



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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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MEMORANDUM FOR DIRECTORS: FIELD COLLECTION;
SPECIALTY COLLECTION OFFERS; AND
CAMPUS COLLECTIONS

FROM: Brian Best
Acting Director, Collection Policy

Brian J. Best

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SUBJECT: Reissuance of Interim Guidance: Actions
Required when Addressing Assessments
Related to Employee Benefit Plans (MFT 74
and 76)

The purpose of this memorandum is to reissue interim guidance (IG) for applicable sections of SBSE-05-1116-0064, *Actions Required when Addressing Assessments Related to Employee Benefit Plans (MFT 74 and 76)*, dated November 30, 2016, that have not been incorporated into the IRM. This guidance will be incorporated in the IRM within one year of this memorandum.

Background

The excise tax (MFT 76) and failure to file penalty (MFT 74) assessments associated with employee benefit plans include a unique plan identifier number that is incompatible with most IRS automated systems. Systemic processing is limited.

While stand-alone modules are not currently issued to Collection personnel, the assessments must be addressed if related modules

are assigned, or if the taxpayer requests review via an offer in compromise or installment agreement request.

Most processes related to Collection, including Collection Due Process Notices, Notices of Federal Tax Lien, and closing actions such as Offers in Compromise (OIC), Installment Agreements, and Currently Not Collectible, require manual input. The following revised procedures will assist Collection in addressing the systemic processing limitations posed by these assessments.

Summary

The guidance provided in this memorandum is intended to provide procedures for MFT 74 and 76 assessments to ensure the Internal Revenue Service properly records collection actions and information. Some sections from the original IG have been incorporated in the IRM; this interim guidance impacts the sections attached.

You may direct any questions regarding these procedures to Diana Estey, National Offer in Compromise Program Manager, or a member of your staff may contact OIC Analyst, Christine Matz.

Attachment A: IRM 5.19.12.2.5.6 NFTLs on Employee Benefit Plans

Attachment B: IRM 5.14.4.8 Employee Benefit Plans and Installment Agreements;
IRM 5.19.1.4.20 Employee Benefit Plans; &
IRM 5.19.1.5.6 Manually Monitored Installment Agreements MMIA

Attachment C: IRM 5.16.1.3 Special Conditions

cc: Director, Collection
Director, Quality and Technical Support
Director, Tax Exempt and Government Entities
Office of Chief Counsel
Chief, Appeals
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Attachment A

Notices of Federal Tax Lien

IRM 5.19.12.2.5.6 (MM-DD-YYYY) NFTLs on Employee Benefit Plans

- (1) NFTLs may be requested for assessments made in relation to Form 5330, *Return of Initial Excise Taxes Related to Employee Benefit Plans*, and Form 5500, *Annual Return/Report of Employee Benefit Plan*. The process to create these NFTLs in ALS differs slightly from normal procedures. These NFTLs can be printed through ALS or manually prepared by the revenue officer (RO).
- (2) Assessments made for Form 5330 appear on IDRS under MFT 76 and for Form 5500 under MFT 74. Whenever an assessment is made under either of these MFTs, a corresponding plan number is embedded in the assessment. Each plan has an associated three-digit plan number assigned by the employer/sponsor (e.g., 001, 002) and multiple MFT 74/76 assessments can exist for each tax period. Proper identification of the plan number related to the assessment is needed when creating the NFTL.

Note: See IRM 5.12.7.7.6, *Employee Benefit Plans*, for additional information.

- (3) Requests for NFTLs for MFT 74/76 assessments cannot be made through ICS. The requester must submit Form 12636 (or, if manually prepared, a copy of the NFTL) to CLO for input to ALS.
- (4) Upon receipt of Form 12636, follow standard processes to review the request and input the information to ALS, with the following exceptions:

Form 5300/MFT 76 Assessments

- a) The type of tax must be the plan number associated with the assessment, preceded by an "E." (e.g., E001).

NOTE: The alpha prefix is crucial for ALS to recognize the NFTL as a MFT 76 assessment. When printed through ALS, the NFTL will convert the plan number to show form 5330. The plan number also facilitates the posting of the NFTL transaction codes to IDRS.

