field offices. The Notice authorizes trial attorneys to concede joint filing status in substitute for return cases (IRC 6020(b)) in which no separate return was ever filed by either spouse. The recent ruling in Millsap, 91 TC No. 58, and other administrative considerations are cited as factors weighing in this decision.

As a result of recent discussions on this issue and the attached Notice, we will now allow joint filing status on all substitute for return cases, whether or not a Notice of Deficiency has been issued. The only two exceptions apply to cases in which: 1) the taxpayer has filed a petition with the U.S. Tax Court, or 2) one or both spouses previously filed separate returns. In the former case, we no longer have jurisdiction over the taxpayer's return. In the latter situation, the joint filing restrictions of IRC 6013(b), as discussed in our memorandum of October 24, 1988, will apply.

While these guidelines will help to resolve current inventories, future guidance will be provided regarding claims for refund on previous denials of joint filing status.

If you have any questions, please have a member of your staff contact Duke Lokka (EX:E:I) of my staff at FTS 566-6474 or Lois Harley (CO:O:SC) in Collection at FTS 343-9673.

COLLECTION DIVISION					RECEIVED SACTO DIS. DIR. DATE MAR 15 1989		
	RESP	ACTION	CORD	INFO	DIST.	RESP.	INFO.
CHIEF, FR I					DD		
CHIEF, FR II					ADD		✓
CHIEF, FR III					ETD		
CHIEF, SPT					ELO		
CHIEF, T & S					PAO		
STAFF ASST					DFSS		
MGMT. ANAL					RM		
CADRE MGR					C		
					E		✓
					CI		
					TS		
					QC		

Department of the Treasury

Internal Revenue Service

# Office of Chief Counsel Notice

Joint Return Election- Taxpayers subject to the  
**Subject:** Substitute for Return Program **Cancellation Date:** \_\_\_\_\_

I. **Purpose:** This Notice is to advise all field offices of the new position of the office regarding the election of joint return status by married taxpayers who failed to file any income tax returns prior to the filing of joint returns.

II. **Effective Date:** Upon Issuance

III. **Current Position:** Married taxpayers who file an original joint return prior to the submission of a case for decision are entitled under I.R.C. § 6013(a) to the benefit of joint rates if no separate return has been filed by the taxpayers prior to the joint return filing. Neither the preparation of a return by the Commissioner on behalf of a taxpayer (under I.R.C. § 6020(b)), nor the issuance of a notice of deficiency shall serve as a prior return of the taxpayer so as to invoke the limitations for making of joint election under I.R.C. § 6013(b).

IV. **Background:** I.R.C. § 6013(b) precludes a married individual who has filed a separate return for a taxable year from making a joint return for that year after the due date of the original return if the conditions set forth in I.R.C. § 6013(b)(2) are not met. Although I.R.C. § 6013(b) does not specifically address nonfilers, it had been the position of the Service and was held in Durovic v. Commissioner, 54 T.C. 1364 (1970), aff'd on this issue, 487 F.2d 36 (7th Cir. 1973), that taxpayers who fail to file any return until after the limitation periods set forth in I.R.C. § 6013(b)(2) are precluded by I.R.C. § 6013(b)(2) from obtaining joint return benefits. Until Phillips v. Commissioner, 86 T.C. 433 (1986), aff'd on this issue, 851 F.2d 1492 (D.C. Cir. 1988), the Tax Court had followed the Durovic rule for approximately 16 years.

V. **Discussion:** In Durovic, the Tax Court based its denial of joint rates upon an equitable concept and not upon a statutory requirement. By its literal terms, I.R.C. § 6013(b) only applies where the taxpayer has previously elected separated rates by filing separate returns.

Filing Instructions: Binder \_\_\_\_\_ Master Sets: NO X RO X

NO: Circulate \_\_\_\_\_ Distribute X to: All Personnel \_\_\_\_\_ Attorneys X in: Tax Litigation

RO: Circulate \_\_\_\_\_ Distribute X to: All Personnel \_\_\_\_\_ Attorneys X in: \_\_\_\_\_

Other \_\_\_\_\_

- 2 -

In Phillips, the Tax Court overruled Durovic and held that a taxpayer who fails to file income tax returns prior to the issuance of the statutory notice of deficiency for the tax years involved is not precluded from obtaining the benefit of joint rates where joint returns are filed and no prior return has been filed for either the taxpayer or his spouse. In so holding, the Tax Court and the circuit court reasoned that the legislative history and the clear statutory language of I.R.C. § 6013 suggest that the right to make a joint return is not affected by the limitations of I.R.C. § 6013(b) where no return has been previously filed for married taxpayers. Subsequent to the Tax Court opinion but prior to the circuit court opinion in Phillips, the Tenth Circuit in Smallbridge v. Commissioner, 804 F.2d 125 (10th Cir. 1986) concluded that a married taxpayer was precluded from filing a joint return where the Commissioner filed on taxpayer's behalf (using married filing separately rates) returns under I.R.C. § 6020(b).

In Millsap v. Commissioner, 91 T.C. No. 58 (Nov. 22, 1988), the Tax Court revisited the fact situation of Smallbridge. There, the Tax Court concluded that I.R.C. § 6020(b) returns prepared by the Commissioner on taxpayer's behalf do not constitute "separate" returns for purposes of I.R.C. § 6013(b). Thus it declined to follow Smallbridge and held that I.R.C. § 6020(b) returns prepared by the Commissioner do not preclude a taxpayer from obtaining the benefit of joint rates under I.R.C. § 6013.

Although we have some concern with the reasoning of the courts in Phillips and Millsap, there is support for the decision in those cases that taxpayers should have an initial opportunity to make a filing status election. This is because the decision does comport with the language of the statute. Furthermore, it is felt that the administrative costs and burden of processing returns of taxpayers for whom the Service has prepared substitute returns would greatly decrease and that tax compliance would increase if such taxpayers who submitted with their spouse joint returns were not denied under I.R.C. § 6013(b) joint return benefits where no prior return had been filed by either spouse. Therefore, in light of the reasons noted, we will acquiesce to the holdings in Phillips and Millsap, and the rationales of Durovic and Smallbridge (and the cases following those decisions) will no longer be argued by Counsel. Rather, the limitations under I.R.C. § 6013(b) will only be invoked where the taxpayer or his/her spouse has previously filed a separate return for the year in issue.

# Handbook 5.1

## General Handbook

### Chapter 11

### Delinquent Return Accounts

---

#### Contents

- [5.1] 11.1 Delinquent Return Investigations

- [5.1] 11.1.1 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 Full Compliance Check
- [5.1] 11.1.3 Documentation
- [5.1] 11.1.4 Unable to Locate
- [5.1] 11.1.5 Cases Requiring Special Handling
  - [5.1] 11.1.5.1 Restricting Field Contact
  - [5.1] 11.1.5.2 Criminal Investigation Cases
  - [5.1] 11.1.5.3 Exempt Organizations
  - [5.1] 11.1.5.4 Wagering Taxes
  - [5.1] 11.1.5.5 Bankruptcy Cases
  - [5.1] 11.1.5.6 IRS Employee Return Delinquency
- [5.1] 11.1.6 TDI Transfers
  - [5.1] 11.1.6.1 Transfer Without Prior Courtesy Investigation
  - [5.1] 11.1.6.2 Military Personnel
  - [5.1] 11.1.6.3 Other International Cases
- [5.1] 11.2 Research Tools
  - [5.1] 11.2.1 IRMF Transcripts
  - [5.1] 11.2.2 TDI Supplements
  - [5.1] 11.2.3 IDRS and CFOL Command Codes



- [5.1] 11.3 Secured Returns
  - [5.1] 11.3.1 Returns With Payment
  - [5.1] 11.3.2 Returns Without Full Payment
- [5.1] 11.4 Enforcement Criteria
  - [5.1] 11.4.1 Minimal or No Tax Due on Returns and Collectibility Factors
- [5.1] 11.5 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 willful, 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 Referrals to Criminal Investigation
  - [5.1] 11.6.1 Preparing and Processing Referrals
- [5.1] 11.7 Referrals to Examination

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.) Do not refer the taxpayer to Examination if:

- The case may be closed by criteria established in Section 11.4 of this chapter, or
- 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.

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 Preparation of Form 3449
- [5.1] 11.7.2 Referrals Concerning Underreported Tax
- [5.1] 11.7.3 Excise Tax Returns
- [5.1] 11.7.4 Referrals to the Employee Plans/Exempt Organization Division (EP/EO)
- [5.1] 11.7.5 Employer/Employee Relationship Questions
- **[5.1] 11.8 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 <b>not</b> 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 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 Taxpayer Contact

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).

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. Explain the trust fund recovery penalty, if applicable. 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. If the taxpayer is in a receivership or probate proceeding, follow the procedures for quick assessments in IRM 5.1, Chapter 4. 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. A field call is required before using IRC 6020(b) authority. 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 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.

□ 5.1] 11.9.3 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 Preparing Returns for Assessment

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). In all cases if payment of the proposed return is not received, follow procedures in Section 11.3 of this chapter. 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.

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] 11.9.5 Unable to Locate and Unable to Contact Cases

■ [5.1] 11.10 TDI Completions

- [5.1] 11.10.1 Transaction Codes
- [5.1] 11.10.2 TC 590 -- Not Required to File for this Period Only
- [5.1] 11.10.3 TC 591 -- Final
- [5.1] 11.10.4 TC 593 -- Unable to Locate
- [5.1] 11.10.5 TC 594 -- Return Previously Filed
- [5.1] 11.10.6 TC 595 -- Referrals to Examination or EP/EO Divisions
- [5.1] 11.10.7 TC 596 -- Referrals to Criminal Investigation
- [5.1] 11.10.8 TC 597 -- Surveyed
- [5.1] 11.10.9 TC 598 -- Shelved
- [5.1] 11.10.10 TC 599 -- Taxable/Nontaxable Return Secured
- [5.1] 11.10.11 Recalls
- [5.1] 11.10.12 Credit Balances
- [5.1] 11.10.13 Entity Changes

■ [5.1] 11.11 Delinquent Investigation Account Listing (DIAL)

- [5.1] 11.11.1 Matching Procedures
- [5.1] 11.11.2 Collection Statute Expiration Date
- [5.1] 11.11.3 Assessment Statute Expiration Date (ASED)
- [5.1] 11.11.4 Large Dollar Accounts

■ [5.1] 11.12 Delinquency Check Programs

- [5.1] 11.12.1 Tax Liability of Entities and Individuals from Canada and Mexico
- [5.1] 11.12.2 Rules and Restrictions with Respect to Collection Activities in Canada

■ [5.1] 11.13 Heavy Vehicle Use Tax

- [5.1] 11.13.1 Service Center Collection Branch Processing

- [\[5.1\] 11.13.2 Automated Collection Branch Processing](#)
- [\[5.1\] 11.13.3 Collection Field Function \(CFf\) Processing](#)
- [Exhibit \[5.1\] 11-1 Index for Questions and Answers to Assist in the Disposition of TDI](#)
- [Exhibit \[5.1\] 11-2 Questions and Answers to Assist in the Disposition of TDIs \(Reference: IRM 5.1.11.9\)](#)
- [Exhibit \[5.1\] 11-3 Comprehensive List of Transaction Code 59X Closing Codes](#)
- [Exhibit \[5.1\] 11-4 DIAL Format](#)

---

Internal Revenue Manual Hndbk. 5.1 Chap. 11 Delinquent Return Accounts (05-27-1999)

IRS Privacy and Security Policy | Contact Us | ©2001 IRS.gov

## Handbook 5.1

### General

## Chapter 12

### Cases Requiring Special Handling

---

#### Contents

- [\[5.1\] 12.1 Income Tax Assessed Against A Child](#)
- [\[5.1\] 12.2 Cases Involving Household or Agricultural Employees](#)
- [\[5.1\] 12.3 Accounts on Taxpayers Located in High Assault Risk Areas \(HARA\)](#)
  - [\[5.1\] 12.3.1 Additional Guidelines on Cases in HARAs](#)
- [\[5.1\] 12.4 Cases Involving an "Innocent Spouse"](#)
- [\[5.1\] 12.5 Child Support Obligation TDAs](#)
  - [\[5.1\] 12.5.1 Service Center Collection Branch Procedures for CSOs](#)
  - [\[5.1\] 12.5.2 Collection Field Function Procedures for CSOs](#)
  - [\[5.1\] 12.5.3 Coordination With States on CSOs](#)
- [\[5.1\] 12.6 Self-Employment Tax Liabilities of Amish Taxpayers](#)
- [\[5.1\] 12.7 Taxpayers Entitled to Installment Billing](#)
  - [\[5.1\] 12.7.1 Defaulted Deferred Payments on Straddled Contracts](#)
- [\[5.1\] 12.8 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 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 Premature Assessments in Tax Court Cases

[5.1] 12.8.3 Other Cases Reopened by Examination

■ [5.1] 12.9 Insolvent Financial Institutions -- Provisions of the IRS-RTC/FDIC Agreement

[5.1] 12.9.1 General Procedures

■ [5.1] 12.10 Foreign Insurance Company Delinquent Accounts

- [5.1] 12.11 Non-Petitioning Spouse Cases
  - [5.1] 12.11.1 Requesting Abatement
  - [5.1] 12.11.2 Additional Assessments
- [5.1] 12.12 Penalty Adjustments
- [5.1] 12.13 Political Activity Case TDAs
  - [5.1] 12.13.1 "G" Coded Taxpayers
- [5.1] 12.14 Probation Cases
- [5.1] 12.15 Combined Annual Wage Reporting (CAWR) Cases
  - [5.1] 12.15.1 Service Center Procedures
  - [5.1] 12.15.2 Collection Field function Procedures
- [5.1] 12.16 Cases With Math or Clerical Errors
  - [5.1] 12.16.1 Appeal Period
  - [5.1] 12.16.2 Claim Pending
  - [5.1] 12.16.3 Examination Referrals
  - [5.1] 12.16.4 Collection Suspended
  - [5.1] 12.16.5 Collection Pursued
- [5.1] 12.17 Transaction To Prevent Offset-In
  - [5.1] 12.17.1 Time Limit on Preventing Offset-In
  - [5.1] 12.17.2 Suspended Status
- [5.1] 12.18 Service of U.S. Tax Court Subpoenas
- [5.1] 12.19 Backups Withholding Processing for Collection Field function
- Exhibit [5.1] 12-1 Pattern Letter P-295  
(Reference: IRM 5.1.12.6)
- Exhibit [5.1] 12-2 Standard Information Paragraphs  
(Reference: 5.1.12.8.1)
- Exhibit [5.1] 12-3 Letter 2726(P)
- Exhibit [5.1] 12-4 Letter 2727(P)

#### **5.18 LIABILITY DETERMINATION:**

- 5.18.1 Automated Substitute for Return (ASFR) Program

## **Part 5**

### **Collecting Process**

## **Chapter 18**

### **Liability Determination**

## **Section 1**

### **Automated Substitute for Return (ASFR) Program**

---

## Contents

- 5.18.1 Automated Substitute for Return (ASFR) Program
  - 5.18.1.1 Automated Substitute for Return (ASFR) Program Overview
  - 5.18.1.2 What is ASFR?

### Automated Substitute for Return (ASFR) Program Overview

This chapter outlines ASFR duties.

Service Center Collection Branch (SCCB) administers the ASFR program. SCCB prepares a Substitute for Return under the authority of Internal Revenue Code (IRC) 6020(b) and issues a Statutory Notice of Deficiency as authorized by IRC 6212.

Exhibit 5.18.1-1 provides an overview of this section in flowchart format.

### 5.18.1.2 (01-01-2002)

#### What is ASFR?

ASFR is a program that requires compliance by taxpayers who have not filed individual income tax returns, but owe a significant income tax liability. ASFR determines and assesses the correct tax liability by:

Securing valid income tax return from the taxpayer

Computing tax, penalties, and interest, based upon Information Reporting Program (IRP) information submitted by payors, combined with other internally available information.

