



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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MEMORANDUM FOR TAX-EXEMPT/GOVERNMENT ENTITIES EMPLOYEES

FROM: Sunita B. Lough /s/ *Sunita B. Lough*
Commissioner, Tax-Exempt/Government Entities (TE/GE)

SUBJECT: Guidance for Cases Affected by a Federally Declared Disaster,
or Terrorist or Military Action

This memo provides interim guidance to TE/GE employees working cases with taxpayers affected by a federally declared disaster, or terroristic or military action (collectively, a “federally declared disaster”) under Internal Revenue Code (IRC) Section 7508A. This memo is not a pronouncement of law and can’t be used, cited or relied on as law. Nothing in this memorandum may be construed as affecting the operation of any other provision of the IRC or associated regulations and guidance.

When the IRS issues a Declaration Notice under [IRM 25.16.1.5.3](#), all IMF and BMF accounts with addresses in the area affected by the federally declared disaster (the “covered disaster area”) designated by the Federal Emergency Management Agency ([FEMA](#)) as qualifying for “individual assistance” are frozen systemically for the period specified in the Declaration Notice (the “postponement period”).

Guidance for all cases:

The IRS issues a Declaration Notice to identify the covered disaster area per IRM 25.16.1.5.3. This memo covers procedures for Exempt Organizations (EO), Employee Plans (EP), and Government Entities/Shared Services (GE/SS) for both examination and non-examination activities. If you have cases in your inventory with taxpayers affected by a federally declared disaster, please review this memorandum carefully in its entirety so that you can take appropriate actions in a timely manner.

Key points for TE/GE cases:

Generally, contact with taxpayers is suspended and all due dates for taxpayer actions are extended through the close of the postponement period.

- If you have the needed information and don't have to contact the taxpayer, continue working the case. Keep the case open using your function's appropriate status code.
- If the result is favorable to taxpayer, close the case with the appropriate action. For example, issue a favorable ruling or determination or no change letter, fully allow claims, or take final actions on closing agreements.
- For cases that can't be closed with a –O Freeze in effect, contact the FAST Unit ([*TEGE FAST](#)) to remove the –O freeze, so you can close the case. The FAST Unit will put the –O freeze back on the module.
- If you can't work the case because you need additional information, and you previously spoke with the taxpayer, contact the taxpayer/POA (you may call) and let them know we are suspending activity unless they want to move forward. If the taxpayer opts out of the postponement period, see below for further instructions.
- If you can't reach the taxpayer by phone, use Letter 6017, [Taxpayer Contact After Disaster – TE/GE](#).
- If you're working on a closing agreement and the taxpayer has signed the agreement and made the payment, post the payment, make the assessment to balance the module, and close the case.
- If a 30-day letter is pending, notify the taxpayer that the response date may be extended until the last day of the postponement period.
- If you can't reach the taxpayer by phone or mail, or if the taxpayer declines to proceed, and you can't do any more work on the case, place the case in suspense and suspend all activity until the first business day after the close of the postponement period.
- Document the case chronology record with your actions – (for example, suspending activity on the case or proceeding with the taxpayer's permission).

“Soft Contact Procedures”- Soft contact involves approaching the taxpayer with caution and the utmost sensitivity to personal circumstances. Consider stress and fatigue even if the taxpayer didn't experience any personal, monetary, or physical damage from the federally declared disaster. Call only if you've previously talked to the taxpayer. If you haven't, you must use Letter 6017 to make contact. Immediately discuss any situation or questions about actions not addressed in this memo with your manager.

Enclose a paper copy of [Notice 1155](#), Disaster Relief from the IRS, or its contents, in any correspondence (other than Letter 6017, which states the contents of this notice) you send to a taxpayer during the postponement period. If you call the taxpayer, read the information from Notice 1155 to them so they're aware of available assistance.

Taxpayers opting out of postponement period

Generally, case activities are permitted only at the taxpayer's request (oral or written). Continue case activities involving taxpayer contact only if the taxpayer affirmatively requests. Document the taxpayer's affirmative request in the case file before taking action. For cases with a –O Freeze in effect that can't be worked, when you receive the taxpayer's request to continue activities, contact the FAST Unit at *TEGE FAST to replace the –O freeze with a –S freeze.