- b) Only MFT 76 employees benefit assessments should be included on the NFTL.

Form 5500/MFT 74 Assessments

- a) The type of tax should be entered as "5500."

NOTE: At this time, ALS cannot process the plan numbers for MFT 74 assessments.

- b) Only MFT 74 employee benefit assessments should be included on the NFTL.

- (5) Print and mail NFTLs generated by ALS for these assessments following standard procedures.
- (6) In situations where the NFTL will be hand-carried for filing, the requester must manually prepare the NFTL and contact CLO for a SLID. Upon receipt of a request for a SLID, follow the standard CREATE process with exceptions noted below.
 - a) In the type of tax field for Form 5330/MFT 76 assessments, place an "E" in front of the plan number (e.g., E001). The requestor must provide the plan information with the request. For Form 5500/MFT 74 assessments, input "5500."
 - b) Ensure that only MFT 74 or 76 assessments are included on the NFTL.
 - c) Suppress the NFTL from printing through ALS.
 - d) Suppress the NFTL from the voucher.
 - e) Suppress the systemic CDP notification.
 - f) Input a history to ALS about the manual preparation and filing.
 - g) Provide the SLID to the requestor.
- (7) For NFTLs, printed and filed by CLO, the taxpayer's CDP notice is systemically issued. For those manually prepared, the requester is responsible for the issuance of the CDP notice and the input of all applicable transaction codes to IDRS.

Attachment B
Installment Agreements

IRM 5.14.4.8 (MM-DD-YYYY) Assessments related to Employee Benefit Plans – MFT 74 and 76

1. This section relates to actions required when establishing installment agreements which include an MFT 74 and/or MFT 76 module.
2. MFT 74 identifies the tax module in which an adjustment for Form 5500, Annual Return/Report of Employee Benefit Plan, is to post. Form 5500 concerns compliance with qualification provisions. For Form 5500 penalties (e.g., late filing), see IRM 20.1.8.3 (04-17-2009) Employee Plans (EP).
3. MFT 76 identifies the tax module in which an adjustment for Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, is to post. Form 5330 is used to report and pay the excise tax related to employee benefit plans under several IRC provisions. The largest assessments usually relate to inadequate funding of employee pension plans. A tax of 10% [4971(a)] of the underfunded amount may apply each year. A tax of 100% [4971(b)] can be imposed in certain cases. The tax may be self-reported on Form 5330, or identified by IRS in an Examination proceeding.
4. Currently, due to programming limitations, the systemic input of certain transaction codes to a MFT 74/76 module is not possible due to the 3-digit plan identifier associated with these assessments. Automated systems do not recognize the identifier number. Notices requesting payment are sent when the tax is assessed and every time interest is updated, but the cases do not move beyond status 21. Sometimes no status is reflected on IDRS, just the assessment.
5. Research of these modules requires a specific format which include:

Command code	Format	Notes
BMFOLT	BMFOLTxx-xxxxxxx 74201212001	
TXMODA	TXMODAxx-xxxxxxx 74 001 201212	
MFREQ	MFREQCxx-xxxxxxx	(if TXMOD is needed for

	76 201210 NAME 001	CFOL only period)
INOLEP	INOLEPxx-xxxxxxx	Lists the employee benefit plans and their 3 digit identifiers

Note: Bal Due Modules cannot be created on ICS for these assessments.

