

IRM PROCEDURAL UPDATE

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SUBJECT: Changes to Authority and Procedures for CNC Closures

AFFECTED IRM(s)/SUBSECTION(s): 5.16.1

IRM 5.16.1.2(1) and (17) Removed reference to IQA use only from closing code 35.

1. Accounts may be reported CNC for a variety of reasons using transaction code (TC) 530. It is a requirement that TC 530 be defined by the appropriate closing code (cc). The most commonly used closing codes are displayed in the table below.

Currently Not Collectible Closing Codes

Closing Code	Definition
03	inability to locate the taxpayer or assets
04	partial expiration of the assessment prior to issuance
05	complete expiration of the statutory period for collection or suit initiated to reduce tax claim to judgment
06	for use by revenue officers on international casework, where a taxpayer can pay but the service is unable to collect a liability because the taxpayer resides in a foreign country
07	a corporation, exempt organization, or Limited Liability Company (LLC), where the LLC is identified as the liable taxpayer, liquidated in bankruptcy
08	death of an individual with no collection potential from the decedent/decedent estate
09	accounts below tolerance; see IRM 5.16.1.2.5(1) and (2) <i>Tolerance</i> , for additional information
10	corporations, certain limited liability partnerships (LLP), exempt organizations, or LLCs, where the LLC is identified as the liable taxpayer, which are inactive and defunct with no assets
12	inability to contact a taxpayer although the address is known and there is no means to enforce collection
13	a corporation, exempt organization, limited liability partnership (LLP), or LLC, where the LLC is identified as the liable taxpayer, remains in business and is current but is unable to pay back taxes

14	when suspending collection of BMF balance due accounts when the key individual is deployed to a combat zone; see IRM 5.1.7.9.1, <i>Business Masterfile (BMF) Accounts of Taxpayers Deployed to a Combat Zone</i> , for additional information
15	obsolete - this was formerly used for corporate income tax liabilities owed by a financial institution certified as insolvent by the Office of the Controller of the Currency or the Office of Thrift Supervision
17	inability to locate the Single Member Owner (SMO) or assets of the SMO who is liable for taxes assessed under an LLC Employer Identification Number (EIN)
18	inability to contact a Single Member Owner (SMO) who is liable for taxes assessed under an LLC EIN when the SMO address is known, and there are no means to enforce collection
19	accounts below tolerance that are assessed under an LLC EIN, but owed by SMO; see IRM 5.16.1.2.5, <i>Tolerance</i> , for additional information
24 - 32	collection of the liability would create a hardship for taxpayers by leaving them unable to meet necessary living expenses REMINDER: Hardship closing codes can only be used for individual or joint IMF assessments, sole proprietorships, partnerships where a general partner is personally liable, and LLCs where an individual owner is identified as the liable taxpayer.
35	when recessing standalone individual shared responsibility payment (SRP) modules or the mirrored SRP module (MFT 35/65)

NOTE: See IRM 5.16.1.2(16) for a list of the Integrated Collection System (ICS) literals used to close CNC cases.

NOTE: A single member LLC that is classified as a disregarded entity will, nevertheless, be treated as an entity separate from its owner for employment tax purposes (effective for wages paid on or after January 1, 2009) and for certain excise tax purposes (effective for liabilities imposed and actions first required or permitted in periods beginning on or after January 1, 2008). The regulations are not retroactive.

2. The investigation required to establish a CNC condition varies with the dollar amount and type of case. Generally, a Collection Information Statement (CIS) will be secured prior to reporting an account CNC. The CIS supporting a CNC determination is considered current if it is less than twelve months old. See exception criteria in IRM 5.16.1.2.9(6).

NOTE: Appropriate procedures must be followed when making third party contacts. (See IRM 5.1.1.10, *Miscellaneous Collection Procedures Third Party Contacts*.)

