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MEMORANDUM FOR DIRECTOR, MEMPHIS ACCOUNTS MANAGEMENT

FROM: James P. Clifford /s/ *James P. Clifford*
Director, Accounts Management

SUBJECT: Interim Guidance on Return Preparer Misconduct (For Memphis Accounts Management ONLY)

This memorandum issues guidance on Return Preparer Misconduct procedures until IRM 21.9.3, *Assisting Victims of Return Preparer Misconduct,* is published. It replaces previous Interim Guidance WI-21-0214-02. Please ensure that this information is distributed ONLY to the specific Memphis Accounts Management Customer Service Representatives (CSRs) assigned to Return Preparer Misconduct (RPM) paper inventory.

Unscrupulous return preparers may alter taxpayer tax data (includes but is not limited to falsified dependents, expenses, deductions, credits, income, refund amount, etc.) and/or misdirect a portion or all of the refund. Taxpayers may become aware of misconduct through taxpayer initiated contact (Toll-Free, Field Assistance, Taxpayer Advocate Service, etc.) or through IRS enforcement investigative processes (Revenue Agent (RA) or Tax Compliance Officer (TCO) contact, Automated Underreporter (AUR) correspondence, campus examination correspondence, Revenue Officer (RO) contact, Criminal Investigation (CI) inquiries, etc.).

Taxpayers who claim to be a victim of return preparer misconduct may submit a complaint and the required documentation to the IRS to request assistance.

The IRS may provide assistance to taxpayers when the return preparer has altered a taxpayer's tax data without the taxpayer's knowledge or consent. For situations where a return preparer has altered the tax data on a taxpayer's return, the taxpayer must submit sufficient documentation to support his or her complaint that the return filed was altered by the return preparer.

Telephone assistors should refer to Interim Guidance Memorandum WI-21-0814-04, *Contacts Regarding Specific Return Preparer Complaint Issues*, for scenarios and guidance on how to handle the issue.

Taxpayers whose accounts show compliance or IRS enforcement investigative involvement should be advised to submit their documentation to the address on the notice or letter received.

Note: If they do not have a copy of the notice/letter, follow normal procedures on transferring the call to the correct compliance, enforcement/investigative function or provide a mailing address.

Taxpayers whose accounts DO NOT show compliance or IRS enforcement investigative involvement will be advised to submit their documentation to the following address:

Internal Revenue Service AM - Preparer Complaints
5333 Getwell Road
Mail Stop 58
Memphis, TN 38118

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Receiving Complaints of Return Preparer Misconduct

(1) Return Preparer Misconduct complaints will be worked in Accounts Management (AM) when there is no compliance or enforcement/investigative involvement. See Preliminary Review for additional information. Examples include taxpayers who become aware of the potential for return irregularities/inconsistencies through friends who used the same preparer or through media releases. Taxpayer complaints of Return Preparer Misconduct will be scanned to the Correspondence Imaging System (CIS) with doc type Correspondence, category code RPMC and program code 710-85440. The inventory will be **centralized in Memphis Accounts Management**.

(2) The Return Preparer Office (RPO) must be notified of all RPM cases received in AM regardless if RPM criterion is met or the completeness of complaint.

CSRs will:

    a. Work complaint following current normal procedures and take any required action.

    b. For every case "worked": Capture SSN, TP name and tax periods involved on a spreadsheet

    c. Leave a case note: "SSN to RPO" on CIS to indicate information was sent

    d. Daily/Nightly - Send secure email with attachment to:

       # ████████████████ #

        • Include a subject line: "Memphis - F14157"

Preliminary Review of Complaint Reporting Alleged Return Preparer Misconduct

(1) Perform complete IDRS research to confirm a tax return was filed using the taxpayer's TIN. Research should include but is not limited to the use of CC TXMOD to review posted information; CC RTVUE, CC TRDBV and/or access of EUP to review MeF original tax return information; CC IRPTR to review income information etc.

(2) A review of the taxpayer's complaint and account information (IDRS, AMS, CIS) needs to be performed initially to determine if the inquiry meets any of the following:
* Reroute criteria exists
* Documentation is complete
* Return preparer misconduct criteria is met

Reroute Criteria

(1) Accounts involving compliance or enforcement/investigative activities will be routed to the appropriate compliance or enforcement/investigative function for corrective action following normal AM procedures. See chart below:

If …	And …	Then …
-L freeze and AIMS status is 09 and below	Open in Campus Exam - (EGC 5XXX)	Do NOT route to Exam. AM will retain and resolve case.

-L freeze and AIMS status is greater than 09	Open in Campus Exam - (PBC 19X or 29X and EGC 5XXX)	Route to appropriate area using the *Exam Employee Group Code (EGC) Contacts* listing on SERP under Who/Where tab.
-L freeze and AIMS status is 10 and below	Open in Field Exam - (EGC 1XXX or 2XXX only)	Do NOT route to Exam. AM will retain and resolve case.
-L freeze and AIMS status is greater than 10	Open in Field Exam - (PBC 20X and EGC 1XXX or 2XXX only)	Route to appropriate area using the *Exam Employee Group Code (EGC) Contacts* listing on SERP under Who/Where tab.
Posted TC 30X – Exam		Route to appropriate Exam function. Follow IRM 4.13.2.2, *Function Responsible & Routing Instructions*
TC 922 - AUR involvement		Route to appropriate AUR if applicable. Follow IRM 21.3.1.4.54, *Status of Underreporter Cases.* Note: Determination to route or retain the case depends on the process code assigned. Note: Consider the actions taken by AUR as disputed if the taxpayer is claiming their tax preparer altered their tax return and route to appropriate AUR function.
Status 22 – ACS		Route to appropriate ACS Support using ACS Support ID Theft & ITAR Liaisons listing on SERP. http://serp.enterprise.irs.gov/databases/who-where.dr/acsspt-lias.dr/acs_id_itar.htm Note: If account is in status 22 and there is other compliance activity (such as an Exam or AUR assessment) on account then route to the compliance function (Exam or AUR as applicable) that caused the balance due. If account is in status 22 and there is no other compliance involvement then route to ACS.
TC 971(s) with AC(s) 121/134/617/199 or UPC 147 RC 7 or 8 - IVO involvement		Route to Austin IVO Function at Mail Stop 6572.
Z freeze		Follow IRM 21.5.6.4.52, *-Z Freeze.*

(2) Send an 86C letter if required per IRM 21.3.3.4.2.1, Use of 86C Letter - *Referring Taxpayer Inquiry/Forms to Another Office.*

Note: Accounts Management does not route cases to the Designated Identity Theft Adjustment (DITA) teams directly. These teams do not make any determinations regarding RPM and only do back-end resolution for compliance functions.

