



EFFECTIVE DATE

(08-26-2020)

PURPOSE

- (1) This transmits revised IRM 4.8.6, Technical Services, Criminal Restitution and Restitution-Based Assessments.

MATERIAL CHANGES

- (1) This transmittal reissues existing procedures. Minor editorial changes have been made throughout this IRM. Website addresses, legal references, and IRM references were reviewed and updated as necessary. Other significant changes to this IRM include the following:

Reference	Description of Change
IRM 4.8.6.1	Inserted new section for Internal Controls as required by IRM 1.11.2.
IRM 4.8.6.2.1	<ul style="list-style-type: none">• Changed Form 14104 to read CI closing package for consistency throughout the IRM.• Added the United States v. Westbrooks case since this case determines whether court order restitution can be assessed.• Added instructions on processing CI closing packages for Technical Services tax examiners.
IRM 4.8.6.2.1.1	<ul style="list-style-type: none">• Clarified instructions when a collateral record should not be built.• Added a note to use 198810 when a second collateral record is built for the same taxpayer in paragraph 7
IRM 4.8.6.2.1.2	<ul style="list-style-type: none">• Removed TE instructions on processing CI closing packages since they were already addressed in IRM 4.8.6.2.1.1.• Added paragraph 7 to include instructions when the transcript has a Z freeze code.
IRM 4.8.6.2.2	Added instructions on documenting the time applied to Activity Code 587-091 to the case file activity record to be consistent with IRM 4.8.1.6.1.
IRM 4.8.6.2.2.1	Clarified and updated with specific instructions the Form 14104 and perfecting the CI closing package.
IRM 4.8.6.2.2.1.2	Clarified the note by including specific number of days when the criminal restitution coordinator should follow-up with CI when additional information as been requested.
IRM 4.8.6.2.2.2	Revised instructions regarding individual and corporations along with the information needed for Form 9956 for clarity.
IRM 4.8.6.2.2.2.1	Revised instructions for MFT 31 modules and related exhibits for clarity.
IRM 4.8.6.2.2.2.2	Moved section for monitoring IDRS for better flow.

Reference	Description of Change
IRM 4.8.6.2.2.2.3	<ul style="list-style-type: none"> • Added requirement to confirm MFT 31 account is established vs requested. • Added requirements for assessments over \$5,000,000 and \$10,000,000.
IRM 4.8.6.2.2.3	<ul style="list-style-type: none"> • Clarified ASSED issues when multiple assessments are made per Form 3870. • Added the requirement to e-mail Form 3177 and RBA GII spreadsheet to Memphis CCP.
IRM 4.8.6.2.2.3.1	Clarified instructions for Form 3870 when no civil assessment exists on the MFT 31.
IRM 4.8.6.2.2.3.2	Added an example for clarity for cases where the civil assessment is less than the restitution assessed.
IRM 4.8.6.2.2.3.3	Added information regarding Hold Code 4 for restitution assessed needed to be corrected.
IRM 4.8.6.2.2.4	Clarified instructions for cross referencing accounts.
IRM 4.8.6.2.2.4.1	Updated instructions for completing Form 3177.
IRM 4.8.6.2.2.4.2	Clarified information when restitution is based on a percentage of the loss.
IRM 4.8.6.2.2.4.3	Updated information on the example for clarity.
IRM 4.8.6.2.2.4.4	Updated instructions for IDRS CC RAPID Input.
IRM 4.8.6.2.2.5	Clarified instructions for notifications to Collection Advisory.
IRM 4.8.6.2.2.8	Updated to reflect change to Ogden Campus Collection Operations (CCO).
IRM 4.8.6.3	Updated to current local Technical Services fraud coordinator duties.
IRM 4.8.6.3.1	Added references for civil actions when confirmation is received that the court ordered restitution has been assessed.
IRM 4.8.6.3.2	Updated the old fraud IRM references to the new fraud IRM 4.8.11.
IRM 4.8.6.3.2.2	Added references from the new IRM 4.8.11.
IRM 4.8.6.3.2.3	Revised for procedures to process RPP cases with the required GII spreadsheets.
IRM 4.8.6.3.2.5	Added references for when PSP disagrees with a referral for civil settlement.
IRM 4.8.6.3.3	Clarified use of Criminal Restitution Code 1.
IRM 4.8.6.3.3.1	Updated procedures for review of cases with assessable restitution by clarifying procedures and adding two references from the new IRM 4.8.11.
IRM 4.8.6.3.3.2	Revised text and the table for clarity.

Reference	Description of Change
IRM 4.8.6.3.3.3	Added references for the use of the GII spreadsheet and language for clarity.
IRM 4.8.6.3.3.5	Added language for appealed cases and IRM 4.8.11 references.
IRM 4.8.6.3.3.6	Revised and included language for resolution of COP and restitution cases by the appropriate party.
All Exhibits	Made the Exhibits 508 compliant and deleted those exhibits that were no longer necessary.
Editorial Changes	Corrected grammatical and typo errors. Fixed formatting errors by deleting breaks. Made minor clarification of sentences through out the IRM.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 4.8.6, dated August 5, 2015.

AUDIENCE

SB/SE Technical Services employees.

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4.8.6

Criminal Restitution and Restitution-Based Assessments

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Exhibits

- 4.8.6-1 Restitution Codes
- 4.8.6-2 RBA Reason Codes
- 4.8.6-3 TC 971 Definitions and Examples
- 4.8.6-4 RBA GII Spreadsheet - Attachment to Form 3177

4.8.6.1
(08-26-2020)
Program Scope and Objectives

- (1) **Purpose** This IRM section describes the procedures for the criminal restitution (CR) program in Technical Services. Specifically, IRM 4.8.6 outlines responsibilities of Technical Services (TS) group that is designated to make all of the CR assessments. Also refer to IRM 25.26.1, Restitution, Criminal Restitution and Restitution Based-Assessment.
- (2) **Audience** These procedures apply to the TS employees assigned to the CR program and local Technical Services fraud coordinators (LTSFCs) who monitor the related conditions of probation or fraud suspense cases.
- (3) **Policy Owner** The TS office is under Examination Operations, Field Examination.
- (4) **Program Owner** TS is the program office responsible for overseeing and working the CR program for Field Examination.
- (5) **Contact Information** To recommend changes or make any other suggestions to this IRM section, e-mail the author.
- (6) **Program Goals** These procedures provide for the accurately and timely processing of CR cases as outlined in the sections hereafter.

4.8.6.1.1
(08-26-2020)
Background

- (1) Technical Services (TS) has exclusive responsibility for completing assessments on criminal restitution (CR) cases where IRC 6201(a)(4) is applicable. A CR assessment is also referred to as a restitution-based assessment (RBA).
- (2) As described later, a Criminal Investigation (CI) closing package with assessable restitution payable to the IRS will be sent to two locations as follows:
 - a. The centralized TS criminal restitution assessment group, and
 - b. The local TS territory manager (TM) or designee.

4.8.6.1.2
(08-26-2020)
Authority

- (1) IRC 6201(a)(4) requires criminal restitution ordered after August 16, 2010, to be assessed as if it were tax. Whether criminal restitution can be assessed as a tax under IRC 6201(a)(4) depends on whether the restitution ordered is traceable to a tax imposed by Title 26. Restitution ordered for a criminal violation of IRC 7201, IRC 7202, IRC 7203, IRC 7206(1), as well as several other criminal tax violations under the Internal Revenue Code and Title 18 **may meet** the requirements necessary to be assessed as a tax. The applicability of IRC 6201(a)(4) will be determined by criminal investigation (CI) with input from Criminal Tax Counsel and will be reflected on Form 14104, Notification of Court Ordered Criminal Restitution Payable to IRS.

4.8.6.1.3
(08-26-2020)
Responsibilities

- (1) The Director, Field Examination is the executive responsible for Technical Services for Exam. The Area Director, South Atlantic Area is responsible for the CR program for Exam. The detailed responsibilities are as outlined below in IRM 4.8.6.2 and thereafter.
- (2) The manager of the centralized criminal restitution site will monitor the group's inventory to ensure all procedures are followed and will monitor Examination Returns Control System (ERCS) to ensure accurate records are created and maintained and that timely actions are taken.

- (3) The local TS group manager will ensure that the ERCS coding is correct, determined by the disposition of the civil examination, prior to closing the ERCS restitution collateral record to Status Code 90. See set procedures in IRM 4.8.6, Criminal Restitution and Restitution Based Assessments, and IRM 4.8.11, Fraud Program Responsibilities.
- (4) Each TS territory manager and local TS group manager has responsibility to ensure proper adherence to criminal restitution procedures.

4.8.6.1.4
(08-26-2020)

Terms

- (1) Audience - The employees responsible for taking action or who require knowledge about the program, process or activity.
- (2) Collateral record - the record maintained on ERCS only for monitoring cases or issues which are not controlled on AIMS.
- (3) Restitution-Based Assessments (RBA) - assessments ordered by the Court when the criminal case is finalized which represent the loss incurred by the government.

4.8.6.1.5
(08-26-2020)

Program Management and Review

- (1) Periodic program reviews are conducted by Technical Services (TS) Territory Managers, TS Group Managers and SBSE Exam-Field Director's Analysts:
 - Assess the effectiveness of specific programs within Examination or across the organization,
 - Determine if procedures are being followed and,
 - Validate policies and procedures.

4.8.6.1.6
(08-26-2020)

Acronyms

- (1) The table lists commonly used acronyms and their definitions.

Acronym	Definition
AD	Area Director
ASED	Assessment Statute Expiration Date
BOD	Business Operating Division
CCO	Campus Collection Operations
CCP	Centralized Case Processing
CI	Criminal Investigation
COP	Conditions of Probation
CR	Criminal Restitution
CRC	Centralized Restitution Coordinator
CSED	Collection Statute Expiration Date
CT	Criminal Tax
DOJ	Department of Justice
ERCS	Examination Returns Control System

Acronym	Definition
GII	Generalized IDRS Interface
GM	Group Manager
IDRS	Integrated Data Retrieval System
IRSN	Internal Revenue Service Number
J&C	Judgment and Commitment Order
LTSFC	Local Technical Services Fraud Coordinator
MMA	Memo Money Amount
POD	Post of Duty
PSP	Planning and Special Programs
RACS	Revenue Accounting Control System
RAPID	Restitution Assessment Database
RBA	Restitution-Based Assessment
RPC	Return Processing Code
RPP	Return Preparer Program
RSED	Refund Statute Expiration Date
SAC	Special Agent in Charge
SNOD	Statutory Notice of Deficiency
SA	Special Agent
SSA	Supervisory Special Agent
TC	Transaction Code
TE	Tax Examiner
TM	Territory Manager
TS	Technical Services

4.8.6.2
(08-05-2015)

Roles and Responsibilities of the TS Centralized Restitution Assessment Group

- (1) A TS group has been designated to make all of the CR assessments. This group will receive all CI closing packages which include court ordered restitution payable to the IRS that are assessable per IRC 6201(a)(4), Assessment Authority. Tax examiners (TE) and centralized restitution coordinators (CRC) in the designated TS group will complete the tasks listed below.