3. In general, a Notice of Federal Tax Lien (NFTL) should be filed on accounts being reported CNC when the aggregate unpaid balance of assessments equals or exceeds \$10,000.00. See IRM 5.12.2, *Federal Tax Liens, Notice of Lien Determinations* for criteria and exceptions to NFTL filing. If a taxpayer subsequently requests a Collection Due Process (CDP) or Collection Appeal Program (CAP) hearing concerning the NFTL filing, the revenue officer (RO) must follow the procedures in IRM 5.1.9, *Collection Appeal Rights*, to forward the case to Appeals. To avoid potentially prohibited ex parte communications, be particularly familiar with IRM 5.1.9.5, *Communications with Appeals*.
4. Conduct a compliance check and document the results in the case history in circumstances when the taxpayer is contacted. See IRM 5.1.11.2.3, *Full Compliance Check*. Compliance checks are not required when the taxpayer cannot be contacted.
5. All open filing requirements or Delinquent Return (Del Ret) modules must generally be resolved and closed appropriately when reporting an account CNC. For further instructions regarding cases involving economic hardship, see IRM 5.16.1.2.9.
6. Document all actions to support the CNC determination. The last history entry will be a summarizing statement supporting the CNC decision. Address any assets owned by the taxpayer in the summarizing statement. If a mandatory follow-up is requested, include the reason in the summarizing statement. See IRM 5.16.1.6 for information on mandatory follow-up.
7. Only certain CNC cases can be reactivated systemically. Systemic follow-up is limited to hardship, unable to locate and unable to contact cases. Unable to locate and unable to contact cases will reactivate if a new levy source posts to Integrated Data Retrieval System (IDRS). Unable to locate cases will also reactivate if a new address posts to IDRS. Hardship cases can be reactivated if it appears there is a change in the taxpayer's ability to pay indicating collectibility. See IRM 5.16.1.2.9.
8. Revenue Officers (RO), Appeals Officers (AO), and Settlement Officers (SO) may report accounts as CNC.
9. Tax examiners in Field Collection (FC) and Centralized Case Processing (CCP) may report as CNC those accounts that meet existing criteria subject to the limitations shown below:
 - o IMF, Non-Masterfile (NMF), or out of business BMF sole proprietors or partners, with less than [REDACTED] aggregate unpaid balance of assessments.
 - o BMF taxpayers (other than accounts for trust fund taxes owed by corporations, LLCs, or limited partnerships) with less than # [REDACTED] aggregate unpaid balance of assessments.
10. Bankruptcy specialists may report as CNC corporate liabilities where the aggregate unpaid balance of assessments is less than # [REDACTED] when a corporation has been through a liquidating bankruptcy.

11. Advisory employees may report accounts CNC when a local probate office indicates that a proof of claim will not generate funds. Transferee issues should be considered. See IRM 5.16.1.2.4 for additional information.
12. The ICS/Entity Quality Analysts (IQAs), have the authority to shelve cases/modules in accordance with IRM 1.4.50.9.1, *Shelving Erroneously Assigned Cases*, and to recess modules in accordance with IRM 5.16.1.3.6, *MFT 35/65 - Individual Shared Responsibility Payment (SRP) and Mirrored SRP*.
13. The Inventory Delivery System (IDS), may shelve IMF accounts where the aggregate unpaid balance, including accruals, is less than # [REDACTED] and BMF accounts where the aggregate unpaid balance, including accruals, is less than # [REDACTED]
14. CNC recommendations generally require the review and approval of the immediate manager to ensure the investigation meets established standards of thoroughness and integrity. See IRM 5.16.1.5. Managerial review criteria of completed work is located in IRM 1.4.50, *Collection Group Manager, Territory Manager, and Area Director Operational Aid*, exhibit 1.4.50-2.
15. Quality control is accomplished through mandatory and sample reviews through Embedded Quality (EQ).
16. Attach the following supporting documents, whenever applicable, to the case file:
 - o Collection Information Statements (CIS)
 - o Approved Form 4183, *Recommendation re: Trust Fund Recovery Penalty Assessment*
 - o Copies of transferee assessment recommendations
 - o Copies of suit recommendations to reduce the tax claim to judgment
 - o Replies to Courtesy Investigations
 - o Copies of tax returns
 - o Other documentation to support the CNC determination

REMINDER: If the account is being reported CNC based on a suit recommendation to reduce the tax claim to judgment, forward the entire case file to Advisory for association with the suit file after the group manager approves the CNC.