Note: If an OAR or TAO is received in AM and the account reflects compliance or enforcement/investigative activities, then reject back to TAS and advise that the OAR/TAO should be reissued to the appropriate compliance or enforcement/investigative function.

Required Documentation

(1) Review the taxpayer's complaint for completeness. Ensure all required forms and documentation are present, completed and signed when applicable.

(2) # ██ :#
  - # ████████████████████████████████ #
  - # ████████████████████████████████████ #
  - # ████████████████████████████ #

Consider the complaint complete:
  - # ██
████████

Exception: Consider complaint complete if:
  - Tax return is not included because taxpayer states they are not required to file and research (CC IRPTR) supports that claim.
  - Form 14157 is not included however other documentation included contains the required information.

     For example:
       - If the preparer's first and last name and address is included on other documentation, then Form 14157 is not required.
       - # ██
████████████████████ #

Consider the complaint incomplete:
  - # ██
████████████ #

Exception: Consider the complaint incomplete if:
  - Taxpayer indicates that a refund was received and does not include the amount of the refund received.
  - Taxpayer provides the name of the company, such as ABC Taxes, with no individual preparer first and last name
  - If preparer information provided can not be verified (as defined below)

(3) Research IDRS and CIS to determine whether there are other related case controls. If there are multiple controls on the account, such as DUPF and XRET, reassign case to your IDRS number, link and close if RPM issue exists. If no RPM issue exists, for example, possible ID theft scenario, refer to [Return Preparer Misconduct Criteria Not Met](#), to determine next steps.

NOTE: If there is TAS involvement and an OAR or TAO is received, check the case for required documentation. If missing documentation, reject back to TAS requesting they contact the taxpayer for the information required.

Exception to Note: Do not consider the complaint incomplete if the missing or incomplete information pertains to the Form 14157-A and the taxpayer provides a statement/explanation signed under penalties of perjury. Ensure that the information provided is similar to the information requested on the Form 14157-A and is sufficient to make a determination.

Verifying the Preparer

(1) Confirm that the preparer who the taxpayer named was in the business of preparing tax returns or held themselves out as in the business of preparing tax returns by reviewing required documentation and performing IDRS research.

a) Anyone who prepares federal tax returns for compensation is required to have a Preparer Tax Identification Number (PTIN) issued by IRS and must enter it on every tax return prepared for compensation along with the preparer's name and signature. Any preparer with a PTIN is in the business of preparing tax returns or has held themselves out as in the business of preparing tax returns.

b) "Ghost preparers" are individuals who prepare tax returns but do not follow these requirements. The following are examples of ghost preparers:

- A return preparer who fails to identify themselves as a paid preparer on the tax return. The return appears to be self-prepared and there is no SSN, PTIN, EIN or other identifying number accompanying the return.
- A return preparer who is using a valid identifier belonging to another person
- A return preparer who is using an invalid identifier (PTIN, SSN, e.g. 1111, or 000-00-0000)

c) Taxpayers must provide documentation about "ghost preparers" such as a business card, flyer, advertisement, and/or business listing that shows that the preparer held themselves out to be a return preparer.

(2) Verify the identity of the preparer from the following IRS records.
- CC INOLE to verify the SSN or EIN provided
- CC RPVUE to verify PTIN
- CC NAMEI or CC NAMEB to locate SSN or EIN

If …	And …	Then …
Preparer information present on return and preparer name matches the name on the associated SSN, EIN or PTIN	# ▮▮▮▮▮▮▮▮▮▮▮▮▮▮ ▮▮▮▮▮▮▮▮▮▮▮▮ ▮▮▮▮▮▮▮▮▮▮ ▮▮▮▮▮▮▮ #	Consider valid and proceed to Identifying RPM Scenarios section
Preparer information present on return and PTIN provided is not valid or belongs to another person	Through research an SSN/EIN can be located for the preparer	Consider valid and proceed to Identifying RPM Scenarios section
Preparer information present on return and PTIN provided is not valid or belongs to another person	Through research an SSN/EIN **cannot** be located for the preparer	Consider not verified and proceed to Incomplete Complaints – Adjustment Consideration section
Preparer information present on the return	The preparer name and/or firm name differ from the information provided on the complaint	Consider not verified and proceed to Incomplete Complaints – Adjustment Consideration section
Preparer information present on return and taxpayer provides company name only and specifically states that they do not know the preparer's individual name	The return shows the same company with an individual preparer and through research an SSN/EIN can be located for the preparer	Consider valid and proceed to Identifying RPM Scenarios section
Preparer information present on return and taxpayer provides company name only and specifically states that they do not know the preparer's individual name	Through research an SSN/EIN **cannot** be located for the preparer	Consider not verified and proceed to Incomplete Complaints – Adjustment Consideration section
No preparer information on tax return, "self prepared" and **No** documentation provided		Consider not verified and proceed to Incomplete Complaints – Adjustment Consideration section
No preparer information on tax return, "self prepared" and Documentation **is** provided reflecting 3rd party involvement and showing that the 3rd party held themselves out to be a return preparer	Through research a PTIN/SSN/EIN can be located for the preparer	Consider valid and proceed to Identifying RPM Scenarios section
No preparer information on tax return, "self prepared" and Documentation **is** provided reflecting 3rd party involvement and showing that the 3rd party held themselves out to be a return preparer	Through research a PTIN/SSN/EIN **cannot** be located for the preparer	Consider not verified and proceed to Incomplete Complaints – Adjustment Consideration section

Incomplete Complaints Correspondence – Missing Information and/or Preparer Cannot be Verified

(1) Correspond using Letter 131C, *Information Insufficient or Incomplete for Processing Inquiry*.

