

IRM PROCEDURAL UPDATE

DATE: 02/25/2016

NUMBER: WI-25-0216-0401

SUBJECT: Return Preparer Misconduct Victim Assistance – General Overview

AFFECTED IRM(s)/SUBSECTION(s): 25.24.1

CHANGE(s):

IRM 25.24.1.2(1) a) Expanded definition of Preparer Misconduct to include the filing of Form 1040X. Added an example.

1. This section provides an overview of terminology used throughout this guidance
 - a. **Preparer Misconduct:** Return preparer misconduct generally involves the orchestrated preparation and filing of false income tax returns (in either paper or electronic form), including Form 1040X, by unscrupulous preparers who may change direct deposit information or claim, for example:
 - Inflated personal or business expenses;
 - False deductions;
 - Excessive exemptions;
 - Fraudulent tax credits such as the Earned Income Tax Credit (EITC);or

The preparer's clients may or may not have knowledge of the false expenses, deductions, exemptions and/or credits shown on their tax returns.

EXAMPLE: A taxpayer used a preparer in 2013 to prepare and file Form 1040. The preparer changed the return by increasing the withholding tax claimed and diverted the resulting refund into the preparer's personal account.

EXAMPLE: A taxpayer used a preparer in 2013 to prepare and file Form 1040. The preparer subsequently files a Form 1040X, *Amended U.S. Individual Income Tax Return*, without the taxpayer's knowledge or consent. The filing of the unauthorized amended return by the preparer may be considered return preparer misconduct.

- b. **Return Preparer Definitions:** The preparer definitions below are for the purposes of this guidance only.
 - *Signing Preparer* – Preparer information appears on the processed tax return. An individual who prepares federal tax returns for

compensation is required to have a Preparer Tax Identification Number (PTIN) issued by IRS and must enter it on every tax return prepared for compensation along with the preparer's name and signature. Any preparer with a PTIN is in the business of preparing tax returns or has held themselves out as in the business of preparing tax returns.

- *Ghost Preparer/Non-Signing Preparer* – No preparer information appears on the processed tax return. An individual who prepares a tax return but does not sign the return as a preparer. These returns may be reflected as "self-prepared".

- c. **RPM Complaint:** Taxpayers alleging preparer misconduct are required to provide Form 14157-A, *Tax Return Preparer Fraud or Misconduct Affidavit*, signed under penalties of perjury and Form 14157, *Return Preparer Complaint*, along with additional required documentation to support their allegations.
- d. **Complete Complaint:** Sufficient documentation is provided AND the preparer information is considered verified and valid.
- e. **Acceptance of Complaint:** Acceptance of an RPM complaint is dependent upon the receipt of sufficient documentation, verification of the preparer and the facts and circumstances of each complaint gathered from the taxpayer's documentation and account research. When a complaint is accepted, the IRS will determine the type of relief the taxpayer is entitled to receive.
- f. **Actual Return or Return As Intended To Be Filed:** The taxpayer's tax return submitted with the RPM complaint reflecting the return unaltered by the preparer and as intended to be filed.
- g. **Relief/Resolution:** Relief and resolution is based upon the specific category defined in (i) and may consist of a combination of the following:
 - The taxpayer's actual return (return as intended to be filed) is accepted as the return of record and account is adjusted to reflect that return.
 - Removal of the preparer portion of the refund attributable to preparer misconduct using a General Ledger (GL) account.
 - Issuance of an additional refund
- h. **Refunds:**
 - *Taxpayer portion of refund* – Any portion of the refund received or determined to be received by the taxpayer and/or any portion of the refund where the taxpayer received benefit (i.e. Refund offset to legitimate liability including BFS offsets.)
 - *Preparer portion of the refund* – Portion of the refund resulting from the altered data on the processed tax return or portion of the refund misdirected to the preparer.
 - *Additional refund* – An additional refund is the amount of the refund still due to the taxpayer.
- i. **RPM Categories:** RPM complaints have been categorized into four (4) basic fact patterns. Within each of the 4 categories, different procedures may apply depending upon the specific facts and circumstances, such as whether there is a signing preparer or a non-

signing preparer (ghost), and/or the method of refund issuance (e.g., refund anticipation check (RAC), split refund, paper check). These facts and circumstances, the specific documentation requirements for each category, verification requirements and account information will determine the treatment stream and whether the taxpayer is entitled to a refund or a portion of the refund misdirected by the preparer.

