



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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

October 22, 2020

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MEMORANDUM FOR DIRECTORS, SB/SE HEADQUARTERS EXAM, SB/SE AREA  
FIELD EXAMINATION, SB/SE CAMPUS EXAMINATION/AUR, & SPECIALTY  
EXAMINATION

FROM: Carol Madison  
Director, Exam Case Selection

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Date: 2020.10.22 18:11:11 -05'00'

SUBJECT: Interim Guidance on Return Selection Documentation, Approval, and  
Review Requirements

This memorandum issues interim guidance for return selection documentation, approval, and review requirements until IRM 4.23.23, *Employment Tax Workload Selection and Delivery*, is published. Please ensure that this information is distributed to all affected employees within your organization.

**Purpose:** The purpose of this memorandum is to issue interim guidance on clear and consistent requirements for the documentation of selection, non-selection, and survey decisions, as well as, the review and approval requirements for those decisions.

**Background:** In December 2015, the Government Accountability Office (GAO) issued report 16-103, *IRS Return Selection: Certain Internal Controls for Audits in the Small Business and Self-Employed Division Should Be Strengthened*. This interim guidance addresses GAO's recommendation to develop and implement consistent documentation requirements to clarify the reasons for selecting a return for audit and who reviewed and approved the selection decision.

SB/SE supports administration of tax law by selecting returns to audit. The primary objective in selecting returns for examination is to promote the highest degree of voluntary compliance on the part of taxpayers while making the most efficient use of finite examination staffing and other resources. Employees must exercise their professional judgment when making return selection decisions, as explained in Policy Statement 1- 236, *Fairness and Integrity in Enforcement Selection*. IRS employees are expected to carry out their duties with integrity and fairness.

- To ensure fairness to the taxpaying public, our Examination Workplan provides a balanced approach for return delivery and allocation of resources to address the Tax

Gap by taking into account factors such as income levels, geographic locations, and return types.

- To ensure an equitable process for all taxpayers, return selection decisions are made utilizing available experience and/or statistics indicating the probability of substantial error. No one individual can control the examination selection decision-making process. We limit involvement to only those employees whose duties require them to be included.
- To ensure fairness to each taxpayer whose return is selected, individual return selection decisions are based on the information contained on the taxpayer's return and/or the underlying relevant tax law. Managerial as well as quality reviews of selection decisions occur during each phase of the selection and assignment process.

SB/SE Program Level Objective - Ensure examinations are initiated based on indicators of non-compliance or on other criteria identified in the Internal Revenue Manual, such as selection for the National Research Program. In addition, ensure a review of the decisions to survey a return (i.e., not initiate an examination) are based upon factors outlined in the Internal Revenue Manual and approved by an appropriate level of management.

### **Procedural Updates:**

#### **Identification of Leads**

To ensure an equitable process for all taxpayers, fairness and integrity are built into the return identification process. Employment Workload Selection and Delivery (WSD) receives data with potential cases for examination, referred to as leads, from many sources. A combination of methods, including automated processes, historical data, scoring mechanisms, data-driven algorithms, employee technical expertise, and third-party information, are applied to the leads to identify cases for classification. The identification of leads for classification is documented and contains the following:

- Data Source
- Selection Methods
- Selection Authority
- Classification Test Results
- Program Manager and Group Manager Approval

#### **Selection, Non-Selection, and Survey Decisions**

Employment WSD classifiers are responsible for determining if leads/returns should be selected for examination and for documenting the determination. All classification decisions, selects and non-selects are documented. Cases selected for examination require a classification check sheet to document the reason for selection. Cases not selected for examination require a classification checksheet or electronic spreadsheet to

document the reason for non-selection. The following standard reasons are generally used to document cases non-selected:

- No LUQs (Large, Unusual or Questionable)
- Prior examination results
- Out of cycle (short statute)
- Collectibility
- Issue lacks materiality
- Freeze code(s) restricting/prohibiting an examination
- Other – Reason specified

If cases are selected for examination and subsequently surveyed by Employment WSD, the reason for disposal is documented in an electronic spreadsheet.

### **Review Requirements**

The Employment Tax Workload Selection and Delivery (ET-WSD) Manager (or designee) will review a sample of 10% of the overall completed employee classification efforts and survey decisions to ensure selects and non-selects adhere to examination case selection policy.

As part of the Program Review process, the Employment WSD Program Manager (or designee) ensures the Employment WSD Manager reviews adhere to the examination case selection policy.

**Effect on Other Documents:** This guidance will be incorporated into IRM 4.23.23, *Employment Tax Workload Selection and Delivery*, by September 30, 2021.

**Effective Date:** This guidance is effective October 22, 2020 and applies to all Employment Tax Examination return selection activities.

**Contact:** If you have questions, you may contact me or have a member of your staff contact the Assistant Director, Exam Case Selection.

cc: [www.irs.gov](http://www.irs.gov)