(2) Request all information needed for a complete complaint, including preparer information if applicable per (3) below. Also advise taxpayer that the Form 14157 has been forwarded to the Return Preparer Office.

(3) The following scenarios **may** apply when the preparer information can not be verified.
- The taxpayer's complaint is reviewed and through IDRS research, the preparer information can not be verified
- The preparer information provided by the taxpayer on the complaint does not match the preparer information on the original return
- The original return appears to be "self prepared" and there is **no** documentation showing that the 3rd party represented themselves to be a return preparer (such as a business card, advertisement, business listing etc.)
- The original return appears to be "self prepared" and there **is** documentation showing that the 3rd party represented themselves to be a return preparer (such as a business card, advertisement, business listing etc.) however the preparer can not be verified

(4) Suggested language for the opening paragraph:

> *"We have received your Complaint of Return Preparer Misconduct; however, we are unable to process your complaint for the tax period(s) shown above because your supporting information is incomplete or missing the required documentation."*

(5) Capture letter on CIS per IRM 21.5.1.5.1, CIS General Guidelines

(6) Leave a case note on CIS – "RPM case – 131C sent for (list information requested)"

(7) Close your case on CIS, depending upon the adjustment determination made per Incomplete Complaints – Adjustment Considerations section

Return Preparer Misconduct Criteria Not Met

(1) There will be instances when the taxpayer's complaint does not meet the Service's guidelines for assistance under Return Preparer Misconduct. When issuing a "closing letter" advise the taxpayer the reason RPM criteria was not met.

(2) Follow chart below to address cases that are not considered Return Preparer Misconduct or may not fall under the IRS current guidelines to provide assistance.

If ...	Then ...
If taxpayer's only issue is a lost, stolen, or **unintentional** misdirected refund (such as an incorrect routing or account number **due to transposition error**)	Refer to IRM 21.4.1.3.4, *Refund Issued but Lost, Stolen, Destroyed or Not Received*. Also: • Advise taxpayer that a review of the account and the information provided does not support return preparer misconduct. • Update CIS data to reflect the appropriate category TPRQ.
Taxpayer submits documentation however, research shows math error or general account issue (taxpayer misunderstands Return Preparer Misconduct, such as claims that the taxpayer did not get the correct refund or the preparer used the incorrect dependent social security number)	**Work – follow procedures below** Return Preparer Misconduct Memphis AM CSR will retain and resolve case. • Make any necessary adjustments to account using normal procedures, if applicable. • Send 288C letter • Advise taxpayer that a review of the account and the information provided does not support return preparer misconduct. • Provide explanation of account actions taken or not taken (such as the correction of math error or additional information needed to correct the account). • Update CIS data to reflect the appropriate category TPRQ.
Taxpayer's account does not show a posted return. (Taxpayers may assume the preparer filed an unauthorized return because of media attention)	**Work – follow procedures below** Return Preparer Misconduct Memphis AM will take the following actions: • Research account to determine if there is IVO involvement. If return was deleted during original processing (GUF VOIDED/DELETED) and there is indication that a return will not post to the account, such as unreversed OMM indicators, see *Reroute Criteria* section. • No IVO involvement and no return posted, send 288C letter advising taxpayer that no tax return has been filed using the taxpayer's social security number. • Advise taxpayer we are forwarding the tax return that they furnished for processing and if they are due a refund, it may take up to six to eight weeks • Edit the return for processing per IRM 21.5.1.5.5, *Processing/Reprocessing CIS Tax Returns* • Forward to Submission Processing • Close CIS case
Taxpayer's complaint involves PTIN misuse, misrepresentation of credentials, employment taxes and other issues Example: Taxpayer is not requesting relief/correction of personal tax return. They are reporting/informing on a person who misused taxpayer information as a preparer.	**Work – follow procedures below** • Send 86C letter to taxpayer, advising you are forwarding their complaint to the Return Preparer Office. No adjustments to their account are required and no further action is necessary on their part.

	• Send case to: Return Preparer Office 401 W. Peachtree Street NW Mail Stop 421-D Atlanta, GA 30308
Taxpayer **did not** visit a preparer for current year, # ███████████████████████ ████████████████████████████ # resulting in an identity theft scenario **And** there is no evidence that the taxpayer's "actual" return has been processed. No duplicate filing transaction codes (TC 976/977) on module.	**Work – follow procedures below** Return Preparer Misconduct Memphis AM will take the following actions: • Advise the taxpayer they are a victim of identity theft and not victim of preparer misconduct • Advise taxpayer that the tax return they provided with their complaint, has been forwarded for processing and to please allow 180 days to complete the processing of the return. • Edit the return for processing per IRM 21.5.1.5.5, *Processing/Reprocessing CIS Tax Returns* • Include SPC 8 edited vertically in the right margin on Forms 1040/A/EZ between the Secondary SSN and the Presidential Election Campaign Fund boxes. • X out "Form 14157-A" and write in "Form 14039 Identity Theft" • Forward to Submission Processing • Close CIS case

Taxpayer did not visit a preparer for current year,
# ███████████████████████ 	
████████████████████████████ #
resulting in an identity theft scenario
 	
And there is evidence that the taxpayer's "actual" return has been processed identified by duplicate filing transaction codes (TC 976/TC 977) on module.
 	
And there is no open control in category DUPF, IDT1/3/9 on module.
	Work – follow procedures below
	
	Return Preparer Misconduct Memphis AM will take the following actions:
	
	• Research account for previously input TC 971 ac 501 or TC 971 ac 506. If indicator is present and tax data matches the taxpayer's return information, link cases if applicable and close case as previously adjusted. Advise taxpayer appropriately.
	
