



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
ATLANTA, GA 30308

WAGE AND INVESTMENT DIVISION

December 31, 2015

Control Number: WI-25-1215-003  
Expiration Date: December 31, 2016  
Impacted: 25.24.3

MEMORANDUM FOR Director, Identity Theft Victim Assistance-Compliance

FROM: James P. Clifford /s/ *James P Clifford*  
Director, Accounts Management

SUBJECT: Interim Guidance on Allegations of Return Preparer Misconduct for the Identity Theft Victim Assistance – Compliance (IDTVA-C) Only for Tax Year 2013 and Prior (Suspended Cases Only)

This memorandum provides guidance on Return Preparer Misconduct (RPM) cases prior to tax year 2014 being held pending policy decisions. This guidance will be used for cases received on or before December 31, 2015 ONLY. Additional guidance will be incorporated into proposed IRM 25.24.3, *Return Preparer Misconduct Compliance*, which is currently being drafted. This guidance is for all Wage & Investment (W&I) Identity Theft Victim Assistance Compliance (IDTVA-C) Operations and is effective immediately.

RPM includes situations in which unscrupulous return preparers alter taxpayer tax data (including but not limited to falsified dependents, expenses, deductions, credits, income, refund amount, etc.) and/or misdirect a portion or all of the refund. Taxpayers may become aware of misconduct through taxpayer initiated contact (Toll-Free, Field Assistance, Taxpayer Advocate Service, etc.) or through IRS enforcement contacts, revenue agent (RA) or tax compliance officer (TCO) contact, Automated Underreporter (AUR) correspondence, campus examination correspondence, revenue officer (RO) contact, Criminal Investigation (CI) inquiries, etc.

Taxpayers who claim to be a victim of return preparer misconduct must submit a complaint and the required documentation to the IRS to request assistance and relief.

The IRS may provide assistance and relief to taxpayers when the return preparer has altered a taxpayer's tax data and/or misdirected a portion or all of a refund. For situations where a return preparer has altered information on a taxpayer's return, the taxpayer must submit sufficient documentation to support his or her claim that the return filed was altered by the return preparer.

Please ensure that this information is distributed to all affected employees within your organization.

## Table of Content

- I. [Return Preparer Misconduct](#)
  - A. [Overview](#)
  - B. [Policy Statement](#)
  - C. [Definition of a Return Preparer](#)
- II. [Return Preparer Misconduct Complaints](#)
  - A. [Return Preparer Misconduct Complaints - Paper](#)
  - B. [Routing Information](#)
- III. [Return Preparer Misconduct Criteria Not Met](#)
- IV. [Return Preparer Misconduct Criteria Met](#)
  - A. [Overview of the Preparer Misconduct Categories](#)
- V. [Evaluating RPM Complaints](#)
  - A. [Review of Taxpayer Correspondence](#)
  - B. [RPM Documentation](#)
  - C. [Verification of the Preparer](#)
  - D. [Refund Trace](#)
  - E. [Law Enforcement Report Verification](#)
- VI. [Return Preparer Misconduct Categories](#)
  - A. [RPM Category 1](#)
  - B. [RPM Category 2](#)
  - C. [RPM Category 3](#)
  - D. [RPM Category 4](#)
- VII. [Erroneous Refund Procedures](#)
- VIII. [Issuing Correspondence](#)
  - A. [Corresponding with the Taxpayer](#)
  - B. [Incomplete Documentation](#)
  - C. [Evaluating Taxpayer's Response to Missing Documentation Request](#)
- IX. [Disallowance of Claim](#)
  - A. [Full Disallowance](#)
  - B. [Partial Disallowance](#)
- X. [Referrals to Return Preparer Office](#)
- XI. [Statute Of Limitations](#)
  - A. [Statute Consideration](#)
  - B. [Statute of Limitations – ASED](#)
  - C. [Statute of Limitations – RSED](#)
  - D. [Statute of Limitations – ERSED](#)
- XII. [Penalties and Interest](#)
  - A. [Balance Due Cases](#)
  - B. [Penalty and Interest Consideration for Balance Owed Due to Tax Liability](#)
  - C. [Accuracy Related Penalties](#)
- XIII. [Collection Activity](#)
  - A. [AUR and Campus Exam Functions Only](#)

B. ACS Support

XIV. Account Adjustments

A. Case Controls & Acknowledgement Procedures

B. Reassigning Cases Through CIS

C. DITA Case Controls & Closing Procedures

Exhibit A – Refund Trace

Exhibit B – FMS 150.1

## **I. Return Preparer Misconduct (RPM)**

### **A. Overview**

- 1) Unscrupulous return preparers may alter taxpayer tax data (includes but is not limited to falsified dependents, expenses, deductions, credits, income, refund amount, etc.) and/or misdirect a portion or all of the refund
- 2) Taxpayers may become aware of misconduct through taxpayer initiated contact (Toll-Free, Field Assistance, Taxpayer Advocate Service, etc.) or through IRS enforcement contacts (revenue agent (RA) or tax compliance officer (TCO), Automated Underreporter (AUR) correspondence, campus examination correspondence, revenue officer (RO) contact, Criminal Investigation (CI) inquiries, etc.).
- 3) Taxpayers who claim to be a victim of return preparer misconduct must submit a complaint and the required documentation to the IRS to request relief.
- 4) Per the Taxpayer Bill of Rights (TBOR), taxpayers have the right to expect a fair and just tax system which provides taxpayers with the opportunity to have their facts and circumstances considered when it might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service (TAS) if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through normal channels. IRS employees must be informed about taxpayer rights and be conscientious in the performance of their duties to honor, respect and effectively communicate those rights. Refer to <https://www.irs.gov/Taxpayer-Bill-of-Rights>, for additional information.

### **B. Policy Statement P 25-2**

- 1) The IRS has established a Policy Statement (P 25-2) that covers victims of preparer misconduct. <http://core.publish.no.irs.gov/irm/p01/pdf/irm01-002-024--2015-06-12.pdf>

### **C. Definition of a Return Preparer**

- 1) **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 returns or has held him/herself out as in the business of preparing tax returns.
- 2) **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".
- 3) The definitions as outlined above are only for the purpose of this guidance.

## **II. Return Preparer Misconduct Complaints**

### **A. Return Preparer Misconduct Complaints - Paper**

- 1) **Compliance Complaints** – A complaint from a taxpayer who has current or previous Compliance involvement with the IRS will be forwarded to the appropriate IDTVA-C function when RPM documentation is received. It includes but is not limited to an account of a taxpayer who became aware of return irregularities/inconsistencies as a result of:
  - a) Audit notice or assessment (-L freeze, Transaction Code (TC) 420/424, TC 300)
  - b) AUR notice; such as CP2501 or CP 2000 (TC 922 with Process Code 30, 55 or 57; refer to IRM [21.3.1.4.56](#), *Status of Underreporter Cases*)
  - c) Collection notices

d) Contact by RO, RA, TCO or other Field employee

**Note:** All RPM complaints received on closed area office examination cases will be referred to the IDTVA-C team in accordance with IRM [4.13](#), *Audit Reconsideration*.

- 2) **Other than Compliance Complaints** – If a complaint is received with **no** evidence of Compliance involvement (e.g., taxpayer who became aware of the potential for return irregularities/inconsistencies through friends who used the same preparer or through media releases) will be worked by the appropriate function outside of Compliance. This could include:
- a) Accounts Management (AM),
  - b) Integrity & Verification Operations (IVO), or
  - c) Criminal Investigation (CI)

**Note:** See [Routing Information](#) for proper case routing information on other than Compliance Complaints.

### **B. Routing Information**

- 1) All employees are required to perform Integrated Data Retrieval System (IDRS) research to determine possible Compliance involvement and determine:
  - If there are related case controls **or**
  - If there are multiple controls on the account, i.e. AUR, Exam or AM
- 2) **Compliance Controls** – If case is routed to the incorrect IDTVA-C team, reassign the case through CIS to the appropriate function following normal procedures.
- 3) **Accounts Management Controls or No open Controls** – Reassign the case through CIS as follows:

Doc type: Correspondence (effective 01/01/2016 – Return Preparer Misconduct)  
Category Code: RPMC  
Program Code: 710-85440  
Reassign to: 1181702421

- 4) **Integrity & Verification Operations Controls (IVO)** - An IVO complaint can be identified as follows: (This list is not all inclusive.)
  - a) TC971(s) AC(s) 121/134/617/199, or
  - b) UPC 147 RC 7 or 8,
  - c) OMM indication # [REDACTED] # on CC TRDBV
  - d) Route case to the address below.

IVO  
Internal Revenue Service

Mail Stop 6579  
Austin, TX 73301

- 5) **Criminal Investigation (CI)**
  - a) RPM complaints indicating CI involvement may be worked by IDTVA-C after contact is made with CI for guidance prior to taking any action on the account.
  - b) If a Z freeze is present, follow normal procedures.
  - c) If the taxpayer indicates some kind of CI involvement, for example taxpayer states that a CI agent called/interviewed him/her or an agent's card is included in documentation,

then case will be referred to CI for guidance. The following steps will be taken when a referral is required:

- (1) Complete RPM CI Referral form (located on SERP Return Preparer Misconduct webpage)
  - Request response date 7 business days from referral date.
  - Include taxpayer and preparer information and information signifying CI involvement.
  - Complete examiners contact information and date on bottom of form.
- (2) Send secure email with referral attached to CI point of contacts (POC) per referral form.
  - Subject line: "ACTION: RPM CI Referral - Please respond by (date)".
  - Include in email any other information or question not addressed on referral form.
- (3) Suspend case waiting CI response.
- (4) If no response from CI by requested date, forward the original email as follow up and request response in 3 business days.

**Note:** If no response after 3 business days forward email to your IDTVA P&A contact for elevation to ITVA HQ.

- (5) Upon receipt of response from CI:
  - Include completed referral with CI response to case.
  - Take appropriate actions based on CI guidance for the disposition or resolution of RPM case.
- d) If CI confirms the preparer named in the [Form 14157-A](#) is under investigation; consider this is acceptable documentation that the preparer is in the business of preparing returns. Depending on the CI response, it may also be sufficient documentation to satisfy the corroboration requirement for non-signing preparers.

**Note for Exam Use only:** Do not confuse cases under the Return Preparer Program with Return Preparer Misconduct victim assistance. Any cases under the Return Preparer Program (e.g. Program Action Cases, see IRM [4.1.10](#), *Return Preparer Program Coordinator*) do not automatically qualify for victim relief. The taxpayer must state he/she is a victim of preparer misconduct and provide the necessary documentation to be considered for relief.

**Note:** The Return Preparer Office (RPO) may also direct [Form 14157](#), without the presence of [Form 14157-A](#), when there is indication that the taxpayer is requesting account resolution and there is compliance activity. RPO does not make account determinations. Do not reject these cases. IDTVA-C will continue with resolution of these cases.

### III. Return Preparer Misconduct Criteria Not Met

- 1) There will be instances when the taxpayer's complaint will not meet the IRS guidelines for relief under Return Preparer Misconduct. Be aware, however, that even if the complaint does not meet RPM guidelines, certain situations could result in some assistance or relief for the taxpayer.

**Example:** A taxpayer may have submitted documentation claiming he/she is a victim of preparer misconduct due to his/her refund not being received. However, the reason a refund was not received may be due to a frozen refund or refund offset.

2) Although not all inclusive, follow the If/Then chart below for situations that do not fit into the IRS guidelines for relief:

<b>No Return Preparer Misconduct</b>	
<b>If ...</b>	<b>Then ...</b>
<p>The taxpayer's only issue is a lost, stolen or unintentional misdirected refund.</p> <p><b>Example:</b> Incorrect routing or different account number due to a transposition error.</p> <p>If refund was stolen by preparer, see <a href="#">Return Preparer Misconduct Documentation</a></p>	<ul style="list-style-type: none"> <li>• See IRM <a href="#">21.4.1.3.4</a>, <i>Refund Issued but Lost, Stolen, Destroyed or Not Received</i></li> <li>• Advise the taxpayer that a review of the account and the information provided demonstrates that it is likely another issue.</li> <li>• Provide an explanation of the account condition.</li> <li>• Document actions taken using CIS and functional system, if applicable.</li> <li>• Return case to the appropriate Compliance function, as applicable, following normal procedures.</li> </ul>
<p>The taxpayer submits preparer misconduct documentation, however, the reduced refund is due to a math error, frozen refund, or usual inquiries by Exam or AUR.</p> <p><b>Example:</b> The taxpayer mistakenly believes he/she is a victim of preparer misconduct; e.g., the taxpayer did not receive his/her correct refund because the taxpayer's earned income tax credit was frozen due to selection for examination.</p>	<ul style="list-style-type: none"> <li>• Inform the taxpayer that a review of the account and information provided does not support return preparer misconduct.</li> <li>• Return case to the appropriate Compliance function, as applicable.</li> <li>• Document account actions taken or not taken (e.g., correction of math error or additional information needed to verify the AUR or Exam issue.) using CIS and functional system, if applicable, following normal procedures.</li> </ul>

<p>Taxpayer <b>did not</b> visit a preparer for current year; however, preparer filed a return without authorization utilizing information obtained from a prior year visit resulting in an identity theft scenario.</p> <p><b>OR</b></p> <p>Taxpayer provides preparer name and company name and # [REDACTED] #, resulting in an identity theft scenario.</p> <p><b>And</b> there is no evidence that the taxpayer's actual return has been processed. No duplicate filing transaction codes (TC 976/977) on module.</p>	<ul style="list-style-type: none"> <li>• Advise the taxpayer he/she is a victim of identity theft and additional information is needed. See IRM <a href="#">25.23.2.18</a>, <i>Overview-Identity Theft Supporting Documentation</i>, for required documentation.</li> <li>• Follow functional identity theft procedures.</li> <li>• If unprocessed return received with RPM complaint, process following normal procedures.</li> <li>• Document actions taken using CIS and functional system, if applicable.</li> <li>• Return case to the appropriate Compliance function, as applicable, following normal procedures.</li> </ul> <p><b>Note:</b> Do not request information if the IDT issue can be resolved utilizing internal information.</p>
<p>Taxpayer <b>did not</b> visit a preparer for current year; however, preparer filed a return without authorization utilizing information obtained from a prior year visit resulting in an identity theft scenario.</p> <p><b>OR</b></p> <p>Taxpayer provides preparer name and company name and # [REDACTED] #, resulting in an identity theft scenario.</p> <p><b>And</b> there is evidence that the taxpayer's actual return has been processed identified by duplicate filing transaction codes (TC 976/TC 977) on module.</p>	<ul style="list-style-type: none"> <li>• Advise the taxpayer he/she is a victim of identity theft (IDT) and additional information is needed. See IRM <a href="#">25.23.2.18</a>, <i>Overview-Identity Theft Supporting Documentation</i>, for required documentation.</li> <li>• Follow functional IDT procedures.</li> </ul> <p><b>Note:</b> Do not request information if the IDT issue can be resolved utilizing internal information.</p>
<p>The taxpayer's account does not show a posted return.</p> <p><b>Example:</b> The taxpayer may assume the preparer filed an unauthorized return because of media attention.</p>	<ul style="list-style-type: none"> <li>• Research account to determine if there is IVO involvement. If # [REDACTED] # such as unreversed OMM indicators, route to IVO.</li> <li>• No IVO involvement and no return posted, advise the taxpayer that no tax return was filed using his/her TIN.</li> <li>• Solicit for the return and follow normal</li> </ul>

