



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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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MEMORANDUM FOR SB/SE Field Examination Employees and Managers

FROM: Lori L. Caskey /s/ *Lori L. Caskey*
Director, Examination Field and Campus Policy

SUBJECT: Interim Guidance for Submitting Return Preparer Penalty Referrals

This memorandum issues guidance for submitting return preparer penalty referrals until [IRM 4.11.51](#), Return Preparer Program, is updated to incorporate this guidance. Please ensure this information is distributed to all affected employees within your organization.

Purpose: To provide guidance for submitting return preparer penalty referrals for consideration by the Return Preparer Penalty Working Group (RPPWG).

Background/Source(s) of Authority: The RPPWG is being established to centralize the development of cases where a return preparer penalty under IRC 6694, Understatement of Taxpayer's Liability by Tax Return Preparer, or IRC 6695, Other Assessable Penalties with Respect to the Preparation of Tax Returns for Other Persons, may be applicable. SB/SE Field Examination employees will continue to consider return preparers' compliance during taxpayer examinations but will now have the option to submit an electronic referral to the RPPWG in lieu of opening a return preparer penalty case themselves.

Procedural Change: The new procedure for submitting a referral to the RPPWG is outlined in [Attachment 1](#) – IRM 4.11.51.

Effect on Other Documents: This guidance will be incorporated into [IRM 4.11.51](#), Return Preparer Program, by a date not to exceed two years from the date of this memorandum.

Effective Date: This memorandum is effective immediately.

Contact: Gillian Dalton, Program Manager, EQTS, TS Group 3, with any questions.

Distribution: [IRS.gov \(https://www.irs.gov\)](https://www.irs.gov)

Attachment 1 – IRM 4.11.51

IRM 4.11.51.X

Return Preparer Penalty Referrals to RPPWG (SB/SE Field Examination Only)

- (1) During the course of an examination, examiners are responsible for considering return preparer penalties and documenting such consideration in their taxpayer case file. See [IRM 4.10.9.7.10](#), Documenting Return Preparer Penalty Consideration, and [IRM 4.10.6.7.4](#), Workpapers – Preparer Penalties.

Example: If an examiner determines return related penalties are not applicable to a taxpayer due to reliance on their return preparer, the examiner should fully document the facts related to the return preparer's involvement in and responsibility for the preparation of the tax return in their taxpayer case file.

- (2) If an examiner identifies behaviors for which return preparer penalties may apply under [IRC 6694](#), Understatement of Taxpayer's Liability by Tax Return Preparer, or [IRC 6695](#), Other Assessable Penalties with Respect to the Preparation of Tax Returns for Other Persons, the examiner must:

- Document the taxpayer case file to reflect the return preparer's involvement in and responsibility for the preparation of the tax return (see IRM 4.10.9.7.10(4)), and
- Submit a referral for consideration by the RPPWG **or** establish a return preparer penalty case.

CAUTION: To avoid unauthorized disclosure, do not document the decision to submit a referral for penalty consideration or establish a return preparer penalty case within the taxpayer case file.

See [IRM 20.1.6.4](#), IRC 6694 Understatement of Taxpayer's Liability by Tax Return Preparer, and [IRM 20.1.6.5](#), IRC 6695 Penalties That May Apply to a Tax Return Preparer, for more information.

- (3) Examiners can submit a referral on the RPPWG SharePoint site by completing the [intake form](#).

NOTE: Examiners should generally submit the referral after issuing the final report to the taxpayer.

REMINDER: Examiners must back up the RGS case to the CEAS file server before submitting a referral. (4) Examiners will need the following information to complete the referral:

- a. Taxpayer's name
- b. Taxpayer's identification number
- c. Tax year(s) examined

- d. Return preparer's name(s)
- e. Return preparer's identification number(s) (e.g., PTIN, SSN, EIN, etc.)
- f. A brief narrative explaining why the examiner believes a penalty may be warranted
- g. Pertinent documents to be uploaded with the referral (e.g., documents or materials provided to the taxpayer by the preparer, receipt for preparer services, copy of return provided to taxpayer if different from return filed, etc.)

Examiners should provide information in the referral about the return preparer's conduct and conclusions regarding the return preparer's responsibility for errors supporting the potential assertion of the return preparer penalty.

CAUTION: This information should **not be** included in the taxpayer case file.

- (5) After a referral is submitted, the examiner will receive confirmation of its receipt. The information provided will then be considered with other available data and, if appropriate, a return preparer penalty case will be established for further development by the RPPWG.

NOTE: Referrals to Area RPCs (for Program Action Case (PAC) development using [Form 14719](#), SBSE Return Preparer Referral), or to other offices, (e.g., the Office of Professional Responsibility (OPR), the Return Preparer Office (RPO), or the Lead Development Center (LDC)), may still be warranted, even if submitting a referral to the RPPWG. All questions and concerns related to return preparers should continue to be elevated through the [Area RPC](#).