



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

Date of Issuance: 03/4/2024

Control Number: SBSE-01-0324-0007
Expiration Date: 3/4/2026
Affected IRM(s): 1.4.52

MEMORANDUM FOR: Francine Stewart, Acting Director
Specialty Collection Offer in Compromise

FROM: Rocco A. Steco, Director
Collection Policy

SUBJECT: Interim Guidance on Reporting Potential Violations of IRC 6304 Fair Tax Collection Practices in Specialty Collection Offer in Compromise

Digitally signed by Rocco A. Steco Jr.
Date: 2024.03.04 09:08:05 -05'00'

This memorandum issues guidance to managers in Specialty Collection Offer in Compromise (SCOIC) to report potential violations of [IRC 6304](#), Fair Tax Collection Practices, to a Labor Relations Specialist for investigation. Please ensure this information is distributed to all managers within your organization.

Purpose: The purpose of this memorandum is to establish procedures for managers in SCOIC to report all potential violations of IRC 6304, Fair Tax Collection Practices, for evaluation or investigation and establish Embedded Quality Review System (EQRS) standards that require a narrative be input when a potential violation is identified.

Background/Source(s) of Authority: Internal Revenue Code (IRC) 6304, Fair Tax Collection Practices, violations include:

➤ **IRC 6304(a) Communication With The Taxpayer** —

Without the prior consent of the taxpayer given directly to the Secretary or the express permission of a court of competent jurisdiction, the Secretary may not communicate with a taxpayer in connection with the collection of any unpaid tax—

• **IRC 6304(a)(1)** —

at any unusual time or place or a time or place known, or which should be known to be inconvenient to the taxpayer.

• **IRC 6304(a)(2)** —

if the Secretary knows the taxpayer is represented by any person authorized to practice before the Internal Revenue Service with respect to such unpaid tax and has knowledge of, or can readily ascertain, such person's name and address, unless such person fails to respond within a reasonable period of time to a communication from the Secretary or unless such person consents to direct communication with the taxpayer; or

- **IRC 6304(a)(3)** —

at the taxpayer's place of employment if the Secretary knows or has reason to know that the taxpayer's employer prohibits the taxpayer from receiving such communication.

- **IRC 6304(b) Prohibition Of Harassment And Abuse** —

The Secretary may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of any unpaid tax. Without limiting the general application of the foregoing, the following conduct is a violation of this subsection:

- **IRC 6304(b)(1)** —

The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.

- **IRC 6304(b)(2)** —

The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

- **IRC 6304(b)(3)** —

Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

- **IRC 6304(b)(4)** —

Except as provided under rules similar to the rules in section 804 of the Fair Debt Collection Practices Act (15 U.S.C. 1692b), the placement of telephone calls without meaningful disclosure of the caller's identity.

Procedural Change: During a case review or upon receiving a complaint from a taxpayer, you may identify a potential violation of IRC 6304. Potential violations of IRC 6304 must be reported to the local Labor Relations Specialist by the close of the next business day following the identification of the alleged violation. Additionally, EQRS reviews must include a narrative detailing the circumstances of potential violations relating to the “right to representation not observed” quality element. Please refer to the Attachment for revisions to [IRM 1.4.52](#) and new subsection [IRM 1.4.52.9.2.1](#), Fair Tax Collection Practices, for guidance on reporting a potential violation of IRC 6304.

Effect on Other Documents: This guidance will be incorporated into IRM 1.4.52, Offer in Compromise Manager’s Resource Guide, by March 1, 2026.

Effective Date: The effective date is the date of this memorandum.

Contact: If you have any questions, please contact Diana Estey, Program Manager Offer-in-Compromise (OIC), or a member of your staff may contact Senior Analyst Christopher Clonan or Diane Cuomo.