	<p>functional procedures on secured returns.</p> <ul style="list-style-type: none"> <li>• If a return is submitted by the taxpayer, advise the taxpayer that it will be forwarded for processing and if a refund is due, it may take up to six to eight weeks.</li> <li>• Document actions taken using CIS and functional system, if applicable.</li> <li>• Return case to the appropriate Compliance function, as applicable, following normal procedures.</li> </ul>
<p>The taxpayer submits preparer misconduct documentation due to a credit offset for a balance due on a prior year or Treasury Offset Program (TOP) offsets for other liabilities, e.g. child support.</p>	<ul style="list-style-type: none"> <li>• Advise the taxpayer that a review of the account and the reason the complaint does not meet the IRS guidelines for relief.</li> <li>• Provide an explanation of account actions taken or not taken (e.g., balance due on a prior year or TOP offset to satisfy an outstanding liability.)</li> <li>• Document actions taken using CIS and functional system, if applicable.</li> <li>• Return case to the appropriate Compliance function, as applicable, following normal procedures.</li> </ul>
<p>The taxpayer's complaint does not fit into any of the four (4) RPM fact patterns, but involves PTIN misuse, misrepresentation of credentials, employment taxes, and other issues.</p> <p><b>Example:</b> The taxpayer is not requesting relief or correction of his/her personal tax return. He/she is reporting or informing on a person who misused return preparer information.</p> <p>"Other issues" examples may be:</p> <ul style="list-style-type: none"> <li>• Extreme fees</li> <li>• Did not provide copies of returns or explanation of return</li> </ul>	<ul style="list-style-type: none"> <li>• Advise the taxpayer that a review of the account and the reason the claim does not meet the IRS guidelines for relief.</li> <li>• Advise taxpayer he/she may want to contact the Federal Trade Commission (FTC), Better Business Bureau (BBB), State Consumer Agencies, etc., per policy statement. See Policy <a href="#">P-25-2</a>.</li> <li>• Route original <a href="#">Form 14157</a> and documents to the address below:</li> </ul> <p style="text-align: center;">Return Preparer Office 401 W Peachtree Street NW Mail Stop 421-D Atlanta, GA 30308</p> <ul style="list-style-type: none"> <li>• Document actions taken using CIS and functional system, if applicable.</li> <li>• Return case to the appropriate Compliance function, as applicable, following normal procedures.</li> </ul>

**IV. Return Preparer Misconduct Criteria Met**

- 1) The procedures outlined in this and all subsequent sections pertain to the handling of tax year 2013 and prior RPM complaints suspended pending policy decisions. IRM 25.24.3 will be issued with guidance for tax year 2014 and all subsequent complaints received.

### C. Overview of Return Preparer Misconduct Categories

- 1) RPM complaints have been categorized into four (4) basic fact patterns. Within each fact pattern there are various scenarios which will result in different treatment streams and account resolution. The categories are as follows:
  - a) **Category 1: Unauthorized filing.** The taxpayer was in contact with a preparer and # [REDACTED] # did not sign a return or authorize a return filing. The preparer submits a return using the taxpayer's identifying information and directs all or part of the refund to an account not belonging to the taxpayer.
  - b) **Category 2: Altered return information with no additional refund due to the taxpayer.** The taxpayer authorizes a preparer to file a return, but the preparer later alters the return to increase the expected refund (if any). The taxpayer received at least the amount of the refund expected from the IRS or the preparer, and the preparer received all or part of the increased refund amount.
  - c) **Category 3: Altered return information with an additional refund due to the taxpayer.** The facts are similar to 2 above, however, the taxpayer receives a portion or none of the refund expected.
  - d) **Category 4: Misdirected direct deposit.** The taxpayer was in contact with the preparer and authorized the filing of a return. The preparer changed either the mailing address for the refund check or the deposit information, such as the bank routing and/or account numbers; however, the return is otherwise as intended to be filed by the taxpayer.
- 2) When reviewing RPM complaints, it is important to review all documentation to determine the correct category, as the category determines the appropriate procedures and relief. In some instances, the taxpayer's statements may indicate he/she falls into one category but research findings determine the complaint falls into another.

### V. Evaluating Return Preparer Misconduct Complaints

- 1) Determining whether a taxpayer qualifies for relief under the established RPM guidelines involves a two-step process:
  - a) Determine whether RPM criteria is met:
    - (1) Review taxpayer correspondence
    - (2) Ensure the required documentation was submitted
    - (3) Refund Trace (in specified circumstances)
    - (4) Verification of the preparer
    - (5) Identify the correct RPM category
    - (6) Determine the correct treatment stream based upon the facts and circumstances.

**Note:** If criteria is **NOT** met, refer to the [No Return Preparer Misconduct](#) table above for steps on how to proceed.

- b) If RPM criteria **is** met, determine relief to be provided which will include:
  - (1) An account adjustment (e.g. removing the inflated information and refund the preparer received from the account), and
  - (2) In certain circumstances, a full or partial refund to the taxpayer.

### A. Review of Taxpayer Correspondence

- 1) Perform complete IDRS research to confirm a tax return was filed or the taxpayer does not have a filing requirement. Research should include but is not limited to the use of CC

TXMOD to review posted information; CC RTVUE, CC TRDBV and/or access of EUP to review MeF original tax return information; CC IRPTR to review income information etc.

- 2) An initial review of the taxpayer's complaint and account information (IDRS, AMS, CIS) needs to be performed to determine if the complaint meets Compliance RPM criteria or if the case should be routed to an another area. See [RPM Criteria not Met](#) for further guidance.
- 3) If the complaint is misrouted, route to the correct area.
- 4) If multiple controls, coordinate with the other area to negotiate ownership.

#

## B. Return Preparer Misconduct Documentation

- 1) For situations where a taxpayer alleges a preparer altered the tax data on a taxpayer's return and/or misdirected a portion or all of the refund, the taxpayer must submit sufficient documentation to support his/her complaint that the original return was altered by the preparer.
- 2) Documentation for complaint consideration includes:
  - [Form 14157](#), *Complaint: Tax Return Preparer* (completed by the taxpayer)
  - [Form 14157-A](#), *Tax Return Preparer Fraud or Misconduct Affidavit* (completed and signed by the taxpayer (at least one taxpayer, if married filing joint return)).
  - Signed, valid tax return of taxpayer submitted with the complaint (return as intended to be filed), unless the taxpayer does not have a filing requirement.
  - Signature of the preparer on the return filed by the preparer (preparer information on electronic return). If no signing preparer, see [Ghost/Non-Signing Prepared Returns](#) below.
  - Taxpayer must provide the name and address of the preparer on [Form 14157](#), [Form 14157-A](#) or within his/her written correspondence.
  - Official report from a law enforcement agency (only for Categories 3 and 4): This could include a report made to the police department, State Attorney General (AG), Criminal Investigation (CI) and/or Treasury Inspector General for Tax Administration (TIGTA) department. The law enforcement agency report must be signed by a police officer or equivalent, depending on the report received (or otherwise demonstrably shown it was accepted by that law enforcement agency). It must contain:
    - Tax year involved **and**
    - Preparer's first and last name, address, **and** Statement describing the preparer misconduct and theft of the refund.
  - **OR**, if a taxpayer is not able to submit an official report from a law enforcement agency, a statement documenting the taxpayer's attempt to secure a police report signed under penalties of perjury along with a statement from TAS documenting their assistance/attempts in obtaining a police report. The taxpayer statement should contain the preparer's first and last name, address, and description of the preparer misconduct and theft of refund.

**Note:** A law enforcement agency report is only required in Category 3 and 4 cases where the taxpayer is requesting an additional refund. If the law enforcement agency report or alternative statement described above is missing, refer to the [Incomplete Documentation](#) section for specific guidance.

## **AND, for Ghost/Non-Signing Prepared Returns**

- In addition to the information listed above, in ghost preparer scenarios, one (1) piece of corroborating evidence the preparer was in the business or held him/herself out as being in the business of preparing tax returns is required and may include the following (this list is not all-inclusive):
  - Copy of the tax return(s) provided by the preparer, if the preparer signed that return as the paid preparer (for purposes of establishing preparer held him/herself out as a preparer).
  - PTIN or EIN of the preparer.
  - Business card of the preparer.
  - Flyer or advertisement indicating return preparation services, including the name of preparer.
  - Professional or Business letterhead bearing name of the preparer.
  - Business name on check from preparer.
  - A letter addressed to the taxpayer from TIGTA, civil preparer investigation (IRC § 6700, *Promoting Abusive Tax Shelters*, or IRC § 6701, *Penalties for Aiding and Abetting Understatement of Tax Liability* investigations) or IRS Criminal Investigation (CI) regarding an ongoing investigation of the preparer (for purposes of establishing preparer held him/herself out as a preparer).
  - Affidavit of person who hosted or sponsored the preparer (e.g., services provided by a preparer in the church basement – the church minister could provide an affidavit with details about when tax return preparation services were offered) or lease agreement (e.g., storefront location that is no longer open).
  - Documentation including state or local law enforcement investigations against the preparer.

**Exception:** For purposes of establishing preparer held him/herself out as a preparer, if the taxpayer is contacted by TIGTA, IRS CI agent or civil preparer investigation (§6700/6701 investigations) regarding his/her preparer or if RPM CI referral sent and CI response indicates preparer investigation, consider this requirement satisfied.

## **AND**

At least one (1) piece of corroborating evidence the person named on the [Form 14157](#) interacted with the taxpayer and submitted the return filed with the IRS. The evidence must show the preparer name, tax year in question with corresponding dates that indicate an exchange between the taxpayer and the preparer regarding the filing of a tax return.

**Exception:** If RPM CI referral sent and CI response indicates that there was interaction between the taxpayer and the preparer then consider this requirement satisfied.

Although all not inclusive, acceptable documentation may include:

- Cover letter (including the tax return) received from the preparer when the return was prepared.

- Copy of [Form 8879](#), *IRS e-file Signature Authorization* with signatures or evidence it was received from the preparer.
- Copy of negotiated check the taxpayer gave to the preparer for payment of services.
- Copy of “refund” check the taxpayer received from the preparer
- Credit card statement reflecting a charge in the preparer’s name (or preparer’s business name) for payment for services.
- Receipt from the preparer, reflecting a fee for the preparation of a tax return for the tax year in question.
- Email, text message or other written communications, exchanged between the taxpayer and preparer concerning the tax return preparation.

**Exception:** If internal research (utilizing CC NAMEI, MeF information through EUP etc.) shows that the taxpayer’s return and the individual tax return for the preparer named by the taxpayer were filed from the same IP address or other information is present indicating an association, this information can be used as one piece of evidence showing interaction. If applicable, request additional evidence.

**Example:** Ghost preparer/non-signing preparer situation. Taxpayer provided a copy of the named preparer’s business card for tax services. Internal research shows that the MeF return was filed by a non-signing preparer however the email address provided when submitting the return reflects the named preparer. This information, along with the taxpayer’s statements has satisfied both requirements showing corroborating evidence that the named preparer held him/herself out as a preparer and submitted the tax return in question.

However, if the taxpayer did not provide the named preparer’s business card, additional evidence would be required to reflect that the preparer held him/herself out as a preparer.

- Additional documentation that may assist with a determination:
  - Copy of bank statement(s) reflecting the refund amount received by direct deposit, if applicable.
  - Taxpayer’s bank statement showing that the refund was not deposited into the taxpayer’s account(s).
  - Copies of any other documentation to support the complaint.

**Note:** In some cases, the evidence used to corroborate that the preparer was in the business or held him/herself out as being in the business of preparing tax returns may also be used to show that the taxpayer interacted with the preparer.

### **C. Verification of the Preparer**

- 1) Verification of the preparer is required on all complaints alleging preparer misconduct. Research the account to determine whether the original return was signed by a preparer or not signed by a preparer (a ghost preparer).
  - a) If electronic filing, research CC TRDBV and/or access EUP to review MeF original tax return information.
  - ) If paper return processed, the original return may need to be requested from Files to determine if there is a signing or ghost preparer scenario. Refer to IRM [3.24.3-7](#), *Exhibit Section - Form 1040 Page 2*, for transcription information.