6. IAs which include MFT 74 or 76 cannot be systemically established on IDRS; they must be processed following MMIA procedures. See IRM 5.14.9, *Routine and Manually Monitored Installment Agreement Dispositions*. Clearly identify the IA as “MMIA - MFT 74/76” in red on the top of the IA.
7. If the entity has other assessments (i.e. MFT 01, 02, 10, etc.) and those modules will not be fully satisfied (taxpayer placed in a Partial Payment IA), do not create a separate IA for CCP manual monitoring. If the taxpayer has a systemically monitored IA that will result in full payment of the other assessments, create a separate IA for manual monitoring in CCP. Clearly document the 433D and the ICS history that both a systemic and manually monitored IA exist and that payments will post to the non-MFT 74/76 assessments until full payment is received.
8. Request input of a TC 971, AC 063 on each MFT 74/76 module at the time the manually monitored IA is forwarded to CCP.
9. If a Notice of Federal Tax Lien is required, follow the instructions outlined in the NFTL section of this Interim Guidance, which will be updated in 5.12.7.7.6

IRM 5.19.1.4.20 (MM-DD-YYYY) Pension Benefit Plans

1. This section relates to actions required when establishing installment agreements which include an MFT 74 and/or MFT 76 module.
2. MFT 74 identifies the tax module in which an adjustment for Form 5500, Annual Return/Report of Employee Benefit Plan, is to post. Form 5550 concerns compliance with qualification provisions. For Form 5500 penalties (e.g., late filing), see IRM 20.1.8.3 (04-17-2009) Employee Plans (EP).
3. MFT 76 identifies the tax module in which an adjustment for Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, is to post. Form 5330 is used to report and pay the excise tax related to employee benefit plans under several IRC provisions. The largest assessments usually relate to inadequate funding of employee pension plans. A tax of 10% [4971(a)] of the underfunded amount may apply each year. A tax of 100% [4971(b)] can be imposed in certain

cases. The tax may be self-reported on Form 5330, or identified by IRS in an Examination proceeding.

4. Currently, due to programming limitations, the systemic input of certain transaction codes to a MFT 74/76 module is not possible due to the 3-digit plan identifier associated with these assessments. Automated systems do not recognize the identifier number. Notices requesting payment are sent when the tax is assessed and every time interest is updated, but the cases do not move beyond status 21. Sometimes no status is reflected on IDRS, just the assessment.
5. Research of these modules requires a specific format which include:

Command code	Format	Notes
BMFOLT	BMFOLTxx-xxxxxxx 74201212001	
TXMODA	TXMODAxx-xxxxxxx 74 001 201212	
MFREQ	MFREQCxx-xxxxxxx 76 201210 NAME 001	(if TXMOD is needed for CFOL only period)
INOLEP	INOLEPxx-xxxxxxx	Lists the employee benefit plans and their 3 digit identifiers

Note: Bal Due Modules cannot be created on ICS for these assessments.

6. IAs which include MFT 74 or 76 cannot be systemically established on IDRS; they must be processed following MMIA procedures. See IRM 5.19.1.5.6 *Manually Monitored Installment Agreement, MMIA*.

IRM 5.19.1.5.6 (MM-DD-YYYY) Manually Monitored Installment Agreement, MMIA

1. Some IAs require special handling. There are *rare* instances when an IA should not be established through CC IAGRE or does not qualify to be "mirrored" as in IRM [5.19.1.5.7.1](#), *Front End Mirror Assessments Process for IA and CNC Closures*. These types of IAs, MMIA, are not to be confused with MFT 31 Mirrored assessments.

NOTE: MMIAAs cannot be DDIA, but may be PDIA.

2. The types of IAs listed below must be manually monitored ensuring compliance with the terms of the IA:

a. IAs calling for variable amounts.

EXAMPLE: A taxpayer with seasonal income and payment amounts vary from season to season.

b. IAs secured from more than one person at different addresses paying on the same liability.

c. IAs secured from the secondary taxpayer only.

NOTE: If the secondary taxpayer has a joint and individual tax liability, follow procedures for both primary and secondary taxpayer in paragraph (3) below.

EXCEPTION: If the account meets mirroring requirements, follow instructions in: IRM 5.19.1.5.7.1, *Front End Mirror Assessments Process for IA and CNC Closures*.

d. A balance due on a joint liability, but the primary taxpayer is deceased and has open TDI modules which cannot be resolved.

