



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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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MEMORANDUM FOR SB/SE DIRECTOR, SPECIALTY EXAMINATION;
EMPLOYMENT TAX CHIEF AND TERRITORY MANAGERS;
GROUP MANAGERS AND TAX COMPLIANCE OFFICERS

FROM: Barbara J. Fiebich /s/ *Barbara J. Fiebich*
Director, SB/SE Specialty Examination Policy

SUBJECT: Procedures for Follow-Up Attempts in No Show/No Response
Employment Tax – Tax Compliance Officer Cases

The purpose of this interim guidance memorandum (IGM) is to clarify Employment Tax - Tax Compliance Officer (ET TCO) responsibilities pertaining to follow-up procedures in no show/no response cases, and to introduce the new letter available for use in these situations. Letter 3850-F, *Second Notice*, is now available for use when the taxpayer has not responded to the initial appointment request. If used, the letter will be issued before issuing an audit report. Please ensure this information is distributed to all affected employees within your organization.

Background

IRM 4.23.21.6.3(1) provides that a no-response case occurs when a "deliverable" address exists, but the taxpayer does not respond to correspondence or does not "show" for a scheduled appointment. A follow-up attempt must be made to contact the taxpayer and secure their cooperation. IRM 4.23.21.6.3(2) provides that if the issues are such that the ET TCO can determine a substantially correct wage adjustment from the information available, a 30-day letter and report should be issued. While the IRM provides that a follow-up attempt must be made, it does not provide guidance on how to make that contact. The lack of such guidance does not allow for a consistent approach in determining when to issue an audit report. To ensure all taxpayers are given the same opportunity to respond to the initial appointment letter and information document request, ET TCOs must follow the procedures described below.

Procedural Change

Before issuing an audit report or a 30-day letter on any no show/no response case, the ET TCO must make at least one additional attempt to make contact with the taxpayer to secure their cooperation during the examination. A new letter has been developed for use by the ET TCO. It provides the taxpayer with a second opportunity to talk with the examiner and provide the documentation necessary to complete the examination. Further, it advises the taxpayer of the specific actions that will be taken by the examiner if the appointment is not kept. Letter 3850-F, *Second Notice*, is available for download on the forms and letter repository and will be added to a future release of the Employment Tax Examiner's Report (ETER) program.

When the taxpayer does not respond to the initial appointment letter or does not "show" for a scheduled appointment, the examiner will either issue Letter 3850-F, *Second Notice*, or make a telephone call to the taxpayer in an attempt to obtain their cooperation.

If the TCO has a valid phone number and makes telephone contact with the taxpayer they will use that opportunity to discuss as much about the case as possible since it may be their only contact. If needed, they can also schedule an appointment with the taxpayer during the conversation. If the TCO does not have a valid phone number or if the taxpayer does not answer the telephone, the TCO will issue Letter 3850-F. The TCO will not leave a message for the taxpayer to return the call.

All attempts to contact the taxpayer, by phone or letter, must be fully documented in the Form 9984, Examining Officer's Activity Record.

A 30-day letter and report should be issued if the taxpayer fails to keep the appointment scheduled in the Letter 3850-F or makes no attempt to reschedule, and the issues are such that the ET TCO can determine a substantially correct wage adjustment from the information available.

Effect on Other Documents

The guidance provided above will be incorporated into IRM 4.23.21.6.3(1) and (2), *Report Writing Procedures for No-Response Cases (No Show) or Unlocatable Taxpayers*, by October 2, 2016.

Effective Date:

This interim guidance is effective upon issuance.

If you have any questions concerning the guidance in this IGM, please contact Lynne Miele, Senior Policy Analyst, SB/SE Employment Tax Policy.

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