4.8.6.2.1
(08-26-2020)
**Roles and
Responsibilities of
Centralized Group Tax
Examiners**

- (1) To track and monitor CR inventory, TS will establish ERCS collateral records for all taxpayers against whom assessable restitution payable to the IRS has been ordered by the court. ERCS collateral records will not be established if there is no restitution to assess, there is no restitution payable to the IRS or there is insufficient information for TS to rely on to make an accurate assessment. When there is insufficient information, the CI function must be contacted to provide the information needed to determine if the restitution is assessable. Examples of insufficient information include, but are not limited to, the following:
- No yearly or entity allocation is provided for the assessment;
 - The total to assess on the Form 14104 does not match the total ordered on the J&C; or
 - A return preparer program (RPP) case does not include a client listing with SSNs and loss amounts per period, etc.

For all assessable restitution cases, an ERCS collateral record will be established upon receipt of the properly completed CI closing package into the TS centralized CR mailbox; **SBSE TECH Svs Criminal Restitution*. The restitution collateral record should be set up within three business days after the receipt of the properly completed CI closing package. Refer to IRM 4.8.6.2.1.2 (1) for what constitutes a properly completed CI closing package.

Note: All packages that are **not complete and accurate when received** will be returned to the appropriate local CI conditions of probation (COP) coordinator within 30 calendar days of receipt in the TS CR mailbox. TS will take no further actions until a complete and accurate CI closing package is received back into the TS CR mailbox. Subsequently, upon receipt of a **complete and accurate** CI closing package, TS will resume processing the RBA.

- (2) Restitution ordered solely as a condition of supervised release or probation fall under the Westbrooks criteria and may only be assess while the condition is enforceable.
- In *United States v. Westbrooks*, 828 F.3d 317 (5th Cir. 2017), the Fifth Circuit held that restitution may be ordered as a condition of supervised release is not immediately enforceable; instead, it can only be collected during the period for which it is ordered as a condition, which for supervised release only begins once the prisoner is released. 858 F.3d at 328; see also *United States v. Hassebrock*, 663 F.3d 906, 924 (7th Cir. 2011). Although the holding of the case was limited to the lack of enforceability of restitution ordered solely as a condition of supervised release before the defendant's period of supervised release begins, a logical extension of the same legal reasoning applies it to the end of restitution's enforceability at the close of the period and to restitution solely conditioned on probation.
 - CRC will hold and monitor RBA cases that fall under Westbrooks case criteria until the prison release date is approaching.
 - Once RBA is assessed, TS will inform Collection by sending e-mail to **SBSE EEF Dallas Restitution* stating that the RBA along with proper linkages have posted to IDRS, in addition, the e-mail must include the period of enforceability (beginning and ending date per the J&C) and Collection can proceed their collection process due to limited time frames.

- (3) When the CI closing package is complete, the TE will complete the following actions:
 - a. Determine if the same information was simultaneously sent to the local TS office. If this information was not sent to the local TS office, then the TE is to forward the information to the local TS office.
 - b. Establish the ERCS collateral record and forward the case file to the group manager for review and assignment of the case. Upon assignment by the group manager, input the CRC reviewer's ERCS ID#.
 - c. Forward the CI closing package to the CRC if the case is to be worked electronically. If not, print the closing package to create a case file per IRM 4.8.6.2.1.2 (2).
 - d. Move the incoming e-mail with the attachments into a designated folder for reference at a later date.

- (4) If the CI closing package is **NOT complete**, the TE will forward an e-mail to the CI office's COP coordinator and to the local TS office. In the body of the e-mail the TE should state the following information.
 - a. "The CI closing package is not complete";
 - b. What caused the package to be incomplete; and
 - c. To re-submit a completed CI closing package to the TS centralized mailbox, the local TS office and all other required parties.

Note: TS will take no further actions until a complete CI closing package is received back into the CR mailbox. When a complete CI closing package is received back into the CR mailbox, the TE will follow steps 3a, 3b, 3c, and 3d above.

4.8.6.2.1.1 (08-26-2020) Establishing Collateral Records

- (1) The TS TE with responsibility for working the CR mailbox will create a collateral record within **three business days** of receiving a properly completed CI closing package with assessable restitution. The ERCS "date in review" will be the date a CI closing package is received in the CR mailbox. A collateral record will not be built if there is no restitution to assess or no restitution payable to the IRS, or if there is insufficient information for TS to rely on to make an accurate assessment.

Note: If a collateral record is built and it is later determined that there is no restitution to assess or the restitution ordered is not payable to the IRS, the collateral record can be closed. The collateral record will be updated to Review Type 94 or Review Type 97, Suspense Type 000 and Status Code 90. See Exhibit 4.8.6-1 for review type definitions.

- (2) The TE will pull Integrated Data Retrieval System (IDRS) command code (CC) INOLES to verify / confirm the accuracy of the name and taxpayer identification number (TIN) provided on Form 14104.
 - a. There may be instances where the defendant does not have a TIN / EIN. For example, the defendant may be a foreign individual without a SSN or ITIN. In these instances, the collateral record will be created with a "dummy" SSN or EIN until a TIN can be created for the defendant. The CRC group will use a "dummy" SSN or EIN in the following format; 000-

00-0XXX. The TIN for the ERCS collateral record will be updated when a TIN / EIN is created for the defendant.

- (3) Collateral records are for TS inventory purposes only. These records do not get established on Audit Information Management System (AIMS) and **should never** be updated to a field, Planning and Special Programs (PSP), Campus or Appeals status.

- (4) The TE will complete the following actions for each CI closing package in creating the collateral record on ERCS.

1. Log into ERCS; User Group: **Review** User; Examination Main Menu.
2. Select #1 Request Tax Return and then select #4 Control Collateral Examination.
3. Input 20X 88700 XXXX based upon the designated centralized reviewer group and the designated TS employee ERCS identification number (ID) of the reviewer.

Reminder: For collateral records the primary business code (PBC), secondary business (SBC) and employee group code (EGC) must correspond to the assigned reviewer's group number.

4. Follow the prompts to input the social security number (SSN) / employer identification number (EIN) of the defendant reflected on the Form 14104, as applicable.
5. Input the taxpayer name. The name should always be preceded by the letters "REST" and a hyphen "-". This will aid in identifying the collateral as a CR record. The format will be "REST-last name, first name" or "REST-name of corporation."
6. Input MFT "30" if the defendant is an individual or MFT "02" if the defendant is a non-individual (e.g., corporation).
7. Input Tax Period "198811".

Note: When a defendant already has a RBA case using tax period 198811, use tax period 198810 for the second restitution case.

8. Input Activity Code. Input either "272" if the defendant is an individual or "203" if the defendant is a non-individual.
9. Input Source Code "70".
10. Input Status Code "20".
11. Input Statute "04/00/1992".
12. Input Tracking Code "6568".
13. Input Project Code "1168".
14. Input Review Type "91" if the restitution is based on the defendant's Form 1040, U.S. Individual Income Tax Return; Review Type "95" if the restitution is based on a business-related liability in full or part; or Review Type "96" if the restitution is based on returns prepared by a return preparer in full or part. If unsure, use Review Type "91."
15. Input Technical Services Code (TSC). Enter the applicable TSC of the TS group.
16. Select "N" for Joint Committee.
17. Select "N" for Foreign Controlled Corporation.
18. Select "Y" if all of the information input is correct.
19. Enter "N" for no more to input since there is only one year.
20. Select "N" for related; however, if it is known that the case is joint and several with other codefendants, then the TE should select "Y".
21. Select "N" for CIC.

22. Select “none” for the Aging Reason Code.
23. Enter Control primary business code (PBC) “217”.
24. Enter into ERCS Examination Main Menu.
25. Select #2, Correct and Display Record.
26. Select #2, Correct Multiple Examinations.
27. Update the Suspense Type (#17) to “551”.
28. Update “Date in Review” to the date the CI closing package was received in the mailbox.

- (5) The collateral record will be updated to the next appropriate status code, review type, and suspense type as reflected in Exhibit 4.8.6-1.

4.8.6.2.1.2 (08-26-2020) Initial Review of the CI Closing Package

- (1) The CI closing package will be reviewed for **completeness**. A complete package contains the following items at a minimum.
 - a. The most current version of Form 14104 with an allocation that totals the amount of restitution payable to the IRS ordered in the J&C or a separate restitution order;
 - b. The correct name and SSN / EIN based on the Integrated Data Retrieval System (IDRS) research performed;
 - c. A check mark in the Final Adjudication box in the Approval section of Form 14104;
 - d. The most current version of the Form 13308, Criminal Investigation Closing Report, and
 - e. A Judgment and Commitment Order (J&C).
- (2) The TE in the CRC group will print the CI Closing package, create a case file, attach a Form 9984, Examining Officer’s Activity Record, and pull the appropriate IDRS information.
- (3) IDRS research of CC SUMRY and / or IMFOLI should verify the CI Z freezes have been released. If a Z freeze exists, the TE logs the case information onto a Z freeze listing and contacts the CI analyst weekly. The manager’s involvement is required if after three follow ups to the release of the Z freeze have taken place without results or action. The CR collateral record is not built on ERCS until the Z freeze is released. The CR case is not assigned to a CRC reviewer until the Z freeze is released.

Note: The CI “Z” freeze will not prevent the case from being “perfected” but will prevent the creation of a MFT 31 RBA assessment module. The input by CI of the TC 912 should be addressed with CI immediately.

- (4) The collateral record will be assigned on ERCS to the CRC.
- (5) The collateral record will be updated, as appropriate, to reflect all steps taken in the CR assessment process. See Exhibit 4.8.6-1 for current review types, suspense types, etc. to be used for CR cases.

4.8.6.2.2
(08-26-2020)

Roles and Responsibilities of Centralized Restitution Coordinators (CRC)

- (1) The CRC will review the CI closing package to ensure **accuracy** of the closing package. This review is called "Perfecting a CI - CR Package." The CRC will review the closing documents **within 10 business days of receipt** as described below to "perfect" the CI - CR package.
- (2) Time spent by the CRC will be charged to Activity Code 587-091 on the agent's input document.
- (3) Time being charged to Activity Code 587-091 must be documented in the case activity record per IRM 4.8.1.6.1. The activity record must document all time and activities and included in the case file. The activity record could be useful when the case file is reassigned to another CRC.

4.8.6.2.2.1
(08-26-2020)

Perfecting the CI Closing Package by the CRC

- (1) The current revision of Form 14104 must be used.
- (2) Section I - Approval at the top of Form 14104 should have the box checked for final adjudication to indicate all appeal deadlines have expired and no appeals are outstanding. Restitution cannot be assessed if the subject has submitted an appeal or has an open appeal which is pending in the federal court system. If the case is still in Independent Office of Appeals, the closing package should be returned to CI for re-submission when all appeals have been exhausted and there is restitution payable to the IRS.
- (3) Section II - Taxpayer / Defendant information must be properly completed. Review IDRS CC INOLE to confirm the name in Item 1 and TIN in Item 2 match the subject identified.
- (4) The date in Section III - Restitution Information, Item 5 must correspond to the J&C date and **MUST** be after August 16, 2010 to be assessable.
- (5) The amount in Section III - Restitution Information, Item 6, Restitution Payable to the IRS **MUST** tie to the grand total amount in Section 14 **AND** to the amount payable to the IRS per the J&C.

