



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

Small Business/Self-Employed Division

January 25, 2018

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MEMORANDUM FOR DIRECTOR, FIELD COLLECTION

FROM: Kristen E. Bailey
Director, Collection Policy

Kristen E. Bailey

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SUBJECT: Revised Interim Guidance for Changes to Authority and
Procedures for Currently Not Collectible Closures

This memorandum supersedes and revises prior interim guidance SBSE-05-0317-0009 titled Interim Guidance for Changes to Authority and Procedures for Currently Not Collectible Closures issued on March 1, 2017. This memorandum was revised to include a caution regarding the Employer Shared Responsibility Payment (ESRP) assessed under MFT 43, and to clarify the exceptions for managerial approval.

ICS was updated in January 2017 to:

- Allow ROs to close standalone MFT 35 and MFT 65 modules with the following CNC choices: hardship, UTL, UTC, decedent, statute expired prior to issuance, statute expired after issuance or suit initiated, international and tolerance. ICS also allows group managers to approve CNC closures of *standalone* MFT 35 and MFT 65 modules as TC 530 cc 35.
- Allow ROs to close IMF and BMF cases with an aggregate unpaid balance of assessment under [REDACTED] as CNC hardship (cc 24-32) without managerial approval.
- Allow ROs to close BMF cases with an aggregate unpaid balance of assessment under [REDACTED] as CNC UTL, UTC and Decedent without managerial approval. (This change was previously made for IMF cases in January 2013.)

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- Require managerial approval of all cases closed as UTC when the taxpayer is an IRS employee.

The IRM sections below contain reminders, notes and cautions which provide guidance for TC 130 inputs, Shared Responsibility Penalty (SRP) modules (MFT 35 and MFT 65), and UTL/UTC/Decedent/Hardship closures effective on the date of this memorandum.

IRM 5.16.1.2.1

Unable to Locate and Unable to Contact

- (14) For BMF accounts on sole proprietorships and partnerships where a general partner is personally liable for partnership liabilities, UTL and UTC accounts are systemically reversed by new address or new levy source information reported for the individual or general partner. The Social Security Number (SSN) of the individual or general partner must be cross-referenced on IDRS. Evaluate BMF entities to determine if a TC 130 should be input on the SSN of an individual or general partner. If the account is being reported as CNC, and Form 53 is manually prepared, forward Part 3 of Form 53 to CCP for input. After the Group Manager approves the CNC, ICS will systemically generate an e-mail to CCP to transmit Part 3 of Form 53 to CCP.

Reminder: This is a separate input from the cross-reference EIN/SSN input or the TC 130 input for refund offsets. The TC 130 for refund offsets and the TC 130 for systemic reactivation are both required for UTL and UTC closures on sole proprietorships and partnerships where a general partner is personally liable for partnership liabilities.

Note: Refer to IRM 5.1.12.21.3.2, *Offset an IMF Refund*, for additional guidance on situations where input of a TC 130 is required.

IRM 5.16.1.2.9

Hardship

- (14) The systemic process for reactivating hardship CNC accounts relies on an increase in TPI above a predetermined amount based on the hardship closing code when the case is closed as CNC:
- The TPI is reviewed annually when a taxpayer files an income tax return.
 - For BMF accounts on sole proprietorships, partnerships (where a general partner is personally liable for the partnership taxes) and LLCs (where the owner is identified as the liable taxpayer), TPI is determined by the annual income of the individual, general partner or member of the LLC.

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- The Social Security Number (SSN) of the individual, general partner or member of an LLC (where the owner is identified as the liable taxpayer) must be cross-referenced on IDRS.
 - When a BMF account is closed as hardship on ICS, the “Input on IMF to reactivate BMF CNC” will automatically be selected and a TC 130 with the EIN, BMF name control and CNC closing code will be input on the IMF entity, under the SSN of the individual, general partner or sole member of an LLC (where the owner is identified as the liable taxpayer).
 - The TC 130 input on IMF to reactivate BMF CNC is a separate input from the cross-reference EIN/SSN input. This is also a separate input from the TC 130 input for refund offsets, which is input on the BMF entity.
- Employees must still determine if the TC 130 for refund offset is required and select either “TC 130 requested before” or “TC 130 input required.” The input document for the TC 130 is Part 3 of Form 53 (Form 3177). Part 3 of Form 53 on ICS will be transmitted to CCP via a systemically generated e-mail after GM approval of the CNC.

Reminder: When Form 53 is prepared manually, employees will need to check the appropriate TC 130 box for “Refund Offset” and check the box for “Input on IMF to reactivate BMF CNC.” Part 3 of a manually prepared Form 53 must be mailed to CCP.

Note: Refer to IRM 5.1.12.21.3.2, *Offset an IMF Refund*, for additional guidance on situations where input of a TC 130 is required.

IRM 5.16.1.3.6

MFT 35 Shared Responsibility Payment (SRP) and MFT 65 Mirrored Shared Responsibility Payment

- (7) In most cases, standalone SRP modules will be recessed systemically and will not be assigned to revenue officers. However, there may be cases where MFT 35/65 is assigned along with other IMF balance due modules (MFT 30, 31, 55, etc.) or join previously assigned modules.

Note: If all other modules are resolved (full paid or abated) and the revenue officer is left with a standalone MFT 35/65 module, the revenue officer may close the standalone MFT 35/65 SRP module as SRP Recessed (TC 530 cc 35).

Caution: The Employer Shared Responsibility Payment (ESRP), under IRC § 4980H, will be assessed as an MFT 43 liability and will be treated as an excise tax. It is subject to enforcement actions and **will not be recessed systemically or by employees.**

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IRM 5.16.1.5
Managerial Approval

- (1) When the decision to place an account in CNC status requires the approval of a manager, approval should normally be that of the recommending employee's immediate manager. Acting managers may be given authority to approve CNCs.

Exception 1: IMF and BMF cases closed as UTL, UTC, Hardship or Decedent with an aggregate unpaid balance of assessment less than [REDACTED] do not require managerial approval. This exception is for managerial approval only. Revenue officers must still take all actions required in IRM 5.16.1 prior to closing IMF and BMF cases under [REDACTED] as Currently Not Collectible UTL, UTC, Hardship or Decedent.

Note: This exception does not apply to cases closed as UTC when the taxpayer is an IRS employee. All cases closed UTC on IRS employees **require** managerial approval regardless of the dollar amount. This exception also does not apply to LLC-SMO cases closed as UTL for LLC-SMO Liable or UTC for LLC-SMO Liable.

Exception 2: As noted in IRM 5.16.1.2.3(8), corporations and liquidating LLCs (where the LLC is the liable taxpayer), that have filed a Chapter 7 bankruptcy petition and have been designated a "No Asset" case that are being closed as TC 530 cc 07 by the Centralized Insolvency Operation, do **not** require managerial approval. See IRM 5.16.1.2.5, for tolerance accounts being closed with TC 530 cc 09 and cc 19 that do **not** require managerial approval.

This guidance will be incorporated in IRM 5.16.1, *Currently Not Collectible*, within one year of the date of this memorandum.

If you have questions, please contact me, or a member of your staff may contact Senior Program Analyst, Frances Quintero. Field personnel should direct any questions, through their management staff to the appropriate Area contact.

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