	• If no indication that ID theft issues resolved or discrepancies exist then:
	  ➢ Advise the taxpayer they are a victim of identity theft and not victim of preparer misconduct. We are forwarding their complaint to the appropriate function for resolution.
	  ➢ X out "Form 14157-A" and write in "Form 14039 Identity Theft"
	  ➢ Leave CIS case note: "Taxpayer is victim of identity theft not victim of preparer misconduct per definition in IRM 10.5.3.2, *IMF Identity Procedures and Definition*
	  ➢ Update the CIS data to reflect the appropriate category "IDT1" or "IDT3" per IRM 21.6.2.4.2, *Multiple Individuals Using the Same TIN*.
	  ➢ Ensure that a TC 971, AC 522 with a correct MISC code has been input or history item is

	entered, if necessary. See IRM [10.5.3.2.5,](#) *Initial Allegation or Suspicion of Tax-Related identity Theft - Identity Theft Indicators* and subsequent applicable subsections, for information on the specific requirements. ➢ Reassign the case to IDRS # ▇▇▇▇▇▇ #
Taxpayer did not visit a preparer for current year, # ▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇ ▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇ # resulting in an identity theft scenario **And** there is evidence that the taxpayer's "actual" return has been processed identified by duplicate filing transaction codes (TC 976/TC 977) on module. **And** there is an open control with category DUPF, IDT1/3/9 on module.	**Work – follow procedures below** Return Preparer Misconduct Memphis AM will take the following actions: • Advise the taxpayer they are a victim of identity theft and not victim of preparer misconduct. We are forwarding their complaint to the appropriate function for resolution. • X out "Form 14157-A" and write in "Form 14039 Identity Theft" • Leave CIS case note: "Taxpayer is victim of identity theft not victim of preparer misconduct per definition in IRM [10.5.3.2](#), *IMF Identity Theft Procedures and Definition* • Update the CIS data to reflect the appropriate category "IDT1" or "IDT3" per IRM [21.6.2.4.2](#), *Multiple Individuals Using the Same TIN*. • Link cases together and close "RPM" case.

Identifying RPM Scenarios

(1) Acceptance of the complaint would result in the IRS accepting the return presented by the taxpayer (unaltered by the preparer) as the taxpayer's return of record # ▇▇▇▇▇▇▇▇ ▇▇. #

(2) Perform complete research to determine whether an # ▇▇▇▇▇▇▇▇▇▇▇▇ # scenario exists. Review all account information from CIS, AMS, IDRS etc. to assist with your determination.

Example: # ▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇
▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇
▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇ #

(3) Comparison should be made with the tax return as intended to be filed provided by the taxpayer with the posted information to determine if taxpayer complaint is supported.

(4) # ▇▇▇▇▇▇ # scenario: Taxpayer was in contact with preparer # ▇▇▇▇▇▇▇▇
▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇▇
▇▇▇▇▇▇ #

#[REDACTED]#

- #[REDACTED]#
- #[REDACTED]#.

(5) #[REDACTED]# scenario: Taxpayer was in contact with a preparer #[REDACTED]#. #

#[REDACTED]#

- #[REDACTED]#
- #[REDACTED]#
- #[REDACTED]#

(6) Follow chart below when preparer information is verified.

If ...	And ...	Then ...
Category 1 The taxpayer visited and/or was in contact with a Tax Return Preparer #[REDACTED]#	they did not receive any refund or only received a portion of the refund they expected for the return filed by the Tax Return Preparer or the original credit is frozen on the module	**Work – follow procedures below** See *Account Resolution Initial Steps* and proceed as directed to the applicable sections #[REDACTED]#
Category 2 The taxpayer visited and/or was in contact with a Tax return Preparer #[REDACTED]#	they received a refund in the amount they expected or the original credit is frozen on the module	**Work – follow procedures below** See *Account Resolution Initial Steps* and proceed as directed to the applicable sections for final resolution #[REDACTED]#

Category 3 The taxpayer visited and/or was in contact with a Tax return Preparer # ████████ ████████████ ████████████ ████████ ██████ ████████ ███████ **#**	they did not receive any refund or only received a portion of the refund they expected for the return filed by the Tax Return Preparer	**Suspend case until further notice** **Leave CIS case note:** ████ ████████ **#**
Category 4 Taxpayer's only issue is a lost, stolen or misdirected refund # ████████ ██████ **#**	The only altered data is the direct deposit information or taxpayer address	**Suspend case until further notice** **Leave CIS case note:** ████ ██████████ **#**

Special Considerations

(1) Follow procedures in the subsequent sections for statute and penalty and interest considerations.

(2) Incomplete Complaints on Statute Year Accounts: Care must be taken when considering statute year complaints. If additional information is necessary for consideration of the complaint see *Incomplete Complaints – Adjustment Considerations* and *Incomplete Complaints Correspondence – Missing Information and/or Preparer Can Not be Verified,* sections.

Statute Considerations:
Assessment Statute Expiration Date (ASED) and Refund Statute Expiration Date (RSED) Considerations

(1) When a Category 1 or Category 2 claim is accepted, the original return is considered a nullity. In this instance, the taxpayer's signed return received with the taxpayer's complaint would be considered the original return.

(2) The ASED must be updated using the received date of the taxpayer's signed actual return.

(3) Use the following instructions when using TC 560 to correct the ASED:

      a. TC 560 on (CC) REQ77 must be input on IDRS to correct the ASED to show the posting of the correct return.

      b. Input TC 560 on CC REQ77 in Blocking Series 700 to extend the ASED. Use Blocking Series 990–999 to back date / back down the ASED.

(4) Follow normal RSED procedures for original delinquent returns.

