

## IRM PROCEDURAL UPDATE

**DATE: 02/26/2016**

**NUMBER: WI-25-0216-0402**

**SUBJECT: Return Preparer Misconduct Victim Assistance Specialized Accounts Management Processing**

**AFFECTED IRM(s)/SUBSECTION(s): 25.24.2**

**CHANGE(s):**

**IRM 25.24.2.3.1(1) Exception - Added guidance for the completion of the Form 14394 on status 22 accounts.**

1. Accounts showing compliance or RICS involvement will be routed/reassigned to the appropriate compliance or RICS function following normal AM procedures. Refer to IRM 25.24.1.5.1, *Routing Information*, for additional information.

**EXCEPTION:** Accounts in status 22 with no other compliance involvement (i.e., Exam or AUR) will be resolved in IDTVA AM. ACS must be notified to stop collection while the account is being resolved and then notified after resolution if account still reflects a tax liability balance due. Complete Form 14394, *Identity Theft/RPM Case Collection Alert Instructions*, and fax/secure e-mail to the applicable liaison per the instructions on the form. Include check boxes, "RPM" and "Case currently in Status 22/24/26". Leave a CIS case note that the Form 14394 was referred to stop collection action. Refer to IRM 25.24.1.5.1, *Routing Information*, for additional information.

**NOTE:** If an Operation Assistance Request (OAR) or Taxpayer Assistance Order (TAO) is received in IDTVA RPM AM and the account reflects compliance or RICS involvement, follow IRM 21.1.3.18.1, *Operation Assistance Requests (OAR's) Accounts Management Guidelines*.

**IRM 25.24.2.4.1(1) - Clarified that claims received after the ASED must still be considered.**

1. For allowable or partially allowable Category 1-3 claims, the original return is considered a nullity and the actual return presented by the taxpayer is the taxpayer's return of record. If the RPM claim is received **after** the ASED has expired, the claim must still be considered. If the claim is allowable or partially allowable the ASED must be updated to reflect the receipt of the taxpayer's actual return.

- a. Use the following instructions when using TC 560 to correct the ASED:
  1. TC 560 on CC REQ77 must be input on IDRS to correct the ASED to show the posting of the correct return.
  2. Input TC 560 on CC REQ77 in Blocking Series 700 to extend the ASED. Use Blocking Series 990–999 to back date/back down the ASED.
- b. Use the received date of the taxpayer's signed return as intended to be filed to reflect the date of the return of record.

**IRM 25.24.2.6.5.1 - Added in use of any applicable letter including Letter 3064C and clarified case note requirement.**

1. For all categories where the determination has been made that the complaint is not complete, correspondence will be issued requesting the missing documentation. The case will be suspended for 40 days awaiting the taxpayer response (70 days for overseas taxpayers). If no response is received or insufficient information is provided, the claim will be disallowed or partially disallowed.
2. Advise the taxpayer to provide the requested information within 30 days.
3. For all categories, if case is considered incomplete, initiate a refund trace if no trace has been previously performed. Refer to IRM 25.24.2.3.7, *Refund Trace Requirements*, for additional information.
  - o For Category 1 and Category 2 cases specifically, if the additional information was requested from the taxpayer and the taxpayer responds before the refund trace information becomes available, **do not** wait for the refund trace information, resume working the case per IRM 25.24.2.6, *Procedures for IDTVA RPM AM*.
4. If the Assessment Statute Expiration Date (ASED) is imminent (90 days) and the taxpayer's actual return is included with the complaint however, there are other missing elements, the CSR will have to take into consideration certain factors and time-frames in order to ensure the ASED is protected. Timely follow-up is required on these suspense cases.

**NOTE:** How we treat the taxpayer's actual return submitted with the complaint differs depending upon if we allow or disallow a claim; however, in an incomplete scenario that determination cannot be made immediately and although the ASED is considered imminent, certain factors may affect the statute implication.