Note: The J&C must state that restitution is payable to the IRS and list a dollar amount of the restitution ordered. If the J&C does not list the IRS as a victim, possibly because the victims list is sealed, follow up with CI for confirmation that the IRS is a victim and for what amount. In these situations, a written confirmation that the IRS is a victim should be secured by CI, ideally from the Assistant United States Attorney (AUSA). If that is not possible, a written confirmation from CI will suffice. This written confirmation must be maintained with the case file and the electronic closing package accordingly.

- a. A signature is not required on the J&C as long as the docket number is indicated.
- b. In some instances, the J&C only states "The defendant is to pay the IRS \$XXX within XXX years as a special condition of supervised release." This is a term of supervised release and is not an order of restitution. In this instance, if there is not a plea agreement and if the only tax-related counts of conviction are Title 26 counts, then the assessment must be held until the defendant's prison term has ended. However, if there's a Title 18 count on which the defendant is convicted confirm with Counsel to see if the assessment should be held until the defendant's prison term has ended.

- (6) For cases where the J&C and / or Form 14104 indicate that the restitution ordered is joint and several (J&S) with other Co-Defendant(s), the following actions should be taken:
 1. Verify that the joint and severally liable names per Form 14104 reconcile with the J&C and supporting documents (e.g., plea agreement, special agent report (SAR), spreadsheets, etc.).
 2. Research ERCS to identify the other J&S defendants. If any of the other J&S defendants are in the assessment process, coordination is needed to ensure the assessment paperwork is processed at the same time and linkages are prepared and submitted as required.
 3. In RPP J&S cases, ensure the client lists are provided that specify what each defendant owes and what clients were the basis for the restitution ordered. Sometimes it may be the same client list for all of the defendants. When the restitution amounts are different for some of the J&S defendants, this may indicate that different clients made up the restitution calculation. Separate client lists are therefore needed for each defendant.
- (7) Section III - Restitution Information, Item 8, Type of Case, must indicate CI's determination on the assessability of the restitution under IRC 6201(a)(4).
 - a. If Item "b" is selected, the amounts attributable to the defendant and/ or other co-conspirators must be accurate and separately identified in Item 14.

Note: Restitution for fictitious returns that are not those of the defendant or co-conspirators, are not assessable restitution but the total should appear in Item 14d.
 - b. If Item 8c is selected, an accurate and detailed listing of all clients must be attached, which makes up the total listed in Item 14c. The amounts shown on the attached listing must be accurate and include all applicable identifying information (i.e., TIN(s), year / tax period, and amount of restitution attributable to tax and / or penalty per year / period).
- (8) If Section III - Restitution Information, Item 10 Restitution is joint and several is selected, then CI must provide at least one co-defendant's name and SSN.
- (9) If the restitution is based on a corporate liability or any other return that is not the SSN of the defendant, Section V, Restitution To Be Assessed As Tax, Item 14a, Column 1 should contain the related EIN(s) for the corporate, employment tax or other module(s). All applicable periods and restitution amounts MUST be reflected.
- (10) If some of the restitution is based on a penalty, the nature or code section of the penalty should be verified. Restitution assessed as a penalty is assessed using matching manual input transaction codes such as TC 160 for Failure to File Penalty, TC 170 for Estimated Tax Penalty, TC 270 for Failure to Pay Penalty, or Reference Number 721 for Failure to Deposit Penalty, etc.
- (11) The total amounts in Section V - Restitution To Be Assessed As Tax, Item 14 shown by CI for restitution as tax, interest and penalty should total the restitution ordered payable to the IRS in the J&C and the amount shown in Item 6. In many instances, other documents provided by CI (i.e., information / indictment, plea agreement, government sentencing document, court document, court transcript, etc.) will support the figures reflected by CI in this section.

Note: There should not be any negative amounts in Item 14. CI should reasonably allocate any negative amounts to other years or periods.

Note: If supporting details are not provided and CI is not able to provide any additional information, gather more information before accepting the amounts reflected in Item 14 and / or provide recommendations that may match potential or posted civil assessments and request CI written concurrence with the information.

- (12) If any of the information reflected above is missing, not complete or raises questions about making the RBA, the package is not accurate. See IRM 4.8.6.2.2.1.2 below.

4.8.6.2.2.1.1
(08-05-2015)
**CI Closing Package
Accepted as Prepared
by CI**

- (1) If upon review of Form 14104, J&C, and Form 13308, it is determined that the CI closing package is correct as stated, document such in the activity record and proceed to IRM 4.8.6.2.2.3.

4.8.6.2.2.1.2
(08-26-2020)
**CI Closing Package That
Needs Additional
Information**

- (1) If upon review of Form 14104, J&C, and Form 13308, it is determined that the CI closing package is **NOT accurate or complete**, the CRC will document it in the activity record and forward an e-mail to the CI office, COP coordinator, and to the local TS office. In the body of the e-mail the CRC should state the following:
- a. The CI closing package is not accurate; and
 - b. What needs to be done to make the package accurate.
 - c. Accurate CI closing package shall be submitted to the TS centralized mailbox, the local TS office, and all other required parties.

Note: The collateral will be updated to Status Code 30, Suspense Type 552. If TS does not receive a response from CI within 45 calendar days, the CRC will follow up with a second e-mail inquiry (including respective group managers). If a response is not received within 30 calendar days following the second e-mail inquiry, the CRC will follow up with another e-mail inquiry (including respective territory managers and CI HQ COP Coordinator) allowing an additional ten business days for CI to respond.

4.8.6.2.2.2
(08-26-2020)
Assessing Restitution

- (1) Assess restitution under the defendant's SSN if the defendant is an individual. Assess restitution under the defendant's EIN if restitution was ordered against a business entity, such as a corporation and not an individual.
- (2) MFT 31 will be used to assess all restitution when the defendant is an individual.
- (3) The applicable corporate or BMF MFT will be used to assess the restitution when the defendant is NOT an individual (e.g., corporation, etc.). The RBA can be made on a defendant's BMF MFT 02, 01, or 06, etc. module.
- (4) When a criminal restitution case involves a foreign defendant, whether individual or corporation, that does not have a TIN, a request must be made to have a TIN assigned to the individual/entity so that a RBA may be made under

a TIN of the defendant. Before taking the following actions, e-mail the CI SA and ask them to confirm the entity does not have a TIN.

a. Individual:

Note: Complete Form 9956, Request for Temporary IRSN, and fax to Kansas City Submission Processing, Entity Team at fax number 855-877-7734. The form will create the needed IRSN to make the RBA. Include the following statement in your fax - "please return the information to the sender" - and provide the sender's contact information.

Note: Once the Form 9956 request is processed, Kansas City Submission Processing will return the completed form with the assigned IRSN. The assigned IRSN will immediately be available under IDRS command code ENMOD.

b. Corporate Entities:

Note: For SS-4, Application for Employer Identification Number should be completed and faxed to the Cincinnati Accounts Management Campus per IRM 21.7.13.3.8.

Note: Once the Form SS-4 request is processed, Cincinnati Accounts Management will provide the assigned EIN to the employee who requested the EIN.

Once the assigned IRSN posts to master file (e.g., no longer EP or PN), the assigned IRSN will be available under IDRS command codes INOLE, IMFOL, and BMFOL.

4.8.6.2.2.2.1
(08-26-2020)
**Creating MFT 31 Tax
Modules and Recording
TC 971 Action Code 102**

(1) MFT 31 modules are needed for all defendants that are individuals, NOT corporations. There are two ways that a MFT 31 module may be created: By submitting a Form 3177, Notice of Action for Entry on Master File, to post a TC 971 Action Code (AC) 102 on a related MFT 30 module or using IDRS command code MFREQ.

(2) The following procedures will address both situations and when they are used.

a. When the restitution to be assessed is IMF based (i.e., based on the defendant's own Form 1040), the MFT 31 account will be established through the defendant's MFT 30 account. If a joint return was filed, use the primary spouse's SSN. See procedures in IRM 4.8.6.2.2.2.1 (3).-- If the MFT 30 module is on retention, use IDRS CC IMFOLB to recall the module from retention. -- If there is no MFT 30 module present and / or there is no filing requirement, use IDRS CC MFREQ to create the MFT 31 module.

b. When the restitution to be assessed is BMF based (i.e., based on a business entity related to the defendant), use IDRS CC MFREQ to create the needed MFT 31 accounts.

Example: Use MFREQ to create MFT 31 accounts for a BMF based assessment for a Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return for tax period 200712. See IRM 4.8.6.2.2.2.1 (4).

--If the BMF module is on retention, use IDRS CC BMFOLB to recall the module from retention.

- c. If restitution is based on BOTH an IMF liability and a BMF liability for the **same period** (e.g., tax year 200712 for the defendant's Form 1040 and for a related calendar year Form 1120, U.S. Corporation Income Tax Return), the MFT 31 account will be created through the defendant's MFT 30 module, NOT MFREQ. See IRM 4.8.6.2.2.2.1 (3).
- d. If restitution is based on BOTH an IMF liability and a BMF liability for **different periods**, (e.g., 200712 for the defendant's Form 1040 and for a related fiscal year Form 1120 for 200710) the MFT 31 accounts will be created through the defendant's MFT 30 module to create the 200712 MFT 31 module and using MFREQ for the 200710 MFT 31 module. See IRM 4.8.6.2.2.2.1 (3) and IRM 4.8.6.2.2.2.1 (4).
- e. When the restitution to be assessed is RPP based and the preparer's own return is not included in the restitution ordered (only tax returns prepared by the defendant), use IDRS CC MFREQ to create MFT 31 accounts.

Example: Use MFREQ to create MFT 31 accounts for a RPP based assessment for client returns for Form 1040, Form 1120, etc. If the client returns are not on a calendar year, the applicable MFT 31 period will be created based on the fiscal year of the entity (i.e., 200710). See IRM 4.8.6.2.2.2.1 (4).

- (3) When the creation of the MFT 31 account is accomplished through the defendant's MFT 30 module, the following information will be entered on the Form 3177.

1. Initiator information - Enter your name, phone number and employee number.
2. Date - Enter the date the form is prepared.
3. Taxpayer Name - Enter the name found on the MFT 30 module.

Note: The defendant's SSN may not be the primary SSN on the MFT 30 module to establish the correct name to enter.

4. EIN or SSN - Enter the social security number found on the MFT 30 module where the defendant filed the tax return.

Note: The defendant's SSN may not be the primary SSN on the MFT 30 module.

5. TC 971 - Enter the following instructions next to "Other (specify)" - Establish MFT 31 with TC 971 AC 102 for (SSN of a defendant liable to pay restitution).
6. Enter MFT Code 30 and tax period(s) in the appropriate columns.

