

## IRM PROCEDURAL UPDATE

**DATE: 10/01/2012**

**NUMBER: SBSE-05-1012-1648**

**SUBJECT: CNC Procedures – Frivolous Return Penalty or Claims Frivolous Tax Arguments Guidance**

**AFFECTED IRM(s)/SUBSECTION(s): 5.19.1.7.1**

**CHANGE(s):**

**IRM 5.19.1.7.1** - Currently Not Collectible Policy and Overview, revised fourth bullet under (9). Inserted new (10) with detailed instructions on handling cases involving Frivolous Return penalties or Frivolous Tax arguments.

9. Accounts that cannot be closed Currently Not Collectible by Compliance (ACS, ACSS & CSCO) and AM:
  - BMF In-Business taxpayers
  - Accounts with an OIC indicator on IDRS
  - If the taxpayer/POA refuses to pay or file
  - If the taxpayer has been assessed a Frivolous Return Penalty or claims Frivolous Tax Arguments, refer to (10).
10. If the taxpayer has been assessed a Frivolous Return Penalty or claims Frivolous Tax Arguments – used for the purpose of expressing dissatisfaction with the substance, form, or administration of the tax laws by attempting to illegally avoid or reduce tax liabilities, and they meet CNC criteria, follow these procedures:
  - If the AAB due on the taxpayer's accounts is **less than** \$40,000, CNC all modules. See IRM 5.19.1.7.1.5, *CNC Unable to Pay - Hardship*.
  - If the AAB due on the taxpayer's account is **between** \$40,000 and \$100,000, and the penalty module is for a taxable year **greater than 2 years old AND** the taxpayer has been in compliance the past 2 taxable years, CNC all modules See IRM 5.19.1.7.1.5, *CNC Unable to Pay - Hardship*.

**EXAMPLE:** It is August 2012, the taxpayer owes \$60,000 and a frivolous penalty was assessed on a balance due module for 30-200912. The taxpayer filed valid returns for 30-201012 and 201112, and meets hardship criteria. All modules can be reported CNC.

- If the AAB due on the taxpayer's account is **between** \$40,000 and \$100,000, and the penalty module is for a taxable year **2 years old or less OR** the taxpayer has **NOT** been in compliance the past 2 taxable years,

CC ASGNI all modules to the queue for subsequent assignment to Field Collection.

- Notice Status Accounts only - Input CC STAUP 2200.
- CC ASGNI account on IDRS to 7000.
- ACS - move account "TOC0,21,TFQU".  
ACSS - move account "TOS0,21,TFQU".

**EXAMPLE:** It is December 2012, the taxpayer owes \$60,000 and a frivolous penalty was assessed on a balance due module for 30-201012 **OR** the frivolous penalty was assessed for 30-200912 and taxpayer has **NOT** filed and paid 30-201012 or 201112. Send all modules to the queue.

- If the AAB due on the taxpayer's accounts is **greater than** \$100,000, input CC ASGNI to all modules to assign to Field Collection.
  - Notice Status Accounts only - Input CC STAUP 2200.
  - CC ASGNI account on IDRS to 6541.
  - ACS - move account "TOC0,21,TFRO".  
ACSS - move account "TOS0,21,TFRO".

**NOTE:** Follow IRM 5.19.4, *Enforcement Action*, for levy release guidance in hardship cases. **Do not** CNC any of the modules.