



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

SMALL BUSINESS/SELF-EMPLOYED

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4.24.21.4.5
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MEMORANDUM FOR CHIEF, EXCISE TAX AND ALL EXCISE TERRITORY
MANAGERS AND FIELD GROUP MANAGERS

FROM: Alfredo Valdespino /s/ Alfredo Valdespino
Acting Director, Examination - Specialty Policy

SUBJECT: Interim Guidance Procedures for Closing No Liability
Substitute for Return (SFR) Non-Filer Examinations

The purpose of this memorandum is to provide interim guidance regarding the closing procedures for no liability SFR non-filer examinations. This interim guidance memorandum only applies to periods where the examiner has taken action which may include, but is not limited to, conducting interviews, reviewing books and records, and ultimately making a determination that the taxpayer is not liable for excise tax. Under current procedures, no liability SFR non-filer examinations are closed using disposal code 36. Effective immediately, no liability SFR non-filer examinations must be closed as no-change closures using disposal code 02, No-Change, rather than disposal code 36, No Return Filed/Taxpayer not liable.

Examiners will issue the appropriate closing letter to the taxpayer for each respective period examined that clearly reflects the results of the examination for that specific period (i.e. Letter 930, *Non-filer No Liability SFR Transmittal*, Letter 590-X, *No Change Final Letter*, Letter 987-X, *Agreed Excise Tax Change Letter*).

Form 5351 will no longer be needed for no liability SFR non-filer examination closures.

In situations where no examination of books and records occurred, the group manager or examiner will follow paperless survey procedures, using non-examined disposal code 31 or 32. The taxpayer will not receive any correspondence for a non-examined closure.

IRM subsections affected by these changes are listed in Attachment 1, SFR No Liability Closing Procedures. This guidance is effective immediately and will be incorporated into IRM 4.24.21 within one year of issuance.

If you have any questions, please contact Kellie McCann, Excise Policy Manager or Karen Rubin, Excise Tax Program Analyst.

cc: www.irs.gov

4.24.21.4.5 (XX-XX-2016) Closing Procedures for No Liability Examinations

- (1) No liability SFR non-filer examinations are to be closed using Disposal Code (DC) 02. This applies only to cases where the excise examiner has taken action which may include, but is not limited to, conducting an interview, reviewing books and records, and ultimately making the decision the taxpayer is not liable for excise taxes.

Note: In situations where no examination of books and records occurred, the group manager or examiner will follow paperless survey procedures, using non-examined disposal code 31 or 32. The taxpayer will not receive any correspondence for a non-examined closure.

- (2) Closing out the IMS electronic file and the paper file to CCP requires the actions described in the paragraphs below.
- (3) Letter 930, Non Filer No Liability Substitute for Return (SFR) Transmittal (Letter 930) - Procedures for No Liability SFR Non Filer Examinations
- The excise examiner must prepare two copies of Letter 930 advising the taxpayer there is no liability for the excise tax indicated, along with an envelope addressed to the taxpayer.
 - Letter 930 will be signed by the field excise manager on behalf of the Chief, Excise Tax Program.
 - Both copies of Letter 930 and the addressed envelope will be placed in the case file.
 - The excise examiner will note under the Letter Instructions for CCP section of Form 3198 "Other Instructions" box, "No Liability SFR - Issue Letter 930 to the taxpayer."
 - CCP ensures one of the letters is mailed to the taxpayer; the other remains in the case file.

(4) IMS Case Closing

- Established no change IMS case closing procedures are to be followed for no liability SFR examinations, including all case file documentation that is in the paper file.
- Both the electronic IMS file and the paper copy case file must contain documentation to support the no liability determination.

- The IMS file serves as the historical record for all examiner actions, findings, and determination and is essential background if that case is subsequently identified and/or classified.

(5) Case File Assembly Procedures - At a minimum, the paper case file, as well as the IMS file, will contain:

- A copy of the BMFOLT for the periods involved that show the TC 150 posting for the SFR and AMDIS to show the module is fully established on AIMS. The excise examiner should also check TXMODA to ensure there are no pending transactions.
- Letter 930 (two copies) with proper signature and an addressed envelope with current taxpayer address.
- Form 3198.
- Form 5344.
- Supporting documentation explaining the reasons for the no liability closure, such as Form 9984 and any lead sheets or work papers.

(6) Revenue Agent Report - If an SFR examination results in a decision that the taxpayer is not liable for an excise tax in the period examined, no Revenue Agent Report is required. Letter 930 is all that is necessary since no return was filed by the taxpayer.

(7) After the excise manager completes the review, the secretary or designated group closing official will update the status of the case in Examination Returns Control Systems (ERCS) to status 51 and the case will be shipped to CCP for closure. Changing the status in ERCS to status 51 should be the last update prior to mailing the hard copy case file.

(8) SFR Filing Requirement Indicator - If the taxpayer is not liable for any excise tax, the examiner will prepare Form 3177, Notice of Action for Entry on Master File. This is necessary to release the expectation that the taxpayer should file returns. Enter the following appropriate Transaction Code (TRC) and Closing Code in the "Other" field.

- If the taxpayer is not liable for the tax period(s), enter Transaction Code 590 in the TRC column and type "Closing Code 75" in the space provided.
- If the taxpayer is not liable for the tax period(s) and will not be liable for any subsequent periods for the same MFT, enter 591 in the TRC column and type "Closing Code 75" in the space provided.

On Form 3198 in the "Forms Enclosed" section, the examiner must check the Form 3177 box to indicate that Form 3177 is in the case file.