- 5.18.1.3 ASFR Research
  - 5.18.1.3.1 Federal/State Exchange Requests
  - 5.18.1.3.2 Internal Revenue Manual References
  - 5.18.1.3.3 ASFR Security System
  - 5.18.1.3.4 Protection of Taxpayer Accounts
  - 5.18.1.3.5 Telephone Inquiries
  - 5.18.1.3.6 Third-Party Calls
  - 5.18.1.3.7 Tax Delinquency Investigation (TDI) Supplement Information
  - 5.18.1.3.8 TDI Supplement Data
  - 5.18.1.3.9 CFOL CC SUPOL
  - 5.18.1.3.10 CC IRPTR
  - 5.18.1.3.11 Out-of-Region Cases
- 5.18.1.4 ASFR Procedures
  - 5.18.1.4.1 Receiving Cases from Compliance Field Function (CFF) or the Automated Collection System (ACS)
  - 5.18.1.4.2 Manually Adding Cases Major and Minor to ASFR
  - 5.18.1.4.3 Identifying Tax Delinquency Accounts (TDA) Assigned to ASFR (8000)
  - 5.18.1.4.4 Delinquency Investigation/Account Listing (DIAL)
  - 5.18.1.4.5 ASFR 423 List--TDA Assigned to Assignment Number 8000
  - 5.18.1.4.6 ASFR 400 List--IDRS Research Error List

- 5.18.1.4.7 Hard Copy TDAs
  - 5.18.1.4.8 Substitute for Return/Inventory Delivery System (SFR/IDS) Error Register (TDI-04)
- 5.18.1.5 Transferring ASFR Tax Delinquent Accounts (TDAs)
  - 5.18.1.5.1 ASFR Tax Delinquency Account (TDA) and No 30/90-Day Letter Issued
  - 5.18.1.5.2 30/90-Day Letter Issued
  - 5.18.1.5.3 30/90-Day Letter Issued, TDA Above ACS Deferral Level
  - 5.18.1.5.4 30/90-Day Letter Issued, TDA Below ACS Deferral
- 5.18.1.6 ASFR TDA Reassignment Procedures
  - 5.18.1.6.1 Account Maintenance (AM) Transcript
  - 5.18.1.6.2 AM04 and AM09 Transcripts
  - 5.18.1.6.3 TC 595 Transcripts
  - 5.18.1.6.4 AMRH14 Transcripts
  - 5.18.1.6.5 AM17 Transcripts
  - 5.18.1.6.6 TDIFRZ-150 Transcripts
- 5.18.1.7 New Address from Subsequent Year Returns
  - 5.18.1.7.1 Address Research Through Address Research (ADR)
  - 5.18.1.7.2 Validation During ASFR Processing
    - 5.18.1.7.2.1 Case Validation
  - 5.18.1.7.3 Validation During New Case Processing
    - 5.18.1.7.3.1 Automated Substitute for Return (ASFR) Selection Codes
  - 5.18.1.7.4 Invalid Module Processing
  - 5.18.1.7.5 Validation During the Automated Substitute for Return (ASFR) Processing
  - 5.18.1.7.6 Pre-30-Day Letter Check
  - 5.18.1.7.7 Status 092 Check
  - 5.18.1.7.8 Pre-90-Day Letter Check
  - 5.18.1.7.9 During 90-Day Period Check
  - 5.18.1.7.10 End of 90-Day Period Check
  - 5.18.1.7.11 Statuses 100, 101, 103, and 104 Check
  - 5.18.1.7.12 Statuses 064, 069, 071, and 075 Check
  - 5.18.1.7.13 Statuses 062 and 068 Check
  - 5.18.1.7.14 Manual Research
  - 5.18.1.7.15 Working the ASFR 400-List: IDRS RESEARCH ERROR LIST
  - 5.18.1.7.16 Perfecting Case Minors
  - 5.18.1.7.17 Perfecting Name Line of Case Minors
  - 5.18.1.7.18 Perfecting Income Type of Case Minors
  - 5.18.1.7.19 Perfecting Duplicate Minors
  - 5.18.1.7.20 Perfecting Payee Information
  - 5.18.1.7.21 Perfecting Income Information
  - 5.18.1.7.22 ASFR Statuses
  - 5.18.1.7.23 Status 000: Internal Use Only...ASFR System Status

- 5.18.1.7.24 Status 001: Internal Use Only...ASFR System Status
- 5.18.1.7.25 Status 005: Internal Use Only...ASFR System Status
- 5.18.1.7.26 Status 006: Pre-30-Day Problem...Power-of-Attorney (POA) on File
- 5.18.1.7.27 Status 007: Pre-30-Day Problem...Bad Payor Minor(s)
- 5.18.1.7.28 Status 010: Pre-30-Day Problem (CI/Exam Review Needed)
- 5.18.1.7.29 Status 011: SPF Review Needed
- 5.18.1.7.30 Status 012: SPf Review (Field Contact)
- 5.18.1.7.31 Status 015: Ineligible ASFR (Await Closure of Active ASFR Module)
- 5.18.1.7.32 Status 016: Ineligible ASFR (Additional 60-Day Extension From Status 015)
- 5.18.1.7.33 Status 030: 30-Day Letter Package Created (30-Day Mailout)
- 5.18.1.7.34 ASFR 30-Day Package
- 5.18.1.7.35 ASFR 30-Day Letter Enclosures
- 5.18.1.7.36 The ASFR 30-Day Mailout Process
- 5.18.1.7.37 Status 031: Pre-30-Day IDRS
- 5.18.1.7.38 Status 032: PASSES IDRS CHECK , Issue 30-Day Letter
- 5.18.1.7.39 Status 035: Cancel Previous 30-Day Letter, Reissue
- 5.18.1.7.40 Status 039: FAILED IDRS Analysis, Pre-30-Day Letter
- 5.18.1.7.41 Status 040: Undeliverable Mail Research
- 5.18.1.7.42 Status 045: Second Undeliverable Mail Research
- 5.18.1.7.43 Status 050: Taxpayer Response Additional Time
- 5.18.1.7.44 Status 051: Post-30-Day Taxpayer Contact
- 5.18.1.7.45 Status 055: Desert Storm, and Bosnia/Former Yugoslavia Indefinite Suspension
- 5.18.1.7.46 Status 056: Federally Declared Disaster Area, Six-Month Suspense Period
- 5.18.1.7.47 Status 059: TC 976 A/C (IN), PSC Foreign Returns
- 5.18.1.7.48 Status 061: TERMINATE ASFR, Return Filed Pre-30-Day Letter
- 5.18.1.7.49 Status 062: TERMINATE ASFR , Failed ASFR Criteria and Must Be TSIGNED to ACS
- 5.18.1.7.50 Status 063: TERMINATE ASFR , TC 596 cc 88 Selected by CI
- 5.18.1.7.51 Status 064: TERMINATE ASFR , TC 595 cc 88 Selected by Exam
- 5.18.1.7.52 Status 065: TERMINATE ASFR , Selected by SPf
- 5.18.1.7.53 Status 066: TERMINATE ASFR , Satisfying TDI TC (59X)
- 5.18.1.7.54 Status 067: TERMINATE ASFR , Foreign Address

- 5.18.1.7.55 Status 068: TERMINATE ASFR , Excessive Minors TSIGN ACS
- 5.18.1.7.56 Status 069: TERMINATE ASFR, OLD TAX YEAR TC 590 cc88
- 5.18.1.7.57 Status 071: TERMINATE ASFR , TC 590 cc88 Not Liable
- 5.18.1.7.58 Status 072: TERMINATE ASFR, TC 591 cc 88 Not Required to File
- 5.18.1.7.59 Status 073: TERMINATE ASFR , TC 594 cc 84 Joint File
- 5.18.1.7.60 Status 074: TERMINATE ASFR , Tax Court Appeal
- 5.18.1.7.61 Status 075: TERMINATE ASFR , Refund Calculated (LTR 915)
- 5.18.1.7.62 Status 078: TERMINATE ASFR , Transfer to A/C INTERNATIONAL via PSC
- 5.18.1.7.63 Status 079: Unable to Locate TC 593/88
- 5.18.1.7.64 Status 080: IDRS RESEARCH ERROR LIST , Suspend for Research/Action
- 5.18.1.7.65 Status 089: FAILED IDRS CHECK, TSIGN or TC 59X Failure
- 5.18.1.7.66 Status 090: 90-DAY STAT NOTICE ISSUED
- 5.18.1.7.67 Status 091: PASSED IDRS CHECK , Issue 90-Day Letter
- 5.18.1.7.68 Status 092: POSTAL TRACER
- 5.18.1.7.69 Status 093: RETURN SECURED 30/90-DAY LETTER
- 5.18.1.7.70 Status 096: STAT NOTICE , Issue Revised Report
- 5.18.1.7.71 Status 097: FAILED IDRS CHECK , Stat Notice Module
- 5.18.1.7.72 Status 099: FAILED IDRS CHECK , Pre-Stat Notice
- 5.18.1.7.73 Status 100: CLOSED, Agreed Response 30/90-Day Letter
- 5.18.1.7.74 Status 101: CLOSED, No ASFR Assessment (TC 290 zero)
- 5.18.1.7.75 Status 102: CLOSED, Disagreed Response (Closing Letter 924)
- 5.18.1.7.76 Status 103: CLOSED, Return Filed
- 5.18.1.7.77 Status 104: CLOSED, No Taxpayer Response (Default)
- 5.18.1.7.78 Status 107: FAILED IDRS CHECK , See Comment-3
- 5.18.1.7.79 Status 109: ASFR PROCESSING FINISHED , Purge From ASFR System
- 5.18.1.7.80 Status 340: PRE-30-DAY PROBLEM, "U" Coded TDI Notice
- 5.18.1.7.81 Status 341: Undelivered Mail Cases
- 5.18.1.7.82 Status 342: Undeliverable Mail Research

- 5.18.1.7.83 Statuses 343-349: Address Research Completed
- 5.18.1.7.84 Status 370: OUT-OF-REGION TRANSFER , Hold For TC 290
- 5.18.1.7.85 Status 378: GUAM/VI/NMI, IDRS Check Required
- 5.18.1.7.86 Status 380: PRE-30-DAY PROBLEM, Amended/Duplicate/Replaced Minors
- 5.18.1.7.87 Status 385: CHECK FOR POSSIBLE DOUBLING UP OF MINORS
- 5.18.1.7.88 Status 389: CURRENT TAX YEAR NOT YET PROGRAMMED
- 5.18.1.7.89 Status 666: INTERNAL USE ONLY , Internal Systems Status
- 5.18.1.7.90 ASFR Prints and Letter Requests
  - 5.18.1.7.90.1 Status 900: PRINT, TDI Account History
  - 5.18.1.7.90.2 Status 902: PRINT, All Case Minors
  - 5.18.1.7.90.3 Status 903: PRINT, Case Major
  - 5.18.1.7.90.4 Status 904: PRINT, 30-Day Cover Letter, Page 1
  - 5.18.1.7.90.5 Status 905: PRINT, Exam Report, Pages 1 and 2
  - 5.18.1.7.90.6 Status 906: PRINT, Exam Report, Consent Page
  - 5.18.1.7.90.7 Status 907: PRINT, Taxpayer Copy of Case Minors
  - 5.18.1.7.90.8 Status 908: PRINT, Copy of Stat Notice
  - 5.18.1.7.90.9 Status 911: LETTER, Taxpayer Reply Acknowledged
  - 5.18.1.7.90.10 Status 912: LETTER, Grants Extension Pre-Stat Notice
  - 5.18.1.7.90.11 Status 913: LETTER, Credit for the Permanently Disabled, Schedule R
  - 5.18.1.7.90.12 Status 914: LETTER, IRA Rollover Information Request
  - 5.18.1.7.90.13 Status 915: LETTER, Possible Refund Due if Return Filed
  - 5.18.1.7.90.14 Status 916: LETTER, Refund Hold
  - 5.18.1.7.90.15 Status 917: LETTER, POA Letter
  - 5.18.1.7.90.16 Status 918: HISTORY ITEM , Refund Hold Letter Sent by IDRS
  - 5.18.1.7.90.17 Status 920: LETTER, No Tax Return Due
  - 5.18.1.7.90.18 Status 921: LETTER, Return Accepted as Filed
  - 5.18.1.7.90.19 Status 922: LETTER...Tax Adjusted Before Stat Notice
  - 5.18.1.7.90.20 Status 923: LETTER...Tax Adjusted After Stat Notice

- 5.18.1.7.90.21 Status 924: LETTER...Claim Disallowed Before Stat Notice
- 5.18.1.7.90.22 Status 925: LETTER...Claim Disallowed After Stat Notice
- 5.18.1.7.90.23 Status 930: LETTER...Income Verification Needed From Taxpayer
- 5.18.1.7.90.24 Status 931: LETTER...W-2 Inquiry Sent to Employer
- 5.18.1.7.90.25 Status 932: LETTER, Income Verified/Claim Rejected Before Stat
- 5.18.1.7.90.26 Status 933: LETTER, Income Verified/Claim Rejected Before Stat
- 5.18.1.7.90.27 Status 934: LETTER, Postal Tracer to Locate Address
- 5.18.1.7.90.28 Status 935: LETTER, to Employer/Bank for Address Information
- 5.18.1.7.90.29 Status 940: STAT NOTICE--UD, No Address Research Required
- 5.18.1.7.90.30 Status 941: STAT NOTICE--UD, Begin Address Research
- 5.18.1.7.90.31 Status 950: STAT NOTICE , Response From Taxpayer
- 5.18.1.7.90.32 Status 955: STAT NOTICE , Taxpayer Unagreed/Not Accepted
- 5.18.1.7.90.33 Status 990: Address Change
- 5.18.1.7.90.34 Status 999: Quality Review
- 5.18.1.7.91 ASFR Reports
  - 5.18.1.7.91.1 ASFR-200 REPORT: WEEKLY MIS REPORT
  - 5.18.1.7.91.2 ASFR-201 REPORT: INVENTORY BY PRIORITY REPORT
  - 5.18.1.7.91.3 Prioritization Table
  - 5.18.1.7.91.4 Control Base Reports
  - 5.18.1.7.91.5 ASFR-203 REPORT: 30-DAY LETTER PROGRAM REPORT--COLLECTION
  - 5.18.1.7.91.6 ASFR-204 REPORT: IDRS RESEARCH SUMMARY REPORT
  - 5.18.1.7.91.7 ASFR-205 REPORT: INVENTORY BY TAX YEAR
  - 5.18.1.7.91.8 ASFR-210 REPORT: USER LISTING
  - 5.18.1.7.91.9 ASFR-211 REPORT: Status CODES IN USE
  - 5.18.1.7.91.10 ASFR-212 REPORT: MANAGEMENT QUALITY REPORT
  - 5.18.1.7.91.11 ASFR-213 REPORT: IDRS TRANSACTION REPORT



- 5.18.1.7.91.12 ASFR-214 REPORT: PRIORITY BY ENTITY REPORT
  - 5.18.1.7.91.13 ASFR-215 REPORT: NEW RECEIPTS WITH NON-NUMERIC ZIP CODES
- 5.18.1.7.92 ASFR Lists
  - 5.18.1.7.92.1 ASFR-400 LIST: IDRS RESEARCH ERROR LIST
  - 5.18.1.7.92.2 Entity Not on IDRS Error Condition- Status 039
  - 5.18.1.7.92.3 No Open TDIs for Taxpayer Error Condition -- Status 039
  - 5.18.1.7.92.4 MODULE Not on IDRS Error Condition- Status 039
  - 5.18.1.7.92.5 Modules Not in Active TDI Status Condition- Status 039
  - 5.18.1.7.92.6 Open V, L, Z or A Freeze Error Condition- Status 039
  - 5.18.1.7.92.7 No Analysis Performed On This Module Error Condition -- Status 039
  - 5.18.1.7.92.8 Unknown Type, Check Error Condition- Status 039
  - 5.18.1.7.92.9 Invalid Indicator--Unable to Analyze the Record Error Condition -- Status 039
  - 5.18.1.7.92.10 TSIGN Not 8000 Error Condition-Status 039
  - 5.18.1.7.92.11 Open C, T, W Freezes Error Condition- Status 039
  - 5.18.1.7.92.12 TC 150 Already on Module Error Condition-Status 039
  - 5.18.1.7.92.13 TC 610 or TC 640--Look for a Return Error Condition-Status 039
  - 5.18.1.7.92.14 TC 59X on Module Error Condition-Status 039
  - 5.18.1.7.92.15 TC 66X or TC 67X--Check for a Return Error Condition-Status 039
  - 5.18.1.7.92.16 No TC 150 on This Module Error Condition
  - 5.18.1.7.92.17 TC 150, but not a "Dummy" Return Error Condition-Status 039
  - 5.18.1.7.92.18 No TC 494 Posted to Module Error Condition-Status 039
  - 5.18.1.7.92.19 No TC 290 Posted to Module Error Condition-Status 039
  - 5.18.1.7.92.20 TC 290 Posted, but Not TC 59X Error Condition-Status 039
  - 5.18.1.7.92.21 Open TDA Error Condition
  - 5.18.1.7.92.22 Possible Address Change Error Condition

- 5.18.1.7.93 ASFR-405 LIST: ASFR REFUND HOLD RESEARCH LIST
- 5.18.1.7.94 ASFR-406 LIST: ASFR REFUND HOLD ANALYSIS LIST
- 5.18.1.7.95 ASFR-407 LIST: ASFR REFUND HOLD MONEY TRANSFER LIST
- 5.18.1.7.96 ASFR-408 LIST: REFUND HOLD--SIX-MONTH EXPIRATION ALERT
- 5.18.1.7.97 ASFR-410 LIST: 30-DAY CASE CONTROL LISTING
- 5.18.1.7.98 ASFR-411 LIST: "DUMMY" TC 150 ANALYSIS LIST
- 5.18.1.7.99 ASFR-413 LIST: 30-DAY LETTER ERROR LIST
- 5.18.1.7.100 ASFR-420 LIST: POWER-OF-ATTORNEY (POA) LIST (1)
- 5.18.1.7.101 ASFR-421 LIST: TERMINATED CASE LIST
- 5.18.1.7.102 ASFR-422 LIST: STAT NOTICE PACKAGE COULD NOT BE PRODUCED
- 5.18.1.7.103 ASFR-423 LIST: TDAs ASSIGNED TO TSIGN 8000
- 5.18.1.7.104 ASFR-424 LIST: NO ACTIVITY LIST
- 5.18.1.7.105 ASFR-425 LIST: FOREIGN ZIP CODE LISTING
- 5.18.1.7.106 ASFR-427 LIST: ASFR ACCOUNT TRANSCRIPTS
- 5.18.1.7.107 ASFR-428 LIST: PAPER DOCUMENT ASSOCIATION LIST
- 5.18.1.7.108 ASFR-429 LIST: ASFR CASES REQUIRING MANUAL CONTROL BASE CLOSURE
- 5.18.1.7.109 ASFR-430 LIST: OVER \$100,000 Status 015 LIST
- 5.18.1.7.110 ASFR-432 LIST: CASES WITH NO NAME/ADDRESS
- 5.18.1.7.111 ASFR-433 LIST: Status ??? CHECKLIST
- 5.18.1.7.112 ASFR-434 LIST: LISTING OF MODULES BY RECEIPT CYCLE
- 5.18.1.7.113 ASFR-435 LIST: LISTING OF MODULES BY ASFR STATUS CODES
- 5.18.1.7.114
- 5.18.1.7.115 ASFR-440 LIST: IDRS MATCH-SUMMARY REPORT
- 5.18.1.7.116 ASFR 441 LIST: IDRS MATCH CLOSED ON IDRS
- 5.18.1.7.117 AFR 442 LIST: IDRS MATCH MISSING ON ASFR
- 5.18.1.7.118 ASFR 443 LIST: IDRS MATCH-NOT TIGNED 8000
- 5.18.1.7.119 ASFR 444 LIST: IDRS MATCH-BMF WITH TSIGN 8000
- 5.18.1.7.120 ASFR-445 LIST: MISSING IRP DIAGNOSTIC LIST

- 5.18.1.7.121 ASFR-446 LIST: LIST OF OPEN CASES BY EMPLOYEE ID
- 5.18.1.7.122 ASFR 100 CHART: ASFR INPUT/OUTPUT
- 5.18.1.7.123 Computing Taxable Income
- 5.18.1.7.124 Computing Tax Due
- 5.18.1.7.125 Computing Penalties
- 5.18.1.7.126 Computing Interest
- 5.18.1.7.127 Initiating an ASFR Assessment

#### **5.18.1.7.127 (01-01-2002)**

##### **Initiating an ASFR Assessment**

1. To post a TC 150 to the module, each ASFR tax module must have a "Dummy" Form 1040 processed. This allows any later assessment (TC 290) to post to the module and identifies any taxpayer's return as a return subject to ASFR or Examination verification before acceptance.