- (4) When using IDRS CC MFREQ to create a MFT 31 account for the periods needed, a dummy MFT 31 module will be created but it will drop off IDRS in six cycles if no other transactions are posted on the module. As soon as the MFT 31 module is created, prepare Form 3177 to record a TC 971 AC 102 onto the MFT 31 module as follows:

- a. Initiator information - Enter your name, phone number, and employee number.
- b. Date - Enter the date the form is prepared.

- c. Taxpayer Name - Enter the name of the defendant liable for criminal restitution. This will be the same name found on the MFT 31 module.
- d. EIN or SSN - Enter the TIN of the defendant liable for criminal restitution. This will be the same TIN found on the MFT 31 module.
- e. TC 971 - Enter the following instructions next to "Other (specify)" - To record TC 971 AC 102 [TIN of related entity, and the MFT 02, 01, 30, etc. tax period] (e.g., 12-345678 // 02 // 200309). It is not necessary to input more than one TC 971 AC 102 on any tax module.

Note: To record TC 971 AC 102 in RPP cases - [SSN of the defendant, MFT 31, and the MFT 31 tax year period] (e.g., 123-45-6789 // 31 // 200712).

- f. Enter the MFT Code 31 and MFT 31 taxable period in the appropriate column.
- g. Once the dummy module for TC 971 AC 102 is created send the dummy module to Memphis CCP.

Note: IDRS CC MFREQ has several uses. For restitution assessment purposes, MFREQ should be used to create a module as outlined in the table below. A MFREQ dummy module will drop off after six cycles if no history is recorded. The needed forms should be submitted as soon as possible after the dummy module is created to prevent it from dropping off master file.

Situations using MFREQ on CR Cases	Explanation for MFREQ Usage
If the restitution is an IMF based or BMF based module and a tax period is not on master file (e.g., no MFT 30 200912 tax period or the related MFT 02 200912 tax period).	Use IDRS CC MFREQ to create the MFT 31 module.
If the restitution is BMF based only - restitution is based on a related BMF entity of the defendant (e.g., restitution-based on a related payroll entity / Form 941 for 200903, 200906, 200909 and 200912 tax periods).	Then use MFREQ to create a dummy MFT 31 module for tax periods 200903, 200906, 200909 and 200912.
If the restitution is IMF and BMF based - restitution is based on both an IMF module of the defendant and a related BMF entity of the defendant (e.g., restitution-based on the defendant's Form 1040 for 200912 and related payroll entities / Form 941 for 200903, 200906, 200909 and 200912 tax periods).	Then use MFREQ to create a dummy MFT 31 module for tax periods 200903, 200906 and 200909 ONLY. The MFT 31 module for 200912 is created through the defendant's MFT 30 module.
If the restitution is RPP based only - restitution is based on client returns prepared by the defendant (e.g., restitution-based on client returns (Form 1040 returns for 200712 and 200812 tax years).	Then use MFREQ to create a dummy MFT 31 module for periods 200712 and 200812.

Note: If the restitution is IMF and RPP based, the total restitution to assess for the period is based on both an IMF module of the return preparer as well as losses related to client returns, the MFT 31 module is created through the defendant's MFT 30 module.

- (5) If it is discovered that an MFT 31 account was previously created for the taxpayer for another purpose, additional research is needed. The MFT 31 should be evaluated to determine why the MFT 31 account was created and the nature of what was assessed in the MFT 31 module. The assessment statute expiration date (ASED) should also be evaluated to ensure sufficient time remains on the ASED to post an assessment. If the ASED reflected on the MFT 31 module has expired or will expire within nine months, a new ASED date needs to be input (via a TC 560). The new ASED date should be a date one year from the current month ending date (e.g., 3/31/2015, if the update is done in March of 2014). A Form 3177 should be prepared to “record” a TC 971 AC 102 on the MFT 31 account per IRM 4.8.6.2.2.2.1 (4) and update the ASED if needed by completing a Form 3177 and submitting to the GM for approval and input by the TE.

Note: There is no statute of limitations on the assessment of an RBA. See IRC 6501(c)(11). However, there is an exception for cases with variable periods of enforceability under the Westbrooks case criteria. An ASED is only needed as a placeholder on the module to post the RBA. An assessment cannot post if there is an expired ASED. If an ASED has been updated on an existing MFT 31 module that contained a civil assessment in order to process the RBA, the ASED will need to be restored to the original ASED once the RBA posts. This will prevent any potential for a civil audit during the one year period extended for CR purposes.

- (6) In the rare instances where the defendant is a non-individual (i.e., a corporation), the RBA will be made on the applicable MFT of the non-individual (i.e., MFT 02) NOT on MFT 31. To identify this module as a restitution assessment module, a TC 971 AC 102 will be input onto the MFT module of the non-individual defendant. The MFT of the entity should be evaluated to determine if the ASED should also be updated to post an assessment. If the ASED needs to be temporarily updated on a corporation (MFT 02, MFT 01, MFT 10, etc.) in order to process the RBA, the ASED will need to be restored to the original ASED once the RBA posts. This will prevent any potential for a civil audit during the one year period extended for CR purposes. If the entity does not have a module, create the module using CC MFREQ IRM 4.8.6.2.2.2.1 (4). After the TC 971 AC 102 has posted to the module, use TC 971 AC 161 to allow the posting of TC 29X RBA assessment.
- (7) All completed Form 3177s to create or establish MFT 31 accounts and / or record TC 971 AC 102 should be e-faxed to Memphis CCP. Their e-fax number(s) can be found at: *CCP Exam Efax Numbers*.

Note: The ERCS collateral record suspense type will be updated to 553 when all Form 3177s have been submitted to Memphis CCP for processing.

4.8.6.2.2.2.2
(08-26-2020)
Monitor IDRS

- (1) After waiting 30 calendar days, the CRC or TE will monitor IDRS for the creation of the MFT 31 account or the posting of the TC 971 AC 102 onto the MFT 31 module. The ERCS collateral record suspense type will be updated to 554 when all appropriate MFT 31 accounts have been created and reflect the TC 971 AC 102 if the assessment package is not already completed and not ready to submit it to the group manager for review and approval / signatures.

- (2) After 30 days, if IDRS does not reflect the creation of the MFT 31 account or the posting of the TC 971 AC 102 onto the MFT 31 account, follow up actions are required with Memphis CCP. The ERCS collateral record will be updated to Status Code 25.
- (3) After all appropriate MFT 31 accounts have been created, the ERCS collateral record suspense type will be updated to 554 and the CRC will continue with the restitution process by preparing and submitting the Form 3870, Request for Adjustment, and preparing Form 3177 with the RBA GII Spreadsheet.

4.8.6.2.2.3
(08-26-2020)

Notification of the Kansas City Restitution Unit

- (1) On a weekly basis, the centralized restitution coordinator or tax examiner will provide a list to the Kansas City (KC) Restitution Unit via their e-mail address (**W&I Criminal Restitution*) that identifies the MFT 31 accounts that have been confirmed as established / recorded and ready for assessment.
- (2) Upon receipt of the listing, KC will research their files for any payments received for the defendants reflected. For those defendants that have made a payment, KC will begin to prepare the necessary paperwork to move the payment (s) into the MFT 31 account.
- (3) When the defendant is a non-individual (i.e., a corporation), the centralized restitution coordinator or tax examiner will provide notification to the KC Restitution Unit via their e-mail address when the assessment paperwork has been submitted to Memphis Centralized Case Processing (CCP) that a RBA will be made on a non-individual.
 - a. The notification will reflect: The EIN of the defendant where the restitution assessment will be made. The MFT of the assessment module. The applicable periods for the restitution assessment and the amount of restitution that will be assessed per period.
 - b. Upon notification, KC will begin preparing the needed paperwork to move the payments into the applicable modules.
 - c. TS will monitor the assessment modules and will notify KC when the assessment(s) have posted.
 - d. Upon the 2nd notification, KC will process the paperwork to move the payments into the applicable RBA modules.
 - e. KC will monitor the accounts to ensure all payments have been correctly moved.
- (4) When the assessment is over \$5,000,000 in a period, the CFO's office must also be notified once the Form 3870 has been forwarded to Memphis CCP for assessment. Cases with more than \$10,000,000 restitution ordered need to be reviewed by another reviewer and by the group manager prior to submitting the paperwork for processing the assessments and linkages.

4.8.6.2.2.3
(08-26-2020)

Assessing Restitution and Related Issues

- (1) When the determination is made by CI that a restitution assessment is warranted under IRC 6201(a)(4), an RBA will be made under the SSN or EIN of the defendant. The tax returns that were the basis for the restitution order will not reflect the RBA. For example, an individual defendant is ordered to pay restitution to the IRS based on a tax loss and may or may not reflect the civil tax liability actually owed. All of the restitution ordered will be assessed on MFT 31 accounts created under the defendant's SSN not on MFT 30 or MFT 02.

- (2) Prior to preparing / submitting the restitution assessment forms, the applicable assessment modules should be reviewed to determine if an assessment statute expiration date (ASED) is reflected. Generally, a recently created MFT 31 module will not reflect an ASED. However, when the MFT 31 account was previously used for another reason, there may be an ASED present. Prior to submitting the restitution assessment paperwork, all MFT 31 modules that will be used for the restitution-based assessment should be reviewed. When two or more Form 3870s will be forwarded to post multiple assessments in the same period, the ASED must also be updated before submitting the Form 3870 to Memphis CCP since the first assessment posted will set an ASED three years from the due date of a timely filed return for the tax period. The new ASED date should be a date one year from the current month ending date (e.g., 7/31/2018, if the update is done in July 2017).
- a. If there is no ASED on the module and only one restitution assessment is needed on the module, no further steps are required.
 - b. If there is an ASED on the module that is expired or will expire within 9 months **or** if multiple assessments (usually BMF based restitution assessment cases) will be made on the module, the ASED needs to be updated or created on the MFT 31 module. Submit the Form 3177 to secure the group manager's approval and forward the approved Form 3177 to the TE for input.
- (3) Form 3870s for the RBA assessments will be processed by Memphis CCP. Linkage Form 3177s and RBA GII spreadsheets are submitted to CCO for input.

Note: It will take approximately 35 calendar days for the assessment to be reflected on IDRS. Multiple assessments needed in the same module or period will take longer.

- (4) After 35 days, if no assessments are pending or if the receipt of the Form 3870 is not recorded in the history section of a TXMOD, follow up actions are required with Memphis CCP.
- (5) In addition to sending the Form 3870s to Memphis CCP, the RBA Update Form 3177s with its RBA GII Spreadsheet for duplicate assessment linkages will also be sent to Memphis CCP for command code RAPID input.
- a. The duplicate assessment linkage Form 3177 with the respective RBA GII spreadsheet must be e-mailed to Memphis CCP at **SBSE HQ RAPID* (sbse.hq.rapid@irs.gov). See IRM 4.8.6.2.2.4.4.
- (6) The ERCS collateral record suspense type will be updated to 555 when all Form 3870s are submitted to Memphis CCP.
- (7) After confirming that all RBAs and respective linkages have been posted correctly and the Notice and Demand letters have been issued, the ERCS collateral record suspense type will be updated to 556.