(5) The following Internal Revenue Manuals (IRMs) should be referenced. This list is not all inclusive:

- IRM 25.6.1, *Statute of Limitations Processes and Procedures*
- IRM 25.6.1.5, Basic Guide for Processing Cases with Statute of Limitation Issues
- IRM 25.6.1.6, General Information and Procedures
- IRM 25.6.1.7, Credits and Payments
- IRM 25.6.1.7.3, Excess Collection File (XSF) and Unidentified Remittance File (URF)
- IRM 25.6.1.8, Original Delinquent Returns

Penalty and Interest Consideration on Balance Due Accounts

Note: # ████████████████████████████████████ **#**
Leave CIS case note: # ██████████████████████ **#**

(1) The following Internal Revenue Manuals (IRMs) should be referenced. This list is not all inclusive:

- IRM 20.1.2, *Failure to File/Failure to Pay Penalties*
- IRM 20.2.5, *Interest on Underpayments*

(2) Penalties and interest may apply in the following 2 scenarios:
   a) Taxpayer's actual return reflects a tax liability owed
   b) Taxpayer received a refund from the preparer in excess of what he/she should have received

(3) The Failure to Pay (FTP) penalty and Interest will be charged on all balances due and allowed to be systemically generated based on the adjustment made to the account if the original return (TC 150) was received timely. If the original return was not timely, the FTP will have to be figured manually following normal procedures.

(4) When a Category 1 or Category 2 claim is accepted, the original return is considered a nullity therefore the Failure to File (FTF) penalty may apply.

(5) The Failure to File (FTF) penalty should be considered when:
   a) Taxpayer's actual return reflects a tax liability owed and,
   b) Taxpayer's actual return provided with the RPM complaint is received after the due date of the return.

Note: If taxpayer received a refund in excess of what he/she should have received and the actual tax return does not show a tax liability owed then FTF does not apply. The FTF penalty is based on unpaid tax only.

(6) The Failure to File (FTF) penalty will have to be computed manually and included on the adjustment to the account. The computer can not systemically generate the penalty if the original altered TC 150 was timely.

(7) The chart below illustrates when FTF may be applied:

If …	And …	Then …
██████████ #	Through IDRS/AMS/CIS research along with the facts of the case, there is indication that the taxpayer made efforts to file a tax return within reasonable timeframes or we received the actual return within reasonable timeframes (such as research shows that taxpayer attempted to e-file and/or made contact with the IRS advising of issues on account)	FTF does not need to be computed since it can be considered that the taxpayer demonstrated the failure to file is due to reasonable cause and not due to willful neglect. Note: A TC 160.00 is required if the original altered TC 150 was **not** timely to prevent a systemic generation of the penalty. Note: Leave a CIS case note stating reasonable cause applies
██████████ #	Through IDRS/AMS/CIS research and the facts of the case, there is NO indication that the taxpayer made efforts to file a tax return and/or the timeframe was not reasonable	FTF should be considered and included on the adjustment unless taxpayer has established reasonable cause. Note: If there is a posted TC 16X on the module, remember to take that amount into account when inputting your adjustment. Note: If applicable, leave a CIS case note stating reasonable cause established
██████████ #	Through IDRS/AMS/CIS research, along with the facts of the case, there is an indication that the taxpayer authorized the filing of a false return and that the return was further altered without the taxpayer's knowledge (such as the taxpayer had knowledge of and accepted a refund to which they knew	FTF should be considered and included on the adjustment unless taxpayer has established reasonable cause. Note: If there is a posted TC 16X on the module, remember to take that amount into account when inputting your adjustment. Note: If applicable, leave a CIS case note stating reasonable cause established

	they were not entitled)	
████████ ████████ #	Through IDRS/AMS/CIS research along with the facts of the case, there is indication that the taxpayer received expected amount of refund and/or was unaware of any issues with his/her original return. (such as the taxpayer became aware of issues with original return upon subsequent contact made by IRS.)	FTF does not need to be computed since it can be considered that the taxpayer demonstrated the failure to file is due to reasonable cause and not due to willful neglect. Note: A TC 160.00 is required if the original altered TC 150 was **not** timely to prevent a systemic generation of the penalty. Note: If applicable, leave a CIS case note stating reasonable cause established

(8) If it has been determined that a manual computation of the FTF penalty is necessary the computation is based on the tax liability owed less any payments made on or before the due date of the return and the received date of the taxpayer's actual return. Include TC 160 if required, with the adjustment made to the account.

   a) Each month subject to the penalty ends on the day of the month that corresponds with the day of the month of the latest return due date. For example, if the return was due on 04/15 and the actual return was received on 07/16 then the return is considered to be 4 months late since the 16th is considered the 1st day of the next month.

   Example: The number of months is calculated as 4/15-5/15 = 1st month, 5/16-6/15 = 2nd month, 6/16-7/15 = 3rd month and 7/16 is considered 4th month.

   b) If FTF is the only penalty that applies then for each month or part of a month that the return is late, the penalty is 5 percent of the amount subject to the penalty. (Not to exceed 25%)

   c) If FTF and FTP both apply then for each month or part of a month that the return is late, the penalty is 4.5 percent of the amount subject to the penalty. (FTF not to exceed 22.5%). This will likely be the percentage used in most cases.

   d) A minimum penalty applies only if return is more than 60 days late. The minimum penalty is the lesser of $135 ($100 for returns filed prior to 01/01/2009) or 100 percent of the tax due that was not paid on or before the due date of the return (without regard to extensions).

   e) Computation examples below are based on unauthorized/authorized scenarios where computation may be required.

1) Example: FTF penalty assessed at 100% of the tax

    IRS determines RPM relief is available for the complaint received for the 2011 tax year on 06/16/2012. The taxpayer's actual return shows a tax due of $75.00 and no payments made. Original return was due 04/15/2012. Actual return is considered 3 months late.

    The FTF penalty will be $75.00 since the 100% of the tax rule applies. The return is more than 60 days late and the tax is less than minimum penalty of $135 ($100 for returns filed prior to 01/01/2009) therefore the amount of the penalty is equal to 100% of the tax since this is the lesser amount.

2) Example: FTF penalty assessed using minimum penalty

    IRS determines RPM relief is available for the complaint received for the 2011 tax year on 06/16/2012. The taxpayer's actual return shows a tax due of $800.00 and no payments made. Original return was due 04/15/2012. Actual return is considered 3 months late.

