

IRM PROCEDURAL UPDATE

DATE: 08/25/2023

NUMBER: sbse-05-0823-0906

**SUBJECT: Add Modules with a C- Freeze to Refund Considerations/Problems;
Change "Virtual Currency" to "Digital Assets"; Change "Advisory" to "CEASO"**

AFFECTED IRM(s)/SUBSECTION(s): 5.9.4

IRM 5.9.4.1.6 Added CEASO.

(1) A glossary of terms used by Insolvency can be found in IRM Exhibit 5.9.1-1, Glossary of Common Insolvency Terms.

(2) Common acronyms acceptable for use in the Automated Insolvency System (AIS) history are listed in Exhibit 5.9.1-2, Acronyms and Abbreviations.

(3) Additional acceptable acronyms and abbreviations are found in the ReferenceNet Acronym Database, which may be viewed at: <http://rnet.web.irs.gov/Resources/Acronymdb.aspx>

(4) Acronyms used specifically in this IRM section are listed below:

Acronyms	Definitions
AIS	Automated Insolvency System
APOC	Automated Proofs of Claim
ASFR	Automated Substitute for Return
AUR	Automated Underreporter
BAPCPA	Bankruptcy Abuse Prevention and Consumer Protection Act
BFS	Bureau of the Fiscal Service
BPI	Bypass Indicator
CEASO	Civil Enforcement Advice and Support Operations
CIO	Centralized Insolvency Operation
DIP	Debtor-In-Possession
EPOC	Electronic Proof of Claim
FI	Field Insolvency
FTD	Federal Tax Deposit
IIP	Insolvency Interface Program
NFTL	Notice of Federal Tax Lien
PACER	Public Access to Court Electronic Records
POC	Proof of Claim
SCI	Specialty Collection Insolvency

Acronyms	Definitions
SFR	Substitute for Return
TEGE	Tax Exempt/Government Entities

IRM 5.9.4.5(11) Changed to list to table. Added modules with a C- freeze to refund considerations/problems.

(11) Refund Considerations/Problems.

SCI must consider issues surrounding potential refunds for accounts under bankruptcy protections such as the following:
Improper TOP offset potential exists
Offset for domestic support obligations
Inability to generate a systemic refund (the manual refund issuance process takes longer)
Court order or plan dictating how refund disposition is to be handled
Potential or actual violation of the automatic stay
Potential for duplicate refunds
Change of venue (i.e., case relocated to another court after bankruptcy petition filed)
Mailing address problems
Mandated redirection of the refund to an entity other than the debtor
Debtor and non-debtor spousal issues on a joint return/joint refund situation
Offset Overflow Freeze or Refund Hold (C-) is present on one or more pre- or post-petition tax modules. See IRM 21.5.6.4.5, C- Freeze - Refund Holds, and Document 6209, Section 8A, Master File Codes.

IRM 5.9.4.10.1 (Reminder) Add clarification regarding who can sign an amended return.

(1) **Trustee Requests for a Prompt Refund.** Rev. Proc. 2010-27 establishes the steps for trustees to submit a request for a tax refund from the IRS. All requests by a trustee or debtor-in-possession for a refund under 11 USC 505(a)(2)(B) must be filed with SCI using one of the methods listed in IRM 5.9.4.10 (5).

(2) **Copy of Return.** If the request for a prompt refund is made using Form 843, and the debtor previously filed a tax return, an exact copy of the return (or returns) that is subject of the claim for refund should also be submitted with the request. To be valid, the return must be signed under penalties of perjury. If the section of the return form that requires it be signed under penalties of perjury is modified in any way, such as by striking out, deleting, or changing the language of that requirement, the return form will not qualify as a valid return. Any post-petition amended returns submitted must also be signed by the trustee or debtor in possession that is claiming the credit or refund.

Reminder: Pre-petition amended returns need to be signed by the debtor. The request must be returned as incomplete if the amended return is not signed by the debtor unless they have evidence of authority to sign.

Note: Unsigned returns may be accepted if they are accompanied by a *signed* Form 8879, IRS e-file Signature Authorization.