4.8.6.2.2.3.1
(08-26-2020)
**No Civil Assessment
Exists on MFT 31**

- (1) If no civil assessment exists on MFT 31, the restitution will be assessed via Form 3870. A separate Form 3870 is required for each period and for each assessment. Line by line instructions for the Form 3870 are as follows:
1. Item 1 - Enter the SSN of the defendant liable for criminal restitution (the SSN of the MFT 31 account).

2. item 1 - (cross reference TIN) - IF APPLICABLE: Enter the EIN of the BMF entity that was the basis for the restitution being assessed.
3. Item 2 - Enter the name and address of the defendant liable for the restitution.
4. Item 4 - Enter 31.
5. Item 5 - Enter applicable tax period.
6. Item 11 - Enter "Assess criminal restitution per instructions below." If the restitution was BMF based, enter "Assess criminal restitution per instructions below for restitution related to BMF entity of the defendant." When the court order includes the assessment of a Failure to Deposit Penalty amount, the Ref. No. 721 refers to the Failure to Deposit Penalty.
7. Item 13 - Enter your signature as the preparer of the form along with your telephone number and the date.
8. Item 14 - Your manager should sign as the approving official and enter the appropriate title and the date.
9. Item 16 Block Series - Enter "00" if no TC 150 appears on the MFT 31 module or enter "05" if TC 150 is present on the MFT 31 module (this may occur if the account was previously created for another purpose such as innocent spouse.)
10. Item 18 Source Code - Enter "02" if assessment is based on IMF / RPP liability or leave blank if the liability is based on a BMF liability.
11. Item 19 Reason Code - Up to three reason codes can be used. If the court ordered restitution amount does not include Failure to Pay (FTP) Penalty, Reason Code 147 must be used. In addition, to reason code 147, enter the appropriate 14X code(s) based on the facts of the case. See Exhibit 4.8.6-2 for a listing of reason codes. Reason Codes 141 - 150 are valid codes for use on MFTs 31 only. When the defendant is a BMF entity, such as a corporation, the reason codes on MFTs 01, 02, etc., should be determined as applicable to the type of tax to assess (e.g., Reason Code 024 for uncollected Social Security and / or Medicare Tax; Reason Code 021 for Total Income, or Reason Code 049 for Total Tax [which may apply to corporate Income Tax], etc.).
12. Item 21 Hold Code - Enter "0" if only one assessment is to be made in a single tax period / module. If multiple assessments are to be made in one module, use Hold Code 4 for all Form 3870s except the last one.

Note: When correcting modules, use Hold Code "4" to prevent a Notice and Demand (CP 94) from being issued. For multiple assessment periods or those tax modules in which more than one assessment will be posted, use Hold Code 4 on all Form 3870s except the last one to post. The final Form 3870 will contain Hold Code "0" to allow the systemic Notice and Demand to be issued.

13. Item 23 Priority Code (use only one code) - Enter "8" if this assessment amount is within \$10 of a prior assessment on the MFT 31 module; or enter "1" if there is a TC 420 on the MFT 31 module; or enter "5" if a priority code 8 or 1 is NOT needed.
14. Item 25 Source Doc - Always enter "Yes".
15. Item 29 Adjustments - Enter the appropriate TC in the first column TC 290 for IMF and RPP (IMF clients) based restitution assessments as well as for BMF cases where the criminal restitution assessment is being made directly onto a BMF module and / or the respective return's due date is April 15. Enter TC 298 for BMF and RPP (BMF clients) based assessments with the related restitution as tax assessment amount in the

second column. TC 270 for \$0.00 if no FTP was ordered and TC 340 for \$0.00 if the court ordered restitution amounts does not include interest. When FTP (or other penalties) and/or interest are ordered by the court, the respective amounts should be input in the second column. If applicable, enter the penalty transaction code (e.g., TC 320 for the fraud penalty) in the first column and the related restitution as penalty amount in the second column. Miscellaneous penalties are entered using the applicable reference number of the penalty in the "Ref. No." column and the related restitution as penalty amount in the fourth column, "Item Adjustment." Do NOT put TC 240 in the first column of the form. For example, fraudulent failure to file is Penalty Reference Number 686. Enter 686 in the "Ref. No." column and the Fraudulent Failure to File Penalty amount in the "Item Adjustment" column. This will post as TC 240 showing PRN 686.

Note: All penalty transaction codes should be separately reflected and should match the type of computer generated civil penalty transaction codes. Manual input transaction codes such as TC 160 for Failure to File Penalty, TC 170 for Estimated Tax Penalty, TC 270 for Failure to Pay Penalty, or Ref. No. 721 for Failure to Deposit Penalty, etc. should be used. For example, if part of the restitution ordered was based on a delinquency penalty (TC 166) reflected on the defendant's MFT 30 module, the restitution being assessed on MFT 31 as a penalty will be assessed via TC 160. Examples of other penalties that could be assessed as restitution are the Estimated Tax Penalty (TC 170), Failure to Pay Tax Penalty (TC 270), Fraud Penalty (TC 320), and Miscellaneous Civil Penalties (TC 240 with the applicable reference number).

16. Item 30 Remarks - Enter "Per Criminal Case #" (case number from J&C). For BMF based restitution assessments, enter on the second line "Use INT COMP Date of MMDDYYYY which is based on the RDD of Form XXX, YYYYMM(Tax Year/Period)." Ensure that the COMP-INT-AMT of the non-restricting TC 340 is inclusive of all TC 298 assessments.

4.8.6.2.2.3.2
(08-26-2020)
**Civil Assessment
Already Exists on MFT
31**

- (1) If a civil assessment already exists on the MFT 31, a Form 3870 should be prepared as reflected below to take into account the previous civil assessment. The MFT 31 module should **never** contain a duplicate assessment. The Form 3870 should be prepared as discussed in IRM 4.8.6.2.2.3.1 with the following exceptions:

- a. If the civil assessment in the MFT 31 account is for the **same amount and based on the restitution ordered** for the year, use Form 3870 to input TC 290 for \$0 (with the applicable reason code which is usually 143) with an explanation in the remarks section that explains that restitution was assessed as part of the civil assessment that posted on the module.

Example: Assuming the assessment already on the MFT 31 account is the same as would be assessed as restitution, the TC 290 should be for \$0. On Form 3870, in Section 11, explain as follows: "The TC 300 assessment made on xx/xx/xx represented the restitution ordered by the court. No restitution needs to be assessed."

- b. If the civil assessment in the MFT 31 account is for **more than and based on the restitution ordered for the year**, use Form 3870 to input

TC 290 for \$0 (with the applicable reason code which is usually 143) with an explanation in the remarks section that explains that restitution was assessed as part of the civil assessment that posted on the module.

- c. If the civil assessment in the MFT 31 account is for **less than and based on the restitution ordered for the year**, use Form 3870 to input TC 290 for an amount so the total civil assessment plus the TC 290 equals the restitution ordered (with the applicable reason code which is usually 143). There would be an explanation in the remarks section that explains that restitution was assessed as part of the civil assessment that posted on the module and this TC 290 assessment.

Example: If the RBA is \$50,000 and the previously assessed civil assessment on the MFT 31 is \$40,000, use Form 3870 to input TC 290 of \$10,000 with the applicable reason codes.

4.8.6.2.2.3.3 (08-26-2020)

Fixing Restitution-Based Assessment Module

- (1) When a RBA module needs to be corrected because the assessment is not correct for whatever reason, the CRC group, upon notification of the error, has exclusive responsibility for correcting the account.
 - a. The CRC will secure all relevant information (e.g., J&C, Form 14104, etc.) to establish the correct amount of restitution to be assessed.
 - b. The total RBA, should never be more than the restitution ordered by the court.
 - c. To avoid corrections that are de minimus errors, see Delegation Order SB/SE 4.41, Error Tolerance Levels. See *Error Tolerance Levels*.
- (2) When corrections are warranted, the incorrect RBA will be reversed / abated in FULL and the correct RBA will be made. The Form 3870 should reflect both the reversal / abatement (i.e., TC 291 for the abatement and TC 290 for the assessment). If two or more Form 3870s are needed to correct a module, all Form 3870s except the LAST Form 3870 should reflect a Hold Code 4. All Form 3870s should clearly state the reason for the abatement and reassessment. If a new Notice and Demand letter does not need to be issued or needs to be issued manually, use Hold Code 4 on all Form 3870s. If a refund should be issued, use Hold Code 3. Two separate Form 3870s should be used, one to abate the assessment (TC 291) and another to assess the new amount (TC 290). The TC 290 and TC 291 should not be on the same Form 3870.

Note: In very rare instances based on the specific facts of the case, the original assessment may not be reversed. The second assessment / abatement will be used to correct the module's RBA. The Form 3870 should clearly state the reason for the correction.

- (3) When Appeals sends an inquiry regarding a review of interest and penalties on an RBA the CRC group has 15 business days to respond. Please refer to IRM 8.20.7.20.10, CDP Docketed Cases with Restitution-Based Assessment (RBA) MFT 31 Adjustment Components.

4.8.6.2.2.4 (08-26-2020)

Cross Referencing Accounts

- (1) TC 971 AC 18X action codes are used to define and link RBA and associated fraud penalties to duplicate and non-duplicate RBA, civil and fraud penalty assessments and / or to underlying tax liabilities for a specific TIN, MFT, and tax period except when TC 971 AC 187 is used.

- (2) IMF RBAs posted on the MFTs 31 may be duplicated civilly and posted on taxpayer MFTs 30 and BMF RBAs can be duplicated on the respective BMF tax modules (e.g., MFT 02, 01, etc.)The linkages are applied to the accounts in pairs in most instances (i.e., TC 971 “points” to a TIN / MFT / tax period and the corresponding TIN / MFT / tax period “points” back.) When TC 971 AC 187 is used, there is no corresponding account or tax module that points back to the restitution module.
- (3) The Memo Money Amount (MMA) field of the TC 971 AC 18X is used to identify the amount of the RBA and / or court ordered penalty that is a duplicate. The dollar amount of the MMA is displayed on CC TXMOD, IMFOLT and BMFOLT only when an amount greater than \$.00 has been entered. The MMA is always the lower duplicate amount.
- (4) The transactions for the RBA, MMA amount, and associated TC 971 AC 18Xs are initiated by TS and input by Campus Collection Operations (CCO) located in the Ogden Campus. All completed Form 3177s and RBA GII spreadsheets are sent to CCO e-mail box at **SBSE Ogden RBA*.