    The FTF penalty will be $135.00 since the minimum penalty applies. Since no payments made, FTP will also apply therefore FTF percentage is 4.5%. $800.00 tax X [(3 months late) X 4.5%)] = $108.00.

    The FTF will be $135 since the penalty charged can not go below the minimum penalty amount and the 100% of tax rule does not apply.

3) Example: Amount subject to FTF penalty and normal computation

    IRS determines RPM relief is available for the complaint received for the 2011 tax year on 07/16/2012. Taxpayer originally received $600.00 refund from preparer. The taxpayer's actual return shows a tax due of $800.00 and no payments made. Taxpayer would have to repay the $600.00 and the $800.00 tax due. Original return was due 04/15/2012. Actual return is considered 4 months late.

    The FTF penalty will be $144.00. Since no payments made to the account, FTP will also apply so FTF rate will be 4.5%.
    $800.00 tax X [(4 months late) X 4.5%)] = $144.00.
    The FTF is computed on the amount of $800.00 tax owed only (the $600.00 is a repayment of refund received and not considered tax) and since the computed penalty is more than the minimum penalty the amount charged is based on the percentage per month computation.

4) Example: Maximum percentage applied

    IRS determines RPM relief is available for the complaint received for the 2011 tax year on 12/15/2012. The taxpayer's actual return shows a tax due of $800.00 and no payments made. Original return was due 04/15/2012. Actual return is 8 months late.

The FTF penalty will be $180.00. Since no payments made to the account, FTP will also apply so FTF rate will be 4.5%.
$800.00 tax X [(5 months late) X 4.5%)] = $180.00.
Since the penalty can not exceed 22.5%, it is not charged for more than 5 months.

Account Resolution – Initial Steps

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████████████████████████████████████ **#**

(1) # ██
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████████████ #

(2) CSR's will take the following initial steps to correct taxpayer accounts # ██████████████
████████████████████████████████ # in the specific order shown. Then proceed to the applicable subsections.

1. Update the entity if necessary (name lines, address, filing status, etc).

2. Input TC 971 ac 504 on ENMOD using cc REQ77.
   - TRANS-DT is auto populated with the current date
   - Enter SECONDARY – DT (enter the tax year affected by RPM incident in the format MMDDYYYY)
   - Enter MISC - RPM

3. Reverse offsets generated from the original refund applied to other IRS debts, when appropriate. Include TC 570's on your credit transfer screen as needed.

4. Treasury Offset Program (TOP) offset reversals should only be input if the amount offset is more than the overpayment on the taxpayer's "actual" return. Include TC 570's on your credit transfer screen as needed.

5. Input TC 470 to prevent offsets and any notices from issuing.

6. If working current year accounts, input TC 971 AC 850 if entire credit is frozen on account or if conditions in IRM 21.4.1.4.7.1(4) are present. The input of the TC 971 AC 850 ensures any subsequent refund will not be direct deposited and will be issued as a paper check.

   Reminder: If inputting TC 971 ac 850 and an adjustment simultaneously, you MUST post delay your adjustment.

7. Update ASED if applicable. Refer to Statute Consideration section for additional information.

8. If complaint involves a statute year, see Statute Consideration section prior to taking any final steps.

9. If the filing of the taxpayer's actual return will result in a balance due, see Penalty and Interest Consideration on Balance Due Accounts section prior to taking any final steps.

10. Proceed to the subsequent subsections, # ███████████████████████ ██ ████████ ██ ███████████████████████ # for the final steps to be followed.

#███████████████# - Account Resolution Final Steps - <u>Work – follow procedures below</u>

(1) # ███
██
████████████ #

Note: Ensure guidance in Account Resolution – Initial Steps above have been completed prior to taking these final steps.

(2) Reverse offsets that may have been applied from other tax years into the tax year module that the RPM complaint involves and include TC 570's on your credit transfer.

Note: If taxpayer will have a legitimate balance due then only reverse the portion of the offset that exceeds the balance owed including penalties and interest.

(3) Math verify the taxpayer's actual tax return using the procedures in IRM 21.5.3.4.5, *Math and Master File Verification of Claims and Amended Returns.* Paragraphs 4–6 should be followed.

Note: Once the math verification of the taxpayer's return is completed CSR should confirm that subsequent inputs made to the account are accurate. The ending result of the credit transfers input and the adjustment input depends upon the scenario.
   a. If taxpayer is entitled to an additional refund – account should be in credit balance for the amount of the additional refund
   b. If taxpayer's actual return shows balance due – account should reflect that balance due
   c. If taxpayer is not entitled to additional refund – account should be in zero balance

(4) Determine if an estimated tax penalty needs to be assessed or recomputed based on the taxpayer's actual return. Reminder: If no penalty needs to be assessed input a Transaction Code (TC) 170 for zero (.00) when decreasing withholding and/or transferring timely payments from the module and tax is also being adjusted when there is not a Computer Condition Code (CCC) "P" present.

(5) Move the refund attributable to preparer misconduct to the General Ledger (GL) 1545 account. A manual process using Form 3809 will be required.

Note: Utilizing the GL 1545 account is an interim procedure and may or may not apply in the future.

- Post transaction TC 841 which will reverse the entire refund (TC 84X) amount. TC 841 will post with document code 48 and Blocking Series 930-939 identifying it as an RPM transaction. This transaction will systemically freeze the account with a P freeze. Use when taxpayer did not receive any portion of the original refund.
- Post transaction TC 700 which will reverse a partial refund. TC 700 will post with document code 58 and Blocking Series 930-939 identifying it as an RPM transaction. **Input a secondary TC 570 on your credit transfer to freeze the credit.** Use when taxpayer received a portion of the original refund.
- See exhibit for required information on Form 3809 completed in triplicate.
- Send Forms 3809 along with current IDRS print of TXMOD on Form 3210, *Document Transmittal*, to the applicable Accounting function per guidance in IRM 3.17.243.5, *Return Preparer Misconduct Erroneous Refunds.*

(6) Adjust the taxpayer's account to reflect the figures on the return submitted with the taxpayer's complaint. If taxpayer was not liable to file adjust the account to remove the posted information.

