



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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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MEMORANDUM FOR Director, Examination- Field  
Director, Examination- Specialty Tax  
Directors, Field Collection Area Operations  
Director, Specialty Collection – Insolvency  
Director, Specialty Collection – Offers, Liens and Advisory

FROM: Scott Irick, Director, Examination Headquarters  
Phyllis Brown, Director Headquarters Collection

  
DC1BB

SUBJECT: Interim Guidance on Allegations of Return Preparer Misconduct within  
Field and Specialty Collection and Exam

This memorandum provides guidance on required actions that must be taken when an individual taxpayer alleges return preparer misconduct (RPM) with respect to the taxpayer’s tax return. In addition, there is specific guidance for cases received on or before December 31, 2015, for tax year 2013 and prior years that had been suspended pending policy decisions. Additional guidance for tax year 2014 and later and new allegations received after December 31, 2015, regardless of the tax year will be incorporated into proposed IRM 25.24.4, *Return Preparer Misconduct Field and Specialty Collection* and IRM 25.24.5, *Return Preparer Misconduct Field Examination*.

The guidance is for all Small Business/Self-Employed (SB/SE) Field Collection, Specialty Collection – Insolvency and Specialty Collection – Offers, Liens and Advisory (Field and Specialty Collection) and Field Examination employees and is effective immediately.

This memorandum contains four (4) attachments:

- Attachment 1 - General guidance for handling Return Preparer Misconduct Complaints.
- Attachment 2 – Special guidance for handling tax year 2013 and prior tax years that had been suspended awaiting policy decisions.
- Attachment 3 - Specific guidance for Field Examination.
- Attachment 4 - Specific guidance for Field and Specialty Collection.

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 (TAS), etc.) or through IRS enforcement contacts (revenue agent (RA), tax auditor (TA) or tax compliance officer (TCO) contact,

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Automated Underreporter (AUR) correspondence, campus examination correspondence, revenue officer (RO) contact, Offer in Compromise or Bankruptcy specialist 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 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 complaint that the return filed was altered by the return preparer.

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

If you have questions you may contact the following individuals, as applicable:

Field and Specialty Exam – Mary Y. Hahn, SB/SE Exam Field and Campus Policy, Senior Program Analyst; Field and Specialty Collection – Cynthia E. Cooper, SB/SE Collection Policy, Senior Program Analyst

cc:

National Taxpayer Advocate

Director, Field Exam

Director, Field Collection

[irs.gov](https://www.irs.gov)

**Attachment 1 - General Guidance for all RPM Complaints.**

- I. [Return Preparer Misconduct](#)
  - A. [Overview](#)
  - B. [Policy Statement](#)
  - C. [Definition of a Return Preparer](#)
- II. [Return Preparer Misconduct Complaints](#)
  - A. [Types of 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 Return Preparer Misconduct Complaints](#)
  - A. [Review of Taxpayer Documentation](#)
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  - C. [Verification of the Preparer](#)
  - D. [Refund Trace](#)
  - E. [Law Enforcement Agency Report Verification](#)
- VI. [Return Preparer Misconduct Categories](#)
  - A. [Category 1 – Unauthorized filing](#)
  - B. [Category 2 – Authorized filing, Altered Return Information and No Additional Refund due the Taxpayer](#)
  - C. [Category 3 - Authorized filing, Altered Return Information and Taxpayer Requesting Additional Refund](#)
  - D. [Category 4 – Misdirected Refund Only and Taxpayer Requesting Additional Refund](#)
- VII. [Erroneous Refund Procedures](#)
- VIII. [Incomplete/Missing Documentation](#)
  - A. [Incomplete Documentation](#)
  - B. [Evaluating Taxpayer’s Response to Missing Documentation Request](#)
- IX. [Disallowance of Complaint](#)
  - A. [Full Disallowance](#)
  - B. [Partial Disallowance](#)
- X. [Referrals to Return Preparer Office](#)
- XI. [Statute Of Limitations](#)
  - A. [Statute Considerations](#)
  - B. [Assessment Statute Expiration Date](#)
  - C. [Refund Statute Expiration Date](#)
  - D. [Erroneous Refund Statute Expiration Date](#)
- XII. [Penalties and Interest](#)
  - A. [Balance Due Cases](#)
  - B. [General Filing Penalties](#)
  - C. [Accuracy-Related Penalties](#)

**Attachment 2** – Special procedures for tax year 2013 and prior tax years when claims were received on or before December 31, 2015, but were held awaiting policy decisions.

- I. [Special Procedures for Tax Year 2013 and prior suspended cases received before December 31, 2015.](#)
  - A. [Return Preparer Misconduct Documentation](#)
  - B. [Category 3 – Authorized Filing – Altered Return Information and Taxpayer Requesting Additional Refund](#)
  - C. [Category 4 – Misdirected Refund Only and Taxpayer Requesting Additional Refund](#)
  - D. [Evaluating Taxpayer Response to Missing Documentation Request Regarding Tax Year 2013 and Prior Tax Years](#)
  - E. [Penalty and Interest Consideration for Balance Due for 2013 and Prior Tax Years](#)

**Attachment 3** - Specific guidance for Field Examination regarding closing procedures, account resolution and referrals

- I. Return Preparer Misconduct – Field Examination
  - A. [Inputting RPM Indicators](#)
  - B. [Form 4442- Referral Package Content, Assembly, and Submission](#)
  - C. [Exam Procedures](#)
  - D. [Tech Services](#)

**Attachment 4** - Specific guidance for Field and Specialty Collection regarding closing procedures, account resolution and referrals

- I. Field and Specialty Collection
  - A. [Suspension of Collection Actions](#)
  - B. [Denial of RPM Complaint](#)
  - C. [Return Preparer Misconduct Confirmed](#)
  - D. [Erroneous Refund Procedures](#)
  - E. [Preparation and Routing of Form 3870](#)
  - F. [Criminal Investigation Involvement](#)

[Exhibit A – Refund Information](#)

[Exhibit B – Form 4844, Request for Terminal Action](#)

[Exhibit C – Form 150.1](#)

**Attachment 1** – This attachment provides general guidance for handling Return Preparer Misconduct complaints received in Field and Specialty Collection and Examination. In addition, there are special procedures for tax year 2013 and prior years when those cases were received on or before December 31, 2015, but were suspended awaiting policy decisions.

## **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 return preparer 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. Taxpayers also have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to be told that if they cannot afford to hire a representative they may be eligible for assistance from a Low Income Taxpayer Clinic. 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 return 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 a federal tax return 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 is a ghost preparer/non-signing 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 Compliance function when RPM documentation is received. This 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, or
  - d) Contact by RO, RA, TCO, TA 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** – A complaint 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** - Advise the taxpayer to submit his/her documentation to the address on the notice or to the Compliance employee working with the taxpayer. See [Return Preparer Misconduct Documentation](#) section below. If the taxpayer does not have a copy of the IRS correspondence (notice/letter), follow normal procedures to provide a compliance mailing address.
- 3) **Accounts Management Controls or No open Controls** - Advise the taxpayer to submit the documentation to the IRS address where he/she files their 1040 return
- 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) Advise the taxpayer to submit the documentation to the address below:

Internal Revenue Service  
IVO  
3651 S Interregional Hwy 35  
Mail Stop 6579  
Austin, TX 78741-0053

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- 5) **Criminal Investigation (CI)** – Accounts with a –Z freeze or TC914/916/918, follow procedures for your applicable function as outlined below. Field Collection, Specialty Collection – Insolvency and Specialty Collection – Offers, Liens and Advisory (Field and Specialty Collection), see Attachment 4, Section I, F, [Criminal Investigation Involvement](#) for additional information. Field Exam refer to IRM 4.4.9.2.3.1, *Criminal Investigation (CI) Freeze*.