NOTE: Establish as an MMIA on the secondary taxpayer SSN if in filing compliance; for disposition of TDI module on a deceased taxpayer's account. See IRM [5.19.2.5.4.6.6](#), IMF Response Taxpayer Deceased.

e. IAs on a joint liability from both taxpayers, but one taxpayer has a return delinquency; when establishing as an MMIA: IRM [5.19.1.5.4.4](#), *IMF/BMF Related Accounts*.

f. Payments at irregular intervals.

g. IAs containing both MF and NMF accounts.

h. NMF accounts.

i. The IA has related modules in Bankruptcy (ST 72). IRM [5.19.1.4.2](#), *Insolvency Issues*.

j. IAs from the requesting spouse when there is an unresolved Innocent Spouse claim filed TC 971 AC 065 on the module; establish as an MMIA and do not

include modules with unreversed TC 971 AC 065 in the IA. IRM [5.19.1.5.4.12](#)(3), *Innocent Spouse - IA Request*.

- k. A balance due on a joint liability where one taxpayer is collectible and the other taxpayer is CNC and the NCs are different.
- l. The taxpayer requests separate treatment from their spouse and the account includes one or more Individual SRP modules (MFT 35).

NOTE: After January 1, 2016, Individual SRP modules may be mirrored. See IRM [5.19.1.5.4.12.1](#), *Front End Mirror Assessments Process for IA and CNC Closures*. MMIA's will no longer be required on accounts with Individual SRP modules, unless a condition in this paragraph 2 of subsection 5.19.1.5.6 applies.

- m. Accounts including MFT 74.
- n. Accounts including MFT 76.
- o. Any other IA not compatible with IDRS monitoring.

Attachment C

Currently Not Collectible

5.16.1.3 (MM-DD-YYYY) Special Conditions

- (1) In certain circumstances, employees will be required to take additional actions to ensure that CNC accounts are properly closed.
- (2) Assessments made for Form 5330 appear on IDRS under MFT 76 and for Form 5500 under MFT 74. Whenever an assessment is made under either of these MFTs, a corresponding plan number is embedded in the assessment.
 - Each plan has an associated three-digit plan number assigned by the employer/sponsor (e.g., 001, 002).
 - Employers may have more than one type of retirement or benefit plan.
 - Multiple MFT 74/76 assessments can exist for each tax period if the employer has a deficit in more than one plan.
- (3) Create an incoming OI on the ICS case. From the ICS Summary Screen, select the following:
 - a. "Collection Activities"
 - b. "Create Modules"
 - c. "Create OI In"
 - d. For the initial assignment, use the originator's (primary RO) assignment number
 - e. In the "Action Requested" field, select "Other"
 - f. In the Remarks Section input, "Pursue collection on MFT 74-20XXXX (or MFT 76-20XXXX) – plan number 00X.
- (4) When recommending an account be reported CNC and there are MFT 74 or MFT 76 Bal Due modules showing on IDRS SUMRY or BMFOLI, follow the procedures below:
 - a. Determine the correct type of CNC based on [IRM 5.16.1](#) criteria, including the MFT 74 or 76 modules.

Note: If the total balance due including the MFT 74 and 76 modules exceeds the tolerance amount, you will not be able to close the case as tolerance.

- b. Input the CNC request on ICS excluding the MFT 74 and 76 modules.
- c. Send Form 4844 to CCP requesting input of the appropriate TC 530 closing code on the MFT 74 or 76 modules. **Form 4844 must include the plan number.**
- d. Document the closing ICS history that the MFT 74 and 76 modules were closed via F4844 requesting input of TC 530, closing code XX.

NOTE: Input of the TC 530 will **not** change the status of the account on IDRS.

(5) Close OI module on ICS:

- a. Select the OI from the Summary of Modules
- b. "Close Mod"
- c. Select the closure: "Requested action taken."

(6) A TC 530 on MFT 74 and 76 modules will not reverse systemically, and as noted above, the status of the case will not change to ST 53.

- a. If you are working a case with MFT 74 or 76 modules, review to determine if a TC 530 was input.
- b. If a TC 530 was previously input and should be reversed, send Form 4844 to CCP requesting input of TC 531 on the MFT 74 or 76 modules. **Form 4844 must include the plan number.**