1. Category 1: Unauthorized filing. The taxpayer was in contact with a preparer and # [REDACTED] # did not sign or authorize the filing of a return, but a return was filed with their name and taxpayer identification number (TIN).

Potential relief/resolution: The IRS will administratively adjust the taxpayer's account to reflect the taxpayer's valid return and remove the portion of the refund attributable to preparer misconduct. The taxpayer shall receive a refund for the entire amount due from his/her valid return, less any amounts already received.

2. Category 2: Authorized filing, Altered return information and No Additional Refund Due to the Taxpayer. The taxpayer was in contact with a preparer and did authorize a return filing, but states tax data (exemptions, income, expenses, deductions, credits, etc.) on their return was altered before it was filed or the return otherwise includes items which they did not authorize.

Potential relief/resolution: The IRS will administratively adjust the taxpayer's account to reflect the taxpayer's valid return and remove the portion of the refund attributable to preparer misconduct. If the taxpayer is in a balance due situation as indicated on his/her valid return and/or the taxpayer received a portion of the refund that exceeds the refund amount to which they are entitled, then the taxpayer is liable for the amount owed and/or will be asked to repay any refund received to which he/she was not entitled.

3. Category 3: Authorized filing, Altered return information and Taxpayer Requesting Additional Refund. The taxpayer was in contact with a preparer and did authorize a return filing, but states tax data (exemptions, income, expenses, deductions, credits, etc.) on their return was altered before it was filed or the return otherwise includes items which they did not authorize.

Potential relief/resolution: The IRS will administratively adjust the taxpayer's account to reflect the taxpayer's valid return and remove the portion of the refund attributable to preparer misconduct. The taxpayer shall receive a refund for the entire amount due from his/her valid return, less any amounts already received.

4. Category 4: Misdirected Refund Only and Taxpayer Requesting Additional Refund. The taxpayer was in contact with a preparer and did authorize a return filing, but states although no tax data was altered, the direct deposit information or mailing address for the refund check was altered diverting all or a portion of the refund to the preparer.

Potential relief/resolution: The IRS will administratively remove the portion of the refund misdirected to the preparer and the taxpayer shall

receive a refund for the entire amount due from the original valid return, less any amounts already received.

IRM 25.24.1.5.1(1) c) Corrected referenced paragraph number and link to applicable IRM. (4) Chart updated - Status 22 removed the requirement to complete Form 14394 for non-specialized RPM functions. Added note advising the specialized RPM functions will complete. IVO Involvement clarified routing to IVO only when the RPM claim involves the original return.

1. A case should be routed/reassigned to the designated function responsible for RPM resolution when:
 - a. A taxpayer initiated RPM complaint is received in a function and it is determined another function is responsible for the RPM resolution (such as complaint received in AM and there is compliance involvement or vice versa).
 - b. Form 14157–A complaint is received outside of RPM specialized function (such as, Form 14157–A is attached to Form 1040 (DUPF) or Form 1040X).
 - c. Form 14039, *Identity Theft Affidavit*, is received alleging preparer misconduct rather than ID theft. (See the Caution and Example under (5) b) of IRM 25.24.1.4 for clarification).
2. All employees are required to perform Integrated Data Retrieval System (IDRS) research to determine where the case should be routed. A case reassigned/routed in error, will be returned to the originator with an explanation.
3. Prior to routing/reassigning the case to the applicable function, if a current year account, input TC 971 AC 850 if entire credit is frozen on account or if conditions in IRM 21.4.1.4.7.1, *Direct Deposit of Refunds*, (4) are present. The input of the TC 971 AC 850 ensures any subsequent refund will not be direct deposited and will be issued as a paper check.
4. Refer to chart below for examples:

