

INTERIM IRM PROCEDURAL UPDATE

DATE: 1/31/2013

NUMBER: WI-21-0113-0150

SUBJECT: Various Changes to IRM 21.3.8

AFFECTED IRM(s)/SUBSECTION(s): 21.3.8

CHANGE(s):

IRM 21.3.8.1(3) - Added IRM 21.2.2, *Research*, to the list of IRMs to which TEGE telephone assistors may need to refer.

Assistors may also need to refer to the following:

- o IRM 21.2.2, *Research*

IRM 21.3.8.5.1.1(9) - Added a cross-reference to IRM 21.2.2.4.5, "Account Management Services (AMS)."

9. Provide assistance:

- o Provide accurate and complete information, which includes giving a correct and complete technical answer. When a caller asks a specific technical question, provide a complete answer that is within the scope of your application or offer to prepare an appropriate referral (e.g., TTG transfer, Form 4442, or R-Mail). When providing a technical answer, cite the appropriate reference that supports the answer provided (e.g., publications, instructions to a form, revenue rulings, and revenue procedures). Citing an appropriate reference while speaking to the customer ensures that the information/answer provided is accurate. Additionally, by confirming the reference, we are educating the customer.

REMINDER: Use of the TEGE Probe and Response Guide (TEGE P&RG) is mandatory for topics for which pages have been developed. You are not required to read the responses verbatim, but you should cover all issues listed in the response in an accurate and complete manner.

NOTE: Do not simply refer the caller to form instructions or to a publication in lieu of providing a direct answer (or in lieu of preparing a referral) when she/he has a specific question, unless the question is broader in nature, e.g., "Do you have any publications that discuss applying for tax -exempt status?"

- o When referring the customer to the appropriate reference, explain to the caller how to obtain forms/pubs via the self-help method, the IRS Web site, or if the caller prefers, place an order on his/her behalf.

- Provide all information/guidance the customer needs to avoid another contact on the same issue.
- While addressing the caller's issue, if an unresolved secondary issue is discovered, take the appropriate steps to address the issue (e.g., penalty abatement, old advance ruling, entity/submodule perfections, etc.)

NOTE: This does not include contacting the organization about issues such as presumption of private foundation status or an expired advance ruling period if these issues are identified while performing research in the course of responding to an unauthorized third party.

- Use appropriate hold procedures. Use the hold feature, not the mute feature. Only place the caller on hold if you need to research information that is not readily available, to prepare a C letter, to make an online adjustment, etc. You must provide a reason for placing the caller on hold, ask for permission, and wait for a response. Do not keep the caller on hold for more than approximately five minutes without returning to the caller. If it is necessary to put the caller on hold again, apologize and provide an explanation. Ask if she/he is willing to continue to hold. Thank the caller for holding when you resume the call.
- As necessary, advise of appropriate time frames, identify situations that should be handled by the Taxpayer Advocate Service (TAS), or use appropriate referral procedures (Form 4442, R-Mail). See IRM 21.3.8.8.6, "Taxpayer Advocate Service Referral Guidelines, Including Congressional Inquiries, and Form 911, *Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order)*", for additional information.
- All documentation on account calls must be done via AMS whenever possible (otherwise use IDRS) by adding an appropriate issue and narrative. All documentation should, to the extent possible, be completed while the taxpayer is on the phone. Refer to (8) of IRM 21.2.2.4.5, "Account Management Services (AMS)," for details.

IRM 21.3.8.5.1.3.1(2) - Revised the description of organizations not showing exempt on IDRS so that EDS ruling information would apply to organizations in statuses 31, 36, and 40.

2. Research to determine whether the organization is recognized tax exempt:

If	Then
INOLES/ENMOD DOES NOT reflect formal exemption or inclusion in a group ruling	1. Research EDS/TEDS to verify whether a determination has closed favorably and the data did not roll to the Master File. 2. See IRM 21.3.8.3.8 (1) for "NO ROLL" procedures if a "no roll" situation has occurred. 3. If EDS/TEDS reflects a favorable ruling of

	<p>exemption, confirm tax exemption recognition as discussed above.</p> <p>EXCEPTION: If, based on the filing requirements assigned on EDS/TEDS, the organization was required to <i>but did not</i> file its annual information return/notice for three consecutive years for periods beginning after December 31, 2006, explain to the authorized caller about auto-revocation. If the caller is unauthorized, explain that additional research is needed to respond, prepare a Form 4442 referral to the Correspondence Unit (fax 513-263-4330), and tell the caller she/he can expect to be contacted within 30 days.</p> <p>4. If EDS/TEDS does not reflect a favorable ruling, respond as discussed below.</p>
--	--

IRM 21.3.8.5.2.4(1) - Added a requirement for the assistor's manager to cc: the HQ analyst when forwarding "failure to contact" information to a determination specialist's manager.

