



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

August 21, 2014

Control Number: SBSE-05-0814-0059
Expiration Date: February 1, 2015
Impacted: IRM 5.1.2 and 5.1.5

MEMORANDUM FOR DIRECTORS, FIELD COLLECTION AREA OPERATIONS
DIRECTOR, ADVISORY AND INSOLVENCY

FROM: Rocco A. Steco */s/ Rocco A. Steco*
Acting Director, Collection Policy

SUBJECT: Reissuance of Collection Procedures for State Court Ordered
Restitution

This memorandum reissues interim guidance (IG) dated August 31, 2013, control number SBSE-05-0813-0060, titled *Collection Procedures for State Court Ordered Restitution*. This memo provides guidance for Collection employees on what to do if a revenue officer receives a state or local court ordered restitution payment. This guidance is new and will be incorporated in the next revision of IRM 5.1.2., *Remittances, Form 809 and Designated Payments* and IRM 5.1.5, *Balancing Civil and Criminal Cases*.

Issue

In connection with prosecutions for identity theft, refund schemes and tax evasion, state courts sometimes order defendants to pay restitution to the Internal Revenue Service. State or local officials may ask where to send restitution payments.

Background

Restitution is a legal remedy that can be ordered by the court, in a criminal case. A restitution order requires the criminal defendant to pay money or render services to victims in order to redress the loss the defendant has inflicted. Normally imposed during sentencing, it can be agreed to by the parties in a plea agreement or imposed as a condition of probation or supervised release.

The Service is aware of state prosecutions for refund schemes in various states including Maine, New York, South Carolina, and Florida and, in some cases, restitution may be awarded to the United States as an injured party. State officials are asking where to remit payments received from parties ordered to pay restitution and the IRS has communicated to the states the proper address to send the payments. However, some payments may be received in SB/SE RO posts of duty.

The following are some situations where a state may order restitution payable to the IRS:

1. Criminal tax violations not involving identity theft - these types of cases may have return preparer involvement and may or may not result in an IRS civil assessment against the taxpayer and preparer(s) involved. Any monies received would be applied by the Service to tax modules if they were included in the basis of the restitution. If the tax modules that were the basis for the restitution are unknown, the restitution payments will be applied in the manner set forth in Rev. Proc. 2002-26 and IRM 5.1.2.5.3.1(7).
2. Criminal tax violations involving identity theft - there will be no IRS civil assessment against the affected taxpayer as false pretenses were used to gain the refunds.
3. IRS has a parallel civil assessment - any payments received, in this situation, would be applied by the Service to any tax modules included in the basis of the restitution. If the tax modules that were the basis for the restitution are unknown, the restitution payments will be applied in the manner set forth in Rev. Proc. 2002-26 and IRM 5.1.2.5.3.1(7).

Procedures

State court ordered restitution payments made to the Internal Revenue Service (IRS), which are based on evidence of federal tax fraud linked to the state violations, should be mailed to the address below. The envelope should clearly indicate “**state restitution.**” This will ensure it is properly directed to the correct group for application.

IRS-RACS Attn: Mail Stop 6261, State Restitution/Special Services Team
333 W Pershing Ave
Kansas City MO 64108

Any revenue officer receiving a state ordered restitution payment will transmit the payment using Form 3210 *Document Transmittal* to the address listed above. If necessary, Collection personnel can make inquiries of the Kansas City group responsible for application of these payments via the secure mailbox at [*W&I Criminal Restitution](#)

The Special Services Team will contact Advisory for assistance if they receive a payment not containing a copy of a state’s restitution order. Advisory will contact the sender to obtain the source of payment document for the Special Services Team.

Each payment should include:

1. A copy of the court order (or the state equivalent).
2. The case number, defendant's name, and "State Restitution" on the check.
3. A copy of the indictment, if possible.
4. A contact name and number for any questions.

Advisory will not ordinarily open an ICS module if the issue can be resolved without significant expenditure of time. Advisory will not need to open an ICS module if there is already a Probation NFOI open.

Additionally, when requested by the Special Services Team, Advisory personnel will attempt to identify the state, case number, and office contact associated with the payment. If obtained, the advisor will convey the information to the Special Services Team by fax/scan or mail.

If you have questions, please contact me, or a member of your staff may contact Collection Policy Senior Program Analyst Kim Borbon at Kim.Borbon@irs.gov.

cc: Director, Field Collection
Director, ECS
www.irs.gov