NOTE: Parts 2 and 3 of Form 53 on ICS will be transmitted to CCP via a systemically generated e-mail after GM approval of the CNC. When Form 53 is manually prepared, Parts 2 and 3 of the paper Form 53, which show "For processing as Form 3177" at the bottom, should be sent by secure e-mail or mailed separately from the closed case to CCP for input.

17. Select the following literals when closing cases as CNC using ICS. The related closing codes (cc) are in parentheses:
 - o A. Defunct Corp., Exempt Org., Ltd. Ptr., or LLC (10)
 - o B. Unable to Pay/Hardship (24-32)
 - o C. Bankrupt Corp., Exempt Org., or LLC (07)
 - o D. Unable to Locate (03)
 - o E. UTL for LLC-SMO Liable (17)

- F. Unable to Contact (12)
 - G. UTC for LLC-SMO Liable (18)
 - H. In-Business Corp., Exempt Org., Ltd.Ptr., or LLC (13)
 - I. Tolerance (09)
 - J. Tolerance for LLC-SMO Liable (19)
 - K. Decedent/Decedent Estate (08)
 - L. Statute Expired Prior to Issuance (04)
 - M. Statute Expired After Issuance or Suit Initiated (05)
 - N.. Resolution Trust Corp. Related (15)
 - O. Surveyed (39)
 - P. International - No Field Visit (06)
 - Q. Combat Zone (14)
 - R. SRP Recessed (35)
18. When the LLC is the liable taxpayer for some tax module(s) and the owner of the LLC is the liable taxpayer for other tax module(s), separate collection determinations must be made for each liable taxpayer. Select the appropriate tax module(s) for each closing code when utilizing TC 530 for both liable taxpayers. If only one liable taxpayer meets conditions for reporting CNC, and a different collection action is required for the other taxpayer, report the appropriate tax module(s) CNC before proceeding with collection action on the remaining tax module(s). See IRM 5.16.1.3.4(8) LLC tables for additional information. See IRM 5.1.21, *Collecting From Limited Liability Companies*.

IRM 5.16.1.2.1(14) Added a note with a cross-reference to additional guidance for situations where input of a TC 130 is required.

14. For BMF accounts on sole proprietorships and partnerships where a general partner is personally liable for partnership liabilities, UTL and UTC accounts are systemically reversed by new address or new levy source information reported for the individual or general partner. The Social Security Number (SSN) of the individual or general partner must be cross-referenced on IDRS. Evaluate BMF entities to determine if a TC 130 should be input on the SSN of an individual or general partner. If the account is being reported as CNC, and Form 53 is manually prepared, forward Part 3 of Form 53 to CCP for input. After the Group Manager approves the CNC, ICS will systemically generate an e-mail to CCP to transmit Part 3 of Form 53 to CCP.

REMINDER: This is a separate input from the cross-reference EIN/SSN input or the TC 130 input for refund offsets. The TC 130 for refund offsets and the TC 130 for systemic reactivation are both required for UTL and UTC closures on sole proprietorships and partnerships where a general partner is personally liable for partnership liabilities.

NOTE: Refer to IRM 5.1.12.21.3.2, *Offset an IMF Refund* for additional guidance on situations where input of a TC 130 is required.

IRM 5.16.1.2.9(14) Added a note with a cross-reference to additional guidance for situations where input of a TC 130 is required.