4.8.6.2.2.4.1
(08-26-2020)
**Preparation of Form
3177**

- (1) Once all Form 3870s have been prepared and sent to Memphis CCP, the CRC will prepare an RBA Update Form 3177 and an RBA GII Spreadsheet to cross reference the MFT 31 account to the related MFT account (e.g., MFT 30, 02, 01, 10) AND to cross reference the related MFT account (e.g., MFT 30, 02, 01, 10) to the MFT 31 account. **Each separate tab in the RBA GII Spreadsheet represents one tax period with one respective TC 971 AC 18X combination.** Once input, this will direct any IDRS account viewer to the applicable restitution account and other related accounts.
- (2) The following are the line by line instructions for preparing the RBA Update Form 3177 to cross reference the MFT 31 module to the related MFT.
 1. Initiator information - Enter your name, phone number, and employee number.
 2. Date - enter the date the form is completed.
 3. Taxpayer Name - Enter the name of the defendant liable for criminal restitution as it appears in the MFT 31 module.
 4. EIN or SSN - Enter the social security number of the individual defendant as it appears in the MFT 31 module or the EIN of the corporate defendant on the respective BMF module used for the restitution.
 5. TC 971 - Enter the following instructions next to “Other (specify)” - “See Attachment”.
 6. MFT Code 31 and tax period in the appropriate columns.- enter “see attached.”
- (3) The following are the line by line instructions for preparing the RBA GII Spreadsheet. See Exhibit 4.8.6-4.
 - a. Initiator - Enter your name.
 - b. Phone Number - Enter your phone number.
 - c. Employee Number - Enter your employee ID number.
 - d. Date - Enter the date the spreadsheet is completed.
 - e. MFT 31 name control - Enter the defendant taxpayer’s name control.
 - f. SSN - Enter the defendant taxpayer’s SSN (or EIN if the defendant is a BMF entity).

- g. MFT/TXPD/18X - Enter MFT 31 (or the respective RBA BMF MFT for BMF entity defendants), the respective tax period (e.g., 201612, 201503, etc.) and the specific 18X code to be input on the tax module.
- h. Related accounts - Enter the name that's on the tax module that is being linked to the RBA module.
- i. TIN - Enter the respective SSN or EIN of the related account.
- j. MFT - Enter the MFT of the tax module that is being linked to the defendant taxpayer's RBA module.
- k. TXPD - Enter the tax period of the module that is being linked to the defendant taxpayer's RBA module. This tax period should be the same as the tax period input on g) above.
- l. 18X - Enter the respective TC 971 18X action code of the module that is being linked to the defendant taxpayer's RBA module. This 18X AC should be the 2nd leg of the TC 971 AC 18X pair of linkages. For example, if the AC 18X code input in the heading of the spreadsheet is 185, the action code on this section of the spreadsheet is 184. When inputting TC 971 AC 187 in the MFT 31, leave this cell blank.
- m. MMA - Enter the respective MMA amount.

4.8.6.2.2.4.2
(08-26-2020)
Cross Referencing for RPP Cases

- (1) In RPP cases, actual client returns or some kind of extrapolation based on client returns is the basis for the restitution ordered. However, in most instances, the restitution ordered is substantially less than the actual tax loss sustained by the government. This is because CI's investigation only captures enough clients and client returns needed to support the charges against the defendant. CI does not include every return prepared by the defendant in their investigation. Therefore, there are generally many other client returns that were prepared incorrectly that were never considered when restitution was determined.
 - a. In cases where it is clear that the restitution ordered included all false returns prepared by the defendant, there will be a possibility of duplicate assessments; the restitution assessment based on the loss from the client return and the subsequent examination or amended return to correct the false return. In these situations, IDRS will be reviewed on every client return year to determine if there has been an adjustment made to correct the false return. If a duplicate assessment situation exists, the defendant's MFT 31 module and the adjusted return of the client will be flagged as duplicate assessment accounts using TC 971 AC 184 and AC 185. AC 185 will generally be on the MFT 31 account of the preparer / defendant and the AC 184 will generally be on the client return. The MMA amount will be the amount of the duplicate assessment found on the client return module. The amount of the duplicate assessment (MMA) will never be more than the tax loss provided by CI for the specific client.

Example: A defendant was ordered to pay \$15,000 of restitution for 2007 based on the following:

Client	Share of Restitution	Additional Tax	18X Transactions
Client #1	Loss of \$7,000	N/A	No TC 971 AC 18X is required.
Client #2	Loss of \$2,000	N/A	No TC 971 AC 18X is required.

Client	Share of Restitution	Additional Tax	18X Transactions
Client #3	Loss of \$1,000	\$1,000	The MFT 30 account of the client would reflect a TC 971 AC 184 to cross reference to SSN of the defendant, MFT 31, tax year 200712, MMA = \$1,000. The defendant's MFT 31 account would reflect a TC 971 AC 185 to cross reference to the SSN of the client's MFT 30, tax year 200712, MMA = \$1,000.
Client #4	Loss of \$5,000	\$2,000	The MFT 30 account of the client would reflect a TC 971 AC 184 to cross reference to the SSN of the defendant, MFT 31, tax year 200712, MMA = \$2,000. (Even though \$5,000 of the restitution was based on client #4s return, his account was adjusted only for \$2,000; therefore, the MMA would be \$2,000.) The defendant's MFT 31 account would reflect a TC 971 AC 185 to cross reference to the SSN of client #4, MFT 30, tax year 2007, MMA = \$2,000.

The defendant's MFT 31 account would reflect a TC 971 AC 185 to cross reference to the SSN of client #4, MFT 30, tax year 2007, MMA = \$2,000. The MFT 31 module of the defendant / preparer will reflect a TC 290 to assess the restitution of \$15,000 for tax year 200712.

b. No cross referencing is required for the following:

Example: The actual client returns of the defendant / preparer are unknown (e.g., when CI extrapolates the tax loss based on a few client returns).

Example: When the restitution is based on a percentage of the loss.

Example: Or when an estimate is used to determine the tax loss.

Exception: On cases where the restitution based on client modules, and no client modules have been adjusted, create (or input) ONE TC 971 / AC 180 / 181 client linkage to denote that no linkages are necessary. As a general rule, use the lowest SSN from the client list or use a client's SSN for which the account is already active.

c. If any of the client modules are in retention, they should be recalled or re-established with CC B/IMFOLB to ensure they will be available for input.

Note: If no linkage is required then there is no need to be recalled or re-established.

4.8.6.2.2.4.3
(08-26-2020)

Severally Liable Cases

(1) In many CR cases, the restitution ordered is joint and several with other co-defendants. The following example illustrates how the Form 3177 would be prepared to reflect a duplicate assessment due to the assessment on each of the defendant's accounts.

Example: Three defendants are ordered to pay restitution jointly and severally with each other. The restitution amount is based on multiple client returns for

2003 only. (1) Defendant 1 (Lead): TC 971 AC 189 for 200312 XREF Defendant 2; MMA = The **total** CR amount for all of the same client returns for the 200312 tax period; and TC 971 AC 189 for 200312 XREF Defendant 3 - MMA = The **total** CR amount for all of the same client returns for the 200312 tax period. (2) Defendant 2 (Co-defendant): AC 188 for 200312 XREF Defendant 1; MMA = The total CR amount for all of the same client returns for the 200312 tax period; and TC 971 AC 188 for 200312 XREF Defendant 3 -MMA = The total CR amount for all of the same client returns for the 201312 tax period. (3) Defendant 3 (Co-defendant): AC 188 for 200312 XREF Defendant 1; MMA - The total CR amount for all of the same client returns for the 200312 tax period; and TC 971 AC 188 for 200312 XREF Defendant 2 - MMA = The total CR amount for all of the same client returns for the 200312 tax period. (4) If the client returns were audited or adjusted, AC 18X would also point to each of the client returns with their respective MMAs (the tax loss for the respective client).

4.8.6.2.2.4.4 (08-26-2020) IDRS CC RAPID Input

- (1) Command code RAPID was created (effective January 2014) for Ogden CCO to assist with monitoring of duplicate assessment accounts. Whenever there are duplicate assessments, TS will prepare an RBA Update Form 3177 and an RBA GII Spreadsheet to cross reference the duplicate assessment modules as described in IRM 4.8.6.2.2.4. The data needed for the input into RAPID is submitted and entered into the database by Memphis CCP, and should consist only of the instances where there is a duplicate assessment and the MMA is greater than \$0. All linkages (including those with no duplicate assessments) will be input by Ogden CCO.

Note: Completed Form 3870s for the RBA assessments should be e-faxed to Memphis CCP Duplicate assessment RBA Update Form 3177 and RBA GII Spreadsheets should be e-mailed to Memphis CCP at *SBSE HQ RAPID (sbse.hq.rapid@irs.gov). See *CCP Exam Efax Numbers* for a listing of e-fax numbers.

Note: RAPID is only to identify duplicate assessment modules. Only the RBA GII Spreadsheet tabs that show linkages with MMAs greater than \$0 should be forwarded to Memphis CCP for RAPID input. The tabs that contain TC 971 AC 180 / 181 and AC 187 should not be forwarded to Memphis CCP for RAPID input.

Note: This is in addition to sending the RBA Update Form 3177s with the entire RBA GII Spreadsheet (including with TC 971 AC 180/181 or TC 971 AC 187 linkages) to Ogden CCO as described in IRM 4.8.6.2.2.4.1

- (2) When duplicate assessment linkages (TC 971 AC 182 / 183 / 184 / 185 or AC 188 / 189) are corrected, the corrected RBA Update, Form 3177 and RBA GII Spreadsheet must be sent to Memphis CCP for CC RAPID input. The TC 972 Form 3177s should not be sent to Memphis CCP because RAPID is only to identify duplicate assessment modules.

Example: A TC 971 AC 185 with a MMA \$100 was entered on the MFT 31 module and a TC 971 AC 184 with a MMA \$100 was entered on the MFT 30 module. The TC 971 AC 184 with a MMA \$100 was also sent to

Memphis CCP to be used for the CC RAPID input. The MMA amount should have been \$1,000. Form 3177s would be submitted to Ogden CCO to enter a TC 972 AC 185 MMA of \$100 and a TC 972 AC 184 MMA \$100 to reverse the TC 971s. The correct RBA GII Spreadsheet with the applicable RBA Update Form 3177 s would be submitted to CCO at *SBSE Ogden RBA (sbse.ogden.rba@irs.gov) and Memphis CCP at *SBSE HQ RAPID (sbse.hq.rapid@irs.gov).

- 4.8.6.2.2.5
(08-26-2020)
Notification of Collection Advisory
- (1) Upon confirmation that the restitution assessment correctly posted, the TC 971 AC 18X linkages are correctly posted, and the Notice and Demand letters have been issued, the CRC will notify Collection Advisory at their dedicated COP / Restitution e-mail address: **SBSE EEF Dallas Restitution*. The following will be included in the e-mail:
- a. Taxpayer's Name,
 - b. TIN,
 - c. Tax periods of restitution assessments.
- 4.8.6.2.2.6
(08-05-2015)
Entering Restitution Assessment Information Into ERCS
- (1) To capture what was reflected on the Form 14104 and what was assessed as restitution, the restitution collateral record will be updated to reflect the restitution assessment. The following should be updated on the restitution collateral record:
- a. Update to Disposal Code 12.
 - b. Use the Form 14104 Item 14 "Totals" to enter the restitution as tax, penalties and interest.
- Note:** Using the Form 14104, enter the total amount for this taxpayer (cumulative total of all years) "Amount of Restitution to be Assessed as Tax" in Item 34 as "deficiency."
- Note:** Using the Form 14104 enter the total amount for this taxpayer (cumulative total of all years) "Amount of Restitution Attributable to Interest" on Tax in Item 34 as "interest."
- Note:** Using the Form 14104 enter the total amount for this taxpayer (cumulative total of all years) "Amount of Restitution Attributable to Penalties" in Item 36 as "penalties." The penalty code section will also have to be input.
- 4.8.6.2.2.7
(08-05-2015)
Forwarding ERCS Record to Local Technical Services Fraud Coordinator
- (1) The ERCS collateral record should be updated to the appropriate local Technical Services Fraud Coordinator (LTSFC) as described in IRM 4.8.6.3 for civil disposition. The LTSFC and group manager will be contacted via e-mail that the restitution collateral record has been transferred to the group. There should be no need to transmit any documents to the LTSFC since they should have already received the same information that the CRC received from CI. This will serve as the notification for the LTSFC to proceed with appropriate civil actions.
- a. Update the collateral record to Suspense Type 557 (14 calendar days).
 - b. Update the Technical Services code (TSC) of the LTSFC who will commence appropriate civil actions.