If caller inquires about	Then
<p>An assigned case (statuses 32/33/37(EO cases worked outside the Cincinnati POD only)/52/53/62 (EP only)/72/73) because he/she did not receive a response to a previous inquiry or was consistently unable to leave a voice mail for the determination specialist because his/her mailbox was full</p> <p>NOTE: Always verify on the second F6 screen that the case is assigned to an individual and not to a special project type. See IRM 21.3.8.5.1.3.2, "Status of Pending EO Determination/Application Requests," for additional information on EO cases.</p>	<p>1. Document the caller's</p> <ul style="list-style-type: none"> ○ Name ○ Telephone number ○ Summary of the inquiry <p>NOTE: There is a template available on the TEGE Call Site Research Portal under People titled "Request for Determination Specialist to Return Call" which you may use for this purpose.</p> <p>2. Send an encrypted email to your manager/lead with the contact information as an</p>

	<p>attachment with an indication of the issue: MULTIPLE REQUESTS/CONTACT ATTEMPTS, "Determination Specialist Return Call Request."</p> <p>3. Your manager/lead will forward the information to the determination specialist's manager (and will cc: the HQ analyst), per local procedure, for the caller to be contacted within 10 business days.</p>
--	---

IRM 21.3.8.10.2.7 - Revised the entire subsection to reflect the elimination of the 42X notices and CP 259-E, the redesign of the CP 259 series, and the addition of CP 259-H.

1. Taxpayer Delinquent Returns Notices and Taxpayer Delinquent Investigations (TDIs) are issued from Master File on accounts that have not received a return (Form 990/990-EZ, Form 990-PF, Form 990-T, Form 990-N, Form 5227, and Form 1120-POL) to satisfy the filing requirement. The following table lists the forms and the applicable notices.

Form	1st Notice	2nd Notice NOTE: The 42X series of notices stopped generating in January 2013 (official obsolescence date July 2013) and only one notice (259 series) is now issued.
990	259-A (420 prior to January 2009)	425
990-PF	259-B (421 prior to January 2009)	426
Presumptive 990-PF	259-C (422 prior to January 2009)	427
990-T	259-D (423 prior to January 2009)	428
990-N	259-E (as of July 2008) NOTE: CP 259-E was eliminated as of	Not applicable

	January 2013 and the verbiage from the notice was incorporated into CP 259-A	
5227	259-F (424 prior to January 2009)	429
1120-POL	259-G	430
990/990-EZ NOTE: This notice differs from the 259-A in that it is sent to 527 political organizations.	259-H	Not applicable

NOTE: See the Servicewide Notice Information Program (SNIP) site for an example of CP Notices.

2. If the caller received a notice from the 259 series, use the following table to provide appropriate advice to the caller:

If	Then
The organization previously filed a return or submitted a Form 990-N for the period	Advise the caller to complete the section of the notice headed If you already filed a form... NOTE: If IDRS or OL-SEIN research confirms receipt of the return requested by the notice, advise the caller to disregard the notice.
The organization is required to file an EO return (other than the Form 990-N) for the period	Advise the caller to complete the section of the notice headed If you are filing late and to attach a completed return, including all required forms, schedules and statements, to the response. NOTE: If the caller asks where to send the response to the notice, instruct him/her to send it to the address on the notice.
The organization is eligible to submit a Form 990-N for the period	Determine if they still have time to submit the form for the period in question: <ul style="list-style-type: none"> ○ If they do, advise them to submit their Form 990-N and to disregard the notice otherwise. Ensure that the caller understands the organization's annual filing/reporting requirement. <p>EXAMPLE: If the notice concerns the period ending December 31, 2008, and the</p>

	<p>date the organization contacts the IRS is before January 1, 2010, the organization would still be able to submit its Form 990-N.</p> <ul style="list-style-type: none"> ○ If there is no longer enough time to submit the form for the period in question (see example above), input a TC 598, CC 082 to satisfy the module; update the organization's filing requirement to 990-02 (if appropriate); advise the caller to disregard the notice; ensure that the caller understands the organization's annual filing/reporting requirement.
The organization is not required to file an EO return or to submit a Form 990-N for the period	Advise the caller to check the appropriate box in the section of the notice headed If you don't think you have to file... and to return the notice. (Refer to the sample notice on SNIP).
The organization is a subordinate included in a group return for which an extension was filed	<ol style="list-style-type: none"> 1. Research IDRS for the group return and input the TC 460 on the subordinate's module if you are able to determine that the subordinate should have been included in the extension; apologize and tell the caller to disregard the notice. 2. If you determine that the group return was already filed and that the subordinate should have been included, input the TC 590 cc 014 on the subordinate's module; apologize and advise the caller to disregard the notice. 3. If you cannot determine that the subordinate's (group) return should have been extended or that the group return was already filed, advise the caller to contact the central organization for substantiation and to complete Section I or II of the notice, as applicable.