If ...	And ...	Then ...
-L freeze and AIMS status is 09 and below	Open in Campus Exam - (EGC 5XXX) and there is no other compliance or RICS involvement	If on CIS: Update data to: <ul style="list-style-type: none"> ○ Doc type: Return Preparer Misconduct ○ Category code RPMC ○ Program code 710-85440 ○ Reassign to # [REDACTED] # If NOT on CIS: Do not detach Form 14157-A from any

		forms included. Route the entire package to local ICT for scanning to CIS.
-L freeze and AIMS status is greater than 09	Open in Campus Exam - (PBC 19X or 29X and EGC 5XXX)	<p>If on CIS: Update data to:</p> <ul style="list-style-type: none"> ○ Doc type: Exam Open RPM ○ Category code IDII ○ Program code 710-85431 ○ Set Priority to 3 ○ Reassign to # [REDACTED] #, <p>EXCEPTION: If the CIS case is currently assigned to an IDTVA-C employee (11870 through 11879), then reassign case to that employee and link cases.</p> <p>If NOT on CIS:</p> <p>FAX case to the appropriate IDTVA-C Examination functional liaison based on the PBC, per listing on SERP under Who/Where tab, AM IDTVA Functional Identity Theft Liaisons.</p> <p>http://serp.enterprise.irs.gov/databases/who-where.dr/functional_id_theft.htm.</p>
-L freeze and AIMS status is 10 and below	Open in Field Exam - (EGC 1XXX or 2XXX only) and there is no other compliance or RICS involvement	<p>If on CIS: Update data to:</p> <ul style="list-style-type: none"> ○ Doc type: Return Preparer Misconduct ○ Category code RPMC ○ Program code 710-85440 ○ Reassign to # [REDACTED] # <p>If NOT on CIS:</p> <p>Do not detach Form 14157-A from any forms included. Route the entire package to local ICT for scanning to CIS.</p>
-L freeze and AIMS status is greater than 10	Open in Field Exam - (PBC 20X and EGC 1XXX or 2XXX only)	Route to appropriate area using the Exam Employee Group Code (EGC) Contacts listing on SERP under Who/Where tab.
Posted TC 30X – Exam	Assessment	If on CIS: Update data to:

	<p>input by Campus Exam - (PBC 19X or 29X and EGC 5XXX)</p>	<ul style="list-style-type: none"> ○ Doc type: Exam Closed RPM ○ Category code IDII ○ Program code 710-85431 ○ Reassign to # [REDACTED] #, <p>EXCEPTION: If CIS case is currently assigned to an IDTVA-C employee (11870 through 11879), then reassign case to that employee and link cases.</p> <p>If NOT on CIS:</p> <p>Fax case to the appropriate IDTVA-C Examination functional liaison based on the PBC, per listing on SERP under Who/Where tab, AM IDTVA Functional Identity Theft Liaisons.</p> <p>http://serp.enterprise.irs.gov/databases/who-where.dr/functional_id_theft.htm.</p>
	<p>Assessment input by Field Exam - (PBC 20X and EGC 1XXX or 2XXX only)</p>	<p>Send secure e-mail with the CIS ID and taxpayer TIN or fax case to the IDTVA-C Examination - Brookhaven Exam Reconsideration liaison, per listing on SERP under Who/Where tab, AM IDTVA Functional Identity Theft Liaisons.</p> <p>http://serp.enterprise.irs.gov/databases/who-where.dr/functional_id_theft.htm</p> <p>NOTE: If sending secure e-mail, leave a CIS case note the case is being referred to IDTVA-C Brookhaven and close the case using Close by MISC button.</p>
<p>TC 922 - AUR involvement</p>		<p>Determination to route or retain the case depends on the process code assigned. Follow IRM 21.3.1.4.56, <i>Status of Underreporter Cases</i>.</p> <p>NOTE: Consider the actions taken by AUR as disputed if the taxpayer is claiming his/her tax preparer altered their tax return and route to appropriate AUR function.</p>