- 5.18.1.7.128 Preparing and Processing ASFR Dummy Return

#### **5.18.1.7.128 (01-01-2002)**

##### **Preparing and Processing ASFR Dummy Return**

1. The dummy return is electronically posted by ELF. No paper return exists. The DLN is the same as the paper document would be. Do not attempt to request the DLN from files or try to associate anything with it.

When an individual return sent for ELF does not post, you may use the menu options to recreate the dummy TC 150.

- 5.18.1.7.129 Letter 2566 SC/CG (30-Day Letter Package)
- 5.18.1.7.130 Statutory Notice of Deficiency (ASFR 90-Day Letter Package)
- 5.18.1.7.131 Civil Appeal Rights Cases and Cases Docketed by U.S. Tax Court
- 5.18.1.7.132 Processing Taxpayer Response
- 5.18.1.7.133 Responding to Taxpayer Inquiry
- 5.18.1.7.134 Taxpayer Advocate Criteria
- 5.18.1.7.135 Returns or Partially Agreed Responses
- 5.18.1.7.136 Examination Correspondence and Response Criteria
- 5.18.1.7.137 Types of Examination Correspondence and Response Criteria
- 5.18.1.7.138 Power-Of-Attorney (POA)
- 5.18.1.7.139 Third Party Contact
- 5.18.1.7.140 Capturing Telephone Number Information
- 5.18.1.7.141 Updating Address Information

- 5.18.1.7.142 Freedom of Information Request
- 5.18.1.7.143 Undeliverable Mail Responses
- 5.18.1.7.144 Address Research
- 5.18.1.7.145 Undelivered 30-Day Letter
- 5.18.1.7.146 Postal Tracer
- 5.18.1.7.147 Undelivered 90-Day Letter (Statutory Notice of Deficiency)
- 5.18.1.7.148 Agreed Response (30 or 90 Day)
- 5.18.1.7.149 TAXPAYER CONSENT FORM
- 5.18.1.7.150 Explanations Which Would Reduce Tax Liability
- 5.18.1.7.151 Recalculation of Assessment
- 5.18.1.7.152 Processing ASFR Returns
- 5.18.1.7.153 Disagreed Responses
- 5.18.1.7.154 Most Common Disagreed Responses
- 5.18.1.7.155 Math Error
- 5.18.1.7.156 Incorrect Tax Year
- 5.18.1.7.157 Credit for the Elderly or the Disabled
- 5.18.1.7.158 Rollover
- 5.18.1.7.159 No Knowledge of Income
- 5.18.1.7.160 Income Belongs to Another Taxpayer
- 5.18.1.7.161 Foreign Income Exclusion
- 5.18.1.7.162 Interest Income
- 5.18.1.7.163 Income Previously Reported
- 5.18.1.7.164 Dividends
- 5.18.1.7.165 Bankruptcy
- 5.18.1.7.166 Partnership Return
- 5.18.1.7.167 Information Return
- 5.18.1.7.168 Taxpayer Is Deceased
- 5.18.1.7.169 Request to Rescind Statutory Notice of Deficiency
- 5.18.1.7.170 Types of ASFR Returns
- 5.18.1.7.171 Consolidation of ASFR Audit Reconsiderations
- 5.18.1.7.172 Processing Returns Filed Prior to a Default Assessment
- 5.18.1.7.173 Processing Reconsideration Returns
- 5.18.1.7.174 General Adjustments Instructions
- 5.18.1.7.175 Math Error/Unallowable Deduction
- 5.18.1.7.176 Unreported Income
- 5.18.1.7.177 Net Operating Loss
- 5.18.1.7.178 Change of Filing Status
- 5.18.1.7.179 Taxpayer Claimed Filed Jointly Under Another TIN
- 5.18.1.7.180 Signatures on Return

### 5.18.1.7.180 (01-01-2002)

#### Signatures on Return

1. **Generally a return is not considered without valid signatures.** If filing status is joint, both signatures must be present **Fax and/or photocopy signatures are not valid.** Correspond with taxpayer to request a signature. Suspend case to allow taxpayer to respond.

If	Then
Taxpayer does not respond and tax return shows a tax increase (balance due)	Process return and refer to Exam.
Taxpayer does not respond and return shows a tax decrease (refund)	Disallow return. Continue ASFR processing.

- 5.18.1.7.181 Deceased Taxpayer--Form 1310
- 5.18.1.7.182 Exemptions
- 5.18.1.7.183 Standard Deduction
- 5.18.1.7.184 Itemized Deduction
- 5.18.1.7.185 Posting ASFR Adjustments
- 5.18.1.7.186 Posting ASFR Assessments After 30-Day Letter Issued
- 5.18.1.7.187 Posting ASFR Assessments After 90-Day Letter Issued
- 5.18.1.7.188 Entity Changes
- 5.18.1.7.189 Address Change
- 5.18.1.7.190 Location Code
- 5.18.1.7.191 Credit Reference Number
- 5.18.1.7.192 Unpostable Conditions
- 5.18.1.7.193 Estimated Tax Penalty
- 5.18.1.7.194 Failure-to-Pay (FTP) Penalty
- 5.18.1.7.195 Failure-to-File (FTF) Penalty
- 5.18.1.7.196 Interest
- 5.18.1.7.197 Lien Fee
- 5.18.1.7.198 Credit/Reference Items
- 5.18.1.7.199 Backup Withholding
- 5.18.1.7.200 Additional/Abated Tax Assessment
- 5.18.1.7.201 Reporting Adjustment to Federal/State
- 5.18.1.7.202 Installment Agreement Requests
- 5.18.1.7.203 Assembling Source Documents
- Exhibit 5.18.1-1 Automated Substitute For Return (ASFR) Program Flowchart
- Exhibit 5.18.1-2 IMF TDI Supplement
- Exhibit 5.18.1-3 List Of Valid Document Codes For TY 1991-TY 1997
- Exhibit 5.18.1-4 SFR/IDS Error Register
- Exhibit 5.18.1-5 ASFR 200 Report
- Exhibit 5.18.1-6 ASFR 201 Report
- Exhibit 5.18.1-7 ASFR 202 Report

- Exhibit 5.18.1-8 ASFR 203 Report
- Exhibit 5.18.1-9 ASFR 204 Report
- Exhibit 5.18.1-10 ASFR 205 Report
- Exhibit 5.18.1-11 ASFR 210 Report
- Exhibit 5.18.1-12 ASFR 211 Report
- Exhibit 5.18.1-13 ASFR 212 Report
- Exhibit 5.18.1-14 ASFR 213 Report
- Exhibit 5.18.1-15 ASFR 214 Report
- Exhibit 5.18.1-16 ASFR 215 Report
- Exhibit 5.18.1-17 ASFR 400 List
- Exhibit 5.18.1-18 ASFR 405 List
- Exhibit 5.18.1-19 ASFR 406 List
- Exhibit 5.18.1-20 ASFR 407 List
- Exhibit 5.18.1-21 ASFR 408 List
- Exhibit 5.18.1-22 ASFR 410 List
- Exhibit 5.18.1-23 ASFR 411 List
- Exhibit 5.18.1-24 ASFR 413 List
- Exhibit 5.18.1-25 ASFR 414 List
- Exhibit 5.18.1-26 ASFR 420 List
- Exhibit 5.18.1-27 ASFR 421 List
- Exhibit 5.18.1-28 ASFR 422 List
- Exhibit 5.18.1-29 ASFR 423 List
- Exhibit 5.18.1-30 ASFR 424 List
- Exhibit 5.18.1-31 ASFR 425 List
- Exhibit 5.18.1-32 ASFR 426 List
- Exhibit 5.18.1-33 ASFR 427 List
- Exhibit 5.18.1-34 ASFR 428 List
- Exhibit 5.18.1-35 ASFR 429 List
- Exhibit 5.18.1-36 ASFR 430 List
- Exhibit 5.18.1-37 ASFR 432 List
- Exhibit 5.18.1-38 ASFR 433 List
- Exhibit 5.18.1-39 ASFR 434 List
- Exhibit 5.18.1-40 ASFR 435 List
- Exhibit 5.18.1-41 ASFR 440 List
- Exhibit 5.18.1-42 ASFR 441 List
- Exhibit 5.18.1-43 ASFR 442 List
- Exhibit 5.18.1-44 ASFR 443 List
- Exhibit 5.18.1-45 ASFR 444 List
- Exhibit 5.18.1-46 ASFR 445 List
- Exhibit 5.18.1-47 ASFR 446 List
- Exhibit 5.18.1-48 ASFR 447 List
- Exhibit 5.18.1-49 ASFR 449 List
- Exhibit 5.18.1-50 30-Day Letter Package Supplement
- Exhibit 5.18.1-51 90-Day Letter Package
- Exhibit 5.18.1-52 ASFR 911 Letter
- Exhibit 5.18.1-53 ASFR-915 Letter - Possible Refund if Return is Filed

- [Exhibit 5.18.1-54 ASFR-916 Letter - Refund Freeze](#)
- [Exhibit 5.18.1-55 ASFR 922 Letter](#)
- [Exhibit 5.18.1-56 ASFR 923 Letter](#)
- [Exhibit 5.18.1-57 ASFR 924 Letter](#)
- [Exhibit 5.18.1-58 ASFR 925 Letter](#)
- [Exhibit 5.18.1-59 ASFR 934 Letter](#)
- [Exhibit 5.18.1-60 Dummy Form 1040](#)
- [Exhibit 5.18.1-61 Document 6469 Expedite Processing Cycle](#)
- [Exhibit 5.18.1-62 Taxpayer Response Guide](#)
- [Exhibit 5.18.1-63 ASFR 917 Letter](#)
- [Exhibit 5.18.1-64 ASFR IDRS Checks](#)
- [Exhibit 5.18.1-65 Input / Output Files](#)

5.18.1.1 (01-01-2002)

-----

Internal Revenue Manual Part 5 Collecting Process Chap. 18 Liability Determination  
 Sec. 1 Automated Substitute for Return (ASFR) Program (01-01-2002)

IRS Privacy and Security Policy | Contact Us | ©2001 IRS.gov

- [5.18.2 Business Returns IRC 6020\(b\) Processing](#)

## **Part 5**

### **Collecting Process**

## **Chapter 18**

### **Liability Determination**

## **Section 2**

### **Business Returns IRC 6020(b) Processing**

---

#### **Contents**

- [5.18.2 Business Returns IRC 6020\(b\) Processing](#)
  - [5.18.2.1 IRC 6020\(b\)](#)

[5.18.2.1 \(08-01-2001\)](#)

## IRC 6020(b)

IRC 6020(b) provides a way to prepare returns and secure assessments from non-filing business taxpayers who:

Have an open filing requirement

Are required to file a return

Do not file a return as required

Exhibit 5.18.2-1 provides an overview of this section in flowchart format.

### 5.18.2.2 What Is Business Returns IRC 6020(b) Processing?

#### 5.18.2.2 (08-01-2001)

##### What Is Business Returns IRC 6020(b) Processing?

Internal Revenue Code Section 6020(b) is the authority given to the Commissioner of the Internal Revenue Service to prepare and process returns for non-filing taxpayers.

Delegation Order No. 182 (Rev. 7), extends 6020(b) authority to Internal Revenue Agents; Tax Auditors; Revenue Officers; GS-9 and above; Collection Support function managers, GS-9 and above; Service Center Collection Branch Managers GS-9 and above; Automated Collection Branch Unit Managers, GS-11 and above; Customer Service Collection Branch Managers, GS-10 and above; and Tax Resolution Representatives, GS-9 and above.

### 5.18.2.3 Research Criteria for BMF Return--IRC 6020(b) Processing Research

#### 5.18.2.3 (08-01-2001)

##### Research Criteria for BMF Return--IRC 6020(b) Processing Research

Process a return under the provisions of IRC 6020(b) for Business Master File (BMF) returns if:

The entity appears to be liable for the return

The person required to file the returns does not file it

Attempts to secure the returns fail

The following BMF returns with corresponding Master File Tax (MFT) codes are the returns usually prepared under the provisions of IRC 6020(b):

TAX RETURN	RETURN TITLE	RETURN	MFT
Form 720	Quarterly Federal Excise Tax Return	03	
Form 940	Employer's Annual Federal Unemployment Tax Return	10	
Form 941	Employer's Quarterly Federal Tax Return	01	
Form 943	Employer's Annual Return for Agricultural Employees	11	
Form 1065	U.S. Partnership Return of Income	06	
Form 2290	Federal Use Tax Return on Highway Motor Vehicles	60	



- 5.18.2.3.1 Service Center Collection Branch (SCCB) 6020(b) Processing
- 5.18.2.3.2 Automated Collection System (ACS) I9 Inventory
- 5.18.2.3.3 ACS Support Group Automated A6020(b) Procedures
- 5.18.2.3.4 Organization, Function, and Program (OFP) Codes for A6020(b)
- 5.18.2.3.5 Federal and State Information Sharing Agreements
- 5.18.2.3.6 A6020(b) Program
- 5.18.2.3.7 System Security
- 5.18.2.4 A6020(b) Inventory Status Codes Procedures
  - 5.18.2.4.1 A6020(b) Lists, Reports, and Duties
  - 5.18.2.4.2 A6020(b) Lists and Reports
  - 5.18.2.4.3 A6020(b) Rejection Lists
  - 5.18.2.4.4 A6020(b) New Account Lists
  - 5.18.2.4.5 A6020(b) Overage Lists
  - 5.18.2.4.6 A6020(b) Tax Examiner Duties
  - 5.18.2.4.7 Rejection List/Tax Examiner Duties
  - 5.18.2.4.8 New Account List/Tax Examiner Duties
  - 5.18.2.4.9 New Account Centralized Authorized File (CAF) Research List
  - 5.18.2.4.10 New Account S3 Research List
  - 5.18.2.4.11 New Account Undelivered Mail List
  - 5.18.2.4.12 A6020(b) Tax Examiner Screens
  - 5.18.2.4.13 Administrator Menus, Duties, and Screens
  - 5.18.2.4.14 Administrator Menus and Duties
  - 5.18.2.4.15 A6020(b) Administrator Screens
  - 5.18.2.4.16 Administrator Reports
  - 5.18.2.4.17 Database Administrator (DBA) Duties
  - 5.18.2.4.18 Follow-up to Responses
  - 5.18.2.4.19 Processing Returns Received
  - 5.18.2.4.20 Final Return Received
  - 5.18.2.4.21 Unsigned Returns Received

**5.18.2.4.21 (08-01-2001)**

**Unsigned Returns Received**

If the taxpayer returns the 6020(b) returns unsigned with no letter assume no further correspondence is being sent. By-pass time remaining for the taxpayer's response and process the case as follows:

Change A6020(b) Status code to 022 for pre-assessment research.

Research each tax period to ensure there are no assessments or comments on IDS to stop return submission.

Bypass requirement to print second copies of the returns by changing Status to 026.

Prepare the returns inputting TC599 cc38. Obtain the manager's signature on each return.

Submit returns for processing.

- [5.18.2.4.22 Not Liable for Returns](#)
- [5.18.2.4.23 Inquiries and Responses](#)
- [5.18.2.4.24 Undelivered Mail](#)
- [5.18.2.4.25 Undelivered Mail System \(UMS\)](#)
- [5.18.2.4.26 No Response Follow-up, Taxpayer Unagreed 6020\(b\) Processing](#)
- [5.18.2.4.27 IDRS Research on 6020\(b\) Accounts](#)
- [5.18.2.4.28 Processing 6020\(b\) Returns](#)

5.18.2.4.28 (08-01-2001)

[Processing 6020\(b\) Returns](#)

When the case is assigned to Status 023, it automatically goes to 025 and returns print.

Each tax return prints with the required statement: "Prepared Under the Authority of IRC 6020(b)."

Prepare returns for processing by:

Writing vertically on the side of the return: TC 599 cc38

Having return signed by a GS-9 manager or above

NOTE:

[A signature stamp or electronic signature is acceptable.](#)

Input into the comments section of ACS and A6020(b) a general note including the date the 6020(b) returns were submitted for assessment and a follow-up date.

Cases in Status 025 more than 75 days appear on a research listing to determine if the assessment posted. Use listing as a check-list and for research comments.

NOTE: See LEM 5.18.2.4.28.