**Note for Exam Use only:** Do not confuse cases under the Return Preparer Program with Return Preparer Misconduct victim assistance. Cases under the Return Preparer Program (e.g. Program Action Cases, see [IRM 4.1.10](#), *Return Preparer Program Coordinator*) generally do not 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 forward 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.

### 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. (See [Overview of Return Preparer Misconduct Categories](#) for situations that fall under the RPM criteria).

**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:

#### Return Preparer Misconduct Criteria Not Met

If ...	Then ...
<p>The taxpayer’s only issue is a lost, stolen or unintentionally misdirected refund.</p> <p><b>Example:</b> Incorrect routing or different account number due to a transposition error.</p> <p><b>Note:</b> 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>• Follow normal procedures to resolve the case.</li> <li>• Advise the taxpayer that you have reviewed the account and the information provided demonstrates that it is likely an issue other than RPM.</li> <li>• Provide an explanation of the account condition.</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>	<ul style="list-style-type: none"> <li>• Follow normal function procedures to resolve the case.</li> <li>• Inform the taxpayer that a review of the account and information provided does</li> </ul>



<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>	<p>not support return preparer misconduct.</p> <ul style="list-style-type: none"> <li>• Provide an explanation of account actions taken or not taken (e.g., correction of math error or additional information needed to verify the AUR or Exam issue.)</li> </ul>
<p>The taxpayer <b>did not</b> visit a preparer for the current year; however, a 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 the taxpayer's actual return has been processed. No duplicate filing transaction (TC976/977) 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 your functional identity theft procedures.</li> <li>• If unprocessed return received with RPM complaint, process 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>The taxpayer <b>did not</b> visit a preparer for the current year; however, a 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 the taxpayer's actual return has been processed, identified by duplicate filing transaction (TC976/977) 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 your 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>	<p><b>Field Exam:</b></p> <ul style="list-style-type: none"> <li>• Secure, review, and follow normal procedures for securing a delinquent return. See IRM <a href="#">4.4.9</a>, <i>Delinquent and Substitute for Return Processing</i>.</li> </ul>



	<p><b>Field and Specialty Collection:</b></p> <ul style="list-style-type: none"> <li>Advise the taxpayer that no tax return has been filed using his/her TIN. Process the secured return per IRM <a href="#">5.1.11.5, Secured Returns</a></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>Follow your normal function procedures to resolve the case.</li> <li>Inform the taxpayer that you have reviewed 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> </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 you have reviewed 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 Statement <a href="#">P-25-2</a>.</li> </ul> <p><b>Field Exam:</b></p> <ul style="list-style-type: none"> <li>Route the original <a href="#">Form 14157</a> and documents to the address below and continue with normal audit procedures. Consider return preparer penalties. See IRM <a href="#">4.10.6.8.2, Return Preparer Penalties</a>, for guidance.</li> </ul> <p><b>Field and Specialty Collection:</b></p> <ul style="list-style-type: none"> <li>Route the original <a href="#">Form 14157</a> and documents to the address below</li> <li>Continue with normal collection procedures.</li> </ul> <p>Return Preparer Office 401 W Peachtree Street NW Mail Stop 421-D Atlanta, GA 30308</p>

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#### IV. Return Preparer Misconduct Criteria Met

- 1) The procedures outlined in Attachment 1 pertain to the handling of RPM complaints received on or after January 1, 2016, regardless of tax year, and all RPM complaints for tax years after 2013. [Attachment 2](#) contains special procedures for tax year 2013 and prior tax years when the complaint was received on or before December 31, 2015, but had been suspended pending policy decisions. When special procedures apply, reminders are notated to review [Attachment 2](#).

##### A. 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 that 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. See Section IV, RPM Categories, [Category 1, Unauthorized Filing](#) for additional information.
  - 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. See Section IV, RPM Categories, [Category 2, Authorized Filing, Altered Return Information and No Additional Refund Due to the Taxpayer](#) for additional information.
  - 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. See Section IV, RPM Categories, [Category 3, Authorized Filing, Altered Return Information and Taxpayer Requesting an Additional Refund](#) for additional information.
  - 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. See Section IV, RPM Categories, [Category 4, Misdirected Refund Only and Taxpayer Requesting an Additional Refund](#) for additional information.
- 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 documentation
    2. Ensure the required documentation was submitted
    3. Refund Trace (in specified circumstances)
    4. Verification of the preparer

5. Law enforcement agency report verification (in specified circumstances)
6. Identify the correct RPM category
7. Determine the correct treatment stream based upon the facts and circumstances.

**Note:** If criteria are **NOT** met, refer to the [Return Preparer Misconduct Not Met](#) 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, with interest as required by law.

#### **A. Review of Taxpayer Documentation**

- 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 must include:
  - [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 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 business 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;
    - Preparer's first and last name; business address, **and**

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- Statement describing the preparer misconduct and theft of the 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.

**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.

**Reminder: For tax year 2013 and prior cases suspended awaiting policy decisions, see [Attachment 2](#) for the law enforcement agency report requirement.**

### **(3) Additional documentation required for Ghost/Non-Signing Preparer Returns**

- In addition to the information listed above, the following information is required 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. This 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 agency 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**

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- 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 CI indicates there was interaction between the taxpayer and the preparer, then consider this requirement satisfied.

Although not all-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 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 the 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, only request evidence that the preparer held him or herself out as a preparer.

**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.

**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.

Additional documentation may be requested to assist with a determination of Return Preparer Misconduct:

- 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.

**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.
  - b) 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 05 – Form 1040 Page 2*, for transcription information.
  - c) 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]	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	Through research an	Consider not verified

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provided is not valid or belongs to another person	██████████ cannot be located for the preparer	See appropriate Category Treatment Stream for proper handling of complaint and <a href="#">Disallowance of Claims</a> section
Signing preparer and ██████████ 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 ██████████ provided by the taxpayer;	Through research a ██████████ can be located for the preparer	Consider verified
Signing Preparer and ██████████ provided by the taxpayer;	Through research a ██████████ cannot 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
Non-Signing Preparer and no preparer information on tax return, "self-prepared" and documentation is 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 ██████████ can be located for the preparer	Consider verified
Non-Signing Preparer and no preparer information on tax return, "self-prepared" and documentation is 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 ██████████ cannot 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 the 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 the 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:

RPM Category	Refund Trace Required:
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) Complete [Form 4844, Request for Terminal Action](#), and forward to the Designated Identity Theft Adjustment (DITA) team to obtain the necessary refund trace information. See [Exhibit B, Form 4844](#) as an example of the necessary information. Upon completion of the refund trace, DITA will forward the results directly back to the requestor.

**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 required information 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 is requested from the taxpayer and received before the refund trace information is available, do not wait for the refund trace information, continue working case.

- 6) Refund trace information will reflect a negotiated check or a completed [FMS150.1](#) or FMS 150.2. FMS 150.2 provides information as to the name and where the refund was deposited. See [Exhibit C 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.

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

**Reminder:** If tax year 2013 or prior and the RPM complaint was received on or before December 31, 2015, see [Attachment 2](#) for additional information.

- 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 may 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]
- [REDACTED]
- [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 and consent 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	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> – [REDACTED]</li> </ul>

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	<ul style="list-style-type: none"> <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 business address are included on other documentation, then [Form 14157](#) is not required.

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]

- b) If complaint is considered incomplete refer to [Incomplete Documentation](#) section for additional information. Suspend case following normal procedures. 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.

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

- 8) 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.
- 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.

**Examples:**

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 was received; however, available refund trace shows that a portion of the refund was deposited into an 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]

- 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) 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.