		<ul style="list-style-type: none"> ○ Doc type: AUR Open RPM or AUR RPM Recon ○ Category code IDII ○ Program code 710-85431 ○ Set Priority to 3, if doc type is AUR Open RPM ○ Reassign to # [REDACTED] #, <p>EXCEPTION: If CIS case is currently assigned to an IDTVA-C employee (11880 through 11889), then reassign case to that employee and link cases.</p> <p>If NOT on CIS:</p> <p>Fax case to the applicable IDTVA-C AUR functional liaison, per listing on SERP under Who/Where tab, AM IDTVA Functional Identity Theft Liaisons.</p> <p>http://serp.enterprise.irs.gov/databases/wh-o-where.dr/functional_id_theft.htm</p>
<p>Status 22 – ACS</p>		<ul style="list-style-type: none"> • If there is other compliance activity that created the balance due (such as an Exam or AUR assessment) on the account, route/reassign to the applicable IDTVA-C functional liaison per this chart. • If there is no other compliance involvement: <p>If on CIS: Update data to:</p> <ul style="list-style-type: none"> ○ Doc type: Return Preparer Misconduct ○ Category code RPMC ○ Program code 710-85440 ○ Reassign to # [REDACTED] # <p>If NOT on CIS:</p> <p>Do not detach Form 14157-A from any forms included. Route the entire package to local ICT for scanning to CIS.</p>

		<p>NOTE: Specialized RPM functions, will complete Form 14394 upon receipt of the Status 22 case. Refer to IRM 25.24.2.3.1, <i>Reroute Criteria</i>, Exception, for additional information regarding the completion of the Form 14394.</p>
<p>IVO involvement:</p> <p>For example (Not all inclusive):</p> <ul style="list-style-type: none"> ○ TC 971(s) with AC(s) 121/129/134/617/199 ○ UPC 147 RC 7 or 8 ○ OMM indication and # [REDACTED] # on CC TRDBV 	<p>RPM claim involves the original return</p>	<p>Route to Austin IVO Function</p> <p>Mail Stop 6579</p> <p>3651 S Interregional HWY 35</p> <p>Austin, TX 78741-0053</p>
	<p>RPM claim does not involve the original return</p> <p>EXAMPLE: The allegation involves the filing of an unauthorized Form 1040X.</p>	<p>If on CIS: Update data to:</p> <ul style="list-style-type: none"> ○ Doc type: Return Preparer Misconduct ○ Category code RPMC ○ Program code 710-85440 ○ Reassign to # [REDACTED] # <p>If NOT on CIS: Do not detach Form 14157-A from any forms included. Route the entire package to local ICT for scanning to CIS.</p> <p>EXCEPTION: If there is compliance involvement, route/reassign to the applicable function following the guidance in this chart.</p>
<p>Criminal Investigation (CI) involvement and no other compliance or RICS involvement;</p> <p>For example:</p> <ul style="list-style-type: none"> ○ Z freeze ○ TC 914/916/918 ○ Taxpayer statement indicates contact with CI 		<p>If on CIS: Update data to:</p> <ul style="list-style-type: none"> ○ Doc type: Return Preparer Misconduct ○ Category code RPMC ○ Program code 710-85440 ○ Reassign to # [REDACTED] # <p>If NOT on CIS: Do not detach Form 14157-A from any forms included. Route the entire package</p>

		<p>to local ICT for scanning to CIS.</p> <p>EXCEPTION: If there is compliance or RICs involvement, route/reassign to the applicable function following the guidance in this chart.</p>
<p>Appeals involvement</p>		<p>Do not route to Appeals.</p> <p>If on CIS: Update data to:</p> <ul style="list-style-type: none"> ○ Doc type: Return Preparer Misconduct ○ Category code RPMC ○ Program code 710-85440 ○ Reassign to # [REDACTED] # <p>If NOT on CIS:</p> <p>Do not detach Form 14157-A from any forms included. Route the entire package to local ICT for scanning to CIS.</p> <p>EXCEPTION: If there is compliance or RICs involvement, route/reassign to the applicable function following the guidance in this chart.</p>