- a)
- b) Research CC TRDBV for preparer information. If PTIN/TIN/EIN is present and IDRS research shows the name of the preparer matches the name of the preparer on the complaint then no document request from Files is needed. If PTIN/TIN/EIN present and the name does not match or there is no preparer information at all then request document from Files. Suspend case per normal procedures while waiting for the document.
- 2) Two levels of verification are required:
- a) Documentation and/or IDRS research must show that the preparer named on [Form 14157](#) is in the business of preparing tax returns or held him/herself out as in the business of preparing tax returns **AND**
- b) The person named on the [Form 14157](#) interacted with the taxpayer and submitted the return filed with the IRS.
- 3) Verify the identity of the preparer from the following IRS records.
- CC INOLE to verify the TIN or EIN provided
  - CC RPVUE to verify PTIN
  - CC NAMEI or CC NAMEB to locate TIN or EIN
- 4) Determination of whether the Preparer was verified, follow the If/Then Chart below:

Preparer Verification Chart		
If ...	And ...	Then ...
Signing preparer and preparer name matches the name with the associated TIN, EIN or PTIN	# [REDACTED] # [REDACTED] <b>Note:</b> # [REDACTED] # [REDACTED]	Consider verified
Signing preparer and PTIN provided is not valid or belongs to another person	Through research a # [REDACTED] # can be located for the preparer	Consider verified
Signing preparer and PTIN provided is not valid or belongs to another person	Through research an # [REDACTED] # <b>cannot</b> be located for the preparer	Consider not verified See appropriate Category Treatment Stream for proper handling of complaint and <a href="#">Disallowance of Claims</a> section
Signing preparer and # [REDACTED] # from the information provided by the taxpayer	N/A	Consider ID Theft.  Refer to <a href="#">RPM Criteria Not Met</a> section
Signing Preparer and # [REDACTED] # provided by the taxpayer # [REDACTED] #	Through research a # [REDACTED] # can be located for the preparer	Consider verified
Signing Preparer and # [REDACTED] # provided by	Through research a # [REDACTED] # <b>cannot</b> be located for the preparer	Consider not verified. See appropriate Category

the taxpayer # [REDACTED] #		Treatment Stream for proper handling of complaint and <a href="#">Disallowance of Claims</a> section
Non-Signing Preparer and no preparer information on tax return, "self-prepared" and documentation <b>is</b> provided showing that the 3 <sup>rd</sup> party held him/herself out to be a return preparer and 3 <sup>rd</sup> party interaction	Through research a # [REDACTED] # can be located for the preparer	Consider verified
Non-Signing Preparer and no preparer information on tax return, "self-prepared" and documentation <b>is</b> provided showing that the 3 <sup>rd</sup> party held him/herself out to be a return preparer and 3 <sup>rd</sup> party interaction	Through research a # [REDACTED] # <b>cannot</b> be located for the preparer	Consider not verified  See appropriate Category Treatment Stream for proper handling of complaint and <a href="#">Disallowance of Claims</a> section

**Reminder:** If non-signing preparer (ghost preparer) ensure that the taxpayer provided sufficient documentation showing that the preparer named in their complaint is in the business of preparing tax returns or held him/herself out as in the business of preparing tax returns AND the person named in their complaint interacted with the taxpayer and submitted the return filed with the IRS. See the procedures in [RPM Documentation](#) section. A signing preparer is considered to have held him/herself out as in the business of preparing tax returns and interacted with the taxpayer; therefore, no additional documentation is required.

**D. Refund Trace**

- 1) In addition to the required documentation to support the RPM complaint, a refund trace may be required on # [REDACTED] # cases. The purpose of the refund trace is to validate the taxpayer's statement regarding whether a refund was issued or deposited into an account in the taxpayer's name.
- 2) A refund trace is required as outlined below:

<b>RPM Category</b>	<b>Refund Trace Required:</b>
Category 1 & 2	<ul style="list-style-type: none"> <li>▪ When the RPM complaint is denied and taxpayer's return as intended to be filed is included in the complaint the refund trace is used to determine the appropriate processing of the return submitted with the complaint.</li> </ul> <p><b>Exception:</b></p> <ul style="list-style-type: none"> <li>▪ Taxpayer states he/she received a refund and matches the TC 846 issued then a trace is not required. Taxpayer received entire refund.</li> <li>▪ Taxpayer states he/she received a portion of the refund and the remainder of the refund is equal to stated preparer fees then a trace is not required.</li> </ul> <p><b>Note:</b> If refund trace information is available, the information must be used when determining the correct relief.</p>

Category 3 & 4	On all cases
----------------	--------------

**Note:** # [REDACTED] #

- 3) Refund information should be researched via Command Codes IMFOL, TXMOD, TRDBV and MeF Return Request Display (RRD) through EUP.
  - a) Indicator DD: 0 (paper check)
  - b) Indicator DD: 9 (direct deposit)
  - c) Refund Anticipation Loan (RAL) Indicator of "1"
  - d) Refund Anticipation Check (RAC) indicator of "2".

**Note:** See [Exhibit A, Refund Trace](#), to determine the correct refund method.

- 4) Research account to determine if a refund trace was performed:

Refund Trace Information			
If IDRS shows...	And ...	Then ...	To determine:
TC 971 ac 011	No open Refund Inquiry (RI) control	Research Treasury Check Information System (TCIS)/Payment Claims and Enhancement Reconciliation (Pacer) for Financial Management Service (FMS) <a href="#">FMS 150.1</a> or 150.2 or paper check <ul style="list-style-type: none"> <li>• If no <a href="#">FMS 150.1</a> or 150.2 in TCIS, do not initiate another trace.</li> <li>• Contact local Refund Inquiry unit for additional research/assistance.</li> <li>• Suspend case, if necessary.</li> </ul>	Whether refund was deposited into account in the name of the taxpayer
	Open RI control	Research IDRS controls for status of trace <ul style="list-style-type: none"> <li>• Contact local Refund Inquiry unit if necessary for assistance.</li> <li>• Suspend case, if necessary.</li> </ul>	Status of trace and if any disposition information available.

**Note:** Refund traces can take up to 4 – 6 weeks for the information to be obtained.

- 5) Depending upon the RPM category, this information will be used in conjunction with other requirements to determine the correct account adjustment. Review available refund trace information for all cases, if applicable, regardless of category for information on the amount of the refund, if any received by the taxpayer.

**Note:** For Category 1 & 2 cases, if additional information was requested from the taxpayer and received before the refund trace information was available, do not wait for the refund trace information, continue working case.

- 6) Refund trace information will reflect a negotiated check or a completed [FMS 150.1](#) or 150.2. [FMS 150.1](#) or 150.2 provides information as to the name and where the refund was deposited. See [Exhibit B FMS 150.1](#)

**Note:** Be cognizant of split refunds. In split refund situations, it is possible that the taxpayer received a portion of the refund or multiple refunds were issued to the preparer. A bank may have returned money to the IRS. Consider any returned monies when determining relief and any additional refund due the taxpayer. TOP offsets must be considered as well. With TOP offsets, the taxpayer received the benefit of the refund.

- 7) On incomplete complaints, initiate the refund trace at the same time corresponding with the taxpayer for additional information.
- 8) If no previous refund trace was performed and a refund trace is required, initiate trace using Command code ((CC) CHKCL. For CC CHKCL instructions, refer to Exhibit [21.4.2-1](#), *Command Code (CC) CHKCL Input*.
- 9) Follow supplemental instructions below:
- Input CC CHCKL
  - Use Non-receipt code H = Unendorsed check freeze cancellation credit (P- Freeze set).
  - Suspend case and monitor weekly for completion of trace.
  - Refer to Exhibits [21.4.2-2](#), *Disposition Code Chart Non-Receipt Claims CHCKL Claims Only* and [21.4.2-5](#), *Disposition and Status Codes – Additional Action time Frames* for Disposition and Status Code descriptions.

#### **E. Law Enforcement Verification**

- 1) An official report from a law enforcement agency (e.g. police report, State Attorney General, TIGTA, CI, etc.) is required in Category 3 and 4 to be eligible for an additional refund to be issued.

**Exception:** If the original refund is frozen for the full amount in question, the law enforcement agency report is not required. However, on cases where a partial refund was released to the preparer, a law enforcement agency report is required.

- 2) Law enforcement agency report must signed by a law enforcement agency officer or equivalent, depending on the report received (or otherwise demonstrably accepted by the law enforcement agency ) and contains:
- The tax year(s) involved and
  - Return preparer's first and last name, address, and
  - A statement describing the preparer misconduct and theft of refund.

**Exception:** If the taxpayer is unable to secure a police report, and has not filed a report with another law enforcement agency as described above the taxpayer must provide a statement documenting his/her attempt to secure a police report signed under penalties of perjury along with a statement from TAS documenting the assistance it provided to the taxpayer/attempts in obtaining a law enforcement agency report. The taxpayer statement should contain the return

preparer's first and last name, address, and description of the preparer misconduct and theft of refund.

**Note:** The majority of the pre-existing cases will not contain a law enforcement agency report because this is an additional requirement for cases in which the taxpayer is seeking a refund. If not contained in the case file or meets the above alternative statement criteria, refer to [Incomplete Complaints](#) for procedures.

- 3) Verification of the information provided on the law enforcement agency report or the statement provided by the taxpayer must be reviewed for consistency. The individual named on the law enforcement agency report **must** match the preparer named in the complaint and on the original return, if signing preparer information is present. In a ghost preparer situation, the preparer name on the law enforcement agency report must match the preparer named in the complaint.
- 4) If the preparer name does not match, the taxpayer is not entitled to an additional refund; however, the taxpayer may still be eligible for an account adjustment and removal of preparer portion of the refund depending upon the refund verification results.

## VI. Return Preparer Misconduct Categories

### A. Category 1 - Unauthorized Filing

- 1) Category 1 is defined as a taxpayer who was in contact with a preparer and # [REDACTED] # did not sign or authorize the filing of a return, but a return was filed with his/her name and TIN.
- 2) Potential relief/resolution: The IRS will resolve these cases using RPM procedures and result in the taxpayer receiving a refund.

#### Examples:

Taxpayer visited or was in contact with a preparer and provided personal information including income documentation for a quote, rapid refund eligibility etc., and subsequently a return is filed without the taxpayer's knowledge. Some information that can assist with the determination may include:

- # [REDACTED]

Taxpayer provided personal information, including income documentation to a 3<sup>rd</sup> party for other, non tax purposes, such as a loan, and subsequently a return is filed without the taxpayer's knowledge. This scenario is considered identity theft not return preparer misconduct.

Taxpayer provides proof that he/she received a loan (car or home loan) or loan rejection letter which could support a finding of identity theft not return preparer misconduct.

- 3) Complaints that are determined to be Category 1, if allowed, will result in treating the original return filed as a nullity. The complaint will be treated with procedures similar to identity theft procedures. However, identity theft indicators will not be applied for the first year RPM is verified. Any subsequent years in which the preparer files without the taxpayer's knowledge will be considered identity theft. The account will be adjusted to match the taxpayer's return and a subsequent refund may be issued barring any other issues.

**Note:** For this scenario, it is possible that the taxpayer is not a victim of preparer misconduct but a victim of identity theft. In some cases, judgment must be used to distinguish between the two. Based upon documentation submitted and research findings, a determination may be made that the taxpayer did have knowledge of the return filing. If this determination is made, follow the treatment stream that fits the appropriate category.

4) Category 1 requires specific documentation to qualify for relief. The required documentation is outlined in the chart below:

Category 1 Required Documentation	
Posted Return Reflects	# [REDACTED] # Requirements
Signing Preparer	<ul style="list-style-type: none"> <li>• Tax return as intended to be filed, signed by the taxpayer</li> <li>• <a href="#">Form 14157</a> – # A [REDACTED] #</li> <li>• <a href="#">Form 14157-A</a> – Signed under penalties of perjury (At least one taxpayer, if married filing joint return)</li> </ul>
Ghost/Non-Signing Preparer	<ul style="list-style-type: none"> <li>• Tax return as intended to be filed, signed by the taxpayer</li> <li>• <a href="#">Form 14157</a> – # [REDACTED] #</li> <li>• <a href="#">Form 14157-A</a> – Signed under penalties of perjury (At least one taxpayer, if married filing joint return)</li> <li>• Documentation showing 3<sup>rd</sup> party presented him/herself as preparer</li> <li>• Documentation showing interaction</li> </ul>

**Note:** A refund trace is not required for Category 1 during the initial processing of the complaint, however, if refund trace information is available, it must be used to assist with verifying taxpayer’s statement regarding whether a refund was received in the taxpayer’s name. If a refund was received by the taxpayer the amount received should be taken into consideration when adjusting the account.

5) **Consider the documentation complete:**

- a) If the # [REDACTED] # required documents above are included, consider the documentation requirement complete. **In some circumstances all the required documentation is not required as outlined below:**
  - Tax return is not included because taxpayer states he/she is not required to file and research (CC IRPTR) supports that complaint.
  - [Form 14157-A](#) is not included, however, other documentation included contains the required information and the taxpayer provides a statement/explanation signed under penalties of perjury.
- b) If the preparer’s # [REDACTED] # or first and last name and address are included on other documentation, then [Form 14157](#) is not required.

7) **Consider the documentation incomplete:**

- a) If the # [REDACTED] # required documents above are not included, or are included, but the information provided within the documentation is incomplete.

**Example:** Taxpayer indicates that a refund was received and does not include the amount of the refund received on [Form 14157-A](#) or other documentation.

**Note:** # [REDACTED] #

- b) If complaint is considered incomplete refer to [Incomplete Documentation](#) section for additional information. Case will be suspended for 40 days (70 days for overseas taxpayers). If reply received or suspense period ends refer to [Evaluating Taxpayer's Response to Missing Documentation Request](#) section.

**Reminder:** For this category, it is possible that the taxpayer is not a victim of preparer misconduct but a victim of identity theft. In some cases, judgment must be used to distinguish between the two.

- 8) Verify the preparer information. Refer to [Verification of the Preparer](#) section for additional information.
- 9) For category 1, # [REDACTED] # cases, a refund trace will only be required to be initiated when the claim is disallowed. This is necessary to determine the appropriate handling of the actual return provided with the claim. However, if a refund trace was previously performed and the trace information is currently available on a # [REDACTED] # refund, the information will be utilized to verify the receipt or non-receipt of a refund and to determine the amount, if any, of an additional refund that may be issued.
- 10) Verify whether a refund was issued or deposited into an account in the taxpayer's name.
- a) If # [REDACTED] #
- b) If # [REDACTED] #, determine if refund trace was previously performed. Refer to [Refund Trace](#) section for additional information.

**Example:**

Taxpayer states no refund received and available refund trace information shows that the refund was NOT deposited into an account in the taxpayer's name. # A [REDACTED] #

Taxpayer states that no refund or portion of refund received; however, available refund trace shows that a portion of the refund was deposited into account in the taxpayer's name. The refund amount from the refund trace information would be utilized to determine the additional refund amount (if any) due to the taxpayer. (Taxpayer states he/she received \$500 and trace shows taxpayer received \$1,000. When computing the applicable refund amount allowable, use \$1,000.)