**Note:** For purposes of this chart the applicable attachments are: [Attachment 3 – Field Exam cases](#), [Attachments 4 Field and Specialty Collection cases](#).

**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	<p>██████████</p> <p>OR</p> <p>██████████ and <b>available</b> refund trace information shows NO 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>• Applicable additional refund, plus interest</li> </ul> <p>Refer to the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment.</p>
No refund or Portion of Refund	Balance due	<p>██████████</p> <p>OR</p> <p>██████████ and <b>available</b> refund trace information shows NO 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> </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 and</a> applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment.</p>
		<p>██████████ 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><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="#">Erroneous Refund Procedures, Penalties and Interest</a>, applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment.</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>██████████ OR ██████████ 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><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>Refer to applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment.</p>
	<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>██████████ OR ██████████ 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>



			Refer to <a href="#">Erroneous Refund Procedures</a> , and applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment.
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**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.

- 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	Required
Signing Preparer	<ul style="list-style-type: none"> <li>• Tax return as intended to be filed, signed by the taxpayer               <ul style="list-style-type: none"> <li>• <a href="#">Form 14157</a> – First and last name and business 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> </li> </ul>
Ghost/Non-Signing Preparer	<ul style="list-style-type: none"> <li>• Tax return as intended to be filed, signed by the taxpayer               <ul style="list-style-type: none"> <li>• <a href="#">Form 14157</a> – First and last name of preparer and business 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> </li> <li>• Documentation showing 3<sup>rd</sup> party presented him/herself as preparer.</li> <li>• Documentation showing interaction between taxpayer and</li> </ul>

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preparer.

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

**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]

- b) If complaint is considered incomplete refer to [Incomplete Documentation](#) section for additional information. Suspend case following normal procedures. If reply received or suspense period ends refer to [Evaluating Taxpayer's Response to Missing Documentation Request](#) section.
- 7) Verify the preparer information. Refer to [Verification of the Preparer](#) section for additional information.
- 8) 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 complaint. 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 a larger refund was deposited into an account in the taxpayer's name. [REDACTED] use the refund trace information to determine the amount of the erroneous refund that was made.

- 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]

- 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.

**Note:** For purposes of this chart the applicable attachments are: [Attachment 3 – Field Exam cases](#), [Attachments 4 Field and Specialty Collection cases](#).

**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 the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment</p>
No Refund	Balance due	[REDACTED]	<ul style="list-style-type: none"> <li>• Account adjustment to</li> </ul>

		<p>Or  ██████████ and available refund trace information shows <b>NO</b> refund was deposited into an account in the name of the taxpayer</p>	<p>remove the nullified return</p> <ul style="list-style-type: none"> <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 on taxpayer's return of record.</p> <p>Refer to <a href="#">Penalty and Interest</a> section and the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment</p>
		<p>██████████ 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>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="#">Erroneous Refund Procedures</a></p>

			section and the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment
Refund amount that exceeds the amount on the return as intended to be filed	Refund/Balance Due	<p>██████████ and taxpayer states received more than entitled</p> <p><b>OR</b></p> <p>██████████ 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>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> If taxpayer's return of record shows a balance due, normal collection notices will be issued.</p> <p>Refer to <a href="#">Erroneous Refund Procedures</a> and the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment section for additional information</p>

**Note:** ██████████ 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 that 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, as provided by law, 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 \$2,000. The taxpayer states he/she received no refund. 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]
- [Redacted]

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

**Category 3 Required Documentation**

Posted Return Reflects	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 of preparer and business 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 agency 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, which contains:               <ul style="list-style-type: none"> <li>• Tax year(s) involved;</li> <li>• Preparer's first and last name; and</li> <li>• Statement describing preparer misconduct and theft of refund.</li> </ul> </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 business 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> <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, which contains:</li> </ul>

	<ul style="list-style-type: none"> <li>• Tax year(s) involved;</li> <li>• Preparer's first and last name; and</li> <li>• Statement describing preparer misconduct and theft of refund.</li> </ul>
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**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, in 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. **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 name (first and last) and business address are included on other documentation, then [Form 14157](#) is not required.

**Exception:** If tax year 2013 and prior received on or before December 31, 2015 and suspended pending policy decisions, see [Attachment 2](#) for additional information.

**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. If reply is 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.
- 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.

**Note:** This chart is for RPM claims received for tax year 2014 and all subsequent complaints (regardless of tax year involved) received after December 31, 2015. For tax year 2013 and prior tax years, and the complaint was received on or before December 31, 2015, and suspended awaiting policy decisions, see [Attachment 2](#) for the treatment stream.

The applicable attachments discussed below are: [Attachment 3 – Field Exam cases](#), [Attachments 4 Field and Specialty Collection cases](#).

**Category 3: Treatment Stream For Accepted Complaints**

Taxpayer states he/she received:	And original refund was:	And individual named on law enforcement agency report:	Then taxpayer is eligible for:
No refund	[REDACTED] or [REDACTED] and refund trace information shows refund was <b>NOT</b>	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> </ul>

	<p>deposited into an account in the name of the taxpayer</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 the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment</p>
		<p>Signing preparer: Does not match name on complaint and processed tax return</p>	<p>Partial Disallowance</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>• <b>NO</b> additional refund since law enforcement report requirements not met</li> </ul>
		<p>Non-signing preparer: Does not match name on complaint</p>	
		<p>Or No law enforcement agency report is submitted with the complaint</p>	<p>Refer to <a href="#">Partial Disallowance</a> section for additional information and the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment</p>
<p>No refund or Portion of refund</p>	<p><b>██████████</b> and <b>all or PORTION of refund was deposited</b> into account of the taxpayer</p> <p>AND</p> <p>The refund is <b>equal</b> to the refund on actual return</p>	<p>Match/Does Not Match regardless of whether it is signing preparer or non-signing preparer</p>	<p>Partial Disallowance</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>• <b>NO</b> additional refund is due since our records show taxpayer previously received correct refund amount</li> </ul> <p>Refer to <a href="#">Partial Disallowance</a> section for additional information and the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment</p> <p><b>Note:</b> If law enforcement agency report 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 claim disallowance letter.</p>

<p>No refund or Portion of refund</p>	<p>██████████ 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 the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment</p> <p><b>Exception: Partial Disallowance:</b></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 will be issued or</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 is submitted with the complaint.</p>	<p>Partial Disallowance</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</a> section for additional information and the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment</p>
<p>No refund or Portion of refund</p>	<p>██████████ and <b>PORTION of refund was deposited</b> into</p>	<p>Match/Does Not Match regardless of whether it is signing preparer</p>	<p><a href="#">Partial Disallowance</a></p> <p>Taxpayer will be asked to repay the erroneous portion of the refund using</p>

	account of the taxpayer  <b>AND</b>  The refund <b>exceeds</b> what taxpayer is entitled to on actual return	or non-signing preparer	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="#">Erroneous Refund, and Partial Disallowance</a> section for additional information and applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment
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**Note:** In order to be eligible for an additional refund, the individual named on the law enforcement agency report 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.
- 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>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 business 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 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 contains:               <ul style="list-style-type: none"> <li>• Tax year(s) involved;</li> <li>• Preparer’s first and last name; and</li> </ul> </li> </ul>

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Ghost/Non-Signing Preparer	<ul style="list-style-type: none"> <li>• Statement describing preparer misconduct and theft of refund.</li> <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 business 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 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; and</li> <li>• Statement describing preparer misconduct and theft of refund.</li> </ul> </li> </ul>
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**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, in 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 refund 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 business address is included on other documentation, then [Form 14157](#) is not required.