<b>Actual return is present showing tax increase/credit decrease:</b>		
<b>If the original refund is ...</b>	<b>And ...</b>	<b>Then ...</b>
# [REDACTED] # or # [REDACTED] # and it can be determined that only a portion or no refund was	Tax/credit change # [REDACTED]	No statute implication  • Correspond and suspend case.

deposited into an account in taxpayer's name	<p>██████ #</p> <p>Tax/credit change #</p> <p>██████ #</p>	<p>ASED more than 60 days</p> <ul style="list-style-type: none"> <li>• Correspond and suspend case.</li> <li>• Take no action on actual return during suspense time frame.</li> </ul> <p><b>NOTE:</b> If the determination after the suspense time frame is a disallowance, a <b>PROMPT</b> assessment <b>WILL</b> be required and referral to Exam.</p>
		<p>ASED less than 60 days</p> <ul style="list-style-type: none"> <li>• Correspond and suspend case.</li> <li>• Prompt assessment tax increase and/or credit decrease.</li> <li>• Indicate on Form 3210 to <b>Hold the Billing Notice.</b></li> </ul> <p><b>NOTE:</b> CSR judgment may be used whether to input this initial prompt. If there is sufficient time for the suspense time frame (40/70 days) and then sufficient time to prompt if applicable (i.e., determination after suspense is a disallowance), then the case can be suspended without the initial prompt. However, timely follow-up actions <b>MUST</b> be taken to protect the ASED.</p> <p><b>NOTE:</b> If the determination after the suspense time frame is a disallowance, referral to Exam is required</p> <p>.</p> <p>(Refer to IRM 25.24.2.6.6.1, <i>Disallowance</i>, for additional information, if applicable).</p>

<p># [REDACTED] # and determination can be made that the entire refund was deposited into an account in the taxpayer's name</p> <p>OR</p> <p>Determination cannot be made at the time of suspense regarding receipt or non-receipt of refund</p>	<p>ASED more than 60 days</p>	<ul style="list-style-type: none"> <li>• Correspond and suspend case.</li> <li>• Take no action on actual return during suspense time frame.</li> </ul> <p><b>NOTE:</b> If the determination after the suspense time frame is a disallowance, a <b>PROMPT</b> assessment <b>WILL</b> be required.</p>
	<p>ASED less than 60 days</p>	<ul style="list-style-type: none"> <li>• Correspond and suspend case.</li> <li>• Prompt assessment to reflect taxpayer's actual return following normal procedures.</li> <li>• Indicate on Form 3210 to "Hold the Billing Notice".</li> </ul> <p><b>NOTE:</b> CSR judgment may be used whether to input this initial prompt. If there is sufficient time for the suspense time frame (40/70 days) and then sufficient time to prompt if applicable (i.e., determination after suspense is a disallowance), then the case can be suspended without the initial prompt. However, timely follow-up actions <b>MUST</b> be taken to protect the ASED.</p> <p><b>NOTE:</b> If initial prompt is input and determination after suspense time frame is a disallowance, the <b>PROMPT</b> assessment <b>MAY</b> have to be reversed. (Refer to IRM 25.24.2.6.6.1, <i>Disallowance</i>, for additional information, if applicable).</p>

5. Correspond using Letter 131C, *Information Insufficient or Incomplete for Processing Inquiry*, or equivalent, such as Letter 3064C.

- a. Request all information needed for a complete complaint, including preparer information, if applicable.
- b. Suggested language for the opening paragraph: *We have received your complaint of Return Preparer Misconduct; however, we are unable to process your complaint for the tax period(s) shown above because your supporting information is incomplete or missing the required documentation.*
- c. Capture letter on CIS per IRM 21.5.1.5.1, *CIS General Guidelines*.
- d. Leave a case note on CIS indicating the c letter that was sent and the list of the information requested.
- e. Suspend case on CIS for 40 days (70 days for overseas taxpayers).
- f. Monitor for response. Refer to IRM 25.24.2.6.5.2, *Taxpayer Responses*, if a reply is received or the suspense period expires.