- c. Update the primary business code (PBC), employee group code (EGC), and the reviewer ERCS ID number to the applicable LTSFC.
- 4.8.6.2.2.8
(08-26-2020)
Referral of Taxpayer Inquiries to Ogden Campus Collection Operations (CCO)
- (1) Once a notice and demand is issued after the restitution assessment, the IRS may receive an inquiry from the taxpayer recipient.
- (2) TS will address taxpayer inquiries if the problem is related to the following:
- a. Taxpayer questions or disputes the assessment or the assessment amount;
- b. Requests for information on penalty and / or interest computations; or,
- c. All other technical questions or issues that are not specifically addressed in IRM 4.8.6.2.2.8 below.
- (3) CCO will address taxpayer inquiries that relate to the following:
- a. Questions regarding restitution payments made and received by the IRS and / or credited to their restitution assessment or another assessment.
- b. Requests for the balance remaining on the restitution module(s).
- (4) If TS needs to refer a question to CCO, Form 4442, Inquiry Referral may be used to send the referral. Phone and e-mail inquiries received by TS can be documented using Form 4442 and sent to CCO by secure e-mail to: **SBSE Ogden RBA*. Written inquiry correspondences may be forwarded to CCO along with Form 4442 to the following address: Internal Revenue Service, 1973 N. Rulon White Blvd., Ogden, UT 84404, ATTN: CSCO RBA / MS 5300.
- Note:** Referrals sent to CCO that are not under their purview will be returned to TS. CCO will determine if collection related referrals received from TS should be further referred to Collection Advisory or Field Collection.
- 4.8.6.2.2.9
(08-05-2015)
Inquiries from Powers of Attorney
- (1) In some instances, the assessment of restitution will generate an inquiry from a power of attorney (POA). To discuss the case with the POA, a Form 2848 should be secured. Section 3 of the Form 2848 should reflect in the Description of Matter section either: restitution assessment or RBA. All RBA years / periods should also be reflected in Section 3 as well. No entry is required in the Tax Form Number section.
- 4.8.6.2.2.10
(08-05-2015)
Resolution of a COP / Restitution Case by Appeals
- (1) Appeals, upon resolution of the COP / Restitution case, will notify a designated CI and Collection employee. They will also notify the TS CR mail box (**SBSE TECH Svs Criminal Restitution*) that the case has been resolved. Upon notification in the TS CR mailbox, the centralized tax examiner will forward the information to the LTSFC. The LTSFC will research IDRS for all applicable and related modules (MFT 31, 30, 02, 10, 01, etc.) to determine if there are duplicate assessments on Master File.
- 4.8.6.3
(08-26-2020)
Role and Responsibilities of the Local Technical Services Fraud Coordinator
- (1) Upon receipt of closing documents that include the Form 14104 **with assessable restitution**, the LTSFC will ascertain whether the information was also sent to the CR mailbox. If the information was not sent to the CR mailbox, the LTSFC will forward the information to the CR mailbox at: **SBSE TECH Svs Criminal Restitution*.

- (2) The responsibility for reviewing the Form 14104 and related closing information for determining the accuracy of the Form 14104 will rest with the CRC. If the CRC determines that the Form 14104 package is not accurate, the package will be returned to CI to correct the package with a courtesy copy sent to the LTSFC. The LTSFC should provide feedback to the CRC and CI as needed to ensure the subsequent RBA assessment matches the tax losses identified during the investigation. See IRM 4.8.6.3 (4) below.
- (3) The LTSFC will take no actions, except as reflected below, on the closing package until notified by the CRC that the required restitution process has been completed.
- a. The LTSFC may contact CI to obtain relevant documents to assist in making a determination if an examination is warranted. Refer to IRM 4.8.11.5.3, Review of Form 13308 and Related Information from CI, and IRM 4.8.11.5.4, Processing a CI Package, which discuss reviewing CI's closing package and making the determination regarding civil examination actions. However, do not proceed with referring or closing the case until the CRC provides the notification that the RBA process is complete and civil action may proceed.
 - b. The TS fraud coordinator will document the results of their review and determination of civil examination potential accordingly. Consideration should be given to IRM 25.1.6.2, Procedures, (specifically (7) through(10) regarding fraud penalty determinations), and IRM 4.20.2.2(7), General Collectibility Considerations, (regarding scope and collectability) when making this decision.
- Note:** All cases in Fraud and Grand Jury suspense will be immediately returned to the field upon receipt of the Form 13308 / Form 14104 closing package from CI. See IRM 4.8.6.3.2.1.
- Note:** Cases that fall under the Westbrooks criteria the RBA collateral will be delayed until the taxpayer's probation or supervised released.
- c. Cases with less than one year on civil statutes (either the 3 year or the 6 year statute), will be immediately forwarded to Field Examination or Planning and Special Programs (PSP) for civil actions as warranted. See IRM 4.8.6.3.2.2
- (4) At any point during the restitution assessment process, the LTSFC should forward additional pertinent restitution assessment information that they have in their possession to the CRC via the CR mailbox.
- (5) Since restitution cases may also be COP cases, if applicable, the LTSFC will create a COP collateral record.

Note: There may be two collateral records open for this taxpayer for this time period; one may be for COP and one for the restitution. The restitution collateral record will be closed upon the initiation of appropriate civil actions. See IRM 4.8.6.3.2 and IRM 4.8.6.3.2.5.

4.8.6.3.1
(08-26-2020)
**Notification of
Completed Restitution
Case from CRC**

- (1) Upon confirmation by the CRC that all required restitution actions have been completed, a centralized restitution TE will update the ERCS restitution collateral record to Suspense Type 557 and to the TSC, PBC, EGC and ERCS ID of the LTSFC. The restitution collateral record will remain in Status Code 35.

4.8.6.3.2
(08-26-2020)
**Civil Actions on Cases
with a Restitution-Based
Assessment**

(2) The LTSFC and group manager will be contacted **via e-mail** that the restitution collateral record has been transferred to the group. There should be no need to transmit any documents to the LTSFC since they should have already received the same information that the CRC received from CI. This will serve as the notification for the LTSFC to proceed with appropriate civil actions as described below in IRM 4.8.6.3.2 and IRM 4.8.6.3.3. Refer also to IRM 4.8.11.5, Removing Cases from Fraud and Grand Jury Suspense for Civil Resolution, and IRM 4.8.11.7, Special Features for Civil Resolution Cases with Restitution-Based Assessments.

(1) Upon notification from the CRC that the restitution assessment process has been completed, the LTSFC must take appropriate civil actions within 14 calendar days.

(2) The LTSFC will do a first review of the CI closing package to determine if a civil examination is warranted based on the facts of the case. If necessary, the LTSFC will contact CI to obtain relevant documents to make this examination determination. If warranted the CI closing package should be sent to PSP to be established. Refer also to IRM 4.8.11.5, Removing Cases from Fraud and Grand Jury Suspense for Civil Resolution. Specifically, see IRM 4.8.11.5.3, Review of Form 13308 and Related Information from CI, and IRM 4.8.11.5.4(6), Processing a CI Closing Package, which discusses reviewing CI's closing package and making determinations regarding civil examination actions.

- a. If it has been determined based upon the review of the closing documents and the facts of the case that civil examination actions are warranted, the LTSFC will prepare a memorandum to the appropriate examination group and / or, if applicable, PSP containing specific instructions for civil disposition of the case. Refer to IRM 4.8.11.5.7, Technical Services Memorandum Regarding Civil Action, and the examples available at IRM Exhibit 4.8.11-7, Civil Resolution Cover Memo to Field Examination - Optional Template, and IRM Exhibit 4.8.11-8, Civil Resolution Cover Memo to PSP.

Note: All cases already open on AIMS need appropriate civil actions to conclude the civil examination.

Note: As described in IRM 4.8.6.3 (3), some cases may have already been sent to the field for civil resolution.

- b. If it has been determined based upon the review of the closing documents and the facts of the case that no civil examination actions are warranted and all required procedures have been addressed, the LTSFC will prepare appropriate documentation to support this decision. The case file can then be closed accordingly. See IRM 4.8.11.8, Technical Services Closing Action on All Civil Resolution Cases, and IRM 4.8.11.5.4 (6).

(3) Since restitution cases may also be COP cases, the procedures under IRM 4.8.11.6, Special Features for Civil Resolution Cases with Tax-Related Conditions of Probation, should also be addressed in connection with the procedures outlined in this section.

- (4) For additional information, refer to the TS Fraud SharePoint home page at: *TS Fraud SharePoint*.

4.8.6.3.2.1
(08-05-2015)

Cases in Fraud or Grand Jury Suspense

- (1) The LTSFC will follow the procedures outlined in IRM 4.8.11.5.5, Case File Maintained in Suspense. The LTSFC will also determine whether or not the case should be returned to the originating group manager. If the case cannot be returned to that group for civil resolution, the fraud coordinator will consult with PSP to determine which group is to receive the case file. Refer to IRM 4.8.11.5.8, Routing of Case From Technical Services.
- (2) Prior to forwarding a case for civil resolution, the LTSFC will ensure the following actions are taken (assistance from PSP may be needed):
1. Update / input the appropriate aging reason codes (i.e., 16, 17 or 18) per IRM 4.8.11.5.8.1(2);
 2. Input Project Code 1168 and /or Tracking Code 6568;
- Caution:** If there is already a national project code on the module, do not update the project code to 1168. Only Tracking Code 6568 will be input / updated. If there is also already a national tracking code on the module, Tracking Code 6568 will supersede / replace that existing tracking code.
- Note:** IDRS will systemically input the AIMS Criminal Restitution Code of "1". This will prevent the case from closing and ensure it is returned to the LTSFC. Criminal Restitution Code 1 is generated when the tax year contains both a TC 971 AC 102 and TC 420 (AIMS indicator).
- (3) The LTSFC will prepare a memorandum as described in IRM 4.8.6.3.2.4, and IRM 4.8.11.5.7.