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 following normal procedures. If reply received or suspense period

ends refer to [Evaluating Taxpayer's Response to Missing Information 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]  
[REDACTED] use the refund trace information. Disallow claim.

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

**Note:** This chart is for RPM claims received for tax year 2014 and all subsequent complaints (regardless of tax year involved) received on or after December 31, 2015. For tax year 2013 and prior tax years, and the complaint was received on or before December 31, 2015, and suspended awaiting policy decisions, see [Attachment 2](#).

The applicable attachments discussed below are: [Attachment 3 – Field Exam cases](#), [Attachments 4 Field and Specialty Collection cases](#).

**Category 4: Treatment Stream For Accepted Complaints**

Taxpayer states he/she received:	And original refund was:	And individual named on law enforcement agency report:	Then taxpayer is eligible for:
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  Non-signing preparer: Matches name on complaint	<ul style="list-style-type: none"> <li>• Removal of the preparer portion of the refund</li> <li>• Applicable additional refund</li> </ul> Refer to the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment
		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 is submitted with the complaint	<ul style="list-style-type: none"> <li>• Disallow claim for Return Preparer Misconduct</li> </ul> Refer to <a href="#">Disallowance of Claims</a> section for additional information.  <ul style="list-style-type: none"> <li>• Continue processing case following normal procedures</li> </ul>
No refund or Portion of refund	[REDACTED] and <b>ENTIRE</b> refund was deposited 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</li> </ul> Refer to <a href="#">Disallowance of Claims</a> section for additional information.  <ul style="list-style-type: none"> <li>• Continue processing case following normal procedures</li> </ul>
No refund or Portion of refund	[REDACTED] and <b>PORION</b> of refund was deposited into	Signing preparer: Matches name on complaint and processed tax	<ul style="list-style-type: none"> <li>• Removal of the preparer portion of the refund</li> <li>• Applicable additional refund</li> </ul>

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	account of the taxpayer	return  Non-signing preparer: Matches name on complaint	Refer to the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment  <b>Exception:</b> Partial Disallowance <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 will be issued or</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>
		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 law enforcement agency report is submitted with the complaint	<ul style="list-style-type: none"> <li>Disallow complaint for Return Preparer Misconduct Refer to <a href="#">Disallowance of Claims</a> section for additional information.</li> <li>Continue processing case following normal procedures</li> </ul>

**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. Any erroneous refunds will be included in the referral package to DITA.
- 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. Incomplete/Missing Documentation**

**A. Incomplete Documentation**

- 1) In reviewing the documentation submitted, there may be missing/incomplete required documentation as outlined for each category or additional information needed to make a determination.
- 2) Some information may assist with the determination [REDACTED] such as the amount of fees paid for the preparation of the return. If fee information [REDACTED] it must be used as part of the determination.
- 3) Although not all inclusive, if documentation is incomplete, follow the If/Then Chart Below:

**Missing/Incomplete Documentation**

If ...	Then ...
The taxpayer’s return as intended to be filed is unsigned.	<p><b>Field Exam:</b></p> <ul style="list-style-type: none"> <li>• Examiner will utilize <a href="#">Form 4564</a>, <i>Information Document Request</i>, to request additional information with a specific response due date. Audit activity will continue while the taxpayer is securing needed information.</li> </ul> <p><b>Field and Specialty Collection:</b></p> <ul style="list-style-type: none"> <li>• Secure the taxpayer’s signature on the return and process per IRM <a href="#">5.1.11.5</a>, <i>Secured Returns</i>.</li> </ul>
The taxpayer does not provide sufficient information to support the complaint, e.g., Law enforcement report for Category 4 is missing	<p><b>Field Exam:</b></p> <ul style="list-style-type: none"> <li>• Examiner will utilize <a href="#">Form 4564</a> to request additional information with a specific response due date. Audit activity will continue while the taxpayer is securing needed information.</li> </ul> <p><b>Field and Specialty Collection:</b></p> <ul style="list-style-type: none"> <li>• Issue <a href="#">Form 9297</a>, <i>Summary of Taxpayer Contact</i>, to request additional information and establish a deadline for the required information.</li> <li>• Suspend collection action on the affected tax modules in the interim. If the requested information is not received by the deadline established, advise the taxpayer the complaint is denied and resume case action.</li> </ul>

4) 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, business address, PTIN, TIN or EIN, etc., amount of refund received or expected, etc.).

- 5) Advise the taxpayer, if no response received by the deadline established, IRS will disallow the claim and continue with the compliance action.
- 6) Provide your direct contact information, including telephone number and hours of operation.
- 7) Document all findings and actions taken following normal procedures.
- 8) 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 taxpayer for the missing information required. Negotiate a new response date.
- 9) 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.
- 10) 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.

11) 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.

**Note:** The following chart is for Field & Specialty Collection use only. Exam will follow normal procedures to ensure the statute is protected.

**Actual return is present showing tax increase/credit decrease:**

If original refund is ...	And...	Then...
██████████ and it can be determined that only a portion or no refund was deposited into account in taxpayer's name	Tax/credit change ██████████ ██████████	No statute implication  • Request information following normal procedures and suspend case.
	Tax/credit change i ██████████ ██████████	Protect statute following normal procedures

<p>and determination can be made that the entire refund was deposited into account in the taxpayer's name</p> <p><b>OR</b></p> <p>Determination cannot be made at the time of suspense regarding receipt or non-receipt of refund</p>	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>QUICK/PROMPT</b> assessment <b>WILL</b> be required.</p>
	ASED less than 60 days	<ul style="list-style-type: none"> <li>Protect statute following normal procedures</li> </ul>

**Reminder: If working a suspended tax year 2013 and prior, received on or before December 31, 2015, see [Attachment 2](#) for additional information.**

**B. 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 the 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  *Except, if the case is a Category 3 case and the only missing document is a law enforcement report, follow partial disallowance procedures.	<ul style="list-style-type: none"> <li>Disallow the RPM claim based upon the category and missing information.</li> <li>*Refer to <a href="#">Partial Disallowance section</a></li> </ul>
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.</li> </ul> <p><b>Exception:</b> if Category 2, send 916C</p>

		<ul style="list-style-type: none"> <li>Refer to <a href="#">Disallowance of Claims</a> section.</li> </ul>
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**Reminder: See [Attachment 2](#) for tax year 2013 and prior tax years received on or before December 31, 2015, suspended awaiting policy decisions.**

**IX. Disallowance of Claims**

- 1) Taxpayers have appeal rights when claims are disallowed.
  - a) In Field Exam cases, normal appeal rights apply.
  - b) In Field & Specialty Collection cases, the taxpayer has the right to file suit in the United States District Court that has jurisdiction or with the United States Court of Federal Claims.
- 2) In all cases where the taxpayer is requesting an additional refund and the claim is disallowed, a Claim Disallowance letter is required.


**A. Full Disallowance**

- 1) 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.
- 2) In all categories, incomplete complaints will be disallowed if no response is received or a 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.

**Exception:** If taxpayer states that he/she received a refund and that refund matches the TC 846 on the account then no refund trace is required. Consider taxpayer received entire refund amount.