- [5.18.2.4.29 Late Responses Received After 6020\(b\) Returns Processed](#)
- [5.18.2.4.30 Research Table for Late Responses](#)
- [5.18.2.4.31 Manual 6020\(b\) Procedures](#)

5.18.2.4.31 (08-01-2001)

Manual 6020(b) Procedures

The manual procedures will be used in the event the A6020(b) program is not available for 6020(b) return processing. Manual instructions contain the same referral criteria of cases from ACS as well as apply to the same BMF tax returns.

See IRM 5.18.2.3 for the BMF returns subject to 6020(b) processing.

- [5.18.2.4.32 Basis of Tax for 6020\(b\) Modules](#)

5.18.2.4.32 (08-01-2001)

Basis of Tax for 6020(b) Modules

The basis of the 6020(b) tax assessment is the amount of wages or tax liability secured from contact with nonfiler.

NOTE:

Document the A6020(b) module history as to the method used and basis for the tax for all cases not using Last Period Satisfied (LPS) wage or tax as the basis.

Use the following to calculate the total amount of the wages or tax per quarter if you do not have the total monthly wage amount: See LEM 5.18.2.4.32.

See LEM 5.18.2.4.32.

See LEM 5.18.2.4.32.

See LEM 5.18.2.4.32.

5.18.2.4.33 6020(b) Packages

5.18.2.4.33 (08-01-2001)

6020(b) Packages

Employment and excise tax returns are prepared in sets with each set containing an original and one copy.

Keep the copy of each original in the IRC 6020(b) return pending file.

NOTE:

Show the following statement below the signature area of both returns: "This return was prepared and executed under the authority of IRC 6020(b)." The statement identifies the origin of the returns if they are erroneously received in other SC functions.

Include the following items as part of the 6020(b) package:

Letter 1085 (ACS) addressed to the taxpayer (and a second Letter 1085 to the POA)

An original return for each proposed IRC 6020(b) assessment

Input ACS history code OADT, 45, 1085(ACS) or 1616(ACS ) and show tax periods mailed in the comments.

5.18.2.4.34 Review Before Mailing

5.18.2.4.35 Cases With Power of Attorney (POA) Indicators

5.18.2.4.36 6020(b) Follow-Up

5.18.2.4.36 (08-01-2001)

6020(b) Follow-Up

Review and research the case if it is still in inventory after 60 days (105 days if addressed outside the U.S.). Use instructions in IRM 5.18.2.4.26.

Remove the copy of the prepared returns and the Letter 1085(ACS) from the IRC 6020(b) return pending file.

Review ACS to see if the taxpayer has responded with information to close the case or if the return should be processed.

5.18.2.4.37 6020(b) Return Processing

5.18.2.4.37 (08-01-2001)

**6020(b) Return Processing**

Route the return to the unit manager for review **and signature**.

Input on IDRS the TC 599 cc 38 for each period.

Attach the letter to the return for the oldest period involved and forward the returns for processing.

Input OADT, 28, 6020(b) to allow time for the modules to drop off ACS if all modules are satisfied on the account.

Enter TOI9 (TOI9, 28, NEWMOD) if there are TDI modules remaining (modules not included in the IRC 6020(b) package)

Transfer TO I7, then, Enter TFQU if there are only non-IRC 6020(b); (e.g., Form 1120) modules in Sn.

5.18.2.4.38 Manual Processing: Return Pending File

- Exhibit 5.18.2-1 Internal Revenue Code 6020(B) Processing Flowchart
  - Exhibit 5.18.2-2 Contents of the Generic Status Research Listing
  - Exhibit 5.18.2-3 A6020(B) Status Codes
  - Exhibit 5.18.2-4 View and Update Screen
  - Exhibit 5.18.2-5 View Option
  - Exhibit 5.18.2-6 Modules Option
  - Exhibit 5.18.2-7 Next Module Option
  - Exhibit 5.18.2-8 CAF Option
  - Exhibit 5.18.2-9 Wage Option
  - Exhibit 5.18.2-10 Review, Input, or Update Wage Option
  - Exhibit 5.18.2-11 Using the Update Option
  - Exhibit 5.18.2-12 Status Option
  - Exhibit 5.18.2-13 Screens for Tax Returns 943 and 1065
  - Exhibit 5.18.2-14 Screen for Changing the Status of All Modules
  - Exhibit 5.18.2-15 Screen for Changing the Status of One Module
  - Exhibit 5.18.2-16 Status Screen
  - Exhibit 5.18.2-17 Comments Option
  - Exhibit 5.18.2-18 6020(B) Inventory Management Menu
  - Exhibit 5.18.2-19 Queue Cases for Printing Menu
  - Exhibit 5.18.2-20 Number of 1085 Packages Ready to be Printed
  - Exhibit 5.18.2-21 Revise Header Menu
  - Exhibit 5.18.2-22 IDS 6020(B) Report Menu
  - Exhibit 5.18.2-23 IDS Print Menu
  - Exhibit 5.18.2-24 DBA Menu
-

## **5.19 LIABILITY COLLECTION:**

5.19.1 Balance Due

5.19.2 Return Delinquency

# **Part 5 Collecting Process**

## **Chapter 19 Liability Collection**

### **Section 2 Return Delinquency**

---

#### **Contents**

- 5.19.2 Return Delinquency
  - 5.19.2.1 Return Delinquency Overview
  - 5.19.2.2 What Is The Return Delinquency Program?

5.19.2.2 (12-01-2000)

What Is The Return Delinquency Program?

The RD Program identifies taxpayers who have not filed a tax return by the Return Due Date (RDD).

The compliance check for a delinquent tax return is based on the Program Completion Date (PCD) for that return.

PCD is when all timely filed, error free returns are processed and the information is transmitted to Martinsburg Computing Center (MCC) for posting.

Modules in the RD Program consist of the following:

Delinquent Notice Status 02

Taxpayer Delinquent Investigation (TDI) Status 03

Case Closed in Status 06 closed with a TC 593, 596, 597, or 598

NOTE:

See LEM 5.19.2.2

Other RD cases can be generated or requested by the following programs:

## **Non-Filer Program (ASFR/IMF and 6020(b)/BMF)**

Form 4864, "Request for Delinquency Notice or TDI"  
Combined Annual Wage Reporting (CAWR)

### **5.19.2.3 IMF Delinquency Case Creation**

5.19.2.3 (12-01-2000)

#### **IMF Delinquency Case Creation**

Nonfiler Delinquency Check - This check identifies taxpayers who have not filed a return but have Information Return Masterfile (IRMF) data reported that meets certain case selection criteria. It also identifies Stop-filer taxpayers who filed the previous year and stopped filing the next. The initial check is done four months after the RDD, and is updated continuously throughout the year.

All tax modules identified as a potential RD case during the Nonfiler Delinquency Check are assigned a Selection Code. Not all Selection Codes are worked in each specific RD program year. See "Exhibit 5.19.2-1, Selection Codes", for a list and definition of income types for each selection code.

All taxpayers selected into the RD program for a specific tax year are issued a RD notice CP-515, and their tax module goes into Notice Status 02. The notices are issued according to their selection code. If a return does not post or the open RD is not closed within 8 weeks, most taxpayers receive a second RD notice CP-518. If the case is not closed within 6 weeks of the CP-518, the module goes into TDI Status 03. Due to resource issues, not all taxpayers receive this second notice. These cases are called Priority Code "B" (PC-B). They only receive one notice (CP 515) and will remain in Notice Status 02.

Notices are reviewed by the SCCB TDI function prior to mailing. See IRM 21.10.2, Notice Review for procedures.

**Unresolved IMF RD cases will be considered for Automated Substitute for Return (ASFR) or Automated Collection System (ACS) processing.**

### **5.19.2.4 BMF Delinquency Case Creation**

5.19.2.4 (12-01-2000)

#### **BMF Delinquency Case Creation**

Nonfiler Delinquency Check -- BMF returns are filed throughout the year, therefore, BMF RD cases are created throughout the year depending on the type of return, PCD and Filing Requirements (FR). This check identifies BMF modules with an open FR that does not have a posted return by the PCD.

All BMF modules selected into the RD program for a specific FR are issued a RD notice CP-515, and the module goes into Notice Status 02. The notices are issued by FR and Collection Optimum Potential Yield Score (COPYS). If a response is not received and the case closed within 8 weeks, most are sent a second RD notice CP-518. If the case is not closed within 6 weeks of the CP-518, the module goes into TDI Status 03. Due to resource issues, not all modules receive this second notice. These cases are called Priority

Code "B" (PC-B). They only receive one notice (CP 515) and will remain in Notice Status 02.

Notices are reviewed by the SCCB TDI function prior to mailing. See IRM 21.10.2, Notice Review for procedures.

**Unresolved RD BMF cases will be considered for 6020(b) or ACS processing.**

- 5.19.2.5 Return Delinquency Research
- 5.19.2.6 Return Delinquency Procedures
  - 5.19.2.6.1 IMF and BMF Cases Referred
    - 5.19.2.6.1.1 Form 4864 - Request for Delinquency Notice or TDI
    - 5.19.2.6.1.2 Processing Form 4864/IMF
    - 5.19.2.6.1.3 Processing Form 4864/BMF
    - 5.19.2.6.1.4 Accelerate or Decelerate To TDI Status 03
    - 5.19.2.6.1.5 Accelerate to Compliance Territory Office
  - 5.19.2.6.2 IRS Employee (Selection Code 92) Return Delinquency Program
    - 5.19.2.6.2.1 IRS Employee Return Delinquency Notice Processing
    - 5.19.2.6.2.2 Selection Code 92 Responses
    - 5.19.2.6.2.3 Selection Code 92 TDI Issuances
    - 5.19.2.6.2.4 Selection Code 92 - Area Office Closures
    - 5.19.2.6.2.5 IRS Employee File
  - 5.19.2.6.3 Taxpayer Advocate Service Referrals
  - 5.19.2.6.4 IMF Return Delinquency Responses and Inquiries
    - 5.19.2.6.4.1 IMF Special Handling
    - 5.19.2.6.4.2 IMF Examination Referrals
    - 5.19.2.6.4.3 IMF Substitute for Return Program (SFR) Referrals

5.19.2.6.4.3 (12-01-2000)

**IMF Substitute for Return Program (SFR) Referrals**

**The CP 518 (subsequent Return Delinquency) notice informs the taxpayer IRS can prepare a substitute return, if a return is not filed.**

The SFR program and its automated version "ASFR " were developed to deal with taxpayers who have not filed tax returns voluntarily and for whom income information is available to substantiate a significant income tax liability without costly field investigation. **The purpose of this program is to assess the correct tax liability by either: Securing a valid voluntary income tax return from the taxpayer, Computing tax, interest and penalties based upon Information Return Program (IRP) documents submitted by payers, or other internally available information.**

SFR cases (return delinquencies) are systemically selected for the ASFR program during initial case analysis and includes the IMF supplement information.

Return delinquencies with selection codes 13, 14, 39, 93, or 94 can be referred to SFR from ACS. Refer by entering History Code "TOC0,, SFR" .

Return delinquencies which do not meet SFR criteria include accounts where:

There is an open balance due account.

The only tax year is 6 years or older than the current tax year.

EXAMPLE:

As of January 1, 2001, the prior six years will be TY2000 (although the 2000 return is not considered delinquent until after the due date), 1999, 1998, 1997, 1996, and 1995.

The selection code is other than 13, 14, 39, 93 or 94.

Available information (such as selection codes) indicates the taxpayer is self-employed.

The IRP income exceeds \$100,000 (unless Sel Code 39).

The IRP income is less than 75% of the prior year.

If the taxpayer does not have a notice/letter or a notice of deficiency from the service center, you can identify SFR assessments by IDRS research as follows:

TC150 for .00 with literal "SFR" next to it (initial return assessment), with tax-class 2 and Doc Code 10 in the DLN. (Refer to Doc 6209.)

Blocking series 000-299. (Refer to Doc 6209.)

No AGI listed.

TC290 or TC300 with a blocking series of 540-549 or 640-649. (Refer to Doc 6209.)

TC599 with cc 88, indicates no response to the previous SFR notifications or cc 89 indicates taxpayer agreed to the assessment.

Explain the reason for the balance due. Advise the taxpayer to submit an original, signed return to the appropriate service center SFR/ASFR function.

- 5.19.2.6.4.4 Backup Withholding
- 5.19.2.6.4.5 IMF - Determining Liability
  - 5.19.2.6.4.5.1 IMF Little or No Tax Due
  - 5.19.2.6.4.5.2 IMF Refund Due
  - 5.19.2.6.4.5.3 IMF Taxpayer Liable
  - 5.19.2.6.4.5.4 IMF Response Taxpayer Resides Outside U.S.
  - 5.19.2.6.4.5.5 IMF Response Taxpayer Deceased
  - 5.19.2.6.4.5.6 IMF Response Taxpayer Incarcerated
  - 5.19.2.6.4.5.7 IMF Response Taxpayer Not Liable
  - 5.19.2.6.4.5.8 IMF Response Federal Employee/Retiree Delinquent Investigation (FERDI)
  - 5.19.2.6.4.5.9 IMF Response Taxpayer Will File
  - 5.19.2.6.4.5.10 IMF Response Taxpayer Previously Filed Return
  - 5.19.2.6.4.5.11 IMF Response Insufficient
  - 5.19.2.6.4.5.12 IMF Response with Original Return



- 5.19.2.6.4.5.13 IMF Response with Copy of Return(s)
- 5.19.2.6.4.5.14 IMF Response Taxpayer Unable to File
- 5.19.2.6.5 BMF Return Delinquency Responses and Inquiries
  - 5.19.2.6.5.1 BMF Special Handling Responses

5.19.2.6.5.1 (12-01-2000)

**BMF Special Handling Responses**

If any of the following indicators are present, refer to IRM 5.19.2.6.4.1, IMF Special Handling.

Taxpayer response is threatening or indicates a potentially dangerous situation.

Taxpayer refuses to file a return or gives information based on claims of frivolous return or correspondence.

Open CI control or TC 914.

Bankruptcy has been filed by the business, estate, etc..

Review for potential fraud cases. (See IRM 5.19.2.6.4.1, IMF Special Handling.)

Do not close responses with Collection Case Code W-2 unless an employment tax return (Forms 941 or 943) is secured or was previously filed for any quarter during the previous year. A case code is used to identify the type of notice to be issued. (See Doc 6209 for collection case codes.)

Route "Power of Attorney" Forms 2848 or other tax authorization to the POA/CAF unit.

If the taxpayer requests a visit from an IRS representative, see IRM 5.19.2.6.4.1, IMF Special Handling.

**The 6020(b) program is the BMF equivalent of the SFR program.** The information for preparing the return comes from the taxpayer's last return filed or from information provided by the taxpayer. **See IRM 9.18.3 for information on 6020(b) procedures or for referrals see IRM 5.19.2.6.5.3 "BMF Substitute for Return 6020(b) Program Referrals."**

5.19.2.6.5.2 (12-01-2000)

**BMF Examination Referrals**

Refer all failed savings and loan returns to Examination, Classification Section, including all Forms 1120, 1120S, and 1120X, with the words "Savings and Loan" or an indication that the return was filed by the Resolution Trust Company (RTC - was resolved effective July 1, 1999) or Federal Deposit Insurance Corporation (FDIC).

NOTE:

To avoid duplication, if the return is not accepted, Exam will notate on the return that it has been reviewed.

If a response indicates that the case is in Exam, research AIMS using CC AMDIS.

If no data is available, process per IRM 5.19.2.6.5.4.8, BMF Response Insufficient.

If a TC 420, "-L" freeze, or open aims control is present on TXMOD, input TC 595 cc 82/32 using CC FRM49 and route case to Examination, Classification Branch.

- 5.19.2.6.5.2 BMF Examination Referrals

□ 5.19.2.6.5.3 BMF Substitute for Return 6020(b) Program Referrals

Accounts may be referred for processing in the 6020(B) program. Take the following actions to determine a 6020(b) referral.

For ACS a letter (LT) 18 is mailed at the time of assignment of the case to ACS for modules with 6020(b) indicators. The LT18 advises that a 6020(b) return may be prepared if the return is not filed. The case is assigned to the ACS inventory I9. Cases in this inventory meet the criteria for 6020(b) processing and usually have information from the Last Period Satisfied (LPS), which can be used as the basis to compute the tax liability for the delinquent modules.

NOTE:

Entities that meet 6020(b) criteria can be excluded from I9 and not receive a LT18 if there is an open taxpayer delinquency account (TDA) for the case at the time of assignment. In some cases the TDA is resolved and the case will require a LT18 mailed if the non-filer has not been contacted and warned of 6020(b) enforcement action.

Cases are assigned to S3 or S6 ACS inventories.

S3 is the 6020(b) inventory requiring research before the case can be worked in the automated system. Research ACS comments and/or IDRS for information to prepare returns. All cases that meet 6020(b) criteria can be assigned to S3.

S-6 is the inventory with last period satisfied data on the module screen (MOD - Screen 4) and no other information is available which we can use to base the 6020(b) assessment. Based on the current automation, only Forms 940, 941, 943, and 945 can be assigned to S6 if there is sufficient LPS.

For referrals Criminal Investigation Division (CID) see LEM 5.19.2.6.5.3.

Ensure the following ACS call-site investigation guidelines are met before sending the case to the service center ACS support group.

Attempt contact by telephone a minimum of three times. If there is no telephone number, contact directory assistance.

Reassign the case "TOI2,, NPL" for further research of locator services to obtain a telephone number or address for the entity if directory assistance is not productive.

Request the filing of all delinquent returns and obtain the necessary information to prepare each and all delinquent returns on all taxpayer contacts.

NOTE:

If the taxpayer states the delinquent return(s) will be filed, input the appropriate follow-up date and move the entity from I9 to TOI0 or route the case for review as directed by local management. The appropriate hold date should be input.

Document the comments section with the information shown in the following table.