- c) If trace information is not available or available trace information cannot verify the receipt or non-receipt of the refund, # [REDACTED] #

**Example:**

Taxpayer states portion of refund received and available refund trace information shows that the refund was NOT deposited into an account in the taxpayer's name. We cannot verify the portion that the taxpayer received. # [REDACTED] #

- 11) If complaint is considered complete (all required documentation, including 3<sup>rd</sup> party documentation (if applicable), is present and the preparer information is considered verified) then the complaint is accepted.
- 12) The IRS will determine the type of relief to which the taxpayer is entitled, and for an allowed claim, will consider the original return a nullity and the actual return presented by the taxpayer (unaltered by the preparer) as the taxpayer's return of record.

13) For Category 1 cases, # [REDACTED] # information regarding fees paid to the preparer, this amount would be considered part of the preparer portion of the refund. If the taxpayer did not authorize the filing of the tax return, the taxpayer would not be held responsible.

Category 1: Treatment Stream for Accepted Complaints			
Taxpayer states he/she received:	Return as intended to be filed reflects:	And original refund was:	Then taxpayer is eligible for:
No refund	Refund due	# [REDACTED] # OR # [REDACTED] # and <b>available</b> refund trace information shows NO refund was deposited into an account in the name of the taxpayer	<ul style="list-style-type: none"> <li>Account adjustment to remove the unauthorized return</li> <li>Account adjustment to reflect return as intended to be filed</li> <li>Removal of the preparer portion of the refund</li> <li>Applicable additional refund, plus interest</li> </ul> <p>Refer to <a href="#">Account Adjustments</a> or <a href="#">Reassigning Cases Through CIS</a>, section, as applicable.</p>
No refund or Portion of Refund	Balance due	# [REDACTED] # OR # [REDACTED] # and <b>available</b> refund trace information shows NO refund was deposited into an account in the name of the taxpayer	<ul style="list-style-type: none"> <li>Account adjustment to remove the unauthorized return</li> <li>Account adjustment to reflect return as intended to be filed</li> <li>Removal of the preparer portion of the refund</li> </ul> <p><b>Note:</b> Normal collection notices will be issued for balance due amount shown on the taxpayer's return of record</p> <p>Refer to <a href="#">Penalty and Interest</a> and <a href="#">Account Adjustments</a> or <a href="#">Reassigning Cases Through CIS</a>, as applicable.</p>
		# [REDACTED] # and <b>available</b> refund trace information shows all or a portion of the refund WAS deposited into an account in the name of the taxpayer	<p>Taxpayer will be asked to repay the erroneous portion of the refund using Category D erroneous refund procedures and is eligible for:</p> <ul style="list-style-type: none"> <li>Account adjustment to remove the unauthorized return</li> <li>Account adjustment to reflect return as intended to be filed</li> <li>Removal of the preparer portion of the refund</li> </ul> <p><b>Note:</b> Normal collection notices will be issued for balance due</p>

			<p>amount on taxpayer's return of record</p> <p>Refer to <a href="#">Account Adjustments, Erroneous Refund Procedures, Penalties and Interest</a> or <a href="#">Reassigning Cases Through CIS</a>, as applicable.</p>
No Refund or Portion of Refund	<p>Correct refund exceeds or is equal to the amount that the taxpayer has received</p> <p>(Taxpayer received less than or equal to what entitled to on actual return)</p>	<p># [REDACTED] # OR # [REDACTED] # and <b>available</b> refund trace information shows all or a portion of the refund was deposited into an account in the name of the taxpayer</p>	<ul style="list-style-type: none"> <li>• Account adjustment to remove the unauthorized return</li> <li>• Account adjustment to reflect return as intended to be filed</li> <li>• Removal of the preparer portion of the refund</li> <li>• Remaining balance of refund due per actual return, plus interest, as applicable.</li> </ul> <p>Refer to <a href="#">Account Adjustments</a> or <a href="#">Reassigning Case Through CIS</a>, as applicable.</p> <p><b>Exception:</b> Partial Disallowance</p> <ul style="list-style-type: none"> <li>• If <b>available</b> refund trace confirms that the portion of received is greater than what the taxpayer states, then issue only the remaining balance of refund, as applicable.</li> </ul>
	<p>Correct refund is less than the amount that the taxpayer has received</p> <p>(Taxpayer received more than what entitled to on actual return)</p>	<p># [REDACTED] # OR # [REDACTED] # and <b>available</b> refund trace information shows all or a portion of the refund was deposited into an account in the name of the taxpayer</p>	<p>Taxpayer will be asked to repay the erroneous portion of the refund using Category D erroneous refund procedures and is eligible for:</p> <ul style="list-style-type: none"> <li>• Account adjustment to remove the unauthorized return</li> <li>• Account adjustment to reflect return as intended to be filed</li> <li>• Removal of the preparer portion of the refund</li> </ul> <p>Refer to <a href="#">Erroneous Refund Procedures, Account Adjustments</a> or <a href="#">Reassigning Cases Through CIS</a>, as</p>

			applicable.
--	--	--	-------------

**B. Category 2 - Authorized Filing, Altered Return Information and No Additional Refund Due to the Taxpayer**

- 1) Category 2 is defined as a taxpayer who was in contact with a preparer and authorized a return filing, but states tax data (exemptions, income, expenses, deductions, credits, etc.) on his/her return was altered before the return was filed or the return otherwise includes items which he/she did not authorize.
- 2) Potential relief/resolution: The IRS will administratively adjust the taxpayer’s account to reflect the correct information and remove the portion of the refund attributable to preparer misconduct. If refund trace shows taxpayer received more than entitled, taxpayer may be liable for the erroneous refund amount. See [Erroneous Refund Procedures](#).

**Examples:**

The copy of the tax return provided by the taxpayer reflects wages and withholding only with a refund amount of \$2,000. The taxpayer states he/she received \$2,000. The posted return reflects wages and withholding and a Schedule C loss with a refund of \$5,000.

Internal research supports determination that taxpayer authorized the filing of a return.

- # [REDACTED] #

- 3) Complaints that are determined to be Category 2, if allowed, will result in treating the original return filed as a nullity.
- 4) Category 2 requires specific documentation to qualify for relief. The required documentation is outlined in the chart below:

Category 2 Required Documentation	
Posted Return Reflects	# [REDACTED] # Required
Signing Preparer	<ul style="list-style-type: none"> <li>• Tax return as intended to be filed, signed by the taxpayer</li> <li>• <a href="#">Form 14157</a> – First and last name and address of preparer.</li> <li>• <a href="#">Form 14157-A</a> – Signed under penalties of perjury. (At least one taxpayer, if married filing joint return)</li> </ul>
Ghost/Non-Signing Preparer	<ul style="list-style-type: none"> <li>• Tax return as intended to be filed, signed by the taxpayer</li> <li>• <a href="#">Form 14157</a> – First and last name of preparer and address.</li> <li>• <a href="#">Form 14157-A</a> – Signed under penalties of perjury. (At least one taxpayer, if married filing joint return)</li> <li>• Documentation showing 3<sup>rd</sup> party presented him/herself as preparer.</li> <li>• Documentation showing interaction between taxpayer and preparer.</li> </ul>

**Note:** A refund trace is not required during the initial processing of a complaint for Category 2 cases, unless the complaint is incomplete. However, if refund trace information is available, it must be used to assist with verifying taxpayer’s statement regarding whether a refund was received in the taxpayer’s name.

**Note:** if the complaint is completed before the refund trace is concluded, determine the appropriate treatment. Do not wait for refund trace results.

5) Consider the documentation complete:

a) If the # [REDACTED] # required documents above are included, consider the documentation requirement complete. **In some circumstances all the required documentation is not required as outlined below:**

- Tax return is not included because taxpayer states he/she is not required to file and research (CC IRPTR) supports that complaint.
- [Form 14157-A](#) is not included, however, other documentation contains the required information and the taxpayer provides a statement/explanation signed under penalties of perjury.
- If the preparer's first and last name and address is included on other documentation, then [Form 14157](#) is not required.

7) **Consider the documentation incomplete:**

a) If the # [REDACTED] # required documents above are not included, or are included but the information provided within the documentation is incomplete.

**Example:** Taxpayer indicates that a refund was received and does not include the amount of the refund received on [Form 14157-A](#) or other documentation.

**Note:** # [REDACTED] #

b) If complaint is considered incomplete refer to [Incomplete Documentation](#) section for additional information. Case will be suspended for 40 days (70 days if taxpayer overseas). Suspend case following normal procedures. If reply received or suspense period ends refer to [Evaluating Taxpayer's Response to Missing Documentation Request](#) section.

8) Verify the preparer information. Refer to [Verification of the Preparer](#) section for additional information.

**Note:** For category 2, # [REDACTED] # cases, a refund trace will only be required to be initiated when the claim is incomplete or disallowed. This is necessary to determine the appropriate handling of the actual return provided with the claim. However, if a refund trace was previously performed and the trace information is currently available on a # [REDACTED] # refund, the information will be utilized to verify the receipt or non-receipt of a refund and to determine the amount, if any, of an erroneous refund received by the taxpayer.

9) Verify whether a refund was issued or deposited into an account in the taxpayer's name.

- a) If # [REDACTED] #
- b) If # [REDACTED] #, determine if refund trace was previously performed. Refer to [Refund Trace](#) section for additional information.

**Example:**

Taxpayer states he/she received the correct or expected refund amount, however, available refund trace differs showing that the entire refund was deposited into an account in the taxpayer's name. # [REDACTED]

# use the refund trace information to determine if an erroneous refund was made.

Taxpayer states that the correct amount of refund was received; however, available refund trace shows that the entire refund was deposited into account in the taxpayer's name. The refund amount from the refund trace information would be utilized to determine the erroneous refund. (Taxpayer states his/her correct refund and amount received is \$500 and trace shows taxpayer received \$1,000. When computing the erroneous refund, use the \$1,000.)

- c) If trace information is not available or available trace information cannot verify the receipt or non-receipt of the refund, # [REDACTED]

**Example:** Taxpayer states correct amount of refund was received and available refund trace information shows that the refund was NOT deposited into an account in the taxpayer's name. We cannot verify the amount of refund that the taxpayer received. # [REDACTED]

- 10) If complaint is considered complete (all required documentation, including 3<sup>rd</sup> party documentation (if applicable), is present and the preparer information is considered verified) then the complaint is accepted.
- 11) The IRS will determine the type of relief to which the taxpayer is entitled, and for an allowed claim, will consider the original return a nullity and the actual return presented by the taxpayer (unaltered by the preparer) as the taxpayer's return of record.
- 12) # [REDACTED] # information regarding fees paid to the preparer that were deducted from the original refund, it must be taken into account when determining preparer portion of refund and any additional refund amounts. The fee amount would not be considered a part of the preparer portion of the refund. However, when the fee is paid by other methods of payment (cash, personal check, unknown), do not take it into account.

Category 2: Treatment Stream for Accepted Complaints			
Taxpayer states he/she received:	Return as intended to be filed reflects:	And original refund was:	Then taxpayer is eligible for:
Refund	Refund amount that matches the amount received	# [REDACTED] #	<ul style="list-style-type: none"> <li>Account adjustment to remove the nullified return</li> <li>Account adjustment to reflect return as intended to be filed</li> <li>Removal of the preparer portion of the refund</li> </ul> <p>Refer to <a href="#">Account Adjustments</a> or <a href="#">Reassigning Cases Through CIS</a>, as applicable.</p>
No Refund	Balance due	# [REDACTED] # Or # [REDACTED] # and available refund trace information shows <b>NO</b> refund was deposited into	<ul style="list-style-type: none"> <li>Account adjustment to remove the nullified return</li> <li>Account adjustment to reflect return as intended to be filed</li> </ul>

		an account in the name of the taxpayer	<ul style="list-style-type: none"> <li>Removal of the preparer portion of the refund</li> </ul> <p><b>Note:</b> Normal collection notices will be issued for balance due amount on taxpayer's return of record.</p> <p>Refer to <a href="#">Penalty and Interest</a> and <a href="#">Account Adjustments</a> or <a href="#">Reassigning Cases Through CIS</a>, as applicable. section</p>
		# [REDACTED] # and available refund trace information shows <b>all or a portion of the refund WAS deposited</b> into an account in the name of the taxpayer	<p>Taxpayer will be asked to repay the erroneous portion of the refund using Category D erroneous refund procedures and is eligible for:</p> <ul style="list-style-type: none"> <li>Account adjustment to remove the nullified return</li> <li>Account adjustment to reflect return as intended to be filed</li> <li>Removal of the preparer portion of the refund, if applicable</li> </ul> <p><b>Note:</b> Normal collection notices will be issued for balance due amount on taxpayer's return of record.</p> <p>Refer to <a href="#">Category D Erroneous Refund</a>, <a href="#">Penalty and Interest</a>, and <a href="#">Account Adjustments</a> section or the <a href="#">Reassigning Cases Through CIS</a> section as applicable.</p>
Refund amount that exceeds the amount on the return as intended to be filed	Refund/Balance Due	# [REDACTED] # and taxpayer states received more than entitled	<p>Taxpayer will be asked to repay the erroneous portion of the refund using Category D erroneous refund</p>

		<p><b>OR</b></p> <p># [REDACTED] # and available refund trace information shows <b>all or a portion of the refund WAS deposited</b> into an account in the name of the taxpayer</p> <p><b>OR</b></p> <p>Determination can be made from account information and taxpayer's statement that <b>all or a portion of the refund was received</b> by the taxpayer</p> <p>(Taxpayer states received \$2,000. and TC 846 is \$2,000.)</p>	<p>procedures and is eligible for:</p> <ul style="list-style-type: none"> <li>• Account adjustment to remove the nullified return</li> <li>• Account adjustment to reflect return as intended to be filed</li> <li>• Removal of the preparer portion of the refund, if applicable</li> </ul> <p><b>Note:</b> If taxpayer's return of record shows a balance due, normal collection notices will be issued.</p> <p>Refer to <a href="#">Category D Erroneous Refund, Account Adjustments or Reassigning Cases Through CIS</a>, as applicable.</p>
--	--	---	--

**Note:** # [REDACTED] # information regarding fees paid to the preparer that were deducted from the original refund, it must be taken into account when determining preparer portion of refund and any additional refund amounts. When the fee is paid by other methods of payment (cash, personal check, unknown), do not take it into account.