3. If the caller received a CP 259-B (Form 990-PF), but research indicates that the entity is a presumptive PF and there is no open "F" case on LINUS or EDS/TEDS:
 1. Instruct the caller to submit a Form 8940, a Form 8734 completed for the five most recent tax periods, and the appropriate user fee (see Rev. Proc. 2012-8 2012-1 IRB 235 or its successor for the current fee) to the Cincinnati Campus and a response to the notice to the Ogden Campus
 2. Update the organization's filing requirement to 990PF-3.
4. If the caller received a CP 259-C, research EDS/TEDS for a favorable "F" case. If none is found, instruct the caller to submit a Form 8940, a Form 8734 completed

for the five most recent tax periods, and the appropriate user fee (see Rev. Proc. 2012-8 2012-1 IRB 235 or its successor for the current fee) to the Cincinnati Campus and a response to the notice to the Ogden Campus.

5. If the caller states a response was previously sent to a CP 259 series notice, verify disclosure, per IRM 21.3.8.4. Check for the following:
 - o A CIS control base on TXMOD for the MFT/tax period about which the notice was issued indicates OSPC has received a response. No further action is required from the customer at this time.
 - o A TC 590 on TXMOD indicates the account is resolved. (See Document 6209 Section 11 for additional Closing Code information.)
 - o A TC 150 on the appropriate TXMOD indicates OSPC has received and accepted a return for that module. No further action is required from the customer at this time.
 - o No indication on ENMOD or TXMOD that a response was received. Advise caller to complete items shown in (2) (a) above and resubmit it to OSPC.

6. If the caller indicates that he/she sent a return under separate cover from the CP 259 series notice, inform the caller that it could take up to three months to appear on our system.

NOTE: Research TXMOD and/or OL-SEIN; there is no indication on ENMOD.

7. Refer to IRM 3.13.12, *Exempt Organization Account Numbers*, for additional information.
8. Organizations must file returns as required by law. If they want to request a change in current filing requirements, they must submit the pertinent information to EO Determinations. Organizations that intend to submit such a request must still respond to OSPC's notices in a timely manner.

NOTE: See IRM 21.3.8.12.5.7, "Request to Change Filing Requirement," and IRM 21.3.8.11.7.2, "Filing Requirements for Organizations within the First Five Years of Operation and Beyond," for exceptions to the written notification requirement.

IRM 21.3.8.10.2.8 - Revised the entire subsection to reflect the elimination of the 213 Notice.

1. The CP 213 Notice was obsoleted in January 2013. The remaining information in this subsection provides a historical background.
2. The CP 213 Notice was not a bill. Except for the CP 213R, it contained a "proposed" penalty amount due to a late filed and/or incomplete Form 5500, Form 5500-SF, or Form 5500-EZ.
 - a. The CP 213N was issued to plan sponsors who filed a Form 5500 series return late.
 - b. The CP 213I was sent to plan sponsors who filed an incomplete Form 5500 series return which may also have been filed late. The long version

indicated what information was missing on the return by means of a series of check boxes.

3. DOL's ERISA - Filing Acceptance System (EFAST/EFAST2) may correspond twice asking for missing information and/or addressing the late-filed return. If the customer does not respond to either of the letters, the return is processed as is, and the information is provided to the IRS.

NOTE: To verify if DOL issued a letter, research IDRS CC EMFOL for a TC 155 (1st letter) or TC 156 (2nd letter).

REMINDER: Information from the Forms 5500 and Forms 5500-SF that are processed by DOL is transmitted to the IRS to update the Service's records. This includes returns that are complete or incomplete, timely or delinquent.

4. Once IRS receives the information from EFAST/EFAST2, a module is established on Master File with a return condition code of 'I' for an incomplete return and/or an 'N' for a late filed return. Previously, this information was to generate the CP 213N or I Notices.

CAUTION: The proposed penalty notice (CP 213I) generated based on the original filing of the employee plan return. Therefore, even if the filer filed an amended return to correct/complete the original submission, the filer may have received a CP 213I if the original filing was incomplete. Consequently, it is imperative that the assistor perform complete research, as well as probe the caller for information on post-original filings, before advising the caller what actions, if any, the caller must take.

