

IRM PROCEDURAL UPDATE

DATE: 09/25/2019

NUMBER: sbse-05-0919-1059

SUBJECT: Advance TPC Notification Procedures

AFFECTED IRM(s)/SUBSECTION(s): 5.1.1.12.1

IRM 5.1.1.12.1(2) clarifies Revenue Officers must verify the issuance of advance third party contact notice when they intend to contact third parties to facilitate the determination or collection of a tax liability of a taxpayer. Also, the verbiage explains how to identify the issuance of a Letter 3164 with a July 2019 or later revision date. Additional justification provided to clarify transaction code 971 action code 611 associated with the mailing of Publication 1 no longer satisfies the requirements of IRC § 7602(c)(1). Also inserted text to clarify CP 523 no longer satisfies advance third party contact notification requirements. Inserted a caution statement to explain Revenue Officers cannot contact third parties until the 46th day following the date of the notice.

IRM 5.1.1.12.1(3) modified the number of third party contact letters available for Revenue Officers. Also, revised Letter 3164 C to reflect Letter 3164-X as this is the current version of Collection advance third party contact notification for delinquent return investigations. Incorporated Letter 3164-W as a new item to address third party contact notification for transferee investigations. Also, the note advising the Letter 3164 should not be used to initiate contacts was removed. A new note advises Letter 3164 should be issued when the Revenue Officer intends to initiate third party contacts.

IRM 5.1.1.12.1(4) removed reference to Pub 1 associated with CP 504 and CP 518 meeting advance third party contact notification. Incorporated new verbiage to explain Letter 3164 (July 2019 or later revision) satisfies IRC § 7602(c)(1) and clarified it is available on the electronic publishing catalog. Incorporated a caution statement to explain the process of using Form 4844, *Request for Terminal Action*, to update IDRS with the appropriate taxpayer identification number, module(s), and mailing date of the Letter 3164. Additionally, a note was added to address using the ICS template Forms 4844 for clarification on the affected taxpayer identification number that the Letter 3164 applies to.

1. See IRM 25.27.1.3.1 for third party contact (TPC) advance notification requirements and procedures.
2. When Revenue Officers intend to contact third parties in connection with the determination or collection of a tax liability of a taxpayer, they must verify the

taxpayer was issued an advance third party contact notification letter that describes the intent to contact third parties and establishes a time frame for the third party contacts occurring on or after August 15, 2019 in accordance with IRC § 7602(c)(1). Perform IDRS and/or ICS research first to verify the issuance of advance third party contact notification by identifying transaction code (TC) 971 action code (AC) 611 posted on an IDRS module. Additionally, the Revenue Officer will need to ensure the appropriate revision of the advance third party contact notification letter was issued by reviewing the steps below:

- a. In ICS, access the balance due module summary screen, click 'module detail' then click 'view TC 971/972 transactions' for the TC 971 AC 611 posted on or after August 15, 2019 associated with the mailing of Letter 3164 (July 2019 or later revision).
- b. In ICS, access the delinquent return summary screen, click 'module detail' then click 'view transactions' for the TC 971 AC 611 posted on or after August 15, 2019 associated with the mailing of Letter 3164 (July 2019 or later revision).
- c. As of August 15, 2019, **do not** use IDRS systemically generated TC 971 AC 611 associated with the inclusion of Pub 1 , *Your Rights as a Taxpayer*, issued in conjunction with CP 518 (for delinquent return modules) or CP 504 (for balance due modules) as Pub 1 ceased to satisfy the requirements of advance third party contact notification pursuant to IRC § 7602(c)(1). Conversely, IDRS modules with a TC 971 AC 611 associated with the mailing of a Letter 3164 (July 2019 or later revision) satisfy the advance third party contact notification requirements.

NOTE: If the Service included Pub 1 with the mailing of CP 504, CP 518, Notice 1219-A (EN/SP), or Notice 1219-B (EN/SP) a new advance third party contact notice will be required when the Revenue Officer intends to initiate a third party contact. Additionally, the mailing of CP 523 no longer satisfies advance third party contact notification, so a new third party contact notice would be required if a Revenue Officer intended to initiate a third party contact.

CAUTION: Revenue Officers may not contact a third party until the 46th day following the date of the notice.

3. There are four versions of Letter 3164 available for use by Collection employees:
 - a. Letter 3164-A for Trust Fund Recovery Penalty (TFRP) investigations.
 - b. Letter 3164-B for balance due investigations.
 - c. Letter 3164-X for delinquent return investigations.
 - d. Letter 3164-W for transferee investigations.

NOTE: Letter(s) 3164 **should only** be issued when the Revenue Officer intends to contact a third party.

4. ICS generated Letter 3164 (revision prior to July 2019) no longer satisfies the requirements of IRC § 7602(c)(1), so Revenue Officers should utilize the electronic publishing catalog to obtain the current version of the Letter 3164 to provide advance notification of third party contacts to taxpayers. Additionally, Revenue Officers will need to prepare Form 4844, *Request for Terminal Action*, to identify the modules and the mailing date of the Letter 3164.

CAUTION: When completing Form 4844 from the electronic publishing catalog or ICS template, Form 4844, *Req. for Term. Action*, the remarks section should identify the appropriate taxpayer identification number receiving the advance third party contact notice. For example, if both the primary and cross reference taxpayer are mailed Letter 3164, document this in the remarks section of Form 4844. Also, if only the cross reference taxpayer is mailed Letter 3164, the remarks section should reflect the TC 971 AC 611 only applies to the cross reference taxpayer identification number.

NOTE: The ICS template Form 4844-971 currently includes a section for the user to select the appropriate taxpayer identification number that will require input for the advance third party contact notification. When a Letter 3164-A (TFRP investigation) is issued, the Revenue Officer should use Form 4844, *Req. for Term. Action*, and complete the remarks section identifying the transaction code, date, and cross reference taxpayer identification number.