<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 Claim disallowance letter</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		<p><b>Field Exam</b></p> <ul style="list-style-type: none"> <li>▪ Disregard tolerance and continue with audit; however, include the alleged altered issues as part of the audit.</li> </ul> <p><b>Field Collection</b></p>

		<ul style="list-style-type: none"> <li>▪ Issue Claim Disallowance letter</li> <li>▪ Do not process actual return</li> </ul>
	<div style="background-color: black; width: 100%; height: 100%;"></div>	<p><b>Field Exam:</b></p> <ul style="list-style-type: none"> <li>▪ Continue with audit; however, include the alleged altered issues as part of the audit.</li> </ul> <p><b>Field and Specialty Collection:</b></p> <ul style="list-style-type: none"> <li>▪ Refer to Exam for deficiency procedures</li> </ul>

- 5) Field Exam will use [Letter 569](#), *Full/Partial Preliminary Claim Disallowance*, when disallowing a complaint in full.
- 6) Field and Specialty Collection will use Letter [105C](#), *Claim Disallowance*. Field and Specialty Collection will not issue the [105C](#) letter; the letter will be issued by DITA. See Attachment four (4) for further information.
- 7) Category 2 claims disallowed will receive a [916C](#), *No Consideration*, letter. Include open paragraphs as necessary in line with the suggested verbiage below. DITA will issue the [916C](#) letter when applicable for both Field & Specialty Collection and Field Exam.
- 8) Suggested language for the Claim Disallowance letter is outlined below. Include the reason(s) for the claim disallowance.
  - 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.*

12) Provide [Publication 4134](#), *Low Income Taxpayer Clinic (LITC) List*. This publication will provide information on LITCs. Do not refer a taxpayer to any one particular LITC.

## **B. Partial Disallowance**

- 1) Partial disallowance procedures can occur in RPM Categories 1, 3, and 4 and may apply if there are RSED implications (i.e., refund is due, but RSED expired before the complaint was filed).
- 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 which would impact the amount of the refund issued and partial disallowance procedures would apply.

**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) 1547 account and in turn affect the additional refund amount due to the taxpayer. Since the refund amount (\$500) is less than the taxpayer expects (\$1,000) this is considered a partial disallowance.

- 3) The law enforcement agency report 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.
- 4) Field Exam will issue [Letter 569](#), *Full/Partial Preliminary Claim Disallowance*, when partially disallowing a claim.
- 5) Field and Specialty Collection will use Letter [106C](#), *Claim Partially Disallowed*. Field and Specialty Collection will not issue the letter rather include a request to issue the 106C letter with the applicable paragraphs when referring the case to DITA for account adjustments.
- 6) Provide IRS [Publication 4134](#), *Low Income Taxpayer Clinic (LITC) List*. This publication will provide information on LITCs. Do not refer a taxpayer to any one particular LITC.

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

- 1) The Return Preparer Office (RPO) must be notified of all RPM complaints received in Compliance 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 involved 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. Returns filed in Category 4 cases are **not** considered nullities and the ASED will begin to run based on the filing of those returns.
- 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 (return as intended to be filed). 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 ASED 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 for the RSED issue only on an otherwise allowed claim.
- 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. 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 should apply. Refer to the [General Filing Penalties](#) for additional information.

### **B. General Filing Penalties**

- 1) The following Internal Revenue Manuals (IRMs) should be referenced. This list is not all inclusive:

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- IRM 20.1.1, Introduction and Penalty Relief
- IRM 20.1.2, Failure to File/Failure to Pay Penalties
- IRM 20.2.5, Interest on Underpayments

2) Penalties and interest may apply when the taxpayer’s actual return reflects a tax liability. In many cases, the First time Abate (FTA) administrative waiver or reasonable cause exception may apply for the penalties. Refer to IRM 20.1.1 when considering if FTA or reasonable cause criteria are met. If a taxpayer does not meet FTA criteria, consider whether the taxpayer is able to show the failure(s) was/were due to reasonable cause and not due to willful neglect.

**Reminder:** Per IRM 20.1.1, FTA should be considered and applied, if criteria are met, before reasonable cause is considered.

- 3) The Failure to File (FTF) penalty should be considered when:
- a) Taxpayer’s actual return reflects a tax liability owed; and
  - b) Taxpayer’s actual return provided with the RPM complaint is received after the due date of the return.
- 4) When category 1, 2, and 3 complaints are accepted, the original return is considered a nullity therefore; the Failure to File (FTF) penalty may apply.

**Note:** If taxpayer received a refund in excess of what he/she should have received and the actual tax return does not show a tax liability owed then FTF does not apply. The FTF penalty is based on the amount required to be shown as tax on the return which is not paid on or before the due date.

- 5) The Failure to File (FTF) penalty will have to be computed manually and included on the adjustment to the account. The computer cannot systemically generate the penalty if the altered return (TC 150) was timely.
- 6) The FTF penalty does not apply if the taxpayer’s failure to file a timely return was due to reasonable cause and not due to willful neglect as outlined below:

<b>If</b>	<b>And</b>	<b>Then</b>
The taxpayer did not authorize the filing of the original return	Through research, there is an indication that the taxpayer made efforts to file a return (electronic filing indication or TC97X on account)	FTF does not apply; reasonable cause can be cited as the taxpayer attempted to comply by electronically filing or submitted a paper return within the prescribed timeframes.
The taxpayer authorized the filing of the original return	Through research and documentation submitted, the taxpayer received the expected refund amount and was unaware of issues with his/her original return	FTF does not apply; reasonable cause may be cited as the taxpayer demonstrated reasonable cause and not due to willful neglect.

- 7) The Failure to Pay (FTP) penalty should be considered when:
- a) Taxpayer’s actual return reflects a tax liability owed and,
  - b) Tax has not been paid by the due date of the original return.
  - c) The FTP penalty is not imposed if the taxpayer’s failure to pay is due to reasonable cause and not due to willful neglect.

**Note:** Keep in mind that these taxpayers are victims of a crime perpetrated by their preparer. In many RPM cases, the reasonable exception may apply,

Examples where taxpayer may have demonstrated reasonable cause:

- (1) Taxpayer X visited Preparer Y but did not feel comfortable with the arrangement and did not authorize Preparer Y to file his 2013 tax return. Preparer Y went ahead and filed a tax return for Taxpayer X, using made-up numbers and routed the inflated refund of \$5,000 to Preparer Y's bank account, unbeknownst to Taxpayer X. Subsequently, Taxpayer X attempted to file his true 2013 tax return, but it was rejected. By the time Taxpayer X realized someone had filed a return on his behalf, the 2013 filing deadline had passed. Taxpayer X contacted the IRS immediately and learned he was a victim of return preparer misconduct. Here, the taxpayer had reasonable cause and should not be assessed a penalty for Failure to File.
- (2) Taxpayer X heard from a friend that Preparer Y was able to obtain huge tax refunds for truck drivers based on their diesel fuel purchases. Taxpayer X sought out the services of Preparer Y for tax year 2013. Taxpayer X believed he would be getting a refund of \$4,000 based on the return Preparer Y prepared. Unbeknownst to Taxpayer X, Preparer Y then altered the return to claim an additional \$1,000 refund and had the entire \$5,000 deposited into an account under Preparer Y's control. Taxpayer X's true refund amount should have only been \$600. Taxpayer X is low-income, did not complete high school, and had no reason to suspect that he was not entitled to a \$4,000 refund. Taxpayer X's reliance on Preparer Y was reasonable cause for the failure to file penalty.

8) Interest will be allowed to systemically generate.

### **C. Accuracy-Related Penalties**

- 1) Accuracy-related penalties must be considered when reviewing RPM complaints.
- 2) If audit issues remain on the return after a RPM complaint has been accepted, accuracy-related penalties may be assessed.
- 3) 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.

**Attachment 2: Special procedures for handling tax year 2013 and prior tax years where complaints were received on or before December 31, 2015, and suspended waiting policy decisions.**

**I. Special Procedures for Tax Year 2013 and Prior Suspended Cases Received On or Before December 31, 2015.**

1) Due to cases being suspended awaiting policy decisions, special procedures were developed. The special procedures relate to the law enforcement agency report requirement where an additional refund may be issued and the assertion of penalties.