NOTE: If the account will be in a legitimate balance due, such as the taxpayer received a refund in excess of what he/she should have received and/or the taxpayer's actual return shows a balance due, then refer to section Penalty and Interest Consideration prior to inputting adjustment on account. If penalties and interest apply, computation may have to be performed and included with your adjustment.

On REQ54/ADJ54 screen use:
- Blocking Series 00 or use blocking series 05 if taxpayer was not required to file and you are backing out posted information

  Note: If statute issues apply see IRM 21.5.3.4.6.1, *Disallowance and Partial Disallowance Procedures*. If adjusting account, however refund is barred then additional 290.00 BL 99 HC 4 is required.

- Source Code 0
- Reason Code 099
- Use Hold Code 4 to hold notices and any possible credit scenario while waiting for Forms 3809 to be processed
- Include Return Processible Date (RPD), the received date of the taxpayer's actual processible return on your ADJ54

- Post delay of "1" is only needed if the TC 971 ac 850 and the adjustment to the account is input simultaneously. This will allow the TC 971 ac 850 to post to the account first.

(7) Determine if DIF score is needed per guidance in IRM 21.5.2.4.23.6 *DIF SCORE or CLASSIFICATION "Send Return(s) to Examination for Review".* If criteria are met send return to Examination for review.

(8) Suspend and monitor account for posting of TC 841/TC 700. Once credit posts to the account, it is imperative that the module balance is verified and the proper amounts are reflected prior to the generation of any refunds.

(9) If taxpayer is due a refund, issue a manual refund **ONLY** if a refund cannot be systemically released. Refer to IRM 21.4.4.4, *Preparation of Manual Refund Form,* for additional guidance on issuing a manual refund. Otherwise, release freeze for systemic generation.

Reminder: If taxpayer is eligible for credit interest they are only entitled to it from the RPD date.

Note: The SSN account should then be in zero balance unless the taxpayer's actual return shows a balance due.

(10) Input TC 472 to reverse TC 470 previously input.

(11) Notify the taxpayer of adjustment action taken using a 288C letter (105C/106C if RSED issues apply. See Statute Consideration section for additional information). Suggested opening paragraph verbiage: "*We have adjusted the account(s) shown above to reflect the information shown on the tax return(s) you provided so that your IRS tax records are accurate."*

(12) Also address any of the following that are applicable:

- Advise taxpayer that complaint has been forwarded to the Return Preparer Office.
- Advise taxpayer if refund was issued.
- If taxpayer will be in balance due, provide the amount owed and advise that the amount does not include penalties and interest however they may apply. Enclose Notice 746 for additional information and reference this in your correspondence. Note: If you are able to utilize CC INTST to obtain correct penalty and interest amounts, then use canned balance due paragraphs and Notice 746 can be omitted.
- Address any additional issues taxpayer may have included.

(13) Close CIS case

(14) Ensure that the Forms 14157 and Form 14157-A have been sent to RPO.

#░░░░░░░░░░ **# - Account Resolution Final Steps -** ░░░░░░░░░░░░░░
░░░ **#**

(1) **#**░░░
░░ **#**

> Note: Ensure guidance in Account Resolution – Initial Steps above have been completed prior to taking these final steps.

(2) **#**░░
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░░░░░░░░░░░░░░░░░░░░░░░ **#**

(3) Reverse offsets that may have been applied from other tax years into the tax year module that the RPM complaint involves and include TC 570's on your credit transfer.

> Note: If taxpayer will have a legitimate balance due then only reverse the portion of the offset that exceeds the balance owed including penalties and interest.

(4) Math verify the taxpayer's tax return using the procedures in IRM 21.5.3.4.5, *Math and Master File Verification of Claims and Amended Returns*. Paragraphs 4–6 should be followed.

> Note: Once the math verification of the taxpayer's return is completed CSR should confirm that subsequent inputs made to the account are accurate. The ending result of the credit transfers input and the adjustment input depends upon the scenario.
>   a. If original refund was frozen on the account (no lost refund) taxpayer is entitled to the refund – account should be in credit balance for the amount of the refund.
>   b. If taxpayer's actual return shows a balance due – account should reflect that balance due.
>   c. If taxpayer is not entitled to additional refund – account should be in zero balance.

(5) Determine if an estimated tax penalty needs to be assessed or recomputed based on the taxpayer's actual return. Reminder: If no penalty needs to be assessed input a Transaction Code (TC) 170 for zero (.00) when decreasing withholding and/or transferring timely payments from the module and tax is also being adjusted when there is not a Computer Condition Code (CCC) "P" present.

(6) Move the refund attributable to preparer misconduct to the General Ledger (GL) 1545 account. A manual process using Form 3809 will be required.

> Note: Utilizing the GL 1545 account is an interim procedure and may or may not apply in the future.

- Post transaction TC 841 which will reverse the entire refund (TC 84X) amount. TC 841 will post with document code 48 and Blocking Series 930-939 identifying it as an RPM

transaction. This transaction will systemically freeze the account with a P freeze. Use when taxpayer did not receive any portion of the original refund.

- Post transaction TC 700 which will reverse a partial refund. TC 700 will post with document code 58 and Blocking Series 930-939 identifying it as an RPM transaction. **Input a secondary TC 570 on your credit transfer to freeze the credit.** Use when taxpayer received a portion of the original refund.
- See Exhibit A for required information on Form 3809 completed in triplicate.
- Send Forms 3809 along with current IDRS print of TXMOD on Form 3210, *Document Transmittal*, to the applicable Accounting function per guidance in IRM 3.17.243.4, *Return Preparer Misconduct Erroneous Refunds.*

(7) Adjust the taxpayer's account to reflect the figures on the return submitted with the taxpayer's complaint. If taxpayer was not liable to file adjust the account to remove the posted information.

NOTE: If the account will be in a legitimate balance due, such as the taxpayer received a refund in excess of what he/she should have received and/or the taxpayer's actual return shows a balance due, then refer to section Penalty and Interest Consideration prior to inputting adjustment on account. If penalties and interest apply, computation may have to be performed and included with your adjustment.