Taxpayers who self-identify

In some cases, the taxpayer may contact the IRS to self-identify as eligible for relief under a Declaration Notice. For these cases, contact the FAST Unit at [*TEGE FAST](#) to have the –O freeze entered on that taxpayer's account.

Guidance for specific functions:

Compliance, Planning & Classification (CP&C)

- Before forwarding a compliance case to the field for assignment, Classification & Case Assignment (C&CA) checks IDRS to determine if a –O freeze is present using Command Code (CC) ENMOD. If a –O freeze is present, C&CA holds the case and does not send it to the field until at least the first business day after the close of the postponement period. C&CA actions:
 - Place any EP case in Interim Action Code 21 – Suspense.
 - Place any case other than an EP case into status 38.
- IRC Section 501(r) reviews on cases with a –O freeze can be converted to compliance activities and placed in status 38, but they can't be assigned.
- EO Referrals may continue to review and evaluate taxpayer referrals with a –O freeze. If EO Referrals decides to conduct compliance activity, they must place the return in status 38 and not assign it.
- The Closing Unit may continue to process and close the following cases:
 - No change
 - Survey
 - Fully allowed claims
 - Written advisories (with or without Form 5666)
 - Cases with signed closing agreements if payment has been received and only the assessment needs to be made
 - Certain cases with valid protests to Appeals
 - Compliance checks

After the cases are closed, the Closing Unit will notify the FAST Unit to re-input the –O freeze.

- EP cases received by the Closing Unit are placed in Interim Action Code 21 - Suspense and held there until the –O Freeze is lifted. Any other case the Closing Unit receives that can't be closed will be returned to the field group and placed in suspense, using status code 38.

- C&CA will make reasonable efforts to take timely actions on **Whistleblower claims**. C&CA will make every attempt to undertake the subject matter expert review within 90 days of receipt. Be sensitive to the personal circumstances of a whistleblower affected by the federally declared disaster. During the postponement period, grant relief to whistleblowers who indicate they were affected by the federally declared disaster, unless they wish to continue with the debriefing. Document any suspension in e-trak. Note that if the whistleblower is NOT located in the covered disaster area, but the taxpayer is, there is no need to suspend the taint review and debriefing.

Examination

EO Examinations, EP Examinations, and GE/SS: suspend the following examination activities until the first business day after the close of the postponement period:

- Contacting the taxpayer to schedule initial appointments where the taxpayer has been granted a suspension of examination activities and IDRS shows a –O freeze.
- Making assessments **except** assessments the taxpayer agreed to before or after the start of the postponement period.
- Inspecting books and records and conducting audit-related activities with the taxpayer **(however, you may continue work that doesn't require taxpayer contact, such as reviewing records obtained before the postponement period or doing electronic research, tax law or other necessary research)**.
- Issuing any summons to the taxpayer or third-party recordkeeper.
- Requiring the taxpayer to comply with a previously issued summons.
- Initiating third-party contacts.
- Issuing an audit report.
- Entering into a Fast-track settlement.
- Issuing a 30-day letter.

However, you may continue the following activities using soft contact procedures when necessary.

- If an initial contact letter was sent to the taxpayer prior to the postponement period, send Letter 6017 to notify the taxpayer that you're suspending the examination and postponing any scheduled appointment until after the end of the postponement period. You don't have to return documents you received from the taxpayer. Offer the taxpayer an opportunity to continue with the examination. If the taxpayer chooses to continue, update the Case Chronology Record to document the taxpayer's wish to continue. Contact the FAST Unit to replace the –O freeze should with a –S freeze.
- If an examination is already in progress, notify the taxpayer by phone or letter to cancel any appointments scheduled, or to postpone delivery of any documents requested

through an IDR. Enclose Notice 1155 with written correspondence. If the taxpayer wishes to continue the examination, note this on the Case Chronology Record and contact the FAST Unit to change the –O freeze to a –S freeze.