**A. Return Preparer Misconduct Documentation**

1) Special consideration was developed for tax year 2013 and prior year cases suspended awaiting policy decisions regarding the law enforcement agency report requirement when the taxpayer is requesting a refund. The taxpayer is required to provide a law enforcement agency report. However, due to the age of the case, his/her local law enforcement agency may not take a report. In these cases, in lieu of a law enforcement agency report, the taxpayer may submit an alternative statement. The alternative statement is:

- a) A statement documenting his/her attempt to secure a police report signed under penalties of perjury and
- b) A statement from TAS documenting the assistance/attempts in obtaining a police report on behalf of the taxpayer.

**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 report or alternative statement (for tax year 2013 and prior suspended awaiting policy decisions) described above is missing, refer to the [Incomplete Documentation](#) section for specific guidance.

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

**Note:** The applicable attachments discussed below are [Attachment 3 – Field Exam cases](#), [Attachments 4 Field and Specialty Collection cases](#).

**Category 3: Treatment Stream for Accepted Complaints**

Taxpayer states he/she received:	And original refund was:	And individual named on law enforcement agency report or alternative statement in lieu of law enforcement agency report:	Then taxpayer is eligible for:
No refund	[REDACTED] or [REDACTED] and refund trace	Signing preparer: Matches name on complaint and processed tax	<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>

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	<p>information shows refund was <b>NOT</b> deposited into an account in the name of the taxpayer</p>	<p>return</p> <p>Non-signing preparer: Matches name on complaint</p>	<ul style="list-style-type: none"> <li>• Removal of the preparer portion of the refund</li> <li>• Applicable additional refund</li> </ul> <p>Refer to the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment</p>
		<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 the complaint</p>	<p>Partial Disallowance</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>• <b>NO</b> additional refund since law enforcement agency report or alternative statement requirements not met</li> </ul> <p>Refer to <a href="#">Partial Disallowance</a> section for additional information and the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment</p>
<p>No refund or Portion of refund</p>	<p>██████████ and <b>all or PORTION of refund was deposited</b> into account of the taxpayer</p> <p>AND</p> <p>The refund is <b>equal</b> to the refund on actual return</p>	<p>Match/Does Not Match regardless of whether it is signing preparer or non-signing preparer</p>	<p>Partial Disallowance</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>• <b>NO</b> additional refund is due since our records show taxpayer previously received applicable amount</li> </ul> <p>Refer to <a href="#">Partial Disallowance</a> section for additional information and the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment</p> <p><b>Note:</b> If law enforcement agency report or alternative statement</p>

			information does not match, also include explanation that the information provided on <a href="#">Form 14157-A</a> does not match the law enforcement agency report or alternative statement in the claim disallowance letter.
No refund or Portion of refund	<p>██████████ 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 the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment</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 will be issued or</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</p>	<p>Partial Disallowance</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 or alternative statement requirements not met</li> </ul> <p>Refer to <a href="#">Partial Disallowance</a> section for additional information and the applicable attachment (Attachment 3 or Attachment 4) for referral for</p>



		agency report or alternative statement is submitted with complaint.	account adjustment
No refund or Portion of refund	<p>██████████ and <b>PORTION of refund was deposited</b> into account of the taxpayer</p> <p><b>AND</b></p> <p>The refund <b>exceeds</b> what taxpayer is entitled to on actual return</p>	Match/Does Not Match regardless of whether it is signing preparer or non-signing preparer	<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</li> </ul> <p><b>Note:</b> If taxpayer claims received no refund but refund trace shows a portion was issued in his/her name, consider a partial disallowance.</p> <p>Refer to <a href="#">Erroneous Refund</a> section for additional information and the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment</p>

**C. Category 4 – Misdirected Refund Only and Taxpayer Requesting an Additional Refund:**

**Note:** The applicable attachments discussed below are [Attachment 3 – Field Exam cases](#), [Attachments 3 Field and Specialty Collection cases](#).

**Category 4: Treatment Stream for Accepted Complaints**

<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 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  Non-signing preparer: Matches name on complaint	<ul style="list-style-type: none"> <li>• Removal of the preparer portion of the refund</li> <li>• Applicable additional refund</li> </ul> Refer to the applicable attachment (Attachment 3 or Attachment 4) for referral for account adjustment
		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	<ul style="list-style-type: none"> <li>• Disallow claim for Return Preparer Misconduct</li> </ul> Refer to <a href="#">Disallowance of Claims</a> section for additional information  <ul style="list-style-type: none"> <li>• Continue processing case following normal procedures.</li> </ul>
No refund or Portion of refund	[REDACTED] and <b>ENTIRE</b> refund was deposited 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</li> </ul> Refer to <a href="#">Disallowance of Claims</a> section for additional information.  <ul style="list-style-type: none"> <li>• Continue processing case following normal procedures.</li> </ul>
No refund or Portion of refund	[REDACTED] and <b>PORION</b> of refund was deposited into account of the taxpayer	Signing preparer: Matches name on complaint and processed tax return  Non-signing	<ul style="list-style-type: none"> <li>• Removal of the preparer portion of the refund</li> <li>• Applicable additional refund</li> </ul> Refer to the applicable attachment (Attachment 3 or

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		preparer: Matches name on complaint	Attachment 4) for referral for account adjustment  <b>Exception:</b> Partial Disallowance <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 will be issued or</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>
		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	<ul style="list-style-type: none"> <li>• Disallow claim for Return Preparer Misconduct Refer to <a href="#">Disallowance of Claims</a> section for additional information.</li> <li>• Continue processing case following normal procedures.</li> </ul>

- 3) For the 2013 and prior tax years suspended awaiting policy decisions, 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 an officer or equivalent (or otherwise demonstrably accepted by the law enforcement agency)

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- Tax year(s) involved;
- Preparer's first and last name; and
- Statement describing preparer misconduct and theft of refund

a) Request the missing law enforcement agency report and suspend case following normal procedures:

1. He/she must either provide a law enforcement agency report or alternative statement within the prescribed timeframe.

**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, in order to process your complaint a law enforcement agency report is required. The report must include the tax year(s) involved; your tax return preparer's first and last 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 LITCs. Do not refer a taxpayer to any one particular LITC.

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) Request assistance from TAS to ensure any other required documentation is secured.

e) Refer to [Taxpayer Responses](#) section if reply received or suspense period ends.

#### **D. Evaluating Taxpayer's Response to Missing Documentation Request Regarding Tax Year 2013 and Prior Tax Years Received on or before December 31, 2015, Awaiting Policy Decisions.**

- 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**

<b>If ...</b>	<b>And...</b>	<b>Then ...</b>
The taxpayer responds to a request for missing information	Does not provide all of the required documentation	Disallow the RPM claim based upon the category and missing information.
The taxpayer responds to a request for missing information	Provides all required documentation	Follow guidance under <a href="#">Return Preparer Misconduct Met.</a>
The taxpayer does not respond		Disallow the RPM claim based upon the category and missing information.
Taxpayer responds to 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 Compliance advising that taxpayer has contacted TAS.	Disallow Claim  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 Compliance advising that taxpayer has contacted TAS.	Suspend for the agreed additional timeframe for TAS to secure the required information.
Taxpayer responds to 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 Compliance advising that taxpayer has contacted TAS.	Follow guidance under <a href="#">Return Preparer Misconduct Met.</a>
Taxpayer or TAS responds to request for missing law enforcement agency report and any other information requested	Taxpayer/TAS has provided the required documentation or an alternative statement signed under penalties of perjury	Follow guidance under <a href="#">Return Preparer Misconduct Met.</a>

**E. Penalty and Interest Consideration for Balance Due Returns**

- 1) No Failure to File (FTF) or Failure to Pay (FTP) penalties will be assessed.
- 2) Interest will be allowed to systemically generate.