If Then

Forms 940, 941, and 943, Enter the total wages, number of employees, and tax withheld for each delinquent tax period. For Form 940, list the states in which wages were paid.

Form 1065, Enter the number and names of partners, addresses, and Social Security numbers.

Form 945, Enter amount of tax withheld or last return filed information.

Form 2290, Enter the tax rate from the last return filed and type of truck, number of axles, gross weight of vehicle, and tax due.

Form 720, Enter tax category and amount of tax.

Review by a manager, or designated employee is required prior to assignment of cases to service center S3 or S6 inventories to ensure casework is complete.

NOTE:

The reviewer must double check to ensure all ACS procedures are completed before referring cases to S3 and/or S6.

Enter History Code TOSn,xx,6020(b) if the taxpayer contact has been made and 6020(b) is appropriate.

NOTE:

XX = the number of days to the deadline date plus 25 days. The hold will not allow the case to proceed into the A6020(b) program until the first week after the expiration of the follow-up date.

The following table shows actions necessary to reassign the case for 6020(b) action.

If And Then

Taxpayer cannot be contacted Efforts made to contact the non-filer and secure the delinquent returns have failed, Enter ACS history code, "TOSn, ,6020(b)" .

There is positive indication that the taxpayer is still in business Reliable employment information is available (e.g., state wage information or LRA of the same MFT), Enter ACS history code, "TOSn, ,6020(b)" .

Taxpayer was liable for the delinquent periods Reliable employment information is available, Enter ACS history code, "TOSn, ,6020(b)" .

Add comments on the ACS terminal to include any new information. Review of the comment screen is the final step before submitting 6020(b) returns for assessment.

Follow the procedures in IRM 9.18.3.1.3(3) if the case does not meet the criteria for 6020(b) assessment.

Propose assessments on modules that meet 6020(b) criteria even if there are other modules delinquent but not eligible for 6020(b) processing. The modules not subject to 6020(b) assessment will be transferred to the queue once the 6020(b) assessment is made on eligible modules.

- 5.19.2.6.5.4 BMF Determining Liability
  - 5.19.2.6.5.4.1 BMF Little or No Tax Due
  - 5.19.2.6.5.4.2 BMF Taxpayer Liable
  - 5.19.2.6.5.4.3 BMF Response Taxpayer Deceased
  - 5.19.2.6.5.4.4 BMF Response Out of Business
  - 5.19.2.6.5.4.5 BMF Response Taxpayer Not Liable
  - 5.19.2.6.5.4.6 BMF Response Taxpayer Will File
  - 5.19.2.6.5.4.7 BMF Response Taxpayer Previously Filed Return(s)
  - 5.19.2.6.5.4.8 BMF Response Insufficient

- 5.19.2.6.5.4.9 BMF Response with Original Return(s)
- 5.19.2.6.5.4.10 BMF Response With Copy of Return(s)
- 5.19.2.6.5.4.11 BMF Response Form 940
- 5.19.2.6.5.4.12 BMF Response Forms 941 and 720
- 5.19.2.6.5.4.13 BMF Response Forms 943/941
- 5.19.2.6.5.4.14 BMF Response Form 11
- 5.19.2.6.5.4.15 BMF Response Forms 966/964 (Corporate Dissolution or Liquidation)
- 5.19.2.6.5.4.16 BMF Response Form 1041
- 5.19.2.6.5.4.17 BMF Response Form 1065
- 5.19.2.6.5.4.18 BMF Response Form 1120
- 5.19.2.6.5.4.19 BMF Response Form 2290
- 5.19.2.6.6 Return Delinquency Research Cases
  - 5.19.2.6.6.1 TIN and Entity Problems
    - 5.19.2.6.6.1.1 IMF TIN and Entity Problems
    - 5.19.2.6.6.1.2 IMF- TIN and Entity Problem, TP Filed as Spouse on Joint Return ,
    - 5.19.2.6.6.1.3 BMF TIN and Entity Problems
  - 5.19.2.6.6.2 Return Delinquencies Due to Posting Errors
- 5.19.2.6.7 Credit Balance Cases
- 5.19.2.6.8 Unable to Locate
  - 5.19.2.6.8.1 Third Party Responses
  - 5.19.2.6.8.2 IMF ACS I2 Inventory Processing General
    - 5.19.2.6.8.2.1 Locating IMF Taxpayers
    - 5.19.2.6.8.2.2 Unable to Locate (IMF)
  - 5.19.2.6.8.3 BMF ACS I2 Inventory Processing -- General
    - 5.19.2.6.8.3.1 Locating BMF Taxpayers
    - 5.19.2.6.8.3.2 Unable to Locate (BMF)
- 5.19.2.6.9 TDI Transcripts
  - 5.19.2.6.9.1 General Transcripts
  - 5.19.2.6.9.2 TDI Research
  - 5.19.2.6.9.3 Resolving TDI Transcripts
  - 5.19.2.6.9.4 Transcripts with TC 594/599 DLN Blocking Series 741-799
    - 5.19.2.6.9.4.1 TC 594/599 Suspense File
  - 5.19.2.6.9.5 Accounts Maintenance (AM) 18 Transcripts and CP 80 & 81 Letters
- 5.19.2.6.10 Diagnostic--Q Transcripts
  - 5.19.2.6.10.1 General Procedures for Diagnostic-Q Transcripts
  - 5.19.2.6.10.2 Diagnostic-Q -- Return Delinquency/TDI Numerics
- Exhibit 5.19.2-1 Tax Year 2000 Selection Codes
- Exhibit 5.19.2-2 Return Delinquency Closing Codes

---

Internal Revenue Manual Part 5 Collecting Process Chap. 19 Liability Collection Sec. 2  
Return Delinquency (08-01-2001)

IRS Privacy and Security Policy | Contact Us | ©2001 IRS.gov

## IRM Part 4 Examining Process

### **4.3.14 NONFILED RETURNS HANDBOOK:**

- 4.3.14 Ch. 1 Nonfiled Returns

Handbook 4.3.14  
Nonfiled Returns Handbook

## Chapter 1 Nonfiled Returns

---

### Contents

#### [4.3.14] 1.1 Overview

[4.3.14] 1.1 (05-03-1999)  
Overview

This Handbook discusses the procedures involved in handling nonfiled returns. Substitute for Return and Delinquent Return procedures were developed to deal with taxpayers who do not file required tax returns. The purpose of the procedures is to assess the correct tax liability by either: Securing a valid voluntary tax return from the taxpayer (Delinquent Return), or If securing a return is not possible, computing tax, interest, and penalties based upon information submitted by payers, or based on other internally available information (Substitute for Return).

[4.3.14] 1.2 Source of Cases  
[4.3.14] 1.3 Enforcement Period  
[4.3.14] 1.3.1 Management Approval  
[4.3.14] 1.4 Discovery of Nonfiling

[4.3.14] 1.4.1 Indications of Fraud

[4.3.14] 1.4.2 Indications of Fraud Absent

[4.3.14] 1.4.3 Preparation of the Return(s)

[4.3.14] 1.4.3 (05-03-1999)

Preparation of the Return(s)

When a taxpayer is advised to file all required delinquent returns but refuses to file, or states an inability to file all of the returns:

Determine the extent to which the filing requirements should be enforced using the criteria in Policy Statement P-5-133 and prepare the return(s).

[4.3.14] 1.4.3.1 IRC Sec. 6020(a)

[4.3.14] 1.4.3.1 (05-03-1999)

IRC Sec. 6020(a)

If the taxpayer will consent to disclose all information necessary for the preparation of the return(s), IRC Section 6020(a) states the return(s) may be prepared by the IRS. The return(s), signed by the taxpayer, may be received by the IRS as the return(s) of such person.

Delinquency Penalties are applicable. See the Penalty Handbook, IRM 120.1.

[4.3.14] 1.4.3.2 IRC Sec. 6020(b)

[4.3.14] 1.4.3.2 (05-03-1999)

IRC Sec. 6020(b)

Code Section 6020(b) states, "If any person fails to make any return required by any Internal Revenue Law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise."

IRC SEC. 6020(b)(2) states "Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes."

This is a Substitute for Return

See the Penalty Handbook.

[4.3.14] 1.5 Nonfiled Returns Involving Related Cases/Spin-Offs

[4.3.14] 1.5.1 Corporate Officers/Shareholders

[4.3.14] 1.5.2 Delinquent Partnership and Partner Returns

[4.3.14] 1.5.2 (05-03-1999)

Delinquent Partnership and Partner Returns

Follow the procedures given in the IRM section, which deals with delinquent partnership returns and delinquent returns of the partners.

[4.3.14] 1.5.3 Partnership Substitute for Return (SFR)

[4.3.14] 1.5.3 (05-03-1999)

**Partnership** Substitute for Return (SFR)

Where a partnership is required to file a return and fails to do so, and/or fails to file a delinquent return when requested, the "Substitute for Return" procedures in this section will be followed as well as the IRM partnership procedures with respect to each partner.

[4.3.14] 1.5.4 Unincorporated Business Property IRC 761(A)

**[4.3.14] 1.5.5 Delinquent EP/EO Returns**

[4.3.14] 1.5.5 (05-03-1999)

Delinquent **EP/EO** Returns

If a delinquent return within the jurisdiction of the EP/EO Division is discovered, the examiner will attempt to secure the return.

If the taxpayer refuses to file the delinquent return, or if a substantial amount of time will be required to secure the return; the delinquency investigation will be forwarded to the EP/EO Division for possible examination; use Form 5346, Examination Information Report for returns of exempt organizations; use Form 4632, Employee Plan Referral for returns of employee plans;

If the delinquent EP/EO return is secured: file it with the appropriate service center; send a copy of the return to the EP/EO Division for consideration. Use Form 5346 for Exempt Organizations. Use Forms 4632 and 4632-A for Employee Plans; use Form 5346 for Exempt Organizations; use Forms 4632 and 4632-A for Employee Plans. Delinquency penalties must be considered. See the Penalty Handbook.

**[4.3.14] 1.5.6 Delinquent International Returns**

[4.3.14] 1.5.6 (05-03-1999)

Delinquent **International** Returns

If during an examination, the delinquency of a return under the jurisdiction of the Assistant Commissioner (International) is discovered, the examiner will attempt to secure the delinquent return. If the taxpayer refuses to file the delinquent return or if a substantial amount of time will be requested to secure the return: Form 5346, Examination Information Report will be forwarded to the Assistant Commissioner (International) Attention: Chief, Planning and Special Programs (OP:IN:D:C:TS). The examiner should also advise on Form 5346 if the taxpayer contends he/she is not legally liable for filing the return and whether such liability is an issue.

If the return is secured, it should be filed with the Philadelphia Service Center under existing manual procedures.

[4.3.14] 1.5.6.1 Jurisdiction of the Assistant Commissioner International

**[4.3.14] 1.5.7 Delinquent Employment Tax Returns**

[4.3.14] 1.5.7 (05-03-1999)

Delinquent **Employment** Tax Returns

During a field or office examination of an income tax return of a business taxpayer, the examiner will inspect CFOL information of each withholding tax return filed up to and including the last quarter for which a withholding tax return was due.

Withholding taxes include employment taxes such as FICA, RRTA, FWT, and FUTA as well as back-up withholding, withholding on income paid to foreign persons, and withholding on gambling winnings.

Withholding also includes the tax imposed on a buyer or other transferee (withholding agent) when a U.S. real property interest is acquired from a foreign person.

If the required tax returns have not been filed, the examiner should follow the Substitute for Return and/or Delinquency procedures.

#### [4.3.14] 1.5.8 Delinquent Excise Tax Returns

[4.3.14] 1.5.8 (05-03-1999)

Delinquent **Excise** Tax Returns

If the taxpayer has failed to file a required Excise Tax return, the examiner will follow the Delinquency or SFR procedures as applicable. All excise tax returns will be sent to the Cincinnati Service Center for processing.

#### [4.3.14] 1.5.9 Delinquent Estate Tax Returns

[4.3.14] 1.5.9 (05-03-1999)

Delinquent **Estate** Tax Returns

When, in the examination of gift tax or estate tax returns, the examiner finds gifts were made and returns were due but not filed, he/she should request the donor or the executor of the estate to prepare and submit to him the returns covering the unreported gifts.

While no tax liability may be involved if gifts are split between the spouses, it may still be important to secure returns for two reasons;

use of additional unified credit may generate gift tax liability for either spouse in future years, or

the additional taxable gifts may increase the total taxable interests on the estate return of a deceased donor.

If a gift tax return is solicited and the executor refuses to file said return, a Substitute for Return should be prepared and processed using the Substitute for Return procedures.

[4.3.14] 1.5.10 Failure to File Certain Information Returns (Other Than EP/EO) or Furnish Certain Statements

[4.3.14] 1.5.11 Coordinated Examination Program (CEP)

[4.3.14] 1.6 Receipt of a Delinquent Return

[4.3.14] 1.7 Examination of a Delinquent Return

[4.3.14] 1.7.1 Information Report

[4.3.14] 1.8 Delinquent Returns Received After Statutory Notice Issued

[4.3.14] 1.9 Refund

[4.3.14] 1.9.1 Claim Case

[4.3.14] 1.10 Delinquent Return Secured With Reported Tax or Reasonable Cause in Question



[4.3.14] 1.11 Case Closed Without Examination Report Delinquent Return Letters

[4.3.14] 1.12 Appeal of the Delinquency Penalties

[4.3.14] 1.13 Substitute for Return

[4.3.14] 1.13 (05-03-1999)

**Substitute for Return**

When it has been determined that a taxpayer is liable for filing a return, and upon due notice from the Service fails to do so, a Substitute for Return will be prepared by Examination.

Examination uses this procedure to establish an account and examine the records of a taxpayer when the taxpayer refuses or is unable to file and information received indicates that a return should be filed.

The examiner will request a transcript of the account to determine what action has been taken. If there is any indication that the taxpayer is married, research for a spousal SSN must also be performed.

The examiner should submit the request on Form 6882, IDRS/Master File Information Request; or On-line research can be performed using Command Code IMFOL/BMFOL/INOLE.

[4.3.14] 1.14 Firm Indication of Fraud

[4.3.14] 1.15 Establishment on Masterfile

[4.3.14] 1.15 (05-03-1999)

**Establishment on Masterfile**

To establish a Substitute for Return on master file follow the procedures in Chapter 9 of IRM 104.3.

[4.3.14] 1.16 TC 150 Posted

[4.3.14] 1.16 (05-03-1999)

**TC 150 Posted**

Do not submit a delinquent or substitute return if TC 150 has posted.

A TC 150 posting with no taxability followed by a TC 240 posting for \$500 (W-4 penalty) indicates that the service center has posted a dummy return.

If a TC 150 has posted, any adjustments must be made as subsequent adjustments (i.e. TC 300).

[4.3.14] 1.17 No Return Secured Agreed Closure IRC 6020(a)

[4.3.14] 1.17 (05-03-1999)

**No Return Secured Agreed Closure IRC 6020(a)**

If the nonfiler does not provide a delinquent return, all adjustments, tax, and penalties will be proposed on an income tax change report (Form 1902-B or Form 4549). If the nonfiler signs this report, it becomes a return filed by the Service under IRC 6020(a).

Form 3198, Special Handling Notice, will be attached to the case with notation "IRC 6020(a) Return -- Close Disposal Code 08" .

If a "dummy/SFR" has not been processed follow procedures to establish the entity on Master File.

[4.3.14] 1.18 No Return Secured Unagreed Closure

[4.3.14] 1.19 No Return Secured Refund Years

[4.3.14] 1.20 No Return Secured No Filing Requirement/Little or No Tax Due

[4.3.14] 1.21 No Return Secured Years Outside Enforcement Period

[4.3.14] 1.22 When a Case Is Closed From the Group

---

Internal Revenue Manual Hndbk. 4.3.14 Chap. 1 Nonfiled Returns (05-03-1999)

IRS Privacy and Security Policy | Contact Us | ©2001 IRS.gov

#### **4.13 AUDIT RECONSIDERATION:**

- [4.13.1 Introduction](#)
- [4.13.2 Contact Employees](#)
- [4.13.3 Central Reconsideration Unit](#)
- [4.13.4 Area Office Examination](#)
- [4.13.5 Automated Substitute For Return](#)

Part 4

Examining Process

Chapter 13

Audit Reconsideration

Section 5

[Automated Substitute For Return \(ASFR\)](#)

---

Contents

[4.13.5 Automated Substitute For Return \(ASFR\)](#)

4.13.5.1 (10-01-2000)

4.13.5.1 General Information

General Information

This chapter discusses [ASFR](#) reconsiderations. For [ASFR](#) assessments, [a reconsideration might be:](#)

A delinquent return (1040, 1040A, or 1040EZ) or a statement of proof that the taxpayer previously filed under another TIN after the ASFR assessment was input to the taxpayer's account.

A duplicate return freeze (A freeze, generated by TC 976 or TC 977).

A notification of a filing status change.

For more detailed information on taxpayers' responses, see IRM 21.8.2.

#### 4.13.5.2 Returns Received

4.13.5.2 (10-01-2000)

##### Returns Received

Most original returns intend to remove all or part of the original ASFR assessment. Accept the information as long as the form is properly signed and the information is complete.

If the taxpayer's return was sent for processing before it was referred to ASFR:

Then use IDRS command ESTAB to order the return. The return will have a DLN and CP 36 attached to the front.

Work the case the same as other replies, except:

Cross out the original DLN when the adjustment is made. Input TC 290.00 to release the freeze on the account if no adjustment is applicable (e.g. unprocessable return).

4.13.5.3 Screening

4.13.5.4 Exam Referral

4.13.5.5 Previously Filed Return

---

Internal Revenue Manual Part 4 Examining Process Chap. 13 Audit Reconsideration  
Sec. 5 Automated Substitute For Return (ASFR) (10-01-2000)

IRS Privacy and Security Policy

## Embedded Secure Document

The file *http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q13.031a.pdf*

is a secure document that has been embedded in this document. Double click the pushpin to view.