On REQ54/ADJ54 screen use:
- Blocking Series 00 or use blocking series 05 if taxpayer was not required to file and you are backing out posted information

  Note: If statute issues apply see IRM 21.5.3.4.6.1, *Disallowance and Partial Disallowance Procedures*. If adjusting account, however refund is barred then additional 290.00 BL 99 HC 4 is required.

- Source Code 0
- Reason Code 099
- Hold Code 4 to freeze credit on account and prevent issuance of adjustment notices
- Include Return Processable Date (RPD), the received date of the taxpayer's actual processible return on your ADJ54
- Post delay of "1" is needed if the TC 971 ac 850 and the adjustment to the account is input simultaneously. This will allow the TC 971 ac 850 to post to the account first.

(8) Determine if DIF score is needed per guidance in IRM 21.5.2.4.23.6 *DIF SCORE or CLASSIFICATION "Send Return(s) to Examination for Review".* If criteria are met send return to Examination for review.

(9) Suspend and monitor account for posting of TC 841/TC 700. Once credit posts to the account, it is imperative that the module balance is verified and the proper amounts are reflected prior to the generation of any refunds, if applicable.

(10) #   #

If the original overpayment is frozen on the account and the original refund was not issued (no lost revenue), issue a manual refund **ONLY** if a refund cannot be systemically released. Refer to IRM 21.4.4.4, *Preparation of Manual Refund Form,* for additional guidance on issuing a manual refund. Otherwise, release freeze for systemic generation.

Reminder: If taxpayer is eligible for credit interest they are only entitled to it from the RPD date.

Reminder: At this time, # ███████████████████████████████████
████████████████████████████████████ #

Note: The SSN account should then be in zero balance unless the taxpayer's actual return shows a balance due.

(11) Input TC 472 to reverse TC 470 previously input.

(12) Notify the taxpayer of adjustment action taken using a 288C letter (105C/106C if RSED issues apply. See Statute Consideration section for additional information). Suggested opening paragraph verbiage: "We have adjusted the account(s) shown above to reflect the information shown on the tax return(s) you provided so that your IRS tax records are accurate."

(13) Also address any of the following that are applicable:
- Advise taxpayer that complaint has been forwarded to the Return Preparer Office.
- Advise taxpayer if refund was issued
- If taxpayer will be in balance due, provide the amount owed and advise that the amount does not include penalties and interest however they may apply. Enclose Notice 746 for additional information and reference this in your correspondence. Note: If you are able to utilize CC INTST to obtain correct penalty and interest amounts, then use canned balance due paragraphs and Notice 746 can be omitted.
- Address any additional issues taxpayer may have included.

(14) Close CIS case

(15) Ensure that the Forms 14157 and Form 14157-A information have been forwarded to RPO.

Issuing Taxpayer Correspondence

(1) All normal outgoing correspondence guidelines should be followed per IRM 21.3.3.4.17.1, *Preparation of Outgoing Correspondence*.

(2) The following list is not all inclusive:
- A closing letter is required if an interim letter was issued.

- If the taxpayer's actual return shows a balance due, it must be addressed. For example, if taxpayer received more of a refund than shown on tax return as intended to be filed, taxpayer would be liable for repayment of any excess. Provide the amount owed and advise that the amount does not include penalties and interest however they may apply. Enclose Notice 746 for additional information and reference this in your correspondence. Note: If you are able to utilize CC INTST to obtain correct penalty and interest amounts, then use canned balance due paragraphs and Notice 746 can be omitted.
- All issues must be addressed. For example, if taxpayer provides state tax return information, this must be addressed in the correspondence to the taxpayer (such as advise taxpayer to send state information to their state taxation agency) along with any other explanation provided concerning their federal account.
- Indicate any action(s) taken.
- If applicable, provide explanation why claim does not meet the Service's guidelines under Return Preparer Misconduct.

Taxpayer Responses

(1) Follow the table below when taxpayer responses are received.

If ...	And...	Then ...
Taxpayer responds to a request for missing information	does not provide all of the required documentation	Send 916C, No Consideration letter advising taxpayer that the originally requested information was not provided. Be sure to include the specific items needed to assist in making a determination. Advise taxpayer a review of their account and adjustment consideration can not be made without a complete claim. See IRM 21.5.3.4.6, *No Consideration and Disallowance of Claims and Amended Returns* and 21.5.3.4.6.3, *No Consideration Procedures.*
Taxpayer responds to 131C or 916C	does provide all required documentation	Proceed to Identifying RPM Scenarios section
Taxpayer responds to 105C/106C		Follow IRM 21.5.3.4.6.2, *Appeals and responses to Letter 105C and 106C*

Any line marked with a # is for Official Use Only   25

Exhibit A: Form 3809 – Complete in Triplicate

Miscellaneous Adjustment Voucher — Form **3809** (Rev. 8-2012) Catalog Number 22475R — Part 1 - Credit Copy — Department of the Treasury Internal Revenue Service

		Form 3809 FIELDS
Debit Section		"Name and address" box " – Notate **"RPM 1545 Account"**
Credit Section	Name/Name Control	
	TIN	
	MFT	
	Tax Period	
	Transaction Date – Use date of original TC 84X	
	Transaction Code TC 841 – Use when taxpayer did not receive any portion of refund. TC 700 – Use when taxpayer received a portion of the refund. Only move the portion attributable to the preparer. Secondary TC 570 must be used.	
	Credit amount - Use dollar amount reflecting preparer's portion of the refund	
	Split Refund Indicator – Include if split refund indicator on account	
	Prepared By IDRS#	
	Date Prepared	
	Explanation – Notate **"AM RPM erroneous refund"**	

Effective Date: 08-05-2014

Contact: If you have any questions, please contact Joyce Masuzawa (SE:W:CAS:AM:PPM:IS)

Attachment

Distribution:
www.IRS.gov (If the guidance meets E-FOIA criteria)
Index: Interim Guidance on Return Preparer Misconduct (For Memphis AM ONLY)