(3) **Elements of a Request.** Before forwarding the prompt refund request, SCI must review the request package to ensure it is acceptable for processing per Rev. Proc. 2010-27. The return or form must be marked "Request for Prompt Refund." The request must:

- a. Contain a statement referencing Bankruptcy Code 505(a).
- b. Be for a Chapter 7, 11, 12, or 13 bankruptcy case (Chapter 9 and 15 cases are not eligible).
- c. If the debtor has filed a return and the trustee has submitted a Form 843, the package must also specify the name and location of the office where the original return was filed, and include a copy of the return(s) that is the subject of the claim for refund.

Note: If any item of information listed above is missing from the request, the request will be determined to be incomplete.

(4) **Incomplete Packages.** SCI must determine if the package is complete and the documents received contain the mandatory information specified in Rev. Proc. 2010-27. If the documents required from the trustee or debtor-in-possession are missing or incomplete, CIO will return the incomplete package to the requestor with Letter 5947, Missing Information for Prompt Determination 505(a) Request. All of the documents will be returned to the requestor, with the appropriate box checked off on Letter 5947 identifying the missing papers or information, and requesting that the package be resubmitted with the correct documentation to CIO. A copy of the letter should be retained in a hold file for 90 days in case contacted by the trustee. After 90 days, the letter should be properly disposed. *New time frames start on the date a complete package is received by SCI.*

(5) **Verification and Transmittal.** The CIO is responsible for the immediate transmittal of all documents in a complete prompt refund request to the appropriate function.

If the prompt refund is...	Then ...
Mailed	<ul style="list-style-type: none"> a. Date stamp with the date received. b. Mark the return "<i>COPY ONLY</i>". <p>Note: CIO must verify the return sent to them is a copy. If an original return is received, CIO must make a copy to attach to the</p>

If the prompt refund is...	Then ...
	<p data-bbox="496 304 1308 369">prompt determination package, and immediately forward the original for normal processing to the designated Campus.</p> <ul style="list-style-type: none"> <li data-bbox="448 411 906 443">c. Complete the 505(a) checklist. <li data-bbox="448 447 1365 512">d. If the package is not complete, follow guidance in IRM 5.9.4.10.1 (4), Incomplete Packages. <li data-bbox="448 516 1276 581">e. If the package is complete, scan the prompt determination package and checklist. <li data-bbox="448 585 1081 617">f. Prepare Form 3210, Document Transmittal. <li data-bbox="448 621 1349 686">g. Use Exhibit 5.9.4-2, Prompt Determination Processing Chart, to determine where the package should be sent. <li data-bbox="448 690 1308 756">h. Place the scanned package, checklist, and Form 3210 in the appropriate area folder on the S Drive. <li data-bbox="448 760 1187 791">i. Place the scanned package in a 90 day hold folder.
Faxed	<p data-bbox="402 835 1243 867">All faxed packages are sent to the prompt package efax folder.</p> <ul style="list-style-type: none"> <li data-bbox="448 909 906 940">a. Complete the 505(a) checklist. <li data-bbox="448 945 1365 1010">b. If the package is not complete, follow guidance in IRM 5.9.4.10.1 (4), Incomplete Packages. <li data-bbox="448 1014 1081 1045">c. Prepare Form 3210, Document Transmittal. <li data-bbox="448 1050 1349 1115">d. Use Exhibit 5.9.4-2, Prompt Determination Processing Chart, to determine where the package should be sent. <li data-bbox="448 1119 1268 1184">e. Place the faxed package, checklist, and Form 3210 in the appropriate area folder on the S Drive. <li data-bbox="448 1188 1276 1220">f. Place a copy of the faxed package in a 90 day hold folder.

(6) **Large Business Requests.** To determine if a corporation's account is handled by LB&I, SCI caseworkers must review the total assets listed on the Form 1065, 1120 or 1120S. If the total assets are greater than \$10 million, the request falls under the scope of LB&I.

(7) **Time Frames.** Transmittal to the appropriate function must be done within *three workdays* of the date the complete package is received by SCI. The transmittal must be done within this time frame because *within 120 calendar days* from the date the request is received in CIO, that function must review the copy of the return, make a refund determination, and advise the requestor of their determination.