#### **IRM 25.24.2.6.7.1 - Added TOP offset involving child support information.**

1. Offset Reversals – Care must be taken when determining if offsets (posted in or out of the module) should be reversed. The offset may not have to be reversed in its entirety and will depend upon circumstances of the account and the relief to which the taxpayer is entitled.
2. Reverse offsets that may have been applied from other tax years into the tax year module that the RPM complaint involves. Depending upon the account status, include TC 570's on your credit transfer, if necessary. Be sure to release any credits on these associated modules.

**NOTE:** If the taxpayer will have an actual balance due, then only reverse the portion of the offset that exceeds the balance owed including penalties and interest.

3. Reverse offsets generated from the original refund applied to other IRS debts, when appropriate. Include TC 570 on your credit transfer screen as needed.
4. Treasury Offset Program (TOP) offset reversals - Reverse only the portion that exceeds the taxpayer's actual overpayment amount. Include TC 570 on your credit transfer screen as needed.
5. For TOP offsets involving child support, the IRS must limit the time to reverse a child support offset to 5 months from the refund payment date. Elevate case to ITVA HQ through your IDTVA P&A POC for case determination.
6. Examples:
  - a. The taxpayer did not receive any refund and is entitled to full relief including additional refund. Account shows an adjustment was previously input to reflect a Form 1040X creating a balance due. An offset (TC 706) was applied from subsequent year to the balance due.

In this scenario, the entire offset can be reversed back to the originating module. When inputting resolution of RPM claim, the subsequent posting of a TC 841 (removal of the preparer

portion of the refund using general ledger account) will resolve the balance due and the remaining credit should reflect the taxpayer's true refund.

- b. Account shows TC 846 \$5,500.00 with a Bureau of the Fiscal Service (BFS) offset of 5,000.00. The taxpayer states no refund received and is entitled to relief. Research shows the remaining portion of \$500.00 was not deposited into an account in the name of the taxpayer. The taxpayer's return as intended to be filed shows a refund of \$3,000.00.

In this scenario, although the taxpayer may not have actually received a refund, he/she received benefit of \$5,000.00 offset to a BFS debt. Since the offset exceeds the amount of the taxpayer's actual overpayment, \$2,000.00 of the offset would be reversed and the resolution of the preparer portion of the refund of \$500.00 would be addressed utilizing general ledger procedures.

#### **IRM 25.24.2.6.7.4.2 - Added IRM reference for return processible date (RPD).**

1. The posting sequence of actions taken and adjustments input is important. When the original return is considered a nullity, that return will be zeroed out and then a second adjustment will be input reflecting the figures on the taxpayer's return of record. This second adjustment will issue a notice of adjustment (containing any refund amount or balance due amount, if applicable) and will release any freeze conditions, generating a refund, if applicable.
2. If the account has previously been adjusted to reflect the taxpayer's return of record (i.e., SP processed an amended return), then the back out guidance can be bypassed. The CSR will follow any other applicable steps, for example:
  - o TC 841/TC 700
  - o Adjustment to reflect the taxpayer's return is not necessary; however an adjustment must be input to address penalties, if applicable, or an adjustment needs to be input to include the Return Processible Date (RPD) date. (Follow any other rules (BL, HC etc.) as shown in (4) below).
  - o Post delay transactions, as necessary.

**EXCEPTION:** If the taxpayer's actual return shows a balance due and the balance due remains unpaid or it was paid after the original return due date, it is necessary to follow the back-out procedures that follow. This will allow a clear notice of adjustment to be generated with the subsequent adjustment to reflect the taxpayer's actual return.