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**I. Return Preparer Misconduct — Field Exam**

- 1) Once it has been determined that a taxpayer is a victim of return preparer misconduct (RPM), Field Exam employees (manager, revenue agent (RA), tax compliance officer (TCO), tax auditor (TA), clerk, etc.) will follow the Field Exam specific procedures, outlined in this attachment, to correct an RPM victim's account.
- 2) Generally to correct the victim's account, the examiner must submit a [Form 4442](#) package as described below to request a reversal of incorrect data posted to the victim's account as a result of preparer misconduct. Throughout this attachment, the return submitted by the preparer that is determined to be the result of RPM will be referenced as the posted return. Step by step instructions follow:

**A. Inputting RPM Indicators**

- 1) Use [Form 5348](#), *AIMS/ERCS Update*, to input aging reason code (ARC) 96 on all open returns (cases open on Audit Information Management System (AIMS)) where RPM is determined applicable.

**B. Form 4442 – Designated Identity Theft Adjustments (DITA) Team Referral Package Content, Assembly, and Submission**

- 1) Once the examiner determines the taxpayer is a victim of RPM, the following information should be submitted to the DITA team (referenced as the [Form 4442](#) package).
  - a) [Form 4442](#), with "Expedite – Return Preparer Misconduct" written across the top, containing the following:
    - (1) The phrase, "SB/SE Field Exam" in Part 1, Box 4 - Location
    - (2) Complete Part I & II in full
    - (3) Complete Part III, Section B with the following information:
      - a) The preparer's name and business address.
      - b) Whether the taxpayer received the full refund, partial refund amount, no refund, or an amount greater than expected.
      - c) Category number that fits the individual taxpayer scenario, Category 1, 2, 3 or 4. See [Attachment 1](#) for definition of each category.
      - d) Amount of refund that the taxpayer is entitled, if applicable.
      - e) Penalties and Interest to be assessed/abated, as applicable.
      - f) If erroneous refund Category D is applicable, the amount of the erroneous refund.
      - g) If No Consideration letter (916C) is required, DITA will issue for Field Exam. On referral, include whether the complaint is denied in part or full and the appropriate paragraphs. Include your contact information for inclusion [916C](#) letter.
    - (4) Request DITA to – "Inform the examiner by secure email at [insert your full email address, e.g. [Mary.Doe@irs.gov](mailto:Mary.Doe@irs.gov)] when the account corrections are complete."

- b) The [Form 4442](#) package sent to DITA should contain:
- (1) Completed [Form 4442](#)
  - (2) Copy of the taxpayer's posted (RPM) return, TRDBV or MeF print.
  - (3) Copy of the signed return intended to be filed. Annotate the copy of the return intended to be filed as the "Taxpayer Intended Return" (The DITA team will use the RPM return and "Taxpayer Intended Return" to make the account adjustments).

**Exception:** Annotate on Form 4442 if taxpayer does not have a filing requirement.

- (4) Copies of [Form 14157](#), *Return Preparer Complaint*, and [Form 14157-A](#), *Tax Return Preparer Fraud or Misconduct Affidavit*, and supporting documentation.

- c) Mail, fax, or email the [Form 4442](#) package, along with [Form 3210](#), *Document Transmittal*, to the DITA team.

Mailing Address	Fax Number	Email Address
Internal Revenue Service 2970 Market St. Philadelphia, PA 19104 Attn: DITA Mail Stop 4- J30.152	(855) 786-6575 Subject: Return Preparer Misconduct case. Expedite <a href="#">Form 4442</a> .	*SBSE CCS DITA Subject: Return Preparer Conduct case. Expedite <a href="#">Form 4442</a> .

**Note:** Email the [Form 4442](#) package via secure email, if the entire [Form 4442](#) package is comprised of **only** electronic documents (Microsoft © Word, PDF, or scanned documents).

- d) Incomplete referrals will be rejected back to the originating group.

### C. Exam Procedures

- 1) While the corrections for the RPM bad return data are being made, the examiner should continue with the examination of the victim's "intended" return. Continue to include any audit issue(s) that remain on the return as intended to be filed.
- 2) Correct RGS case information to match the "intended" return before creating the Revenue Agent Report (RAR).
- 3) After DITA corrects the account, ensure the IDRS transcript (TXMOD, IMFOL) matches the "intended" return.
- 4) A copy of the Form 4442 package, and all supporting documents, must be retained in the case file.
- 5) Before closing the case, a copy of the complaint and supporting documents must be sent to the RPO. See section X, *Referrals to the Return Preparer Office*.
- 6) Close case using established examination procedures.

### D. Tech Services

- 1) If a Statutory Notice of Deficiency (SNOD) was issued prior to the receipt and determination of an RPM complaint and the corrected deficiency is greater than the amount on the issued SNOD:
  - a) If time remains to petition Tax Court, obtain the taxpayer's consent to rescind the SNOD. The SNOD rescission process must be completed before the



expiration of the last day to petition Tax Court, as reflected on the SNOD. Then re-issue with the correct deficiency amount as long as there is sufficient time left in the original ASED. See [IRM 4.8.9.28, Rescinding Notices of Deficiency](#), for additional information.

- b) If time to petition Tax Court has expired, do not assess the deficiency on the first SNOD; re-issue SNOD for correct deficiency, if 90 days or more remain on original the ASED.
- 2) If the ASED is imminent, follow normal procedures to request the taxpayer sign [Form 872, Consent to Extend Time to Assess Tax](#), to protect the statute.
- 3) The assessment statute expiration date (ASED) must be open to issue a SNOD.

## Attachment 4

## Interim Guidance: SBSE-25-MM15-0053

Attachment four (4) provides specific guidance for Field and Specialty Collection regarding collection action, account resolution and referrals. This guidance supersedes Interim Guidance SBSE-05-1214-0086, Reissuance of Interim Guidance Return Preparer Fraud or Misconduct, dated December 8, 2014.

### I. Field and Specialty Collection:

#### A. Suspend Collection Action

- 1) When a taxpayer alleges Return Preparer Misconduct and the allegation has not already been investigated in another function, temporarily suspend all collection actions on the affected tax modules. Specifically, this includes:
  - a) Not issuing any new levies, including systemic Federal Payment Levy Program (FPLP) levies (see IRM [5.11.7.2.6](#), *Blocking or Releasing FPLP Levy*).
  - b) Not filing any new Notices of Federal Tax Liens.
  - c) Not issuing [Letter 1058](#), *Notice of Intent to Levy and Notice of Your Right to a Hearing*, or [Letter 3174](#), *New Warning of Enforcement*.
  - d) Not initiating seizure action.
- 2) Be sensitive to the adverse impact that being a victim of Return Preparer Misconduct may have upon the taxpayer.

#### B. Denial of RPM Complaint

- 1) Advise the taxpayer:

*“A review of your complaint and your account does not support preparer misconduct. Our records show that the additional information reported on your tax return is valid.”*
- 2) Refer taxpayer to the Low Income Taxpayer Clinic, as taxpayers have the right to retain representation under the Taxpayer Bill of Rights. Provide them with Publication 4134, Low Income Taxpayer Clinic List, and to <https://www.irs.gov/Advocate/Low-Income-Taxpayer-Clinics>
- 3) See [Full Disallowance](#) or [Partial Disallowance](#) sections for additional information to be included in claim disallowance letters.
- 4) DITA will issue the appropriate claim disallowance letter (105C, 106C or 916C) until a claim denial letter is developed for use in Field and Specialty Collection.

