



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

April 14, 2020

Control Number: SBSE-25-0420-0022
Expiration Date: 04-14-2022
Affected IRM: 25.21.4

MEMORANDUM FOR SMALL BUSINESS/SELF EMPLOYED (SB/SE); AND
TAX EXEMPT/GOVERNMENT ENTITIES (TE/GE)
EMPLOYEES AFFECTED BY EMPLOYMENT TAX
POLICIES AND PROCEDURES

Wanda R. Griffin

Digitally signed by Wanda R. Griffin
Date: 2020.04.14 18:00:55 -04'00'

FROM: Wanda R. Griffin, Director, SB/SE Specialty Examination Policy

SUBJECT: Interim Guidance on Employer Shared Responsibility Payment (ESRP)

This memorandum issues guidance on the assignment of ESRP related entities until revised IRM 25.21.4, *IRC 6056 Non-Filer and IRC 4980H Compliance Process*, is published. Please ensure that this information is distributed to all affected employees within your organization.

Purpose: The purpose of this Interim Guidance Memorandum (IGM) is to clarify assignment of ESRP related entity cases.

Background/Source(s) of Authority: This guidance reflects that related entity cases will no longer be assigned to only Tax Compliance Officers (TCOs) in the Campus. All Campus examiners assigned ESRP cases may be given the opportunity to work related entity cases.

Procedural Change: IRM 25.21.4.12.1 will be revised to read as follows:

- (1) If the examiner finds the Applicable Large Employer (ALE) is part of an aggregated group, steps will be taken to work the cases together.
- (2) The examiner will take steps to have all existing cases assigned to them to work together. This may involve having the Lead transfer the Electronic Case File (ECF) from other examiners. If one of the related entities is not an existing case, the examiner will coordinate with the Lead to obtain information from Exam Case Selection (ECS) and

establish a new case when necessary to allow for all related entity cases to be worked together.

(3) The examiner will determine if the related entities have filed the information returns by using command code IRPOL.

- a. If information returns were not filed for the year assigned, the examiner will check subsequent years to see if the entity started filing the returns. If the subsequent year returns were not filed, an Examination Information Report, Form 5346, will be submitted to ECS for inclusion in the next year non-filer program.
- b. If information returns were filed for the year assigned, the examiner will assign an aggregated group number to all existing cases, if necessary. If one of the related cases does not contain an ECF, the examiner will coordinate with the Lead to contact ECS to check their master list to determine if the related employer is listed. If listed, ECS will send the ECF to the Lead. The Lead will have the controls established and assign the case to the examiner, allowing all related cases to be worked together.

Note: ECS will attempt to identify and assign related entity cases at the same time.

- c. If the related entities are not on the list, this means the related entity is not subject to a potential ESRP because none of their employees were allowed a Premium Tax Credit (PTC). The examiner will document the case file regarding the findings and continue with the review of the assigned entity.

Note: The examiner will still consider the entity when allocating the 30 full-time employees between the group members even if it is not subject to an ESRP.

Effect on Other Documents: This guidance will be incorporated into IRM 25.21.4 by April 14, 2022.

Effective Date: This interim guidance is effective April 14, 2020.

Contact: Lynne Miele, Policy Analyst, SB/SE Employment Tax Policy via email at Lynne.C.Miele@irs.gov

Distribution:
[IRS.gov \(http://www.IRS.gov\)](http://www.IRS.gov)