3. In general, when RPM Category 1 – 3 cases are allowable, the original TC 150 will be considered a nullity. This account information will be removed in full following normal back-out procedures.
  - Input an adjustment to back out the TC 150 original return information in full to zero out the account. On REQ54/ADJ54 screen use:
    - Use Blocking Series (BL) 05.
    - Source Code (SC) 0.
    - Reason Code (RC) 099.
    - Use Hold Code (HC) 4 to hold notices and any credit scenario.
    - Include TC 170.00, if applicable.
4. The subsequent adjustment will reflect the figures on the return submitted with the taxpayer's complaint, considered now to be the return of record. If the taxpayer was not liable to file, adjust the account only to remove the posted information.

**NOTE:** Category 4 cases are misdirected refund only cases and the original posted return is not considered a nullity. CSR will follow any other applicable steps (i.e., CC RPM48/58 etc.).

On REQ54/ADJ54 screen use:

- BL 00 (BL 77 if setting a math error) to reflect adjustment made with original return.

**NOTE:** If statute issues apply, see IRM 25.24.2.4, *Statute Considerations*, for additional information.

- SC 2 (SC 6 if setting a math error).
- RC 131 and any other applicable RCs.
- Use HC 0 to allow the notice to generate.

**EXCEPTION:** Use HC 4 if required to issue a manual refund or if required to transfer the overpayment to Excess Collections.

- Use PDC 1 to allow previous actions taken to post first, if applicable.
- Include Return Processible Date (RPD), the received date of the taxpayer's actual processible return on your ADJ54.

**NOTE:** The RPD date is the date the taxpayer submits a signed tax return that can be processed. Unsigned returns are not processible. See IRM 20.2.4.5, *Unprocessable Returns*, for additional information.

- IRN 871 and PC 2 are required inputs with this adjustment if the taxpayer's actual return shows a balance and the balance due remains unpaid or it was paid after the original return due date. Refer to IRM 25.24.2.5, *Balance Due Cases - Penalty Considerations*.

5. Determine if DIF score is needed per guidance in IRM 21.5.2.4.23.6, *DIF SCORE or CLASSIFICATION "Send Return(s) to Examination for Review"*. If criteria are met, send return to Examination for review.
6. If the taxpayer is due a refund, issue a manual refund **ONLY** if a refund cannot be systemically released. Refer to IRM 21.4.4.4, *Preparation of Manual Refund Forms*, for additional guidance on issuing a manual refund. Otherwise, release freeze for systemic generation.

**REMINDER:** If the taxpayer is eligible for credit interest, he/she is only entitled to it from the RPD date.

7. Input TC 472 to reverse TC 470 previously input, if applicable.

**REMINDER:** This is important since in some instances after all account actions are performed, normal collection notices should be issued for balance due amount shown on the taxpayer's return of record.

8. If the account is in status 22 and a balance due for tax liability is still present, ACS must be notified again.
  - o Complete Form 14394, *Identity Theft/RPM Case Collection Alert Instructions*. Be sure to check box "IDT/RPM Resolved Continuing Balance Due issue or NOIDT determination made AND case is still in Collection Status 22"
  - o FAX/e-mail the form to the applicable liaison per the instructions on the Form 14394.
  - o Leave CIS case note that Form 14394 was referred for continuing balance due issue.
9. Notify the taxpayer of adjustment action taken using the applicable letter depending upon what actions were taken. Refer to IRM 25.24.2.6.5, *Taxpayer Correspondence*, for additional information.

Suggested opening paragraph verbiage: *"We have allowed your claim of return preparer misconduct. We have adjusted the account(s) shown above to reflect the information shown on the tax return(s) you provided so that your IRS tax records are accurate."*

**REMINDER:** Refer to IRM 25.24.2.6.5, *Taxpayer Correspondence*, section for additional information that may have to be addressed in the closing letter. For example: If a math error was set, provide the taxpayer a detailed explanation of the math error, or balance due/penalty issues etc.

10. Close CIS case.
11. Ensure the Form 14157 and Form 14157-A information has been e-mailed to RPO.