14. The systemic process for reactivating hardship CNC accounts relies on an increase in TPI above a predetermined amount based on the hardship closing code when the case is closed as CNC:
- The TPI is reviewed annually when a taxpayer files an income tax return.
 - For BMF accounts on sole proprietorships, partnerships (where a general partner is personally liable for the partnership taxes) and LLCs (where the owner is identified as the liable taxpayer), TPI is determined by the annual income of the individual, general partner or member of the LLC.
 - The Social Security Number (SSN) of the individual, general partner or member of an LLC (where the owner is identified as the liable taxpayer) must be cross-referenced on IDRS.
 - When a BMF account is closed as hardship on ICS, the "Input on IMF to reactivate BMF CNC" will automatically be selected and a TC 130 with the EIN, BMF name control and CNC closing code will be input on the IMF entity, under the SSN of the individual, general partner or sole member of an LLC (where the owner is identified as the liable taxpayer).
 - The TC 130 input on IMF to reactivate BMF CNC is a separate input from the cross-reference EIN/SSN input. This is also a separate input from the TC 130 input for refund offsets, which is input on the BMF entity. Employees must still determine if the TC 130 for refund offset is required and select either "TC 130 requested before" or "TC 130 input required". The input document for the TC 130 is Part 3 of Form 53 (Form 3177). Part 3 of Form 53 on ICS will be transmitted to CCP via a systemically generated e-mail after GM approval of the CNC.

REMINDER: When Form 53 is prepared manually, employees will need to check the appropriate TC 130 box for "Refund Offset" and check the box for "Input on IMF to reactivate BMF CNC". Part 3 of a manually prepared Form 53 must be mailed to CCP.

NOTE: Refer to IRM 5.1.12.21.3.2, *Offset an IMF Refund* for additional guidance on situations where input of a TC 130 is required.

IRM 5.16.1.3.6(7) Removed reference that only allowed IQAs to close standalone MFT 35/65 balance due modules as recessed, and added reference that allows revenue officers to close a standalone MFT 35/65 SRP module as SRP Recessed (TC 530 cc 35).

7. In most cases, standalone SRP modules will be recessed systemically and will not be assigned to revenue officers. However, there may be cases where MFT 35/65 is assigned along with other IMF balance due modules (MFT 30, 31, 55, etc.) or join previously assigned modules.

NOTE: If all other modules are resolved (full paid or abated) and the revenue officer is left with a standalone MFT 35/65 module, the revenue officer may close the standalone MFT 35/65 SRP module as SRP Recessed (TC 530 cc 35).

IRM 5.16.1.5(1) Changed exception to managerial approval to allow certain IMF and BMF cases to be closed as UTL, UTC, Hardship or Decedent. Added a note to clarify that the exception does not apply to cases closed as UTC when the taxpayer is an IRS employee.

1. When the decision to place an account in CNC status requires the approval of a manager, approval should normally be that of the recommending employee's immediate manager. Acting managers may be given authority to approve CNCs.

EXCEPTION: 1 - IMF and BMF cases closed as UTL, UTC, Hardship or Decedent with an aggregate unpaid balance of assessment less than # [REDACTED] do not require managerial approval. This does not apply for LLC-SMO liable closures. This exception is for managerial approval only. Revenue officers must still take all actions required in IRM 5.16.1 prior to closing IMF and BMF cases under # [REDACTED] as Currently Not Collectible UTL, UTC, Hardship or Decedent.

NOTE: This exception does not apply to cases closed as UTC when the taxpayer is an IRS employee. All cases closed UTC on IRS employees **require** managerial approval regardless of the dollar amount.

EXCEPTION: 2 - As noted in IRM 5.16.1.2.3(8), corporations and liquidating LLCs (where the LLC is the liable taxpayer), that have filed a Chapter 7 bankruptcy petition and have been designated a "No Asset" case that are being closed as TC 530 cc 07 by the Centralized Insolvency Operation do **not** require managerial approval. See IRM 5.16.1.2.5, for tolerance accounts being closed with TC 530 cc 09 and cc 19 that do **not** require managerial approval.

Editorial changes were made throughout this IRM to update website addresses, legal references, and IRM references.