**C. Category 3 - Authorized Filing – Altered Return Information and Taxpayer Requesting an Additional Refund**

- 1) Category 3 is defined as a taxpayer who was in contact with a preparer and authorized a return filing, but alleges tax data (exemptions, income, expenses, deductions, credits, etc.) on his/her return was altered after he/she signed it or the return otherwise includes items which he/she did not authorize, **and** Taxpayer states either he/she received no refund or only a portion of the refund he/she expected.
- 2) Potential relief/resolution: The IRS will administratively adjust the taxpayer's account to reflect the correct information and remove the portion of the refund attributable to preparer misconduct. The taxpayer may receive a refund plus interest for the amount not received.

**Examples:**

The copy of the tax return provided by the taxpayer reflects wages and withholding only with a refund amount of \$2000.. The taxpayer states he/she received no refund. The posted return reflects wages and withholding and a Schedule C loss with a refund of \$5000.

Internal research supports determination that taxpayer authorized the filing of a return.

• # [REDACTED]

• [REDACTED] . #

- 4) Complaints that are determined to be Category 3, if allowed, result in treating the original return filed as a nullity.
- 5) Category 3 requires specific documentation to qualify for relief. The required documentation is outlined in the chart below:

<b>Category 3 Required Documentation</b>	
<b>Posted Return Reflects</b>	<b># [REDACTED] # Required</b>
Signing Preparer	<ul style="list-style-type: none"> <li>• Tax return as intended to be filed, signed by the taxpayer</li> <li>• <a href="#">Form 14157</a> – First and last name of preparer and address.</li> <li>• <a href="#">Form 14157-A</a> – Signed under penalties of perjury. (At least one taxpayer, if married filing joint return)</li> </ul> <p>Official law enforcement agency report (e.g. police department, State AG, CI, TIGTA) signed by an officer or equivalent or otherwise demonstrably shown to be accepted by that agency and must contain:</p> <ul style="list-style-type: none"> <li>• Tax year(s) involved</li> <li>• Preparer’s first and last name.</li> <li>• Statement describing preparer misconduct and theft of refund.</li> </ul>
Ghost/Non-Signing Preparer	<ul style="list-style-type: none"> <li>• Tax return as intended to be filed, signed by the taxpayer</li> <li>• <a href="#">Form 14157</a> – First and last name of preparer and address.</li> <li>• <a href="#">Form 14157-A</a> – Signed under penalties of perjury. (At least one taxpayer, if married filing joint return)</li> <li>• Documentation showing 3<sup>rd</sup> party presented himself/herself as preparer.</li> <li>• Documentation showing interaction between taxpayer and preparer.</li> <li>• Official law enforcement report (e.g. police department, State AG, CI, TIGTA), signed by an officer or equivalent or otherwise demonstrably shown to be accepted by that agency and must contain:               <ul style="list-style-type: none"> <li>• Tax year(s) involved</li> <li>• Preparer’s first and last name.</li> <li>• Statement describing preparer misconduct and theft of refund.</li> </ul> </li> </ul>

**Note:** In cases that meet category 3 where the original refund is frozen for the full amount in question, the law enforcement agency report is not required. However, on cases where a partial refund was released to the preparer, a law enforcement agency report is required.

- 6) **Consider the documentation complete:**
  - a) If the # [REDACTED] # required documents above are included, consider the documentation requirement complete. **In some circumstances all the required documentation is not required as outlined below:**
  - b) [Form 14157-A](#) is not included, however, other documentation included contains the required information and the taxpayer provides a statement/explanation signed under penalties of perjury.

**Example:** If the preparer's name (first and last) and address are included on other documentation, then [Form 14157](#) is not required.

**Exception:** Law enforcement agency report is not included, however there is a taxpayer statement documenting the taxpayer's attempt to secure a police report signed under penalties of perjury along with a statement from TAS documenting their assistance/attempts in obtaining a police report. The taxpayer statement should contain the return preparer's first and last name, address, and description of the preparer misconduct and theft of refund.

7) **Consider the documentation incomplete:**

- a) If the # [REDACTED] # required documents above are not included or are included but the information provided within the documentation is incomplete.

**Example:** Taxpayer indicates that a refund was received and does not include the amount of the refund received on [Form 14157-A](#) or other documentation.

**Note:** # [REDACTED] #

- b) If complaint is considered incomplete refer to [Incomplete Documentation](#) section for additional information. Suspend case following normal procedures for 40 days (70 days if taxpayer overseas). If reply is received or suspense period ends refer to [Evaluating Taxpayer's Responses to Missing Documentation Request](#) section.

8) Verify the preparer information. Refer to [Verification of the Preparer](#) section for additional information.

9) For Category 3, # [REDACTED] # cases, a refund trace is required and used to verify whether a refund was issued in the taxpayer's name. The trace information will be utilized to verify the receipt or non-receipt of a refund and to determine the amount, if any, of an additional refund that may be issued.

- a) If # [REDACTED] #
- b) If # [REDACTED] #, determine if refund trace was previously performed. If no trace information is available, initiate a refund trace. Refer to [Refund Trace](#) section for additional information.
- c) Verify the taxpayer's statement regarding whether a refund was issued or deposited into an account in the taxpayer's name using refund trace information.

**Example:**

Taxpayer states no refund received and available refund trace information shows that the refund was NOT deposited into an account in the taxpayer's name. # [REDACTED] #

Taxpayer states that no refund or portion of refund received; however available refund trace shows that the entire refund was deposited into account in the taxpayer's name. # [REDACTED] # use the refund trace information to determine the refund amount, if applicable.

- d) If trace information is not available or available trace information cannot verify the receipt or non-receipt of the refund, # [REDACTED] #

**Example:** Taxpayer states portion of refund received and available refund trace information shows that the refund was NOT deposited into an account in the taxpayer's name. We cannot verify the portion that the taxpayer received. # [REDACTED] #

- 10) If complaint is considered complete and all required documentation, including 3<sup>rd</sup> party documentation, if applicable, is present and the preparer information is considered verified then the complaint is accepted.
- 11) The IRS will determine the type of relief to which the taxpayer is entitled, and for an allowed claim, will consider the original return a nullity and the actual return presented by the taxpayer (unaltered by the preparer) as the taxpayer's return of record.

**Note:** # [REDACTED] # information regarding fees paid to the preparer that were deducted from the original refund, it must be taken into account when determining preparer portion of refund and any additional refund amounts. The fee amount would not be considered a part of the preparer portion of the refund. However, when the fee is paid by other methods of payment (cash, personal check, unknown), do not take it into account.

12) Category 3 involves both a RPM complaint and a claim for refund. If complaint is disallowed, the claim for refund must be disallowed using claim disallowance procedures.

<b>Category 3: Treatment Stream For Accepted Complaints</b>			
<b>Taxpayer states he/she received:</b>	<b>And original refund was:</b>	<b>And individual named on law enforcement agency report or alternative statement in lieu of report:</b>	<b>Then taxpayer is eligible for:</b>
No refund	# [REDACTED] # or # [REDACTED] # and refund trace information shows refund was <b>NOT</b> deposited into an account in the name of the taxpayer	Signing preparer: Matches name on complaint and processed tax return	<ul style="list-style-type: none"> <li>• Account adjustment to remove the nullified return</li> <li>• Account adjustment to reflect return as intended to be filed</li> <li>• Removal of the preparer portion of the refund</li> <li>• Applicable additional refund</li> </ul> Refer to <a href="#">Account Adjustments</a> or <a href="#">Reassigning Cases Through CIS</a> , as applicable.
		Non-signing preparer: Matches name on complaint  Signing preparer: Does not match name on complaint and processed tax return  Non-signing preparer: Does not match name on	Partial Disallowance (106C) <ul style="list-style-type: none"> <li>• Account adjustment to remove the nullified return</li> <li>• Account adjustment to reflect return as intended to be filed</li> <li>• Removal of the preparer portion of the refund</li> <li>• <b>NO</b> additional refund since law enforcement report requirements not met</li> </ul>

		complaint Or No law enforcement agency law enforcement agency report or alternative statement is submitted with the complaint	Refer to <a href="#">Partial Disallowance, Account Adjustments</a> or <a href="#">Reassigning Cases Through CIS</a> , as applicable.
No refund or Portion of refund	# [REDACTED] # and <b>all or PORTION of refund was deposited</b> into account of the taxpayer  <b>AND</b> The refund is <b>equal</b> to the refund on actual return	Match/Does Not Match regardless of whether it is signing preparer or non-signing preparer	Partial Disallowance (106C) <ul style="list-style-type: none"> <li>• Account adjustment to remove the nullified return</li> <li>• Account adjustment to reflect return as intended to be filed</li> <li>• NO additional refund is due since our records show taxpayer previously received applicable amount</li> </ul> Refer to <a href="#">Partial Disallowance, Account Adjustments</a> or <a href="#">Reassigning Cases Through CIS</a> , as applicable.  <b>Note:</b> If law enforcement agency report or alternative statement information does not match, also include an explanation that the information provided on <a href="#">Form 14157-A</a> does not match the law enforcement agency report in the <a href="#">106C</a> letter.

No refund or Portion of refund	<p># [REDACTED] # and <b>all or PORTION of refund was deposited</b> into account of the taxpayer</p> <p><b>AND</b></p> <p>The refund is <b>less</b> than what taxpayer is entitled to on actual return</p>	<p>Signing preparer: Matches name on complaint and processed tax return</p> <p>Non-signing preparer: Matches name on complaint</p>	<ul style="list-style-type: none"> <li>• Account adjustment to remove the nullified return</li> <li>• Account adjustment to reflect return as intended to be filed</li> <li>• Removal of the preparer portion of the refund</li> <li>• Applicable additional refund</li> </ul> <p>Refer to <a href="#">Account Adjustments</a> or <a href="#">Reassigning Cases Through CIS section</a>, as applicable.</p> <p><b>Exception:</b> Partial Disallowance:</p> <ul style="list-style-type: none"> <li>• If the refund amount the taxpayer states he/she did not receive matches the fee paid to the preparer then no additional refund <b>or</b></li> <li>• If refund trace confirms that the portion received is greater than what taxpayer states then issue only the remaining balance of refund</li> </ul>
		<p>Signing preparer: Does not match name on complaint and processed tax return</p> <p>Non-signing preparer: Does not match name on complaint</p> <p>Or</p> <p>No law enforcement agency report or alternative statement is submitted with complaint.</p>	<p>Partial Disallowance (106C)</p> <ul style="list-style-type: none"> <li>• Account adjustment to remove the nullified return</li> <li>• Account adjustment to reflect return as intended to be filed</li> <li>• Removal of the preparer portion of the refund</li> <li>• NO additional refund since law enforcement agency report requirements not met</li> </ul> <p>Refer to <a href="#">Partial Disallowance, Account Adjustments</a> or <a href="#">Reassigning Cases Through CIS</a>, as applicable.</p>

No refund or Portion of refund	# [REDACTED] # and <b>PORTION of refund was deposited</b> into account of the taxpayer  <b>AND</b>  The refund <b>exceeds</b> what taxpayer is entitled to on actual return	Match/Does Not Match regardless of whether it is signing preparer or non-signing preparer	Partial Disallowance (Letter 106C)  Taxpayer will be asked to repay the erroneous portion of the refund using Category D erroneous refund procedures and is eligible for: <ul style="list-style-type: none"> <li>• Account adjustment to remove the nullified return</li> <li>• Account adjustment to reflect return as intended to be filed</li> <li>• Removal of the preparer portion of the refund</li> </ul> Refer to <a href="#">Partial Disallowance</a> section for additional information and <a href="#">Category D Erroneous Refund, Account Adjustments</a> or <a href="#">Reassigning Cases Through CIS</a> section, as applicable.
--------------------------------	---	---	--

**Note:** In order to be eligible for an additional refund, the individual name on the law enforcement agency report or alternative statement must match the name on the complaint and documentation submitted to verify the preparer was in the business of preparing returns. If signing preparer, the name must match the processed return as well.

**D. Category 4 - Misdirected Refund Only and Taxpayer Requesting an Additional Refund**

- 1) Category 4 is defined as a taxpayer who was in contact with a preparer and authorized a return filing, but states only the direct deposit information or address was altered, diverting the refund to the preparer and no refund or only a portion of the refund was received.
- 2) Potential relief/resolution: The IRS will administratively remove the portion of the refund attributable to preparer misconduct and the taxpayer may receive a refund if the required documentation is provided.
- 3) Complaints determined to be Category 4 will **not** result in treating the original return filed as a nullity.
- 4) Category 4 requires specific documentation to qualify for relief. The required documentation is outlined in the chart below:

<b>Category 4: Required Documentation for Accepted Complaints</b>	
<b>Posted Return Reflects</b>	<b># [REDACTED] # Required Documentation</b>
Signing Preparer	<ul style="list-style-type: none"> <li>• Tax return as intended to be filed, signed by the taxpayer. (Should match the posted return with exception of the refund information)</li> <li>• <a href="#">Form 14157</a> – First and last name of preparer and address.</li> <li>• <a href="#">Form 14157-A</a> – Signed under penalties of perjury. (At least one taxpayer, if married filing joint return)</li> <li>• Official law enforcement report (e.g. police report, State AG, CI, TIGTA), signed by an officer or equivalent or otherwise demonstrably shown to be accepted by that agency and must contain:</li> </ul>

	<ul style="list-style-type: none"> <li>• Tax year(s) involved</li> <li>• Preparer's first and last name</li> <li>• Statement describing preparer misconduct and theft of refund</li> </ul>
Ghost/Non-Signing Preparer	<ul style="list-style-type: none"> <li>• Tax return as intended to be filed, signed by the taxpayer. (Should match the posted return with exception of the refund information)</li> <li>• <a href="#">Form 14157</a> – First and last name of preparer and address</li> <li>• <a href="#">Form 14157-A</a> – Signed under penalties of perjury. (At least one taxpayer, if married filing joint return)</li> <li>• Documentation showing 3<sup>rd</sup> party presented him/herself as preparer</li> <li>• Documentation showing interaction between the taxpayer and preparer</li> <li>• Official law enforcement report (e.g. law enforcement agency department, State AG, CI, TIGTA), signed by an officer or equivalent or otherwise demonstrably shown to be accepted by that agency and must contain: <ul style="list-style-type: none"> <li>• Tax year(s) involved</li> <li>• Preparer's first and last name</li> <li>• Statement describing preparer misconduct and theft of refund</li> </ul> </li> </ul>

**Note:** In cases that meet category 4 where the original refund is frozen for the full amount in question, the law enforcement agency report is not required. However, on cases where a partial refund was released to the preparer, a law enforcement agency report is required

**Note:** A refund trace is required for all Category 4 cases, it must be used to assist with verifying the taxpayer's statement regarding no or only a portion of the refund was received.