- If a taxpayer provided a valid protest to Appeals before the postponement period, contact the taxpayer to confirm that the taxpayer is still prepared to continue with Appeals. If yes, update the Case Chronology and contact the FAST Unit to change the –O freeze to a –S freeze. Forward the case to the Closing Unit.
- If a 30-day letter was issued prior to the postponement period, notify the taxpayer by telephone or mail (enclosing Notice 1155) that a response to the 30-day letter will be timely if received at the end of the postponement period.
- If Mandatory Review issued a 90-day letter before the postponement period, and the 90-day period will end within the postponement period, the 90-day letter should remain outstanding.
- If Mandatory Review issued a 90-day letter before the postponement period, and the 90-day period ended before the postponement period, the defaulted notice of deficiency can be assessed. However, you must contact the FAST Unit to re-input the disaster-related freezes with the original suspension start and end dates to delay collection action.
- If the statute of limitations will expire during the postponement period:
 - Confer with the Area or Field Operations Manager for approval to solicit a consent to extend the statute. If you solicit a statute extension, follow the procedures for soliciting an extension in [IRM 25.6.22](#).
 - If you can't contact the taxpayer or the taxpayer refuses to extend the statute of limitations, close the case to Mandatory Review, or to the Closing Unit following procedures in [IRM 4.71.14](#) (EP), [IRM 4.75.16](#) and [IRM 4.75.17](#) (EO), [IRM 4.81.14.5](#) (ITG/TEB), or [IRM 4.90.11](#) (FSLG), as modified by [Interim Guidance Memo TEGE-04-0817-0027](#). The group manager will contact the Manager, Mandatory Review, to discuss the issue.
- In the case of a summons that was issued prior to the postponement period, where the period for the taxpayer to quash expired before the beginning of the postponement period, you may proceed with summons enforcement if the bank or third party recordkeeper does not reply. Consult Division Counsel about enforcement of the summons. No other summons may be issued or enforced during the postponement period.
- You may continue to work and forward to the Closing Unit surveys; no-change cases; written advisories with or without Form 5666; fully allowed claim cases; and cases with signed closing agreements where you've received payment and only the assessment needs to be made.
- When a case is closed with a –O freeze on the module, the following actions must be taken:

1. Contact the FAST Unit to remove the –O freeze before sending the case to the Closing Unit.
2. When you send the case to the Closing Unit, indicate on Form 3198, the name (or other brief description) of the federally declared disaster, and the date when the postponement period ends, *“Re-input the transaction with the original suspension start date after assessment – F3177 included.”* Include a completed Form 3177 requesting input of the -O freeze by the FAST Unit after the Closing Unit inputs AMCLSE.

The Closing Unit will return any other cases that can't be closed to the field group.

Place cases that can't be worked during the postponement period in suspense, using the applicable status code.

Examiners may prepare an action plan for the necessary case actions to be taken when examination activities can resume.

Cases not subject to suspension of examination activities

- Cases involving jeopardy assessments
- Cases in AIMS status 18, Acceptance by Criminal Investigation
- Grand jury cases
- Cases other than those listed here but where the functional Director has determined an exigency exists, as described below.

Exigent circumstances

1. An exigent circumstance is one involving the government's loss of opportunity to collect taxes due, such as the expiration of the statute of limitations, assets being placed beyond the reach of the government, etc. An indication that the taxpayer may file for bankruptcy is generally not an exigent circumstance.
2. Managers and employees must consider all relevant factors including the amount of the liability, the time remaining on a statute of limitations, the taxpayer's individual circumstances and other relevant matters to determine that an exigent circumstance exists.
3. If an exigent circumstance exists regarding an affected taxpayer during the postponement period, compliance activity may be pursued with documented managerial approval. If approval is granted, the –O freeze will be replaced with a –S freeze and the appropriate enforcement action taken.

EO/EP Rulings and Agreements

In-process cases: You may continue reviewing records and taking other actions needed to make a determination if you don't need to contact the taxpayer. You may issue favorable determination letters without taxpayer contact.

If you need the taxpayer's help to develop the case and have spoken to the taxpayer, you may call the taxpayer or send Letter 6017, as described earlier, to determine if the taxpayer wishes to proceed with the determination process.

Un-started determination requests: Cases may be assigned and worked until taxpayer contact is needed. At that point, the employee may contact the taxpayer using soft contact procedures to ask whether the taxpayer wishes to proceed.

Unless the taxpayer has consented to continue the case (as described above), EO Determinations Quality Review won't issue proposed or final adverse letters until the first business day after the end of the postponement period.