5. The CP 213 Notice gave the filer 30 days after the date of the notice to respond. The proposed penalty listed on the notice was assessed after 60 days, unless Ogden Accounts Management Center (OAMC):
 - o Received written correspondence that established reasonable cause
 - o Was provided the missing information from the filer, or
 - o Was notified that a processing error was made on the part of the IRS or Employee Benefits Security Administration (EBSA)
6. A CP 213R was generated when EP Accounts accepted reasonable cause and no penalty was assessed. For these modules, EMFOLT shows a TC 971 with the applicable Action Code.

IRM 21.3.8.10.2.9 - Revised the entire subsection to reflect the elimination of the 213 Notice.

1. The CP 283, *Penalty Charged on Your Form 5500 Return*, is issued to notify the Form 5500 series filer of a balance due resulting from the assessment of a penalty. The filer may have already received the CP 213 (I or N), which proposed a penalty for an incomplete or a late filed return (or both).

NOTE: CP 213 Notices were obsolete in January 2013.

2. Based on the response (or lack of response) to the CP 213, a Transaction Code (TC) 971 with a specific Action Code (AC) posted to the EPMF. TC 971 and the applicable Action Code appears on TXMOD and BMFOL. The following is a list of the Action codes and the definitions that triggered a file to be sent to BMF:

Action Code	Definition
AC 292	No reply to CP 213 notice
AC 291	Reasonable Cause Statement Denied

NOTE: A copy of this notice is available through the SNIP Web site at <http://gatekeeper.web.irs.gov>.

3. If reasonable cause was not previously denied, the filer may respond to the CP 283/295 with a request for penalty abatement due to reasonable cause. If reasonable cause was denied (AC 291), instruct the caller to follow the Payment Instructions and to submit the check with the Payment and Response Stub. If the caller wishes to appeal the denial, he/she should follow the Penalty Appeals instructions included in the 854C letter previously received.
4. If the caller wants to respond, instruct the caller either to fax or to mail the response to the address/fax number on the notice. A final response should be initiated within 30 days of the earliest IRS received date. Tell the caller that interest will continue to accrue until the penalty is abated or until the account is full paid.

EXCEPTION: The TEGE telephone account assistors may abate the assessed penalty in the following situations only:

- o The penalty was for late filing and the caller can fax in proof of timely filing (Service error).
 - o The caller can fax in proof of acceptance into the DOL's DFVCP with a signed and dated fax cover sheet.
5. The CP 295, *Request for Payment - Form 5500*, is an annual reminder notice as a follow up for the accounts in balance due. Refer to the CP 283 instructions above for resolution.

IRM 21.3.8.12.14.3(4) - Added a statement about the acknowledgement letter sent to the central organization once all the requested updates to the subordinates' information have been made.

4. Once a reply is received, any account identified for correction by the central organization is updated. It may take up to 90 days for Master File to be updated; the time frame is a function of the number of subordinates that need to be added, updated, etc. After all the requested changes have been made, an acknowledgement letter is sent to the central organization.

IRM 21.3.8.13.7 - Replaced (6) with new paragraphs (6) through (9) to cover the information in Revenue Procedure 2013-12 and renumbered former paragraph (7).

6. Revenue Procedure 2013-12 introduced two new forms for VCP submissions: Form 8950, *Application for Voluntary Correction Program (VCP) Submission under the Employee Plans Compliance Resolution System (EPCRS)*, and Form 8951, *Compliance Fee for Voluntary Correction Program Submission*. These new forms are to be used when filing VCP submissions under the new Revenue Procedure.
7. Revenue Procedure 2013-12 generally becomes effective after April 1, 2013. Plan sponsors are permitted to apply the new procedures anytime after December 31, 2012, and before April 1, 2013. During this transitional period, the plan sponsor can choose which procedure they will follow.
8. The procedure the plan sponsor chooses determines the mailing address for the VCP package.

- Plan sponsors who elect to use the new procedures must file the complete application along with the new Form 8950 and Form 8951 to the following address:

Internal Revenue Service
PO Box 12192
Covington, KY 41012-0192

Express mail or private delivery service:

Internal Revenue Service
201 West Rivercenter Blvd
Attn: Extracting Stop 312
Covington, KY 41011

- If the plan sponsor wishes to follow file under the "old" VCP program during this transition period, provide the following address:
Internal Revenue Service
Attention: SE:T:EP:RA:VC
P.O. Box 27063
Washington, DC 20038-7063

9. If the caller has general questions about the VCP, refer the caller to the VCP FAQs on the IRS Web site. Refer specific questions about the technical requirements of the VCP to EP R-Mail.