## Internal Revenue Manual

### Handbook 1.16.4 Identification Media

#### Chapter 3 Pocket Commissions

---

#### Contents

- [1.16.4] 3.1 Authorized Use
- [1.16.4] 3.2 Description
- [1.16.4] 3.3 Authorizing Officials
- [1.16.4] 3.4 Issuing Offices
- [1.16.4] 3.5 Employees Authorized to Hold Pocket Commissions
- [1.16.4] 3.6 Issuance Procedures
- [1.16.4] 3.7 Use of Pseudonyms on Pocket Commissions
- [1.16.4] 3.8 Disposition
- [1.16.4] 3.9 Retention of Canceled Pocket Commissions Upon Retirement
- [1.16.4] 3.10 Protection and Disposition Procedures
- [1.16.4] 3.11 Records and Accountability
- Exhibit [1.16.4] 3-1 Authorized Pocket Commission Holders
- Exhibit [1.16.4] 3-2 Request to Add Position to Authorized List
- Exhibit [1.16.4] 3-3 Request for Issuance of Pocket Commission
- Exhibit [1.16.4] 3-4 Numerical Pocket Commission Record
- Exhibit [1.16.4] 3-5 Pocket Commission Inserts

---

#### [1.16.4] 3.1 (02-19-1999) Authorized Use

Pocket commissions will be issued only to those employees who are required to present proof of their authority in the performance of their official duties. With the exception of their use by Inspection, pocket commissions are primarily intended to identify Service personnel to the public when dealing with tax matters. They will not be issued to employees merely to identify themselves for transaction of routine business. Pocket commissions will only be displayed as prescribed in 3.2 of this Chapter. Misuse of pocket commissions is a violation of the Rules of Conduct and may be a violation of Federal Law (18 U.S.C. 499).

Pocket commissions are categorized as either "enforcement" or "nonenforcement."

Enforcement commissions conform to the format prescribed by the Department of Treasury for Treasury Law Enforcement Officers and may be issued only to individuals in the 1811 series, Special Agents (Criminal Investigation) and Inspectors (Internal Security). Nonenforcement pocket commissions are those issued to all other authorized employees.

[1.16.4] 3.2 (02-19-1999)

#### Description

The enforcement pocket commission consists of a black leather combination shield/pocket commission case with cut-out on the outside for the enforcement shield. Inserted inside are laminated upper and lower pocket commission inserts. The upper insert contains the name of the employee. The lower insert contains the title, color photograph, and signature of the employee, certification of authority, serial number, and handwritten signature of the authorizing offices. The date of issue should be placed above the serial number.

The non-enforcement pocket commission consists of a red leather folder, embossed in gold on the outside with the Internal Revenue seal, the words "United States Treasury Department, Internal Revenue Service" and a straight line border. Affixed to the inside are laminated upper and lower pocket commission inserts. The upper insert contains the photograph and signature of the employee. The lower insert contains the name and title of the employee, date of issue, serial number, certification of authority of the employee, and the handwritten signature of the authorizing official.

In the upper right hand corner of each commission is a line for the office code. This should be the geographic code of the issuing office (the same code used on ID cards).

Each commission will have a serial number with the prefix IR and the suffix "E" on enforcement commissions and "A" on nonenforcement commissions.

Clear, plastic covers may be used to protect the commission from wear, however, other adornments are not authorized.

[1.16.4] 3.3 (02-19-1999)

#### Authorizing Officials

The Commissioner, Deputy Commissioner, Chief Inspector, Chief Officer, Assistant Commissioner (Criminal Investigation), Regional Commissioners, District Directors and the Chief Counsel, Deputy Chief Counsel, Associates Chief Counsel and Regional Counsels are the only approving authority for issuance of pocket commissions to authorized employees under their supervision.

[1.16.4] 3.4 (02-19-1999)

#### Issuing Offices

Security offices at the Host Sites and National Office Headquarters Operations are responsible for issuing pocket commissions to authorized employees (see Exhibit 1.16.4.3-1). Security offices are responsible for maintaining and safeguarding supplies. The Assistant Commissioner (Criminal Investigation) is the designated issuing officer for enforcement pocket commissions for Criminal Investigation personnel, Servicewide.

The Chief Inspector is the designated issuing officer for all Inspection personnel, Servicewide.

[1.16.4] 3.5 (02-19-1999)

#### Employees Authorized to Hold Pocket Commissions

Managers will identify those employees who are required to present proof of their authority during taxpayer contacts and will initiate requests for pocket commissions for authorized employees.

In order to hold a pocket commission, employees must meet the criteria in section 3.1 of this chapter and must be on the authorized list of pocket commission holders (see Exhibit 1.16.4.3-1).

To keep the list of authorized pocket commission holders current, recommended changes to the authorized list must be forwarded to the National Director, Real Estate Planning and Management Division (M:S:RE). The memorandum requesting the change must provide the title, the series and the reason for adding the position (see Exhibit 1.16.4.3-2). Changes to the list must be sent through the Chief Officer of the requesting organization for concurrence before it is sent to M:S:RE.

[1.16.4] 3.6 (02-19-1999)

#### Issuance Procedures

Managers will request pocket commissions for authorized employees by forwarding a memorandum to the appropriate issuing office (see Exhibit 1.16.4.3-3). Authorized pocket commission titles are listed in Exhibit 1.16.4.3-1. The request must contain the following information.

name of employee

name of standard title and series for employee

type of pocket commission (enforcement/non-enforcement)

employee's post of duty and phone number

new commission or replacement (if lost or stolen, attach a copy of the report)

duties which require need for credentials

manager's phone number and mailing address

photo, if applicable

Photographs for pocket commissions must be 1 1/6 " wide X 1 5/16 " high and printed on single weight paper.

Photos made with the ID card cameras with the IRS seal, blue background, and trimmed to the appropriate size, are acceptable. (Photo should be taken with a forehead distance of 50 inches).

The pocket commission insert must be signed and dated by the authorizing official.

Rubber stamped or preprinted facsimile signatures are not acceptable. Authority to sign pocket commissions may not be redelegated unless the authorized official will be away from the office for a period of time, then the Acting may sign pocket commissions. This authority is usually contained in the delegation of authority to act.

The inserts must be laminated in order to protect it from tampering and affixed to the folder in such a manner as to permit their later removal without mutilating the folder.

When an insert for a pocket commission becomes dirty or mutilated, or the photograph fails to resemble the bearer, it should be returned to the issuing office for destruction and replacement.

[1.16.4] 3.7 (02-19-1999)

#### Use of Pseudonyms on Pocket Commissions

In accordance with the Federal Service Impasses Panel decision dated March 10, 1992, Internal Revenue Service employees authorized to hold a pocket commission may use a registered pseudonym, in lieu of their legal name, to protect themselves from potential harassment by taxpayers.

No employee may have more than one pocket commission in their possession. If an employee is issued a pocket commission using a registered pseudonym, that individual may not be issued any other pocket commission. If an employee is already in possession of a pocket commission, it must be recovered prior to issuance of the pocket commission using a pseudonym.

Employees may not change back and forth between their real name and a pseudonym. Once a pocket commission is issued using a pseudonym, that commission remains in place until the employee transfers to another position or office or separates from the Service.

Requests for pocket commissions using pseudonyms must be made in writing by the employee's manager. The request must include both the employee's real name and his/her registered pseudonym, name of standard position title and series, type of pocket commission (enforcement/nonenforcement), employee's post of duty and phone number, duties which require the need for credentials and the manager's phone number and mailing address. (The requesting function is responsible for notifying Inspection when employees are approved to use a pseudonym.) The request must be approved by the Regional Commissioner, District Director or Chief Officer.

[1.16.4] 3.8 (02-19-1999)

#### Disposition

Pocket commissions are the property of the Internal Revenue Service. Immediately upon transfer, suspension or separation of an employee, the manager must ensure that the pocket commission is recovered. Upon recovery, the pocket commission will be returned to the issuing office and will be destroyed. If leather folders are in satisfactory condition, they should be retained for reuse.

If the employee is suspended, the pocket commission will be recovered by the manager and held pending the final determination of action.

When employees are on extended leave without pay, the pocket commission will be held until the employee's return. If the leave is expected to continue for more than one year the issuing office should destroy the pocket commission.

When an employee transfers to a position under the authority of another authorizing official or to a position where pocket commissions are not authorized, the pocket commission will be recovered and returned to the issuing office for reconciliation of ID media records and destruction of the commission.

Pocket commissions should be destroyed in accordance with the records disposition scheduled (see IRM 1.15.2, Records Disposition Handbook).



[1.16.4] 3.9 (02-19-1999)

Retention of Canceled Pocket Commissions Upon Retirement

Managers have the option to permit the retention of canceled pocket commissions by those eligible, however, such retention will not be automatic. A specific request, in writing, must be made by the employee's manager (or next of kin) at the time the pocket commission is recovered by the employee's manager.

Pocket commissions may be canceled and presented to employees identified by the following criteria:

Employees retiring from the Service, or

Employees who die while in the employ of the Service (pocket commissions to be presented to the next of kin).

Canceled pocket commissions may not be used for purposes of identification but may only be used for display purposes.

Pocket commissions using registered pseudonyms may not be canceled and presented to employees. These commissions must be recovered and destroyed.

All pocket commissions to be awarded will be forwarded by mail (see 1.6.1 of this Handbook for mail instructions) to the appropriate issuing office so that they may be properly canceled. After cancellation, the pocket commissions will be returned to the employee's manager for presentation to the retiree or the next of kin.

Each insert of each pocket commission will be stamped with a hot stamp validator with the word "MEMENTO". The stamp must be such that it will leave a colored (gold or blue) impression in each insert (into the laminate).

Enforcement commissions will be removed from the leather case and mounted on a red leather folder before being sent to the issuing office for cancellation.

Issuance of new or replacement credentials to retirees or persons previously separated from the Service is not authorized.

Records will be maintained on canceled commissions to ensure accountability of each pocket commission.

[1.16.4] 3.10 (02-19-1999)

Protection and Disposition Procedures

All pocket commission inserts, upper and lower, both stock and completed, must at all times be under the custody and control of an authorized IRS employee or locked in a security container, even if stored in a secured area, unless more protection is specified.

The alphabetical records required by 3.11 below must always be under the custody and control of an authorized IRS employee or locked in a security container.

Items listed in (1) and (2) above, when no longer required must be destroyed in accordance with Chapter 3 of IRM 1.16.8 (Physical Security Standards).

The control and security of pocket commission inserts and supplies will be the direct responsibility of the Security function.

[1.16.4] 3.11 (02-19-1999)

Records and Accountability

Form 1930, Custody Receipt for Government Property (or alternate method that captures the same information), will be required for each pocket commission issued.

Both an alphabetical file and numerical file will be maintained for pocket commissions. Form 1930 will be used for the alphabetical file and Form 6663, Numerical Pocket Commission Record (see Exhibit 1.16.4.3-4), will be used for the numerical file (a computerized listing is an acceptable alternative).

If a pseudonym is being used, an additional alphabetical file on the employee's registered pseudonym will be maintained in addition to 1 and 2 above (Form 1930 may be used for this purpose).

Inventory and destruction records will be maintained. A simple log showing receipt and use of supplies will be kept.

Annually, and on a sample basis, the accuracy of the pocket commission records will be audited and reconciled against the numerical and alphabetical file.

Exhibit [1.16.4] 3-1 (02/19/99)

#### Authorized Pocket Commission Holders

Executives

Commissioner

Deputy Commissioner

Chief Inspector, Chief Officers, Deputy Chief Inspector

Regional Commissioners

Assistant Commissioners, Assistants to the Commissioner and Deputy Commissioner,

Assistant Chief Inspectors, Deputy Assistant Chief Inspectors

Regional Inspectors and Assistant Regional Inspectors

Director/Assistant Director of Districts, Service Centers and Computing Centers

Regional Chief Customer Services (Northeast Region)

Executive Officer for Service Center Operations (Taxpayer Service)

Chief Counsel, Deputy Chief Counsel, Associate Chief Counsel, Regional and District Counsel

Office of Chief Compliance Officer

Collection

Bankruptcy Specialist (GS-1101)

Program Manager (GS-340)



Revenue Officer (GS-1169)

Revenue Officer Aide (GS-592)

Revenue Representative (GS-099/592)

Tax Examining Assistant (GS-592)

Criminal Investigation

Asset Forfeiture Coordinator (GS-301)

Intelligence Analyst (GS-301/132)

Investigative Assistant (GS-1899)

Program Manager (GS-340)

Security Officer (GS-080/GM-080)

Seized Assets Assistant (GS-303)



**Special Agent (GM/GS-1811)**

Student Trainee (GS-099)  
Tax Fraud Investigative Aid (GS-1802)  
Telecommunications Specialist (GM/GS-391)  
Trial Illustrator (GS-1084)

EP/EO

Actuary (GS-1510)

Examination

Appraiser (GS-1171)  
Attorney (Estate Tax) (GS-905)  
Disclosure Enforcement Specialist/Disclosure Officer/Disclosure Specialist (GS-301)  
Dyed Diesel Compliance Officer (GS-1101)  
Economist (GS-110)  
Engineer (General--GS-801), (Mining--GS-880), Petroleum--GS-881), (Industrial--GS-896)



Examination Aide (GS-503)

**Internal Revenue Agent (GS-512)**

Legal Technician (GS-986)  
Paralegal Specialist (GS-950)  
Program Manager (GS-340)  
Tax Auditor (GS-526)  
Tax Technician (GS-526)

International

Assistant Revenue Service Representative (GM-301)  
Attorney/Attorney (Estate Tax) (GS-905)  
Disclosure Officer (GS-301)  
Program Manager (GS-340)  
Internal Revenue Agent (GS-512)  
Revenue Officer (GS-1169)  
Revenue Service Representative (GM-301)  
Special Agent (GS-1811)  
Tax Auditor/Tax Technician (GS-526)  
Tax Fraud Investigative Aide (GS-1802)

Office of Chief Counsel

Attorney (GS-905)

Office of Chief Information Officer

Chief, Security and Disclosure Branch (Martinsburg Computing Center)  
Disaster Recovery Coordinator (GS-343)

Office of Chief Inspector

Communications Specialist (GS-393)  
Computer Programmer Analyst (GS-334)  
Inspector (GS-1811)  
Inspector (Trainee) (GS-099)  
Internal Auditor (GS-511)  
Internal Auditor (Trainee) (GS-599)  
Internal Security Assistant/Investigative Aide (GS-1802)  
Investigative Specialist (GS-1801)  
Investigator (GS-1810)

Office of Chief Taxpayer Services

Electronic Filing Coordinator (GS-1035)  
Public Affairs Officer (GS-1035)

Exhibit [1.16.4] 3-2 (02/19/99)  
Request to Add Position to Authorized List

-----  
DATE:  
MEMORANDUM FOR NATIONAL DIRECTOR, REAL ESTATE PLANNING AND  
MANAGEMENT DIVISION  
FROM: CHIEF OFFICER OF REQUESTING ORGANIZATION  
SUBJECT: Request to Add Position to Authorizes List of Pocket Commission Holders  
Please add the position of (title and series) to the list of authorized pocket commission  
holders. Individuals in this position (brief description of duties requiring proof of  
authority). In order to present proof of authority in the performance of their official  
duties, this position should be added to the list of authorized pocket commission holders.

Exhibit [1.16.4] 3-3 (02/19/99)  
**Request for Issuance of Pocket Commission**

-----  
DATE:  
MEMORANDUM FOR Chief, Facilities Management Branch Attn: Office of Security  
FROM: (Employee's Supervisor)  
SUBJECT: **Request for Issuance of Pocket Commission (Non-Enforcement)**  
As authorized in 1.16.4.3.1 and Exhibit 1.16.4.3.1-1, **please issue a non-enforcement  
pocket commission to:**

Exhibit [1.16.4] 3-3 (02/19/99)

Request for Issuance of Pocket Commission

---

Name: Random Sample  
Title: Revenue Officer  
Series: GS-1169  
Phone #: (000) 000-0000  
POD: Washington, DC  
Circumstances: (New employee, replacement commission, etc.)

Mr. Sample is a revenue officer and as such may meet with taxpayers at their place of business, residence and/or IRS office regarding tax matters. In order to present proof of his authority when deal with taxpayers, we request that Mr. Sample be issued a non-enforcement pocket commission.

If you have any questions, please contact (name of employee's supervisor) at (supervisor's phone number) (also include supervisor's office symbols if applicable and location).