Place cases subject to these procedures in EDS status 37 (suspense) immediately after calling the taxpayer or sending the soft contact letter. The case will stay in status 37 until you receive taxpayer consent to proceed or the first business day after the end of the postponement period, whichever comes first.

Expedite processing of applications for tax exempt status from organizations whose purpose is to provide relief to the victims of emergencies such as floods and hurricanes, without considering the soft contact procedures. (See [Rev. Proc. 2019-5](#) (as updated annually)).

Cases not subject to suspension of EO Rulings and Agreements activities:

- Form 1023-EZ rejections where taxpayer contact is not required
- Rejection of incomplete applications
- Acknowledgment or rejection of Form 8976 notifications

Voluntary Compliance

TEB VCAP

Un-started cases: Contact the taxpayer to determine whether the taxpayer wishes to continue with the case. If not, place the case into suspense, status 38 and hold the case in inventory.

Ongoing cases: Follow the guidance for examination cases.

Signed closing agreements received: If, before the postponement period, the taxpayer signed the agreement and paid the amount due under the closing agreement, continue to process the case through the Closing Unit. The closing letter and copy of closing agreement may be sent to the taxpayer.

New requests: Send acknowledgement letters and assign requests received during the postponement period. Contact the taxpayer using soft-contact procedures to determine if the taxpayer wishes to proceed with the request. If not, then assign the case and work it until taxpayer contact is needed. If work on the case cannot continue during the postponement period without taxpayer input, place the case in status 38 until the first business day after the end of the postponement period.

EP Voluntary Compliance (EP VC):

Un-started cases: Contact the taxpayer to determine whether the taxpayer wishes to continue with the case. If not, place the case into Interim Action Code 21 - Suspense and hold the case in inventory.

Ongoing cases: Follow the guidance for examination cases.

Signed closing agreements received: If, before the postponement period, the taxpayer signed the agreement and paid the amount due under the closing agreement, continue to process the case through the Closing Unit. The closing letter and copy of closing agreement may be sent to the taxpayer.

New requests: Send acknowledgement letters and assign requests received during the postponement period. Contact the taxpayer using soft-contact procedures to determine if the taxpayer wishes to proceed with the request. If not, then assign the case and work it until taxpayer contact is needed. If work on the case cannot continue during the postponement period without taxpayer contact, place the case in Interim Action Code 21 - Suspense until the first business day after the end of the postponement period.

EP VC Corrective Actions: If the time allowed to complete corrective actions ends during the postponement period, the taxpayer will automatically be permitted an extension until the first business day after the end of the postponement period. If the time allowed to complete the corrective action ended before the start of the postponement period, no extension will be given.

Other non-exam activities**Compliance checks:**

Even though compliance checks are not examination activity, TE/GE's policy is to treat them as examinations for purposes of this guidance. Accordingly, compliance units may not start a new compliance unless a determination can be made regarding compliance without taxpayer contact. Compliance checks already in process may continue if, after soft contact procedures, the taxpayer agrees to continue. Document this contact and the taxpayer's agreement in the case file. Compliance checks ready to be closed without further taxpayer contact may be closed. If needed, a compliance check may be converted to an exam; however, the exam case may not be assigned before the first business day after the end of the postponement period.

Soft-letter campaigns:

Suspend soft-letter campaigns until the first business day after the end of the postponement period.

Direct pay bond subsidies:

The campus (W&I) processes and pays direct pay bond subsidies. Expedite returns marked "CCCO" and sent to TEB for review. If the employee decides that the return should be examined, the employee will discuss the case with his/her manager.

Penalty determinations

Delinquent Form 8038 and Form 8038-T:

You may continue to review the return during the postponement period to determine whether there may be willful neglect. However, don't contact the taxpayer during the postponement period. If your review of the delinquent return results in a determination of willful neglect, inform your manager, but don't take any other action.

Web Resources and Additional Guidance

Find key documents and guidance on IRS SB/SE [Disaster Assistance and Emergency Relief Program Office](#) for each federally declared disaster.

Effect on Other Documents

This memo's contents will be incorporated in [IRM 25.16.2](#) within two years of issuance.

Contact

If you have any questions, or need additional information, please contact Elaine Leichter, Tax Law Specialist, TE/GE at Elaine.Leichter@irs.gov or (202) 317-8428.

Distribution:

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