**5) Consider the documentation complete:**

- a) If the # [REDACTED] # required documents above are included, consider the documentation requirement complete. **In some circumstances all the required documentation is not required as outlined below:**
- [Form 14157-A](#) is not included, however, other documentation included contains the required information and the taxpayer provides a statement/explanation signed under penalties of perjury.

**Example:** If the preparer's first and last name and address is included on other documentation, then [Form 14157](#) is not required.

**Exception:** Law enforcement agency report is not included, however there is a taxpayer statement documenting the taxpayer's attempt to secure a police report signed under penalties of perjury along with a statement from TAS documenting the assistance it provided to the taxpayer attempting to obtain/attempts in obtaining a police report. The taxpayer statement should contain the return preparer's first and last name, address, and description of the preparer misconduct and theft of refund.

**6) Consider the documentation incomplete:**

- a) If the # [REDACTED] # required documents above are not included or are included but the information provided within the documentation is incomplete.

**Example:** Taxpayer indicates that a refund was received and does not include the amount of the refund received on [Form 14157-A](#) or other documentation.

**Note:** # [REDACTED] # provides information regarding fees paid to the preparer, it must be taken into account when determining refund eligibility.

- b) If complaint is considered incomplete refer to [Incomplete Documentation](#) section for additional information. Suspend case for 40 days following normal procedures. If reply received or suspense period ends refer to [Evaluating Taxpayer's Responses to Missing Documentation Request](#) section for additional information.
- 7) Verify the preparer information. Refer to [Verification of the Preparer](#) section for additional information.
- 8) For Category 4, # [REDACTED] # cases, a refund trace is required and used to verify whether a refund was issued in the taxpayer's name. The trace information will be utilized to verify the receipt or non-receipt of a refund and to determine the amount, if any, of an additional refund that may be issued.
  - a) If # [REDACTED] #
  - b) If # [REDACTED] #, determine if refund trace was previously performed. If no trace information is available, initiate a refund trace. Refer to [Refund Trace](#) section for additional information.
  - c) The trace information will be utilized to verify the receipt or non-receipt of a refund and to determine the amount, if any, of an additional refund that may be issued.

**Example:**

Taxpayer states no refund received and refund trace information shows that the refund was NOT deposited into an account in the taxpayer's name. # [REDACTED] #

Taxpayer states that no refund or portion of refund received, however, refund trace shows that the entire refund was deposited into account in the taxpayer's name. # [REDACTED] # use the refund trace information. Disallow claim.

- d) If trace information cannot verify the receipt or non-receipt of the refund, # [REDACTED] #

**Example:**

Taxpayer states portion of refund received and available refund trace information shows that the refund was NOT deposited into an account in the taxpayer's name. We cannot verify the portion that the taxpayer received. # [REDACTED] #

- 9) If complaint is considered complete and all required documentation, including 3<sup>rd</sup> party documentation (if applicable) is present and the preparer information is considered verified then the complaint is accepted.

**Note:** # [REDACTED] # information regarding fees paid to the preparer that were deducted from the original refund, it must be taken into account when determining preparer portion of refund and any additional refund amounts. The fee amount would not be considered a part of the preparer portion of the refund. However, when the fee is paid by other methods of payment (cash, personal check, unknown), do not take it into account.

10) The IRS will determine the type of relief the taxpayer is entitled. **For Category 4 cases the original return is considered valid and not considered a nullity.**

<b>Category 4 : Treatment Stream For Accepted Complaints</b>			
<b>Taxpayer states he/she received:</b>	<b>And original refund was:</b>	<b>And individual named on law enforcement agency or alternative statement in lieu of report:</b>	<b>Then taxpayer is eligible for:</b>
No refund or Portion of refund	# [REDACTED] # or # [REDACTED] # and refund trace information shows refund was <b>NOT</b> deposited into an account in the name of the taxpayer	Signing preparer: Matches name on complaint and processed tax return	<ul style="list-style-type: none"> <li>• Removal of the preparer portion of the refund</li> <li>• Applicable additional refund</li> </ul> Refer to <a href="#">Account Adjustments</a> or <a href="#">Reassigning Cases Through CIS</a> section, as applicable.
		Non-signing preparer: Matches name on complaint  Signing preparer: Does not match name on complaint and processed tax return  Non-signing preparer: Does not match name on complaint  <b>OR</b> No law enforcement agency report or alternative statement is submitted with the complaint	
No refund or Portion of refund	# [REDACTED] # and <b>ENTIRE refund was deposited</b> into account of the taxpayer	Match/Does Not Match regardless of whether it is signing preparer or non-signing preparer	<ul style="list-style-type: none"> <li>• Disallow claim for Return Preparer Misconduct (105C)</li> </ul> Refer to <a href="#">Disallowance of Claims</a> section for additional information.
No refund or Portion of refund	# [REDACTED] # and <b>PORTION</b>	Signing preparer: Matches name on	<ul style="list-style-type: none"> <li>• Removal of the preparer portion of the refund</li> </ul>

	<p><b>of refund was deposited</b> into account of the taxpayer</p>	<p>complaint and processed tax return</p> <p>Non-signing preparer: Matches name on complaint</p>	<ul style="list-style-type: none"> <li>• Applicable additional refund</li> </ul> <p>Refer to <a href="#">Account Adjustments</a> or <a href="#">Reassigning Cases Through CIS</a> section, as applicable.</p> <p><b>Exception:</b> Partial Disallowance</p> <ul style="list-style-type: none"> <li>• If the refund amount the taxpayer states he/she did not receive matches the fee paid to the preparer then no additional refund <b>or</b></li> <li>• If refund trace confirms that the portion received is greater than what taxpayer states then issue only the remaining balance of refund.</li> </ul>
		<p>Signing preparer: Does not match name on complaint and processed tax return</p> <p>Non-signing preparer: Does not match name on complaint</p> <p><b>OR</b></p> <p>No law enforcement agency law enforcement agency report or alternative statement is submitted with the complaint</p>	<ul style="list-style-type: none"> <li>• Disallow complaint for Return Preparer Misconduct (105C)</li> </ul> <p>Refer to <a href="#">Disallowance of Claims</a> section for additional information.</p>

5) If a scenario presents itself that does not meet one of the categories above, please forward to ITVA HQ through your IDTVA P&A Staff.

**VII. Erroneous Refund Procedures**

- 1) In situations where the taxpayer received a refund for an amount to which he/she is not entitled, erroneous refund procedures must be followed to recoup the refund. See IRM [21.4.5, Refund Inquiries, Erroneous Refunds](#) for additional information.
- 2) For RPM cases, in which the claim is allowed, the erroneous refund will fall into Category D only. Category D erroneous refund is subject to the right of offset.

**Note:** The ASED, RSED and ERSED must be determined when following these charts. See [Statute of Limitations](#) section for additional information.

## VIII. Issuing Correspondence

### A. Corresponding with the Taxpayer

- 1) All normal functional outgoing correspondence guidelines apply; see IRM [25.23.10.3](#), *Procedures for all Cases*. The following list is not all inclusive:
  - a) All issues must be addressed. For example, if taxpayer provides state tax return information, this must be addressed in the correspondence to the taxpayer (such as advise the taxpayer to send state information to his/her state taxation agency) along with any other explanation concerning his/her federal account.
  - b) Indicate any action(s) taken, including if a refund will be issued.
  - c) If the taxpayer's return as intended to be filed shows a balance due, it must be addressed. Advise the taxpayer: *Due to the delay in processing your claim we did not charge penalties to the date of adjustment. You will receive a notice of adjustment shortly. If the balance due on the account remains unpaid additional penalties and interest may apply.*
  - d) If math error set, provide explanation.
  - e) If applicable, provide explanation why the complaint does not meet the IRS guidelines under Return Preparer Misconduct.
  - f) Advise the taxpayer that the Return Preparer Office has also been notified of the allegations made regarding the preparer.
- 2) Action 61 guidelines apply.
- 3) Letter [5064C](#), *Compliance Letter – Identity Theft*, will be used to acknowledge receipt of all RPM complaints and as a closing letter.
- 4) Suggested opening paragraph verbiage on allowed claims: *"We have your adjusted your 20xx (tax year) account(s) above to reflect the information shown on the tax return(s) you provided so your IRS tax records are accurate."*

### B. Incomplete Complaints

- 1) For all categories where the determination has been made that the complaint is not complete, correspondence will be issued requesting the missing documentation.
- 2) Letter [131C](#), *Information Insufficient or Incomplete for Processing Inquiry*, will be used when corresponding for additional/missing information.
- 3) Suggested language for taxpayer contact:

*"We received your complaint of return preparer misconduct; however, we are unable to process your complaint because your supporting information is incomplete or missing the required documentation."* Include an explanation specifying what information is missing (preparer's name, address, PTIN, TIN or EIN, etc., amount of refund received or expected, etc.).

- 3) Advise the taxpayer, if no response received within 30 days, his/her complaint will be disallowed and the compliance action will continue. Suspend case for 40 days (70 days for overseas taxpayers), following normal procedures.
- 4) Provide your direct contact information, including telephone number, with extension, if available, and hours of operation.
- 5) Document all findings and actions taken following normal procedures.

- 6) If Taxpayer Advocate Service (TAS) is involved and an Operations Assistance Request (OAR) is received, check the case for required documentation. If missing documentation, contact TAS to request the missing information and negotiate a new response date.
- 7) If a Taxpayer Assistance Order (TAO) is received and documentation is missing, contact TAS to request the missing information and negotiate a new response date.
- 8) For all categories, if case is considered incomplete, initiate a refund trace if no trace has been previously performed. Refer to [Refund Trace](#) section for additional information.

**Note:** For Category 1 and 2 cases, if the additional information was requested from the taxpayer and taxpayer responds before the refund trace information becomes available, **do not** wait for the refund trace information, resume working the case.

- 9) If the ASED is imminent (90 days) and the taxpayer's actual return is included with the complaint but there are other missing elements, take into consideration certain factors and timeframes in order to ensure the ASED is protected. Timely follow-up is required on these suspense cases.

**Note:** The treatment of the taxpayer's actual return submitted with the complaint differs depending upon whether the claim is allowed or disallowed, 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 original refund is ...</b>	<b>And...</b>	<b>Then...</b>
# [redacted] # or # [redacted] # and it can be determined that <b>only a portion or no refund was deposited</b> into account in taxpayer's name	Tax/credit change # [redacted] #	No statute implication <ul style="list-style-type: none"> <li>• Correspond following normal procedures and suspend case.</li> </ul>
	Tax/credit change is # [redacted] #	<ul style="list-style-type: none"> <li>• Protect statute following normal procedures</li> </ul>
# [redacted] # and determination can be made that the <b>entire refund was deposited</b> into account in the taxpayer's name  <b>OR</b>  Determination cannot be made at the time of suspense regarding receipt or non-receipt of refund	ASED more than 60 days	<ul style="list-style-type: none"> <li>• Request information following normal procedures and suspend case.</li> <li>• Take no action on actual return during suspense timeframe.</li> </ul> <p><b>Note:</b> If determination after suspense timeframe is a disallowance, a <b>PROMPT</b> assessment <b>WILL</b> be required.</p>

	ASED less than 60 days	<ul style="list-style-type: none"> <li>• Correspond and suspend case.</li> <li>• Protect statute following normal procedures</li> <li>• If a prompt assessment is made, indicate on <a href="#">Form 3210</a> to “Hold the Billing Notice”.</li> </ul> <p><b>Note:</b> Judgment may be used whether to input a prompt assessment. If there is sufficient time for the suspense timeframe (45 days) and to input a prompt assessment, if determination after suspense is a disallowance, then case can be suspended without the input of a prompt assessment. However, timely follow-up actions <b>MUST</b> be taken to protect the ASED.</p> <p><b>Note:</b> If a prompt assessment is input and determination after suspense timeframe is a disallowance, the <b>PROMPT</b> assessment <b>MAY</b> have to be reversed. (Refer to <a href="#">Disallowance of Complaint</a> section for additional information, if applicable)</p>
--	------------------------	--

10) For the pre-existing cases, a law enforcement agency report may be missing from the case file, the taxpayer is required to provide a law enforcement agency report or **attempt** to secure a police report with the following required elements on the report:

- Official report signed by officer or equivalent (or otherwise demonstrably accepted by the police department)
- Tax year(s) involved
- Preparer’s first and last name
- Statement describing preparer misconduct and theft of refund

a) Correspond for the missing law enforcement agency report and suspend case for 40 days, (70 days for overseas taxpayers):

(1) He/she must either provide a law enforcement agency report or alternative statement within 30 days.

REMINDER: Request any other information that is missing, for example 3<sup>rd</sup> party documentation for ghost preparer situations.

- (2) If he/she does not already have a law enforcement agency report and cannot obtain a police report, advise the taxpayer to contact TAS at 1-877-777-4778 for assistance.

Example of language for the request for law enforcement agency report:

*We have received your complaint of Return Preparer Misconduct; however, due to recent policy decisions, in order to process your complaint a law enforcement agency report is required. The report must include the tax year(s) involved; your tax preparer's full name and statement describing the preparer misconduct and theft of refund.*

*If you do not have a law enforcement agency report, you should attempt to get a police report. If you are unable to obtain a police report, you must contact your local taxpayer advocate at 1-877-777-4778 for assistance. If no contact is made, we will be unable to process your complaint.*

- b) Include IRS Publication [4134](#), Low Income Taxpayer Clinic (LITC) List. This publication will provide information on LITC's.
- c) TAS will:
- (1) Contact the controlling IDTVA employee, advising that the taxpayer has contacted TAS for assistance and negotiate a reasonable timeframe for continued suspense.
  - (2) TAS will attempt to secure a police report and if TAS cannot, TAS will assist the taxpayer in preparing a statement signed under penalties of perjury documenting his/her attempt.
  - (3) TAS must also provide a written statement documenting the attempt.
- d) If TAS contacts IDTVA, leave CIS notes indicating TAS contact with agreed follow-up date.
- e) Request assistance from TAS to ensure any other required documentation is secured.
- f) Refer to [Taxpayer Responses](#) section if reply received or suspense period ends.