Attachment:

Changes to IRM 1.4.52 Offer in Compromise Manager’s Resource Guide

Distribution:

Director, Collection
 Director, Collection Operations – Quality and Technical Support
 Director, Headquarters Collection
 Taxpayer Advocate Service
 Assistant Division Counsel, SB/SE
 IRS.gov

Attachment to Interim Guidance Memo SBSE-01-0324-0007

The following changes are hereby effective March 4, 2024, for the IRM sections listed below:

IRM 1.4.52.7.3**Review Documentation**

(8) In addition to case quality and timeliness metrics, taxpayer rights are evaluated in EQRS attribute 607. If you rate attribute 607 "No" with reason code 2, Right to Representation not Observed, you should enter a narrative detailing the circumstances supporting the "No" rating. You must report potential violations of IRC 6304, Fair Tax Collection Practices to your local Labor Relations specialist by the end of the next business day following discovery, see IRM 1.4.52.9.2.1, Fair Tax Collection Practices.

IRM 1.4.52.9.2.1**Fair Tax Collection Practices**

(1) Internal Revenue Code (IRC) 6304, Fair Tax Collection Practices, imposes certain restrictions with respect to tax collection. During a case review or upon receiving a complaint from a taxpayer, you may identify a potential violation of those restrictions. Potential employee violations of the IRC 6304 must be reported to the local Labor Relations specialist by the close of the next business day following notification of the alleged violation.

(2) To ensure collected data is complete and accurate, use the following issue codes when reporting the potential violation. Labor Relations uses these codes for tracking on the Automated Labor and Employee Relations Tracking System (ALERTS).

- 141/ 6304: CONTACT TP UNUSUAL TIME/PLACE - Contacting a taxpayer before 8:00 am or after 9:00 pm, or at an unusual location or time, or location known, or which should be known to be inconvenient to the taxpayer.
- 142 /6304: CONTACT TP W/O REPRESENTATIVE - Contacting a taxpayer directly without the consent of the taxpayer's power of attorney.
- 143/ 6304: CONTACT AT TP EMPLOYER; PROHIBITED - Contacting a taxpayer at their place of employment when it is known or should be known that the taxpayer's employer prohibits the taxpayer from receiving such communication.
- 144/ 6304: TAXPAYER HARASSMENT IN A TAX COLLECTION MATTER - Any allegation of taxpayer harassment should be reviewed along with IRC 6304 because the provision is intended to be applied in a general manner when evaluating the alleged employee misconduct. Conduct which is intended to harass a taxpayer or conduct which uses or threatens to use violence or harm is an absolute violation of the IRC.

- 145/ 6304: TAXPAYER ABUSE IN A TAX COLLECTION MATTER – Any allegation of taxpayer abuse should be reviewed along with IRC 6304 because the provision is intended to be applied in a general manner when evaluating the alleged employee misconduct. The use of obscene or profane language towards a taxpayer is an absolute violation of the IRC.
- 146/ 6304: CONTINUOUS PH / HARASSMENT - Causing a taxpayer's telephone to ring continuously with harassing intent.
- 147/ 6304: PH CALL W/O ID DISCLOSURE - Contacting a taxpayer by telephone without providing a meaningful disclosure of the IRS employee's identity.

Note: These codes are valid for Collection employees **alleged** Fair Tax Collection Practices **violations only**.

(3) You are not required to report instances to Labor Relations where you have **determined the employee's conduct is not a potential violation** of IRC 6304, Fair Tax Collection Practices. Document the history with your discussions or correspondence associated with the complainant in the history.

Example: You receive an allegation of employee misconduct from a taxpayer's authorized representative. The representative asserts the employee's warning of a potential return of the OIC if a deadline to submit documentation is missed constitutes harassing behavior. You contact the representative and explain the employee's warning of consequences is intended to advise of possible actions if the representative is unresponsive to the employee's request and is not considered harassing behavior. Document this contact in the history. This alleged violation of FTCP is not required to be reported to Labor Relations.

(4) If a potential violation is confirmed, do not document the case history with your decision to forward the complaint to Labor Relations.

(5) Work with your LR specialist to determine the next appropriate action.

(6) Resources:

- [IRM 5.1.10.6](#), Fair Tax Collection Practices
- [IRM 1.5.3.3](#), Retention Standard for the Fair and Equitable Treatment of Taxpayers
- [IRM 6.430.2.4.7](#), Rating Performance Against the Retention Standard for the Fair and Equitable Treatment of Taxpayers