(8) **AIS Histories.** Some of the prompt refund requests are for cases not on AIS. Establishing a case on AIS for the sole purpose of monitoring a prompt refund request is not necessary.

- a. If the case is *not* on AIS, the caseworker should review IDRS to determine if there are any pre-petition balances due or unfiled returns. If there are

balances due and/or unfiled returns, information needed to open a case should be secured from PACER. The case should be added to AIS following the instructions in IRM 5.9.12.3(2), Adding New Cases Manually.

- b. If the case *is* on AIS, or has been added from the refund request, the AIS history should address receipt of the request and the actions taken. If the request is for a complete package, the history should state, "Request for Prompt Refund for *[type of return received]* on MM-DD-YYYY for tax period(s) *[list tax period(s)]*. The EIN of the estate is *[EIN]* Package complete. Forwarded to *[function, City, State]*." If the request is incomplete, the history should state, "Request for Prompt Refund received for *[type of return received]* on MM-DD-YYYY for tax period(s) *[list tax period(s)]*. Package incomplete *[list incorrect or missing items]*. Returned package to *[requestor]*."

(9) **Prompt Refund Requests Erroneously Forwarded.** If an incomplete package is erroneously forwarded to a prompt determination coordinator, the package should be returned to CIO via email. CIO will follow procedures stated in IRM 5.9.4.10.1 (4) Incomplete Packages.

IRM 5.9.4.12.3(2) Change "virtual currency" to "digital assets."

(2) **Bankruptcy Fraud Indicators.** Listed below are common indicators of bankruptcy fraud.

Bankruptcy Fraud Indicators
a) Absence of or evasiveness by knowledgeable officers for testimony purposes at the bankruptcy court's 341 meeting of creditors.
b) Concealment of assets.
c) Conduct contrary to industry practice.
d) Discrepancies between pre- and post-bankruptcy filing financial information provided to the IRS (e.g., to revenue officers).
e) Failure to keep usual business records
f) Fire, theft, or loss prior to or after the bankruptcy.
g) Frequent amendments to schedules, statements of financial affairs, and/or monthly operating reports.
h) Frequent cash transactions.
i) Claimed no bank accounts in their name. Debtor pays expenses using a related third-party bank account, money orders, certified checks or cash.
j) Inability to contact principals at debtor's stated business location.
k) Incomplete or missing books or records.
l) Inconsistencies between recent financial statements, tax returns, and debtor's schedules and statement of financial affairs.
m) Inflated salaries, bonuses, or cash withdrawals by officers, directors, shareholders, or other insiders.
n) Payoff of loans to directors, officers, shareholders, relatives, or other insiders shortly before bankruptcy.

Bankruptcy Fraud Indicators

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| o) Recent departure of officers, directors, or partners. |
| p) Serial bankruptcy cases. |
| q) Sudden depletion of inventory post-petition. |
| r) Transfer of personal residence, business or other assets for little to no consideration or less than fair market value within two years of filing the bankruptcy. |
| s) Unanswered questions, or incomplete information on debtor's schedules and statement of financial affairs. |
| t) Unusual depletion of assets shortly before the bankruptcy filing. |
| u) Engaging in illegal activities. |
| v) Indications that valuable assets belonging to the debtor are being acquired or held in the names of others. |
| w) Making false, misleading, or inconsistent statements. |
| x) Personal living standard and assets inconsistent with income. |
| y) Self-serving statements with no documentary proof. |
| z) Submitting a false document or affidavit. |
| aa) Trying to conceal a pertinent fact or record. |
| ab) Digital asset transactions that were not adequately disclosed on schedules. |
| ac) Assets transferred into a trust while retaining control and possession of the asset. |
| ad) Commingled personal income and expenses with Schedule C income and expenses, or with that of another business entity under the debtor's controls. |
| ae) Little or no income reported by third-parties (IRP) but reports significant expenses, in particular mortgage interest. |
| af) Operated or continues to operate more than one business using similar or like names, while failing to file tax returns or pay tax debts on the related entity. |
| ag) undisclosed foreign assets held in the taxpayer's name or business name such as those found on a Form 8966, FATCA report. |