Exhibit [1.16.4] 3-4 (02/19/99)  
Numerical Pocket Commission Record

---

Prefix Numerical Pocket Commission Record Date Pocket Commission  
was: Destroyed (D)  
IR-DD Retired (R)  
Lost (L)

Commission No. Name: Last, First, M.I. Title of Pocket Disposition Code  
Commission/Date Issued Month/Day/Year  
00000A Blue, Sky Revenue Officer -- 04/12/90 R -- 06/30/98  
00000A Sample, Random S. Revenue Agent -- 05/15/90 L -- 12/22/93  
00000A Solid, Rock R. Tax Auditor -- 06/21/90  
00000A Security, Guard Disclosure Officer -- 06/23/90 D -- 05/22/94  
00000A Car, Box Program Manager -- 07/01/90  
00000A  
00000A  
00000A  
00000A  
00000A  
00000A  
00000A  
00000A  
00000A

Exhibit [1.16.4] 3-4 (02/19/99)  
Numerical Pocket Commission Record

---

Form 6663 Department of the Treasury -- Internal Revenue Service

Exhibit [1.16.4] 3-5 (02/19/99)  
Pocket Commission Inserts

---

Form Signatory Authority

**4688A Upper Insert (non-enforcement)**

4688B Upper Insert (enforcement) -- This can be ordered from the Distribution Center

4689A Chief Officer (National Office use only)

4689B Chief Counsel

4689C Regional Commissioner

4689D District Director

4689G Chief Inspector -- enforcement (for inspectors only)

4689L Assistant Commissioner (Criminal Investigation) -- enforcement (for special agents only)

4689M Chief Inspector

4689P Commissioner

4689Q Chief Inspector -- (Internal Audit only)

4689R Deputy Chief Counsel

4689S Associate Chief Counsel

4689T Regional Counsel

4689U Commissioner -- enforcement (Assistant Commissioner, Criminal Investigation only)

4689V Secretary of Treasury (for Commissioner of Internal Revenue Service)

---

Internal Revenue Manual Hndbk. 1.16.4 Chap. 3 Pocket Commissions (02-19-1999)

**IRS Resources**

- [Compliance & Enforcement](#)
- [Contact My Local Office](#)
- [e-file](#)
- [Forms and Publications](#)
- [Frequently Asked Questions](#)
- [News](#)
- [Taxpayer Advocacy](#)
- [Where To File](#)

**Part 1. Organization, Finance and Management****Chapter 15. Records Management****Section 6. Managing Electronic Records****1.15.6 Managing Electronic Records**

- 1.15.6.1 [Overview](#)
- 1.15.6.2 [Basic Electronic Records Management Definitions](#)
- 1.15.6.3 [Responsibility for Issuance of Guidance](#)
- 1.15.6.4 [Creation and Use of Data Files](#)
- 1.15.6.5 [Creation and Use of Text Documents](#)
- 1.15.6.6 [Standards for Managing Electronic Mail Records](#)
- 1.15.6.7 [Judicial Use of Electronic Records](#)
- 1.15.6.8 [Security of Electronic Records](#)
- 1.15.6.9 [Retention and Disposition of Electronic Records](#)
- 1.15.6.10 [Transfer Media and Formats for Permanent Records](#)
- 1.15.6.11 [Transfer of Documentation to Support Permanent Records](#)
- 1.15.6.12 [Transfer Forms](#)
- Exhibit 1.15.6-1 [Common Questions about E-Mail](#)

**1.15.6.1 (01-01-2003)  
Overview**

1. This section provides the basic requirements for electronic records, including electronic mail (e-mail). It also addresses the creation, maintenance, retention, and disposition, of these records.

**1.15.6.1.1 (01-01-2003)  
Section Topics**

1. The following topics are included in this section:
  - Basic Electronic Records Management Definitions
  - Responsibility for Issuance of Guidance
  - Creation and Use of Data Files
  - Creation and Use of Text Documents
  - Standards for Managing Electronic Mail Records
  - Judicial Use of Electronic Records
  - Security of Electronic Records
  - Retention and Disposition of Electronic Records,
  - Transfer Media and Formats for Permanent Records

- Transfer of Documentation to Support Permanent Records
- Transfer Forms

### 1.15.6.2 (01-01-2003)

#### Basic Electronic Records Management Definitions

1. An electronic record contains information recorded in a form that is machine-readable (e.g., information that only a computer can process, and which, without a computer, would not be understandable to people). Recorded electronic information becomes a Federal record when it satisfies the statutory definition of a "record," see IRM 1.15.2, which is the same definition applied to information recorded on paper. Basic definitions pertaining to electronic records management are:
  - A. **Electronic Recordkeeping System**--a system whereby records are collected, organized, and categorized to facilitate their preservation, retrieval, use, and disposition.
  - B. **Electronic Information System**--a system that provides access to computerized federal records and other information.
  - C. **Data File**--numeric, textual, or graphic information that is organized in a strictly-prescribed form and format.
  - D. **Data Base--in electronic records**--a set of data, consisting of at least one file or a group of integrated files, usually stored in one location and made available to several users at the same time for various applications.
  - E. **Data Base Management System**--a software system used to access and retrieve data stored in a data base.
  - F. **Electronic Mail System (E-Mail)**--a computer application used to create, receive, and transmit messages and other documents.

#### Exception:

Excluded from this definition are: file transfer utilities (software that transmits files between users but does not retain any transmission data); data systems used to collect and process data that have been organized into data files or data bases on either personal computers or mainframe computers; and word processing documents not transmitted on an e-mail system.

- G. **Electronic Mail Message**--a record created or received on an electronic mail system including briefing notes, more formal or substantive narrative documents, and any attachments, such as word processing and other electronic documents, which may be transmitted with the message.
- H. **Electronic Transmission Data**--information in e-mail systems regarding the identities of sender and addressee(s), and the date and time messages were sent (sometimes referred to as meta data).
- I. **Electronic Receipt**--information in e-mail systems regarding date and time of receipt of a message, and/or acknowledgment of receipt or access by addressee(s).

### 1.15.6.3 (01-01-2003)

#### Responsibility for Issuance of Guidance

1. The National Archives and Records Administration (NARA) is responsible for issuing standards for management of federal records created or received on electronic systems. These standards apply to all federal agency offices using office automation or information systems and will be followed by the IRS. The complete version of 36 CFR Part 1234 – Electronic Records Management, is available on diskette. Contact the IRS Records Officer for a copy.



#### **1.15.6.4 (01-01-2003)**

##### **Creation and Use of Data Files**

1. For electronic information systems that produce, use, or store data files, disposition instructions for the data will be incorporated into the systems' design.
2. IRS offices will maintain adequate and up-to-date technical documentation for each electronic system that produces, uses, or stores data files. The minimum documentation required is as follows:
  - A. narrative description of the system, physical and technical characteristics of the records, including a records layout that describes each field (name, size, starting or relative position);
  - B. a description of the form of the data (alphabetic, zoned decimal, packed decimal, or numeric);
  - C. a data dictionary, or the equivalent information associated with a database management system, i.e. a description of the relationship between data elements in databases, and any other technical information needed to read or process the records;
  - D. a copy of the user's manual or handbook on how to operate and use the system or database;
  - E. completion of IRS Form 12240, *Information Systems Description Form*; and
  - F. a sample of the data, reports, or other documents the system or data base may produce and to whom they are provided.

These elements and items will be submitted to the Area Records Manager for processing and submission to the IRS Records Officer.

#### **1.15.6.5 (01-01-2003)**

##### **Creation and Use of Text Documents**

1. At a minimum, electronic recordkeeping systems that maintain the official file copy of text documents on electronic media will provide:
  - A. A method for all authorized users of the system to retrieve desired documents, such as an indexing or text search system;
  - B. An appropriate level of security to ensure integrity of the documents;
  - C. An appropriate audit trail or tracking system for data manipulation and version identification;
  - D. A standard interchange format when necessary to permit the exchange of documents on electronic media between IRS computers using different software/operating systems and the conversion or migration of documents on electronic media from one system to another; and
  - E. The disposition of the documents including, when necessary, the requirements for transferring permanent records to NARA (see 1.15.6.9).

#### **1.15.6.6 (01-01-2003)**

##### **Standards for Managing Electronic Mail Records**

1. IRS instructions on identifying and preserving electronic mail messages will address the following unique aspects of electronic mail:
  - A. Some transmission data (names of sender and addressee(s) and date the message was sent) must be preserved for each electronic mail record in order

for the context of the message to be understood.

- B. Offices using an electronic mail system that identifies users by codes or nicknames or identifies addressees only by the name of a distribution list shall instruct staff on how to retain names on directories or distribution lists to ensure identification of the sender and addressee(s) of messages that are records.
  - C. Offices using an electronic mail system that allows users to request acknowledgments or receipts showing that a message reached the mailbox or in box of each addressee, or that an addressee opened the message, shall issue instructions to e-mail users specifying when to request such receipts or acknowledgments for recordkeeping purposes and how to preserve them.
  - D. Offices with access to external electronic mail systems shall ensure that federal records sent or received on these systems are preserved in the appropriate recordkeeping system, which may be paper, and that steps are taken to capture available transmission and receipt data needed by the agency for recordkeeping purposes.
  - E. Some e-mail systems provide calendars and task lists for users and, therefore, those utilities may meet the definition of a federal record. Calendars that meet the definition of federal records are to be managed in accordance with the provisions of General Records Schedule 23, Records Common to Most Offices, Item 5, Schedule of Daily Activities.
  - F. Draft documents that are circulated on electronic mail systems may be records if they meet the definition of a federal record. If a draft document meets the criteria, including any comments or changes made, must be captured "as is" and retained as a record for the Service. (36 CFR 1222.34 (c)).
2. IRS offices will consider the following criteria when developing procedures for the maintenance of electronic mail records in appropriate recordkeeping systems, regardless of format. The recordkeeping systems that include electronic mail messages must:
- A. Provide for the grouping of related records or topics into classifications according to the nature of the business purposes the records serve;
  - B. Permit easy and timely retrieval of both individual records and files or other groupings of related records;
  - C. Retain the records in a usable format for their required retention period as specified by a NARA-approved records schedule;
  - D. Be accessible by individuals who have a business need for information in the system or for recordkeeping purposes;
  - E. Preserve the transmission and receipt data as required by agency instructions; and
  - F. Permit either retirement or separation of temporary records from permanent, as well as the transfer of permanent records to NARA. (See 36 Code of Federal Regulations 1228.270 and 1234.32(a) for additional information).
3. IRS offices **will not** store the official recordkeeping copy of e-mail messages that are federal records **ONLY** on the electronic mail system, unless the system has all of the features of an electronic recordkeeping system, some of which are specified in paragraph 2 above. If the electronic mail system is not designed to be a recordkeeping system, ask an E-Mail/System Administrators to instruct you on how to copy the information from the electronic mail system to a recordkeeping system or produce a hard copy for recordkeeping purposes.
4. IRS offices that maintain their e-mail records electronically will move or copy them to a separate electronic recordkeeping system unless their system has the features

specified in paragraph 2 above. Backup tapes are not to be used for recordkeeping purposes.

5. Offices may retain records from electronic mail systems in an off-line electronic storage format (such as optical disk or magnetic tape) that meets the requirements of 36 CFR 1234.30(a). Offices that create or have permanent e-mail records scheduled for transfer to NARA will store them in a format or on a medium that conforms to the requirements for transfer (see 36 CFR 1228.270) or will maintain the ability to convert the records to the required format and medium at the time of transfer.
6. Offices that maintain paper files as their recordkeeping systems will print their e-mail records and the related transmission and receipt data.
7. See Exhibit 1.15.6-1 for Common Questions About E-Mail.

#### **1.15.6.7 (01-01-2003)** **Judicial Use of Electronic Records**

1. Electronic records may be admitted in evidence to federal courts for use in court proceedings if trustworthiness is established by thoroughly documenting the recordkeeping system's operation and the controls imposed upon it (Federal Rules of Evidence 803(8)). IRS offices should implement the following procedures to enhance the legal admissibility of electronic records:
  - A. Document that similar kinds of records generated and stored electronically are created by the same processes each time and have a standardized retrieval approach.
  - B. Substantiate that security and audit procedures prevent unauthorized addition, modification, or deletion of a record and ensure system protection against such problems as power interruptions.
  - C. Identify the electronic media on which records are stored throughout their life cycle, the maximum time span that records remain on each storage medium, and the NARA-approved disposition of all records.
  - D. Coordinate all of the above with legal counsel, the IRS Records Officer and senior IRM and records management staff.

#### **1.15.6.8 (01-01-2003)** **Security of Electronic Records**

1. IRS offices will implement and maintain an effective records security program that incorporates the following:
  - A. Ensures that only authorized personnel have access to electronic records.
  - B. Provides for backup and recovery of records to protect against information loss or corruption.
  - C. Ensures that appropriate agency personnel are trained to safeguard sensitive or classified electronic records.
  - D. Minimizes the risk of unauthorized alteration or erasure of electronic records.
  - E. Ensures that electronic records security is included in computer systems security plans prepared pursuant to the Computer Security Act of 1987.

#### **1.15.6.9 (01-01-2003)** **Retention and Disposition of Electronic Records**

1. The IRS Records Officer is the liaison with NARA and customer organizations for ensuring that electronic records and the related documentation are retained for as long as needed by the IRS. These disposition and retention procedures shall include provisions for:

- A. Scheduling all electronic records, as well as related documentation and indexes, by submitting a SF-115, *Request for Records Disposition Authority* to NARA or, in some instances by applying NARA's General Records Schedules, if appropriate. The information in electronic information systems, including those operated for the IRS by a contractor, will be scheduled as soon as possible, but no later than one year after implementation of the system.
- B. Transferring a copy of the electronic records and related documentation and indexes to NARA at the time specified in the records control schedule for permanent records.

**Note:**

SF-115 is completed by the IRS Records Management Staff only.

**Example:**

Records Control Schedule for the Statistics of Income Division, published in IRM 1.15.25, Records Control Schedule for Statistics Division, provides for the transfer of permanent electronic Statistics of Income Public Use Files to NARA on magnetic tape when seven years old.

2. Records created within e-mail systems, which meet the criteria of a federal record, are subject to the same retention periods as the paper or hard-copy versions. Therefore, these records must be retained electronically according to the NARA-approved disposition authority or printed and associated with the appropriate recordkeeping system. Temporary e-mail records can be deleted only when they are eligible for destruction or when they have been printed and associated with the appropriate recordkeeping system. See additional information on the retention and transfer of permanent electronic records in subsection 1.15.6.11.
3. At the direction of a management official as to what is considered a record, the E-mail/Systems Administrators will establish procedures for regular recopying, reformatting, and other necessary maintenance to ensure the retention and usability of electronic records throughout their authorized life cycle.
4. The responsibility for instructing users on how to copy and archive electronic mail records rests with the E-Mail/Systems Administrators at the user levels. With the proper direction from a management official, the user and/or end recipient should possess the expertise to identify and determine which records are worthy of preservation and/or archiving.
5. The disposition of electronic mail records that have been relocated to an appropriate recordkeeping system is governed by schedules that control the records in that system. If the records in the system are not scheduled, contact the Area Records Manager or the IRS Records Officer to get them scheduled and approved by NARA.

**Note:**

All electronic records created as part of tax processing systems have been included in a separate Records Control Schedule. This schedule will be published in the Records Disposition Sections, IRM 1.15.8 through IRM 1.15.37, as soon as it is approved by NARA. Many other administrative systems have been included in specific organizational Records Control Schedules. However, questions concerning the scheduling of an electronic system should be directed to the IRS Records Officer (A:RE:SC).

**1.15.6.10 (01-01-2003)****Transfer Media and Formats for Permanent Records**

1. The legal requirements for the transfer of permanent records to NARA are documented in 36 CFR 1228.270 and set forth in general form in the paragraphs below. Consult the IRS Records Officer for more detailed instructions and guidance on the transfer for permanent IRS records.

**1.15.6.10.1 (01-01-2003)****Magnetic Tape**

1. IRS offices may transfer electronic records to NARA on magnetic tape using either open-reel magnetic tape or tape cartridges. Open-reel tape should be on 1/2 inch 9-track tape reels recorded at 1600 or 6250 bytes per inch and blocked no higher than 32,760 bytes per block. Tape cartridges should be 18-track 3480-class cartridges recorded at 37,871 bpi and blocked at no more than 32,760 bytes per block.

**1.15.6.10.2 (01-01-2003)****Compact Disk, Read Only Memory (CD-ROM)**

1. CD-ROMs may be used as transfer media for fielded data files or text files if they conform to the International Standards Organization (ISO) 9660 standard and to the American Code for Information Interchange (ASCII); are not compressed unless NARA has approved the transfer of the compressed form in advance; and are individually addressable. The CD-ROMs may contain software files and temporary records, but permanent records must be in files that contain only permanent records.

**1.15.6.10.3 (01-01-2003)****Formats**

1. Records will be in a format that is not dependent on specific hardware or software, written in ASCII or EBCDIC with all extraneous characters removed (except records length indicators for variable length records, marks delimiting a data element, field, record or file, or Standard Generalized Markup Language (SGML) tags). Records should not be compressed unless NARA has approved the transfer in the compressed form in advance. If the records are in ASCII, the electronic files should have standard ANSI labels as specified in Federal Information Processing Standard (FIPS) Publication 79. If the records are in EBCDIC, the electronic files should have standard IBM OS or DOS labels.
2. Data files and databases shall be transferred as flat files or as rectangular tables, that is, as two-dimensional arrays, lists, or tables. All records in a database or elements in a relational database should have the same logical format. Each data element within a record should contain only one data value. A record should not contain nested repeating groups of data items.
3. Textual Documents in electronic form should be transferred as plain ASCII files; such files may contain SGML tags.
4. Digital spatial data files should be transferred to NARA in accordance with the Spatial Data Transfer Standard (SDTS) as defined in the Federal Information Processing Standard 173, which is mandatory (2/94).

**1.15.6.11 (01-01-2003)****Transfer of Documentation to Support Permanent Records**

1. IRS offices must provide adequate technical documentation for each permanent electronic file identified for transfer to NARA. Adequate documentation contains enough information to allow the records to be interpreted and understood in context. The extent, format, and content of the documentation varies for different types of electronic records. The documentation for a text file differs from the documentation for survey data or statistical files and from that for indices or tracking files. Within the types of records, documentation can vary as well. One survey might have very different documentation than another survey. This subsection provides some guidance to IRS offices regarding the content and potential sources of adequate documentation for permanent electronic records.

**1.15.6.11.1 (01-01-2003)****Sources of Documentation**

1. Information about documentation might be in publications, administrative reports, annual reports, memoranda, user notes, system guides, inventories or control systems for electronic records, file descriptions, Privacy Act notices, or manual or automated data dictionaries. The information about documentation is more important

than the format.

