



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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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MEMORANDUM FOR DIRECTORS, FIELD COLLECTION AREA OPERATIONS

FROM: Scott D. Reisher /s/ **Scott D. Reisher**
Director, Collection Policy

SUBJECT: Reissuance of Procedures Relating to TC 914 Cases
Monitored by Centralized Case Processing

The purpose of this memorandum is to reissue the interim guidance dated March 15, 2012, with control number SBSE-05-0312-025 entitled, *Reissuance of Procedures Relating to TC 914 Cases Monitored by Centralized Case Processing*. This interim guidance memorandum is to clarify procedures for cases under criminal investigation that have been, or may be, transferred to Centralized Case Processing (CCP) for monitoring, including special instructions for Abusive Tax Avoidance Transaction (ATAT) cases. These procedures will be incorporated in Internal Revenue Manual (IRM) 5.1.5, *Balancing Civil and Criminal Cases*. Please ensure that this information is distributed to all affected personnel within your reorganization.

Background

The monitoring of open Field Collection cases under criminal investigation by CCP does not remove all case responsibilities from the field. Field Collection must ensure that: (1) transferred cases continue to meet the requirements for CCP monitoring; (2) Notices of Federal Tax Lien are timely refiled, if appropriate; and (3) applicable statutes of limitations are protected. CCP will issue Other Investigations (OIs) to the field whenever actions need to be taken to meet any of these responsibilities. Additionally, OIs will be issued to the field for a two-year collection risk analysis. See IRM 5.1.5.13.3, *Other Investigations Issued by CCP*.

Requirements for Transferring Cases to CCP

Before transferring a case to CCP, a decision must be made as to whether civil enforcement actions will imperil a successful criminal investigation or subsequent prosecution. See IRM 5.1.5.2, *IRS Policy Concerning Parallel Investigations*. When the decision is made to suspend all civil enforcement actions, the case may be transferred to CCP for monitoring if IRM requirements are met. Thereafter, if subsequent balance due or delinquent return modules arise, a decision must be made as to whether collection action should be suspended on these new modules. If it is decided that collection action should be suspended, Field Collection will request Criminal Investigation (CI) to input Transaction Code (TC) 914 on the new modules to ensure that collection notices or other collection actions are suspended. OIs issued by CCP for this purpose should not be returned until: (1) a decision is made to suspend collection action on the new modules and CI inputs a TC 914 on the new modules; or (2) a decision is made not to suspend collection on the new modules and to work them as a parallel investigation.

There are situations, however, where Integrated Data Retrieval System (IDRS) programming does not allow TC 914 to post on all tax modules showing a delinquency. For example, IDRS does not allow TC 914 to post on Master File Tax Code (MFT) 74, MFT 76, and other Non-Master File (NMF) modules. CCP will accept cases with MFT 74, MFT 76, and NMF modules without a TC 914. Field Collection will annotate in the closing narrative that CI is including the modules in their investigation. The CCP tax examiner must annotate the Collection Statute Expiration Date (CSED) for the MFT 74, MFT 76, and/or NMF modules in the initial analysis and set follow-ups as appropriate. If the CSED will expire within one year, these cases will not be accepted by CCP unless the CSED has been addressed. See IRM 5.1.5.13.1, *Cases with Imminent Statutes*.

OIs Issued by CCP

IRM 5.1.5.13.3 currently provides that CCP will issue OIs to the field for matters requiring field assistance or investigation. Based on responses received by CCP to such OIs, it appears that clarification of these procedures is needed. The attachment to this memorandum incorporates the changes to be made to IRM 5.1.5.13.3 to provide this clarification.

ATAT Cases

If an ATAT case is transferred to CCP for monitoring, special instructions must be provided to CCP to ensure that any OIs issued by CCP are issued to the referring ATAT revenue officer, or the appropriate Collection ATAT coordinator if the ATAT revenue officer is no longer assigned to the case. These procedures will be incorporated into IRM 5.1.5.13.2, *Procedures for Transferring Cases to CCP*.

Please ensure that this information is distributed to all affected employees within your organization. If you have any questions concerning this memorandum, please

contact me, or a member of your staff may contact Deni Rosenberg, Senior Program Analyst, SB/SE Collection Policy.

Attachment

cc: Director, Campus Compliance Services
Chief, Criminal Investigation
Director, Fraud/Bank Secrecy Act
Director, Advisory & Insolvency

Attachment to Reissued Interim Guidance Memorandum SB/SE-05-0912-082, Reissuance of Procedures Relating to TC 914 Cases Monitored by Centralized Case Processing

5.1.5.13.3 (MM-DD-YYYY)
Other Investigations Issued by CCP

(1) Centralized Case Processing (CCP) will issue Other Investigations (OIs) to the field for cases requiring field assistance or investigation, including the following:

- CSED protection (when a Form 10498-D, *Intent to Commence or Continue Civil Action - Collection Statute Protection*, is needed to document agreement between Collection and CI regarding what, if any, civil collection actions should be taken to protect the CSED, or to acknowledge agreement that the CSED should be allowed to expire).
- ASED protection for potential Trust Fund Recovery Penalty (TFRP) assessments (when a Form 10498-C, *Intent to Commence Civil Action – Statute Protection for Assessment of TFRP*, is needed to document agreement between Collection and CI regarding what, if any, actions should be taken to protect the ASED, or to acknowledge agreement that the ASED should be allowed to expire).
- Lien refiling determinations (when Notices of Federal Tax Lien need to be refiled to maintain the Government’s lien priority; consult with CI before refiling).
- New balance due or delinquent return modules that need TC 914 input or parallel investigation (when a determination is needed as to whether taking collection actions for the new modules will adversely impact the criminal investigation). See IRM 5.1.5.2, *IRS Policy Concerning Parallel Investigations*.

Note: Revenue officers should not close new balance modules with TC 530 cc 12 (unable to contact) or TC 530 cc 03 (unable to locate).

(2) CCP will issue an OI to the field every two years for purposes of determining whether administrative collection action should remain suspended. As part of this collection risk analysis, the revenue officer should determine the following:

- The status of the criminal investigation.
- Whether the taxpayer’s noncompliance (failure to file, failure to pay) continues for tax periods arising subsequent to the periods under criminal investigation.

- Whether there is any indication that the taxpayer is fraudulently transferring property or otherwise taking actions to avoid future collection.

Note: *No collection action should be taken without the concurrence of CI.* Do not contact the taxpayer without the prior approval of the Special Agent assigned to the case. If contact with the taxpayer is prohibited, then the collection risk analysis must be based on the revenue officer's contact with the Special Agent, an analysis of internal IRS records, and other sources of information for which access will not jeopardize the criminal investigation.

(3) If it is determined, after coordination with CI, that collection action should remain suspended; the revenue officer will document the basis for that determination in the case history. If it is determined that collection action no longer needs to be suspended for all or some of the modules, then the procedures for parallel investigations should be followed. See IRM 5.1.5.4, *Commencement of Parallel Investigation*.

(4) The time period for completing the OI is set forth in IRM 5.1.8.2(3), *Courtesy Investigations*, which is 45 days after issuance. If additional time is needed, the revenue officer should work with the issuing employee to prevent the case from reissuing to the field.