#### C. Return Preparer Misconduct Confirmed

- 1) If Return Preparer Misconduct has occurred, take the following actions:
  - a) If a Notice of Federal Tax Lien (NFTL) has been filed and the entire balance due covered by the NFTL is due to return preparer misconduct or fraud, request a certificate of release under IRC 6326 erroneous NFTL provisions pursuant to IRM [5.12.3.9](#) *Erroneously Filed Notice of Federal Tax Lien*. These releases contain a statement that the filing was erroneous and are requested through Specialty Collection - Advisory. Advisory also issues the [Letter 544](#), *Letter of Apology* -

*Erroneous Filing of Notice of Federal Tax Lien.* At the taxpayer's written request, a copy of the release and letter of apology may be furnished to creditors or credit bureaus. Instruct the taxpayer to provide names, mailing addresses, and permission to disclose the information, see IRM [5.12.3.10.1](#), *Return Preparer Misconduct Situation*, for further direction.

- b) Release levies on the affected tax modules.
- c) Complete [Form 3870](#), *Request for Adjustment*, with specific instructions on actions needed to correct the taxpayer's account. Do not attach IDRS prints to [Form 3870](#).

#### **D. Erroneous Refund Procedures**

- 1) Address Category D erroneous refunds on [Form 3870](#) sent to DITA; see Preparation and Routing of [Form 3870](#) below.

#### **E. Preparation and Routing of Form 3870**

- 1) Prepare the [Form 3870](#) to correct the account. The [Form 3870](#) instructions must include the following:
  - a) "Return Preparer Misconduct" on [Form 3870](#) as the reason for adjustment.
  - b) The category number that fits the individual taxpayer scenario, e.g., Category 1, 2, 3, or 4.
  - c) Whether the taxpayer received the correct refund, no refund, or an amount greater than expected.
  - d) Name and business address of the preparer.
  - e) Amount of refund to be issued, if applicable.
  - f) Applicable penalty and interest assertion.
  - g) Erroneous Refund category D, if applicable.
  - h) ASED updated - 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 limitations calculations.
- 2) Attachment to [Form 3870](#):
  - a) Copy of the taxpayer's original return or TRDBV.
  - b) Copy of the signed return intended to be filed annotated "Taxpayer Intended Return."

**Exception:** Note on the [Form 3870](#) if the taxpayer does not have a filing requirement.

- c) Copy of [Form 14157](#) and/or copy of [Form 14157-A](#).
- d) Taxpayer documentation supporting the RPM claim.
- e) If a Claim Disallowance Letter or No Consideration letter is required, indicate:
  - (1) Whether the complaint is denied in part or full and the appropriate letter.
  - (2) The applicable paragraphs (See the [105C](#), *Claim Disallowance Letter*, or [106C](#), *Partial Claim Disallowance Letter* or [916C](#), for the available paragraphs).
  - (3) Your contact information for inclusion in the [105C](#), [106C](#) or [916C](#) letter.
- 3) Forward [Form 3870](#) to the appropriate function based on the type of assessment:
  - a) For adjustments other than those involving Examination or AUR assessments, forward [Form 3870](#) by mail, fax or electronic submission to the SB/SE Designated Identity Theft Adjustment Group (DITA) at the Philadelphia Campus:

Internal Revenue Service  
DITA Mail Stop 4-J30.152  
2970 Market St  
Philadelphia, PA 19104

E-Fax # 1-855-786-6575

Outlook mailbox for electronic submission is \*SBSE CCS DITA. Send secured email if using mailbox.

**Note:** [Form 3870](#) must be mailed if an original return is attached.

- b) To adjust an assessment made by Examination or Automated Underreporter (AUR) assessment, follow reconsideration procedures at IRM [5.1.15.4](#) *Audit, Automated Underreporter (AUR), Substitute for Return (SFR) and Automated Substitute for Return (ASFR) Reconsideration*
- c) For audit reconsideration, forward [Form 3870](#) per IRM Exhibits [4.13.7-3](#), *Routing of Area Office Reconsiderations*, and [4.13.7-4](#) *Centralized Reconsideration Unit (CRU) Addresses*. This includes a return filed under the taxpayer's Social Security number by the return preparer and a subsequent assessment by Examination.
- d) For AUR reconsideration, forward [Form 3870](#) per IRM Exhibit [4.13.7-6](#). This includes a return filed under the taxpayer's social security number by the return preparer and a subsequent AUR assessment.

#### **F. Criminal Investigation Involvement**

- (1) If the taxpayer indicates Criminal Investigation (CI) involvement, for example the taxpayer states that a CI agent called or interviewed the taxpayer or a special agent's card is included in taxpayer's documentation, then contact CI to determine:
  - a.) If the preparer is under investigation for the preparation of tax returns.
  - b.) If there is evidence that the taxpayer's return was prepared by the named preparer.
  - c.) If the RPM complaint should be worked and if not, how it should be closed.

**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, Form 4844, Request for Terminal Action**

<b>Request for Terminal Action</b>	EIN or SSN 000-00-0000		Name control	MFT code	Periods
	Plan No/Report No (MFT 74, 76 & 46)		ABCD	30	20XX12
	Name of taxpayer Mary Smith		Address of taxpayer (if necessary) 123 Main Street Any Town, NY, 00000		
Taxpayer Account Changes	Transaction code	Amount (if applicable)	<b>Control Base Data Request</b>		Remarks
<b>Type of Research Requested</b>			<input type="checkbox"/> ACTON Activity code: _____ Status code: A - Assigned      M - Monitor/Other B - Background    S - Suspense C - Closed Category code: _____ Employee no.: _____ <input type="checkbox"/> TC 148 Entity indicator: _____		RPM case, refund Trace needed
<input type="checkbox"/> Assessed balance \$ _____ <input type="checkbox"/> Accruals to (Date: mmddyyyy) _____ Interest ..... \$ _____ Penalty ..... \$ _____ Total due ..... \$ _____	<input type="checkbox"/> Module printout <input type="checkbox"/> Transactions after (Date: mmddyyyy) <input type="checkbox"/> Complete printout <input type="checkbox"/> Other (Specify) _____  <input type="checkbox"/> Return DLN _____ <input type="checkbox"/> DLN not available <input type="checkbox"/> Photocopy <input type="checkbox"/> Original <input type="checkbox"/> Form W-2 <input checked="" type="checkbox"/> Other (Specify) Refund Trace for 20XX12 _____ _____		Identity Theft Action Code	Miscellaneous Field Input	
			Employee IDRS number	Name of requester Mary Smith @irs.gov Telephone no. (XXX) XXX-XXXX	Badge number
			Signature of requester		Date (mmddyyyy)
			<input type="checkbox"/> Request Approved	Signature of supervisor (if necessary)	Date (mmddyyyy)
			<input type="checkbox"/> Yes		
			<input type="checkbox"/> Request done	Name of Terminal Operator	Badge number
			<input type="checkbox"/> Yes		
			<input type="checkbox"/> No	Telephone no. ( )	
			Signature of Terminal Operator		Date (mmddyyyy)



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

DIRECT DEPOSIT COORDINATOR



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

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 scheduled 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) \_\_\_\_\_
- The CUSTOMER'S COPY of this form was completed and forwarded to the customer on (Date) \_\_\_\_\_
- We received this 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):
  - Returning the funds through ACH per Reason Code R06
  - Returning the funds by an Official Bank Check
  - Funds are not available for Return

Credited to Taxpayer's account

Account Owner's name does not match the taxpayer.

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(k) - 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 (5 U.S.C. 552) and the Paperwork Reduction Project of 1997 (44 CFR 1216). 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