#### **1.15.6.11.2 (01-01-2003) Format of Documentation**

1. Some of the documentation for electronic records may only exist in paper form. When the documentation is in electronic format, identify and transfer the documentation data as separate files along with the files containing the electronic records. The transfer format standards for electronic records also apply to documentation files. Microform copies of documentation, when available, are also useful.

#### **1.15.6.11.3 (01-01-2003) Scope of the Documentation**

1. Three main types of information make up documentation: technical specifications, information about file content and structure, and context. Provided below is more information on each type:
  - A. NARA Form 14097 contains the technical specifications required for each file (similar to IRS Form 12240).
  - B. Each file requires a specific definition of its structure and content. This includes a record layout and a codebook for each field containing coded information. Documentation may be in data dictionaries, file, user, codebooks, file or system manuals.
  - C. Contextual information explains how the electronic records fit into the IRS programs or mission. This information answers the questions: "Who created the Records?" and "Why?" and "For What Purpose?"
  - D. If several data files containing related information are transferred, the documentation should include a description or diagram of how the files relate to each other. At a minimum, the documentation should specify the key fields, including primary keys, used to uniquely identify each record in a file, and the foreign keys, which relate records in one file to records in another file.

#### **1.15.6.12 (01-01-2003) Transfer Forms**

1. The forms required to transfer permanent records to NARA are set forth below:
  - A. The Standard Form 258, *Agreement to Transfer Records to the National Archives of the United States*, (completed by the IRS Records Staff only – see Exhibit 1.15.5–1 for a sample).
  - B. NA Form 14097, *Technical Description for Transfer of Electronic Records to the National Archives*, or its equivalent (IRS Form 12240), must be completed and provided by the program office for attachment to the SF-258.
2. Contact your Area Records Manager or the IRS Records Officer for instructions and assistance in completing the systems form and identification of other documents necessary for transfer of the electronic records.
3. Submit the NA Form 14097, or its equivalent, along with the identified documentation through your Area Records Manager to the IRS Records Officer for completion, approval and submission to NARA.

#### **Exhibit 1.15.6-1 (01-01-2003) Common Questions about E-Mail**

##### **When are e-mail messages records?**

An e-mail message is a record if:

- A. it documents the IRS mission or provides evidence of an IRS business transaction,
- B. it can be retrieved if you, or anyone else, need to find out what had been done, or
- C. it can be used in other official actions.

Treat e-mail messages the same way you would treat paper correspondence.

#### **Do I have to manage incoming and outgoing e-mail as records?**

Yes, you should apply the standard described above to both incoming and outgoing e-mail. The reason is that both the sender and recipient of e-mail messages have the responsibility to document their activities and those of their organizations. Both the sender and the recipient have to determine whether a particular e-mail message is a necessary part of that documentation or if it fills in gaps in other records series.

#### **How can e-mail be an official record if it is not signed?**

A signature does not make something a record. Many types of records, such as incoming letters, formal and informal manuals, published reports, photographs, voice recordings and maps, do not contain signatures, but they can be records.

#### **If an e-mail record is sent to several recipients, which copy is the official record?**

It depends. Different copies of the same message may ALL be records. If you take any official action related to a message, and if the message is needed for adequate and complete documentation of the action, the message would be a record in your office, regardless of whether copies are retained elsewhere. If the message is a record in your office's official files, then the copy you print or maintain on your PC is not a record and you may delete or destroy it. If you receive a message for information purposes only and do not take any action related to it, your copy is not a record.

#### **Do these guidelines apply to IRS contractors?**

Yes, these guidelines apply to IRS contractors and agents who act on behalf of the IRS, as well as all IRS employees. Contract terms should ensure that contractor systems satisfy the legal requirements for creating and maintaining adequate and complete records of IRS transactions when those transactions are carried out by contractors.

#### **Are there special requirements for retaining e-mail messages as records?**

The basic requirements applicable to all records apply to e-mail records as well. If they are not in an approved electronic recordkeeping system, then the e-mail messages identified as records must be printed out and placed in the appropriate record system. However, there are some specific elements for records sent or received through e-mail which also must be captured in addition to the message to satisfy recordkeeping requirements. You should ensure that:

- A. the e-mail record includes transmission data that identifies the sender and the recipient(s) and the date and time the message was sent and/or received;
- B. when e-mail is sent to a distribution list, information identifying all parties on the list the list must be retained for as long as the message is retained; and
- C. if the e-mail system using codes, or aliases to identify senders or recipients, a record of their real name(s) is kept for as long as any

record containing only the codes or aliases.

**Example:**

If you are communicating with someone via the Internet and their e-mail address does not indicate who they are (e.g. the address is JerryR@ ...) then a record must be made and kept with the message of who they are. If the message is to be kept electronically, this can be done by including their full name, title, and organization in the body of the message. If the message is printed out, then make a similar notation on the bottom of the message.

**Why is it necessary to keep the transmission data about the sender, receiver, date, and time of the e-mail?**

This information is essential, the same as the names of the sender and addressee, the date, or a time stamp from a letter, memorandum or envelope on paper. You would not delete this information from those documents.

**What if the message does not qualify as a record?**

Delete e-mail that is not a record when no longer of use.

**Example:**

An e-mail message advising section employees of a staff meeting or a training opportunity can be destroyed after it has been read, or the meeting/training period has passed.

[More Internal Revenue Manual](#)

---

[Accessibility](#) | [FirstGov.gov](#) | [Freedom of Information Act](#) | [Important Links](#) | [IRS Privacy Policy](#) | [U.S. Treasury](#)



**Internal Revenue Service  
Standard Position Description**

Classification: GS-1169-9

Classification Title: Revenue Officer

Organizational Title: Revenue Officer

Location: District Office Collection Division

FLSA Status: Exempt

Merit Pay: No

Bargaining Unit Status: BU

General Skill: 1BD

Skill: DRJ

Shred:

Subshred:

Percentage: 100%

Competitive Level Code:

Duties and Responsibilities Approved: 3/3/93

Paul Harrington  
Acting Assistant Commissioner (Collection)

Classification Approved: 3/3/93

John Rubin  
Acting Chief, Program Guidance and Field Services  
Section

I certify that this is an accurate statement of the major duties and responsibilities of this position and its organizational relationships, and that the position is necessary to carry out government functions for which I am responsible. This certification is made with the knowledge that this information is to be used for statutory purposes relating to appointment and payment of public funds, and that false or misleading statements may constitute violations of such statutes or their implementing regulations.



(Signature of immediate supervisor)

(Date)

All other levels of supervision which propose or approve official statements of duties and responsibilities are attesting to the same effect as the immediate supervisor.

The classification of this position may be appealed. Published Standards of other information upon which the classification is based may be reviewed. Information may be obtained from your supervisor or your Personnel Office.

**Duties and Responsibilities:**

Incumbent is a revenue officer (RO) at the first full working level and has independent responsibility for collecting delinquent accounts, securing delinquent tax returns, counseling taxpayers on the tax filing and paying obligations, conducting tax investigations, and participating in special tax compliance programs. Accounts and returns involve taxpayers whose principle source of income is from salary, wages or a moderate size business.

Conducts interviews with taxpayers (and/or their representatives) as part of the investigation necessary to collect delinquent taxes and secure delinquent returns. Also provides tax information and business counsel, attempting to prevent future delinquencies as well as resolving current ones.

Determines collectibility of accounts through financial statement analysis and asset evaluation, arranges installment agreements and determines default; reports accounts as currently not collectible ("53") and, when appropriate, schedules reinvestigations of these accounts.

Determines ownership of property and executes notices of levy and releases of property rights seized under levy.

Prepares recommendations of 100% penalty assessments.

Files and releases Federal tax lien; investigates applications for partial discharge of the effects of the tax lien and for subordination of Federal tax lien.

Conducts seizures and sales of real and personal property after lien rights (equity of the government) have been determined.

Identifies potential employment tax examination situations and makes appropriate referral.

Communicates orally and in writing, with taxpayers and employees, reflecting accurate knowledge of procedural and statutory guidelines.

Conducts investigations into instances of taxpayer's failure to file, pay, or fully report taxable income, and recommends appropriate civil and/or criminal referrals.

Prepares adjustments, payment tracers, and credit transfers.

Prepares and executes waivers to extend statutes.

Prepares and processes delinquent returns under IRC 6020(b) or Substitute for Return (SFR).

Investigates and makes recommendations as to whether the government should exercise its right of redemption arising from judicial or nonjudicial sales of property; redeems property on behalf of the government and conducts sales of redeemed property.

Prepares and serves summonses; may take testimony under oath.

Assists higher grade RO's in conducting more complex and technically difficult cases characteristic of higher grade levels.

Gives guidance and assistance to lower graded RO's as required; may also be assigned as an on-the-job instructor (OJI) to RO trainees.

Performs other related duties as assigned.

Performs credit analyses and evaluations of assets in connection with applications for offers in compromise.

## 1. Knowledge Required by the Position

Knowledge of basic writing skills and the ability to write reports, case histories, and referrals clearly and effectively.

Practical knowledge of basic business organization and commercial practices, including those related to the creation and liquidation of tax liabilities over the full range of cases found at the first full working level, and the ability to analyze the operations, financial condition, and profitability of these taxpayers, including the valuation of their assets.

Knowledge of basic investigative or analytical techniques and methods and the ability to apply such techniques to the analysis of business and financial matters with individuals who may be uncooperative or hostile.

Knowledge of basic business laws and practices and the ability to understand the contents and effects of various legal instruments such as leases, wills, assignments, deeds, trusts, etc., which might affect property, property rights, and income of taxpayer cases.

Knowledge of modern collection techniques, including the laws concerning the rights of creditors, forced assessment and collection provisions, lien priorities and bankruptcy, and the ability to interpret public records and financial reports in cases involving the application of such laws, where routine complicating features may be present which can be resolved by applying well precedented approaches.

Practical knowledge of judicial processes, laws of evidence, and the interrelationship between the Federal and state laws which pertain to the collection of delinquent accounts using legal means such as liens, levies, seizures, and sales.

Practical knowledge of fundamental accounting terminology and principles, IRS organizational structure and function, applicable portions of the Internal Revenue Code, IRS collection and enforcement procedures, interpersonal communication skills applicable to stress situations and the local market conditions for specific commodities.

## 2. Supervisory Controls

Incumbent is supervised by a group manager who usually makes assignments without instructions. Assignments are completed independently. Employee uses initiative in determining the course of action on a case. The manager is consulted only when unusual or unfamiliar situations arise.

Completed work is reviewed for sound, technical judgment and on the basis of the results accomplished, where the incumbent has complete delegated authority.

The employee has complete delegated authority to determine ownership of property, file Federal tax liens, and execute notices of levy that enable the Government to take possession of assets; to enter into installment agreements and to determine defaults; to withhold the filing of Federal tax liens subject to limitations prescribed by the Internal Revenue Manual; to execute releases of property rights seized under notice of levy; to negotiate or make arrangements with individuals legally entitled to possession of the taxpayer's property; to determine the method of sale of seized property and methods of

transferring title to the purchaser by issuance of appropriate certificates of sale; to prepare, execute and serve summonses; to defer collection action on possible adjustments accounts or possible offer in compromise cases.

## 3. Guidelines

Guidelines consist of parts of the Internal Revenue Manual, the Internal Revenue Code, state and local laws, and National, regional and local directives.

Employee selects, evaluates and applies the guides, making adaptations and compromises when necessary.

Guidelines are not always clearly defined nor applicable to every situation. Ingenuity, resourcefulness, and good judgment are required to resolve some of the problems encountered.

## 4. Complexity

Work assignments typically involve delinquent taxpayers whose income is derived from salary or wages or from a business enterprise, such as proprietorship, partnership, corporations, or joint ventures. Investigations are conducted to ascertain the taxpayer's net worth, and current and future financial condition, as well as to uncover possible hidden assets, in order to secure payment or return filing. Cases may involve more than one class of tax, such as income, withholding, unemployment, etc. Assets which may be seized and sold include items which are disposed of at public auction (e.g., office furniture, fixtures, non-discounted accounts receivable, automobiles, single family residences, commercial properties, and inventories). Creditor rights are clearly defined and tax lien priorities are uncomplicated for these types of assets.

The collection of delinquent money or securing of delinquent tax returns from taxpayers (as described above) involves a moderate number of interrelated actions, each requiring different, independent processes and methods. Decisions must be made about what course of action to take at each step from among a variety of alternatives (lien, levy, seize, "53", etc.). While many cases will have superficially similar external characteristics, each must be handled on a unique basis, responding to the case facts as they develop.

## 5. Scope and Effect

The purpose of the work is to collect delinquent taxes, secure delinquent tax returns, and insure taxpayer voluntary compliance with the Federal tax laws by providing tax payment counseling or by taking appropriate collection enforcement actions.

The RO is responsible for providing courteous, fair, prompt, accurate and thorough service while identifying case resolutions which are equitable and determined by analysis of case facts.

Work assignments involve taxpayers whose net income or business operation is moderate. The impact of collection actions is usually confined to the taxpayer, and, if a business operation is involved, there are generally few

people employed or few others who are affected by the business activity.

Decisions to seize property can have an economic impact on the taxpayer and, to some extent, on the community. Collection actions taken may generate public interest, if the taxpayer or his/her business is in a sensitive position in the community (i.e., he/she may own the only newspaper in the community). The nature of the contacts with or the enforcement actions taken against the taxpayers have a definite impact in preventing future delinquencies.

#### 6. Personal Contacts

Contacts are with those members of the general public who have not paid their Federal taxes or filed required tax returns; and with their representatives; with creditors of these taxpayers; and with third parties who may assist in settling the taxpayer's delinquency.

RO's initiate contact with taxpayers and attempt to resolve the collection problems during their first meeting.

Contacts occur in moderately unstructured setting, such as taxpayer's residence or place of business.

The RO must occasionally deal simultaneously with more than one individual; i.e., taxpayer and his/her representative.

Other than normal evaluative field visitations and except for unusual circumstances, the RO is rarely accompanied by the group manager.

The extent of the contacts and the details involved differ substantially from case to case, as the incumbent works the full range of GS-9 technical issues. Most contacts take place in an adversary setting, involving persons in stress situations, who may be uncooperative or even dangerous.

Contacts are made with other IRS employees within and outside the Collection activity, and with various other government agencies at the RO's discretion, such as during court house checking, corporate record investigations for 100% penalties, and bankruptcy proceedings.

#### 7. Purpose of Contacts

Contacts with taxpayers and their representatives are for the purpose of collecting the full range of delinquent accounts and returns, assisting taxpayers in complying with tax laws, and preventing future delinquencies by the taxpayers.

These contacts require influencing, motivating, interviewing, and educating persons who may be fearful, uncooperative, belligerent or potentially dangerous. The RO must be capable of explaining and assertively advancing the Service's position while at the same time remaining sensitive to the rights of the taxpayer.

Others are contacted within IRS to exchange data and to get interpretation and guidance on application of a range of technical issues. Contacts with the taxpayer's creditors and third parties are to secure needed information, to negotiate to protect the government's interest, and to serve legal notices (liens).

Contacts with other government officials, including the Special Procedures function, service centers, etc., are to exchange and secure information in a cooperative setting.

#### 8. Physical Demands

The amount of time a revenue officer spends outside the office can vary significantly depending on the nature of casework, geographical location, and local resource constraints.

Travel to residences, places of business, banks, court-houses, etc., are typical of daily field calls. The incumbent must be able to travel from place to place for extended periods of time in a variety of weather conditions and traffic flows, usually by automobile. Some overnight travel may be required. The work requires some physical exertion, including occasionally walking and standing for long periods of time. Some of the work is completed while sitting at a desk. Other than the above, minimal physical demands are required to complete the work.

#### 9. Work Environment

The work environment involves risks and discomforts which require at least normal safety precautions typical of offices, meeting rooms, businesses, and automobiles. As the work is completed both inside and outside of the office, the revenue officer can be exposed to inclement weather while conducting field calls. The work environment may change dramatically with each field call. The RO often may transact business in unsavory areas or situations, such as bars, tenement buildings, high crime areas, etc. The RO is subject to potential physical danger each time a field call is made. At times an armed escort or police protection is a necessary precaution. The RO determines when there is a need for this. Occasionally, the work requires that the taxpayer be contacted outside of normal working hours.

Because exposure to a potentially dangerous and/or life threatening situation may typically induce a range of disturbing emotional as well as physical reactions, the RO must be capable of functioning effectively under high stress levels.

### EVALUATION STATEMENT

#### TITLE AND SERIES

This position has independent responsibility for collecting delinquent accounts and securing delinquent returns, conducting investigations, and participating in compliance programs. It requires knowledge of general or specialized business practices; Internal Revenue laws, regulations, procedures, and precedents; judicial processes, laws of evidence, and the interrelationship between Federal and State laws with respect to the collection and assessment processes; and investigative techniques and methods. It is therefore appropriately classified in the Internal Revenue Officer series, GS-1169 and titled Revenue Officer.

**GRADE**

As stated in the PD, this position has independent responsibility for collecting delinquent accounts, securing delinquent tax returns, etc. Work assignments typically involve delinquent taxpayers whose income is derived from salary or wages or moderate sized business enterprises. The legal, investigative and analytical demands on the incumbent tend to be complicated. As just described, these characteristics of the position compare favorably with the Nature and Complexity of Assignments described in the GS-9 level of the revenue officer classification



standard. Similarly, the GS-9 level of Responsibility language in the standard matches that in the PD (assignments received without detailed instructions and completed independently; incumbent exercises full delegated authority in collection matters; completed work is reviewed after the fact; sensitive contacts are carried out with tact and ingenuity, etc.). Since both factors in the standard equate to GS-9, this position is properly graded GS-9.

**CLASSIFICATION:**

Revenue Officer, GS-1169-9.