**Reminder:** Request any other information that is missing, for example 3<sup>rd</sup> party documentation for ghost preparer situations.

**C. Evaluating Taxpayer's Response to Missing Documentation Request**

- 1) When a taxpayer responds to a request for missing information, the complaint should be re-evaluated to determine whether the missing information is sufficient to provide relief.
- 2) Although not all inclusive, follow the If/Then Chart below upon receipt of the taxpayer's response to missing information request.

Missing Documentation		
If ...	And...	Then ...
The taxpayer responds to a request for missing information	Does not provide all of the required documentation	<ul style="list-style-type: none"> <li>▪ Disallow the RPM claim based upon the category and missing information.</li> </ul> Refer to <a href="#">Disallowance of</a>

		<a href="#">Claims</a> section.
The taxpayer responds to a request for missing information	Provides all required documentation	<ul style="list-style-type: none"> <li>Follow guidance under <a href="#">Return Preparer Misconduct Met</a></li> </ul>
The taxpayer does not respond		<ul style="list-style-type: none"> <li>Disallow the RPM claim based upon the category and missing information. <b>Exception:</b> if Category 2, send 916C</li> </ul> Refer to <a href="#">Disallowance of Claims</a> section.
Taxpayer responds to Letter <a href="#">131C</a> request for missing law enforcement agency report and any other information requested	Does not provide all of the requested information including the law enforcement agency report AND TAS has not contacted IDTVA-AM advising that taxpayer has contacted TAS.	<ul style="list-style-type: none"> <li>Disallow Claim</li> </ul> Refer to <a href="#">Disallowance of Claims</a> section.
	Does not provide all of the requested information including the law enforcement agency report AND TAS has contacted IDTVA-AM advising that taxpayer has contacted TAS.	Suspend for the agreed additional timeframe for TAS to secure the required information.
Taxpayer responds to Letter <a href="#">131C</a> request for missing law enforcement agency report and any other information requested	The law enforcement agency report is the ONLY missing element AND TAS has not contacted IDTVA-AM advising that taxpayer has contacted TAS.	Proceed to the applicable Category 3 or 4 treatment stream chart.  <b>Note:</b> No additional refund will be issued.
Taxpayer or TAS responds to Letter <a href="#">131C</a> request for missing law enforcement agency report and any other information requested	Taxpayer/TAS has provided the required documentation or statement signed under penalties of perjury	Follow guidance under <a href="#">Return Preparer Misconduct Met</a>

## IX. Disallowance of Claims

- There will be circumstances where the taxpayer's claim for refund will be disallowed. Cases where the taxpayer is requesting an additional refund and the claim is disallowed, a Claim Disallowance letter ([105C](#) or [106C](#) letter) is required.

### A. Full Disallowance

- For specific categories, depending upon the facts and circumstances, an otherwise complete claim may not be allowed. Follow the guidance as provided in the applicable treatment stream chart and refer to (8) below for additional information if inputting adjustment.
- In all categories, incomplete complaints will be disallowed if no response is received or response received without the requested information.

**Exception:** For Category 2 – This category is not a claim for refund and therefore a [916C](#), *No Consideration*, letter will be sent. For Category 3 - If the only missing element is a law enforcement agency report then refer to Partial Disallowance section.

- 3) In all categories, the claim will be disallowed when the preparer and/or documentation cannot be verified.
- 4) In all categories, if the claim is disallowed, a refund trace is required to determine the treatment of the taxpayer’s actual return, if included in the documentation.

<b>Disallowing Claims of Return Preparer Misconduct &amp; Taxpayer’s Actual Return is Present</b>		
<b>If refund trace shows ...</b>	<b>And ...</b>	<b>Then ...</b>
Entire refund deposited into account in taxpayer’s name	N/A	<ul style="list-style-type: none"> <li>• Issue <a href="#">105C</a> (Letter <a href="#">916C</a>, No Consideration for Category 2)</li> <li>• Treat taxpayer’s actual return, if present, as an amended return following normal procedures.</li> </ul>
Only a portion or no refund was deposited into account in taxpayer’s name	# [REDACTED] #	<ul style="list-style-type: none"> <li>• Issue <a href="#">105C</a> (Letter <a href="#">916C</a>, No Consideration for Category 2)</li> <li>• Do not process actual return</li> </ul>
	# [REDACTED] #	<ul style="list-style-type: none"> <li>• Refer to Exam for deficiency procedures</li> <li>• <b>Exception:</b> If open AIMS Exam case, return to Exam to include the return as intended to be filed as part of the Notice of Deficiency. If closed Exam case and sufficient time left in the statute refer to suspend to CATA using interim primary reason “Constitutional Objection”. Notate in remarks: “RPM Disallowance over \$1,500.”. Exam will select case and at that time close CIS case.</li> <li>• <b>Note:</b> If AUR case with outstanding underreporting issues, advise AUR to close their control, following normal procedures. When suspending to Cat A, include note and identify the underreported income so the income can be included as part of the exam assessment.</li> </ul>

		<b>Exception:</b> If Exam returns case with non-select , then follow the # <span style="background-color: black; color: black;">[REDACTED]</span> # box above.
--	--	---

- 5) Refer to IRM [21.5.3.4.6.1](#), *Disallowance and Partial Disallowance Procedures*, for additional information regarding requirements within the 105C letter and required account actions.

**Exception:** For RPM claims for refund, Category 1, 3 and 4, the taxpayer will be provided the right to file suit (paragraph d only). All other requirements in IRM [21.5.3.4.6.1](#) should be followed.

- 6) All Category 1, 3 or 4 claims disallowed in full will receive Letter [105C](#), *Claim Disallowance*, with the appropriate paragraphs upon disallowance of the complaint.
- 7) Category 2 claims disallowed will receive a [916C](#), *No Consideration*, letter. Include open paragraphs as necessary in line with the suggested verbiage below.
- 8) When disallowing a claim, an adjustment to the account is also needed, and a separate TC 290.00 blocking series (BL) 98 or 99 is required. The same applies if statute issues apply and the refund is barred, issue claim disallowance letter.
- 9) Suggested language for the Claim Disallowance letter is outlined below. Include the reason(s) for the claim disallowance. Include open paragraph (C) and additional open paragraphs as necessary using the suggested verbiage.
- a) *We are disallowing your Return Preparer Misconduct complaint because we received no response to our request for missing information.*
- b) *We are disallowing your Return Preparer Misconduct complaint because you did not provide sufficient information in your response to our request for missing information.*
- c) *We are disallowing your Return Preparer Misconduct complaint because we cannot verify the information you provided regarding your return preparer.*
- 9) When guidance states to treat taxpayer's return as an amended return, suggested verbiage:

*Refund trace information shows that the entire original refund was deposited into an account in your name and/or it has been determined that you received the benefit of the entire original refund. We have adjusted your account to reflect the tax return you provided with your complaint as an amended return. A notice of adjustment will be issued.*

- 10) For Category 4 disallowances include:
- a) *We are disallowing your Return Preparer Misconduct complaint because the refund trace information shows that the entire original refund was deposited into an account in your name.*
- b) *We are disallowing your claim for Return Preparer Misconduct because the preparer information on the law enforcement agency report provided does not match the preparer information you provided on the complaint filed.*

**Note:** If statute issues also apply, for example, ASED expired and no adjustment to reflect taxpayer's actual return can be made then you must also address this in the claim disallowance letter. Suggested verbiage:

*No adjustments can be made to your account at this time because the legal period has expired for assessments for the tax period(s) shown above.*

11) When guidance states “Do not process actual return”: Suggested verbiage:

*No adjustments are being made to your account at this time. If you need to make any changes to your original return, please file a [Form 1040X](#), Amended U.S. Individual Income Tax Return.*

10) Provide [Publication 4134](#), Low Income Taxpayer Clinic (LITC) List. This publication will provide information on LITC’s.

## **B. Partial Disallowance**

- 1) Partial disallowance procedures can occur in RPM Categories 1, 3 & 4 and may apply if there are RSED implications.
- 2) Depending upon the facts and circumstances, including the refund trace results, the taxpayer may have received more than he/she stated in the RPM complaint and partial disallowance procedures would apply.
  - a) The taxpayer may have received more than he/she stated in the RPM complaint which would impact the amount of the refund issued.

**Example:** Category 3: The taxpayer states he/she received a portion of the refund in the amount of \$500.. His/her actual return shows a refund of \$1,500.. The complaint is reviewed and considered complete. The refund trace shows that the taxpayer received a refund but in the amount of \$1,000.. The treatment chart would advise that the taxpayer is eligible for account adjustment, removal of any preparer portion of the refund and the remaining balance of refund. The computation would affect the preparer portion moved to the general ledger (GL) account and in turn affect the additional refund amount due to the taxpayer. Since a refund amount (\$500.) is less than the taxpayer expects (\$1,000.) this is considered a partial disallowance.

- b) The law enforcement agency report or alternative statement contained inconsistent information, however, the complaint was otherwise complete. Therefore the taxpayer is not eligible for a refund but is eligible for an account adjustment.
  - c) The RSED has expired, however taxpayer is eligible for account adjustment including removal of the preparer portion of the refund, and the overpayment must be moved to Excess Collections.
- 3) All partially disallowed complaints will receive Letter [106C](#), *Claim Disallowance*, with the appropriate paragraphs upon disallowance of the complaint.

**Exception:** For RPM claims for refund, Category 1, 3 and 4, the taxpayer will be provided the right to file suit (paragraph Q only). All other requirements in IRM [21.5.3.4.6.1](#) should be followed.

- 4) When inputting a partial disallowance adjustment use BL 00 with the adjustment to reflect the taxpayer’s actual return of record. Issue claim disallowance letter.
- 5) Provide IRS [Publication 4134](#), Low Income Taxpayer Clinic (LITC) List. This publication will provide information on LITC’s.

## **X. Referrals to the Return Preparer Office**

- 1) The Return Preparer Office (RPO) must be notified of all RPM complaints received regardless of completeness of complaint or criteria met unless there is an indication case

was previously sent to the RPO or was received from RPO (RPO control number or date stamp).

- 2) Forward all copies of [Form 14157](#), [Form 14157-A](#) and all applicable documentation received on an RPM complaint where the complaint has been accepted, denied or involve instances of identity theft.
- 3) RPO will not receive copies of [Form 14157](#) and/or [Form 14157-A](#) when the complaint is due to a math error, open Exam not involving RPM, general account issues, etc.
- 4) All RPM documentation should be mailed to the address below:  
Return Preparer Office  
401 W Peachtree Street NW  
Mail Stop 421-D  
Atlanta, GA 30308

## XI. Statute of Limitations

### A. Statute Considerations

- 1) Care must be taken when evaluating statute year complaints. If the assessment statute expiration date (ASED) and/or refund statute expiration date (RSED) is imminent or expired, the complaint must still be evaluated. Appropriate actions must be taken to protect these dates.
- 2) If additional information is necessary for consideration on a statute year complaint, see [Incomplete Complaint](#) section for guidance.
- 3) When a claim (Categories 1-3) is allowed, the original return will be treated as a nullity and the taxpayer's signed return as intended to be filed, received with his/her complaint, will be considered the return of record. For category 4 cases the original return is considered valid and the taxpayer's return of record.
- 4) When following Category D erroneous refund procedures the Erroneous Refund Statute Expiration Date (ERSED) must be considered. Refer to IRM [21.4.5.14.1.1](#), *Statute of Limitations Category D Erroneous Refunds IRC 6532 (b) ERSED*.
- 5) The following Internal Revenue Manuals (IRMs) should be referenced. This list is not all inclusive:
  - IRM [25.6.1](#), *Statute of Limitations Processes and Procedures*
  - IRM [25.6.1.5](#), *Basic Guide for Processing Cases with Statute of Limitation Issues*
  - IRM [25.6.1.6](#), *General Information and Procedures*
  - IRM [25.6.1.7](#), *Credits and Payments*
  - IRM [25.6.1.7.3](#), *Excess Collection File (XSF) and Unidentified Remittance File (URF)*
  - IRM [25.6.1.8](#), *Original Delinquent Returns*
  - IRM [21.4.5.14.1.1](#), *Statute of Limitations Category D Erroneous Refunds IRC 6532 (b) ERSED*

### B. Assessment Statute Expiration Date (ASED)

- 1) **This applies to Categories 1 – 3.** For the purposes of applying the RPM procedures, the filing of an altered return by a preparer may not meet the definition of a valid return. When a claim is allowed, the posted return is considered a nullity and the statute of limitations does not start until a signed return is received from the taxpayer regardless of whether the taxpayer authorized the filing of the initial return. Category 4 cases are **not** considered nullities and the ASED will remain.
- 2) If complaints are received after the ASED, the complaint must be evaluated to determine whether the posted return is a valid return.
- 3) When returns are received with a taxpayer's allegation of preparer misconduct and the claim is allowed, with the exception of Category 4, Misdirected Refund, the ASED must be

updated based upon the received date of the signed return (intended to be filed return). The ASED must be updated prior to routing to DITA, if applicable.

- 4) Use the received date of the taxpayer's signed return as intended to be filed to reflect the date of the return of record for allowed claims.
- 5) If a return is submitted but unsigned, correspond for signature. If not received, disallow the claim. **Do not** change the ASED on disallowed claims.

**Note:** RPM complaint is accepted when complete. Claim is allowed when all requirements are satisfied. These SOL modifications only apply to allowed claims.

### **C. Refund Statute Expiration Date (RSED)**

- 1) The RSED is generally the later of three years from the date the return is filed or two years from the time the tax was paid. Returns submitted as part of an accepted RPM complaint for Categories 1, 2, and 3 will be considered original returns, unless otherwise noted.
- 2) Generally, prepaid credits must be claimed within 3 years of the due date of the return with regard to extensions. Therefore, if a return is received more than three years from the due date with regard to extensions, a refund of prepaid credits should not be made.
- 3) If the RSED has expired, move any refunds to excess collection and send a claim disallowance letter.
- 4) Category 4 cases involve a claim for refund only. Normal RSED procedures would apply.

**Note:** The requirement that a RPM complaint must be complete before it is accepted has no bearing on whether or not a claim for refund is timely for RSED purposes. Claims for refund (including informal claims) received prior to the RSED will be considered timely regardless of whether or not the RPM complaint is complete. See IRM [25.6.1.10.2.6.3](#), *Informal Claims*.

### **D. Erroneous Refunds Statute Expiration Date (ERSED)**

- 1) The ERSED is two years from the date of the erroneous refund or direct deposit. However, a five (5) year statute will apply if the IRS can show the erroneous refund was induced by fraud or misrepresentation of material facts. Generally, for purposes of RPM, the two (2) year statute will apply to the taxpayer.

## **XII. Penalties and Interest**

### **A. Balance Due Cases**

- 1) Depending upon the facts and circumstances of the complaint and account actions, there may be instances where a balance due will be a result.

Possible scenarios are:

- a) The taxpayer received or it is determined that the taxpayer received a refund in excess of which he/she is entitled resulting in an erroneous refund and/or balance due situation. For these types of accepted cases, the taxpayers will be asked to repay the amount using erroneous refund procedures. Refer to [Return Preparer Misconduct Categories](#) treatment stream charts and [Erroneous Refund](#) sections for additional information.
- b) The taxpayer may not have received a refund, but did not expect a refund and the return as intended to be filed is a balance due. (This scenario should only occur with Category 1 and Category 2 cases.) Circumstances of the account and return received dates will have to be considered to determine if any penalty and interest implications apply. Refer to the General Filing Penalties for additional information.

### **B. Penalty and Interest Consideration for Balance Owed Due to Tax Liability**

- 1) Any actual returns that reflect a tax liability and the tax return is late or the tax is not paid before or on the due date of the return, **no** Failure to File (FTF) or Failure to Pay (FTP) penalties will be applied. Restrict the generation of these penalties or reverse any penalties assessed, if applicable.
- 2) Interest will be allowed to systemically generate.

### C. Accuracy-Related Penalties

- 1) Accuracy-related penalties must be considered when reviewing RPM complaints.
- 2) If accuracy-related penalties were assessed based upon items inflated by a preparer, the associated penalties should be removed/abated, if the items are removed from the account.

## XIII. Collection Activity

### A. AUR and Exam Functions Only

- 1) To protect the taxpayer from collection activity while his/her account is being worked or referred to DITA for account resolution, screen CC TXMODA.
- 2) If the taxpayer account is in debit balance (BAL due) and in MF (Collection) Status 20, 56, or 58, input CC STAUP with collection closing code (CC) = 0. A TC 470, CC 0, will prevent notices from being issued for 15 cycles.
- 3) Complete [Form 14394](#), *Identity Theft/Return Preparer Misconduct Case Collection Alert Form*, if any of the following apply.
  - a) Did the taxpayer indicate that he/she has an active levy against him/her?
  - b) Did the taxpayer indicate that the IRS filed a lien?
  - c) Is the case in or been in status 22, 24, or 26?
  - d) Is there a TC 582 that has not been reversed?
  - e) Is there a TC 971 with AC 060-FPLP, TC 971 AC 601-AKPFD or a TC 971 AC 600-SITLP?
  - f) Is there a TC 670 DPC 05 on the account?
- 4) If there is a TC 582 (lien indicator) posted **and** the RPM adjustment will result in a zero tax liability; prepare [Form 13794](#), *Request for Release, Partial Release, of Notice of Federal Tax Lien* to request the lien be released pursuant to [IRM 5.12.3.10.1](#), *Return Preparer Situations*. Take the following actions in completing [Form 13794](#):
  - a) Input as much information as possible regarding the abatement.
  - b) Include the Serial Lien Identification Number of the notice of the Federal Tax Lien, if available.
  - c) Check box 9 indicating "Erroneous Lien"
  - d) Include "RPM" in the "Reason" box
  - e) Fax or email [Form 13794](#) to the "**Advisory Units Contact List**" for the state where the taxpayer currently resides. Collection Advisory contacts can be found in Publication 4235, *Collection Advisory Group Addresses*, or at <http://mysbse.web.irs.gov/AboutSBSE/Collection/fieldcoll.aiq.default.aspx>.

**Note:** When making referrals to DITA, reassign through CIS. Case notes should clearly identify the necessary actions needed on the account. Include language that [Form 14394](#) submitted to ACSS and/or [Form 13794](#) was sent to Advisory, as applicable.

- 5) The Advisory Unit will review the Notices of Federal Lien (NFTL) filed against the taxpayer using the Automated Lien System (ALS). If all the modules on the NFTL are satisfied, Advisory will request the release of the NFTL as an erroneously filed NFTL per IRC 6326(b). The release of the NFTL will reverse the TC 582. The Advisory unit will abate the TC 360 associated with the NFTL filing and issue [Letter 544](#), *Letter of Apology - Erroneous Filing of Notice of Federal Tax Lien*, to the taxpayer.

- 6) If the taxpayer requests the NFTL be withdrawn, ask the taxpayer to complete [Form 12277](#), *Application for Withdrawal of Filed Form 668(Y), Notice of Federal Tax Lien* (as based on IRC Section 6323(j)), or he/she may submit a written request for the withdrawal to the Advisory unit.
- 7) Advise the taxpayer to include an explanation regarding the abatement situation and noting the release of the NFTL, if that has taken place.
- 8) Inform the taxpayer the determination to grant such request will be made on a case by case basis by the Collection Advisory contacts.

#### **B. ACS Support**

- 1) Move case to the next appropriate ACS function.

### **XIV. Account Adjustments**

- 1) Former WI Compliance employees trained on account adjustments and DITA employees will perform all account adjustments as outlined in Interim Guidance Memo (IGM) WI-25-1215-004 *Interim Guidance on Return Preparer Misconduct (RPM) For IDTVA RPM Accounts Management (AM) Only, Section VIII, Required Account Actions*.
- 2) Former SBSE Compliance functions, not trained on account adjustments, will reassign cases to DITA for account adjustments through [CIS](#).

#### **A. Case Controls and Acknowledgement Procedures**

- 1) Upon receipt of an RPM referral, acknowledge the RPM compliant using letter [5064C](#). If the case is worked within 30 days of receipt, the closing letter may include acknowledgement of the correspondence.
- 2) All RPM cases will be worked through CIS. IDRS control bases will be opened on CIS using the IDRS category code IDII.
- 3) Accounts should be reviewed upon receipt to determine whether collection activities should be suspended, see [Collection Activity](#) for additional information.
- 4) Once all account adjustments have been completed, if the taxpayer continues to have liabilities, complete [Form 14394](#) and return to an appropriate IDTVA-C ACSS function to resume collection activity.
- 5) Document CIS with all actions taken, following normal procedures.
- 6) Issue [Letter 5064C](#), informing the taxpayer of determination and actions taken.
- 7) For accepted claims, once all account adjustments are input, close all controls and inform the referring area of the determination, if applicable. If outstanding Exam or AUR issues continue to exist, i.e. taxpayer still has underreported income or audit issues were all resolved, ensure the outstanding issues are clearly identified when returning the case.

#### **B. Reassigning Cases through CIS**

- 1) The former SBSE employees not trained on account adjustments must provide [DITA](#) with clear and complete instructions on the necessary actions needed to ensure the account is adjusted correctly. Reassign the case to DITA using the appropriate OFP, leave the category code as IDII.
- 2) The instructions must contain the following:
  - a) Category number that fits the individual taxpayer scenario, Category 1, 2, 3 or 4.
  - b) Whether the taxpayer received the correct refund, no refund or an amount greater than expected.
  - c) Amount of refund to be issued, if applicable.
  - d) Applicable penalty abatement, if applicable.
  - e) Erroneous Refund, if applicable.

**Note:** Include the received date of the signed return as intended to be filed to ensure the correct received date is used for interest and statute of limitation calculations. If the taxpayer does not have a filing requirement, annotate the taxpayer does not have a filing requirement.

**C. DITA Case Controls & Closing Procedures**

- 1) Referrals sent to DITA for account adjustments on accepted RPM complaints will be controlled through CIS.
- 2) Referrals should contain sufficient information to correctly adjust the account. If insufficient information is available reassign the case through CIS back to the originating function. The CIS case notes must clearly state why the case is rejected
- 3) Field & Specialty Collection, Field Exam and LBI will not control cases on IDRS or received through CIS. If insufficient information or rejecting case, send an email to the referring employee listed on the [Form 4442/Form3870](#), include an explanation outlining the reason for the reject.
- 4) DITA will perform refund traces on all Field RPM cases. Request will be made using [Form 4844](#).
- 5) DITA will only issue claim disallowance letters ([105C](#), [106C](#) or [916C](#)) on RPM cases for Field & Specialty Collection. DITA will issue [916C](#) letters for Field Exam when requested. All other functions must issue all taxpayer correspondence prior to routing. For Claim disallowance for Field & Specialty Collection enter TC290 for zero and use NSD (No Source Document) when working through CIS. . The necessary information must be included on the [Form 4442/Form 3870](#) referral, otherwise reject the referral.
- 6) Upon completing all account adjustments, close the case through CIS.
- 7) When account adjustments are complete and the adjustments are being monitored for posting, open up a new control with the IDRS category code MISC.

**Exhibit A – Refund Trace**

CC TRDBV – Shows Refund Anticipation Loan Code: 2 = RAC

```
INDIVIDUAL RETURN          :
REFUND ANTICIPATION LOAN CODE 2
```

CC TXMOD – TC 846 shows DD>9 = Direct Deposit

```
846 08042014          370.82 20142905 30XXX-XXX-XXXXX-4
                        RFND-INT>          2.82-
                        RFND-PYMT-DT>20140723
                        RSN>2014198281Z          DD>9
```

CC IMFOBT – TC 846 shows DD:9 and BNKACCT = Bank account numbers for RAL or RAC refunds commonly display the taxpayer's TIN as the last nine digits, or displays the TIN in reverse order, in the account number on CC IMFOBT.

```
846 08042014          370.82 20142905 30XXX-XXX-XXXXX-4 RFND-INT:          2.82-
                        DD:9 RSN:2014198281Z          RTN:096017418          RFND-PAY-DATE:07232014
                        ACCT-TYPE:C          BNKACCT98172XXXXXXXXXX
```

CC TRDBV – Refund anticipation code = 0 = Non RAC/RAL

INDIVIDUAL RETURN :  
REFUND ANTICIPATION LOAN CODE 0

Exhibit B – FMS 150.1



Department of the Treasury  
FINANCIAL MANAGEMENT SERVICE  
REGIONAL FINANCIAL CENTER  
BENSALEM, PA 19020-9921

K

DIRECT DEPOSIT COORDINATOR

DATE OF REQUEST \_\_\_\_\_  
SECOND REQUEST \_\_\_\_\_  
DATE OF ORIGINAL REQUEST \_\_\_\_\_

CITIZENS BANKING COMPANY  
100 E. WATER ST  
SANDUSKY, OH 44870

Dear Financial Organization Representative:

One of your customers has filed a claim for nonreceipt stating that their direct deposit payment has not been credited to their account. Your customer authorized the payment indicated below to be sent to your financial organization through Treasury's Direct Deposit Program.

TRACE NO. \_\_\_\_\_ PAYMENT DATE \_\_\_\_\_

RECEIVING FINANCIAL ORGANIZATION ROUTING NO. \_\_\_\_\_ TYPE OF PAYMENT \_\_\_\_\_

INDIVIDUAL (Customer's Name) \_\_\_\_\_

DEPOSITOR'S ACCOUNT NO. \_\_\_\_\_ AMOUNT \_\_\_\_\_

TYPE OF ACCOUNT \_\_\_\_\_ DISCRETIONARY CODE \_\_\_\_\_

PREFIX INDIVIDUAL ID (Customer's Claim No.) SUFFIX \_\_\_\_\_

Treasury's records show that the payment was authorized and sent to your financial organization through the Federal Reserve Banking System.

Please research your records, mark the block in the Financial Organization Action Section below that describes the action taken by your financial organization, sign the Financial Center Copy and return within 3 days to:

Department of the Treasury  
Financial Management Service  
Regional Financial Center  
P.O. Box 603  
BENSALEM, PA 19020-9921

GARY M BEETS  
DIRECTOR, REGIONAL FINANCIAL CENTER

FINANCIAL ORGANIZATION ACTION

The payment described above was credited to the customer's account on (Date) \_\_\_\_\_

Credited to Taxpayer's account

The CUSTOMER'S COPY of this form was completed and forwarded to the customer on (Date) \_\_\_\_\_

We received the payment listed above. The payment was returned to the Federal Reserve on (Date) \_\_\_\_\_

We have the payment listed above but cannot post it. We are returning the payment to the Federal Reserve on (Date) \_\_\_\_\_

Account Owner's name(s) does not match the above stated individual. Action being taken (Check box below):

Account Owner's name does not match the taxpayer.

- Returning the funds through ACH per Reason Code R06
- Returning the funds by an Official Bank Check
- Funds are not available for Return

Note: In the Additional Remarks section please provide the account holder information for the customer who received the payment. (This information is being requested, and may be disclosed, under the authority of 12 USC 3413(h) - Disclosure Necessary for Proper Administration of Programs of Certain Government Authorities)

ADDITIONAL REMARKS \_\_\_\_\_

PAPERWORK REDUCTION ACT AND PRIVACY ACT STATEMENT  
This information is provided in compliance with the Privacy Act of 1974 (P.L. 93-579). All requested information is mandatory by authority of USC, 501, 31 USC 391, and 31 CFR Part 219. This information will be used to determine if payments are being credited properly by financial organizations. Failure to provide the requested information may delay or prevent the crediting of claims for non-receipt of payment to organizations through the Direct Deposit Program.

SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

DEPARTMENT OF THE TREASURY  
FINANCIAL MANAGEMENT SERVICE

FMS FORM 150.1  
2-99



4150000734

FINANCIAL CENTER PENDING COPY

01010000460000046DU01P110250000000046



**Effective Date: 12-31-2015**

**Contact:** If you have any questions, please contact Laurie Juliano or Kim Mills  
(SE:W:CAS:AM:IPSO:ITVA)

Attachment

Distribution:

[www.irs.gov](http://www.irs.gov) (If the guidance meets [E-FOIA criteria](#))

Index: Interim Guidance on Return Preparer Misconduct (For IDTVA RPM Compliance (IDTVA-C) ONLY)