4.8.6.3.2.2
(08-26-2020)

Cases NOT in Fraud or Grand Jury Suspense (Not Established on AIMS)

- (1) LTSFC will follow the procedures in IRM 4.8.11.5.6, Case File Not Maintained in Suspense. The LTSFC will prepare two memorandums. The first memorandum is to transmit the CI closing package to PSP for further case building and assignment. Refer to IRM Exhibit 4.8.11-8 as an example. Using this specific memo in the exhibit is not required, but the memo used needs to cover the same basic information.
- (2) The LTSFC will prepare a second memorandum, Civil Resolution Cover Memo to Field Examination as described in IRM 4.8.6.3.2.4. Refer also to IRM Exhibit 4.8.11-7 as an example. Using this specific memo in the exhibit is not required, but the memo used needs to cover the same basic information.

4.8.6.3.2.3
(08-26-2020)

RPP Cases

- (1) In some instances, the basis for the restitution ordered is preparation of false returns by the defendant. When considering the appropriate civil actions on the client returns of a RPP defendant, the statute of limitations of the client returns should be considered.
- (2) Client returns with more than 18 months remaining on the clients' statute of limitations may be sent to PSP / the return preparer coordinator for civil actions if the evidence available supports an examination.

- (3) PSP should be advised that restitution was assessed against the return preparer and all returns that are selected for examination should contain an AIMS Freeze Code “P” to ensure the client returns audited are returned to the LTSFC.
- (4) At the conclusion of the audit of the client returns, the LTSFC will be responsible for the input of the TC 971 AC 18X to identify the client return modules and the preparer’s MFT 31 restitution assessment modules as duplicate assessment modules. See IRM 4.8.6.3.3.3 (4) for instructions on the completion of the RBA Update, Form 3177 and the RBA GII spreadsheet.
- (5) If at the conclusion of the audit of a client return, the client is going to Appeals, the LTSFC will be responsible for the input of the TC 971 AC 180 on the preparer’s MFT 31 module and a TC 971 AC 181 on the client’s MFT 30 module to “link” the two modules together. The LTSFC will review the module to ensure the correct TC 971 AC 18X codes are on the modules of the return preparer and client. If no assessment is posted on the client’s tax module, the TC 971 AC 180 and the TC 971 AC 181 must be reversed.

4.8.6.3.2.4
(08-05-2015)
**All Case Files /
Packages Forwarded for
Civil Resolution**

- (1) The LTSFC will prepare a memorandum to transmit the case for civil resolution. The memo should be tailored based on the specifics of the case. See IRM 4.8.11.5.7, Technical Services Memorandum Regarding Civil Action.
- (2) When a case is forwarded for civil resolution, the LTSFC should forward the following documents as applicable:
 - a. Form 13308, Criminal Investigation Closing Report.
 - b. Judgment and Commitment Order.
 - c. Form 14104.
 - d. Indictment, complaint and /or other court documents.
 - e. Special agent’s report (SAR) (Administrative cases and other non-Grand Jury information only).
 - f. Plea agreement, Proffer, Statement of facts, Factual basis, etc., if applicable.
 - g. Court documents related to the prosecution of the case (pre-sentence report, sentencing memorandum).
 - h. Applicable witness files to support the penalty and adjustments other than any Rule 6(e) information from grand jury proceedings.
 - i. Other applicable non Rule 6(e) grand jury supporting documents to support the penalty and adjustments.
 - j. Tax returns (originals and / or copies, as available).

Reminder: If the above documents are needed and not available, the LTSFC should determine if any of the documents are available through PACER. If not available through PACER, the special agent may be contacted to help locate the documents. See IRM 4.8.11.9.2, Documentation Needed to Develop the Fraud Penalty.

- (3) A copy of the civil disposition memo(s) and CI closing package will be maintained by the fraud coordinator in a dummy file until the civil examination has concluded. When the field completes the civil examination, the case will be closed by TS. The dummy file maintained will be included with the civil case file upon final closure by TS unless that file is needed for the dummy COP file.

See IRM 4.8.11.6.2, Responsibilities of Technical Services Monitor Examination-Related Conditions of Probation.

4.8.6.3.2.5
(08-26-2020)
**Monitoring and
Collateral Record
Updates**

- (1) The LTSFC is responsible for case monitoring and the ERCS actions as described below. Prior to closing any ERCS restitution collateral record, the LTSFC will confirm that the restitution was assessed and the required TC 971 AC 18X linkages are present. The collateral record updates reflected below are only applicable to the restitution collateral record not to the COP collateral record if one is established. Review Types 91 through 97, as described in Exhibit 4.8.6-1 are only to be used on the restitution collateral record.
- (2) If cases are open on AIMS or a civil examination is warranted:
 - a. If an AIMS record is already established (and possibly a COP collateral record built) for the taxpayer, the LTSFC will update the restitution collateral record to Review Type 92 and close (Status Code 90) the restitution collateral record. Review Type 92 will indicate that the restitution assessment process was completed for this taxpayer and civil actions have been initiated. At this point for COP cases, monitoring of civil actions is provided for in IRM 4.8.11.6.2 Responsibilities of Technical Services to Monitor Examination-Related Condition of Probation.

Note: At this point ONLY the restitution collateral record is updated.

Note: In some instances the civil case may already have been examined and therefore, does not require civil actions. In these instances, the restitution collateral record can be updated to Review Type 92 and closed (Status Code 90).
 - b. If there is not an AIMS record established for the taxpayer, the restitution collateral record will remain in Status Code 35 and monitored until the civil examination case is established on AIMS. When forwarding the memorandum to PSP, the restitution collateral record suspense type should be updated to 558 (60 calendar days). The LTSFC will monitor AIMS until the establishment of the civil case on AIMS (Status Code 08). If the closing information was forwarded more than 60 calendar days prior, follow up actions are required with PSP. If PSP disagrees that the case should be referred to Examination for civil resolution, follow the procedures outlined in IRM 4.8.11.5.8.2. Upon creation of the AIMS record by PSP, the LTSFC will confirm that a COP collateral record had been created, if applicable, and the restitution collateral record will be updated to Review Type 92 and closed (Status Code 90). Review Type 92 will indicate that the restitution assessment process was completed for this taxpayer and civil actions have been initiated. At this point for COP cases, monitoring of civil actions is provided for in IRM 4.8.11.6.2.
- (3) If a civil examination is NOT warranted:
 - a. The LTSFC is responsible for the following ERCS actions when it has been determined that **no civil actions are warranted**. The review type for the restitution collateral record will be updated to 93 and closed (Status Code 90). Review Type 93 will indicate that the restitution assessment process has been completed and no civil action is warranted.
- (4) RPP Cases:

- a. When the LTSFC confirms that the RPP package has been sent to the PSP TM and / or area RPC, the ERCS Restitution collateral record will be updated to Review Type 92 and closed to Status Code 90.
- b. If the LTSFC determines that NO examination of the client returns is warranted, the restitution collateral record will be updated to Review Type 93 and closed to Status Code 90.

4.8.6.3.3
(08-26-2020)
**Conclusion of Civil
Actions / Examination**

- (1) At the conclusion of the civil examination process for a case involving assessable criminal restitution, the case will be returned to TS for review. Since all restitution civil settlement cases have an AIMS Criminal Restitution Code "1" when they are forwarded to the field for civil settlement, all cases will be required to be returned to TS for mandatory review.

Caution: Unless specifically stated, the instructions to follow do not supersede instructions in other TS IRMs.

4.8.6.3.3.1
(08-26-2020)
**Review of Civil Cases
with Assessable
Restitution**

- (1) The Form 14104 should be reviewed to ensure the appropriate amount of restitution was assessed on MFT 31 for ALL cases where restitution was assessable per Section 8 of Form 14104. If the assessment is believed to be incorrect or if there are questions on the payments, the centralized restitution group should be contacted. The MFT 31 restitution assessment should never be corrected by anyone other than the CRC.
- (2) The revenue agent report (RAR) should be reviewed to ensure the report is correctly prepared reflecting all civil adjustments. The RAR should be prepared following the current report preparation procedures and should have no reference to restitution on the report or attachments. See IRM 4.10.8, Report Writing, and other relevant sections.

Caution: The field has been advised that they should not issue an examination report to the taxpayer if the total restitution-based assessment is greater than the total proposed civil assessments for the same years reflected on the examination report (tax plus penalties). If a case comes to TS and a report was issued to the taxpayer, local Area Counsel should be contacted for guidance on how to proceed.

- (3) All other required review actions should be performed as appropriate for the case being reviewed including but not limited to the following:
 - a. Statutory Notice of Deficiency (SNOD) - see IRM 4.8.9, Statutory Notices of Deficiency.
 - b. General case review procedures - see IRM 4.8.2.8, General Case Review Procedures.
 - c. Unagreed Appeals case review - see IRM 4.8.2.9.2.1, Unagreed Appeals Cases.
 - d. Burden of Proof - see IRM 4.8.11.9.3.1, Burden of Proof.
 - e. Tax-related conditions of probation - See IRM 4.8.11.6, Special Features for Civil Resolution Cases with Tax-Related Condition of Probation.
 - f. General civil resolution closing procedures - see IRM 4.8.11.8, Technical Services Closing Actions on All Civil Resolution Cases.

- (4) The RAR should be reviewed to ensure the IRC 6663, Fraud Penalty, or the IRC 6651(f) Fraudulent Failure to File Penalty, was asserted. If not asserted, the case file should fully document the reason for not asserting the penalty and if needed, Counsel's concurrence should be included in the case file. See IRM 25.1.6.2. Procedures. Any other applicable IRM sections should be addressed as well.
- (5) Form 5344 should be reviewed to ensure it was properly completed and is processable. For example, ensure the proper fraud code was entered in Item 38. See IRM 25.1.6.5(1), Case Closing. Form 5344 may need to be adjusted by the LTSFC as discussed in IRM 4.8.6.3.3.2.
- (6) Prior to closing the case to Memphis CCP or Appeals, the AIMS Criminal Restitution Code of "1" should be updated to "2". Refer to IRM 4.8.11.7.2(5), AIMS Criminal Restitution Code, If needed, AIMS freeze code "P" should be removed.
- (7) For all COP cases, copy the RAR and SNOD, if applicable, and place the copy in the COP "dummy" file. Follow all other required monitoring responsibilities discussed in IRM 4.8.11.6.2.

4.8.6.3.3.2
(08-26-2020)

**Restitution-Based
Assessment on MFT 31
Module and Civil
Assessment Needed on
MFT 31**

- (1) Since the MFT 31 module should NEVER contain a duplicate assessment, processing of civil assessments on a MFT 31 module with a restitution assessment should be made with caution. When a restitution assessment is already on a MFT 31 module and a civil assessment is needed on the same MFT 31 module which would in effect duplicate the restitution assessment the actions outlined in the following paragraphs must be taken.
 - a. The MFT 30 module should be closed the way it would normally be closed. For example, in an innocent spouse case, the Form 5344 for the joint MFT 30 module would reflect a TC 300 for \$0 with a Disposal Code 12 and \$1 in Item 35. As applicable, Adjusted Gross Income (AGI), Taxable Income (TI), and any other non-tax adjustments will be input on Line 15 of Form 5344 to be posted on the joint MFT 30 module.
 - b. The MFT 31 module would reflect the proper assessments so the account is correctly stated. The Form 5344 would reflect the proper TC 300 depending on the facts of the case. There are 3 main scenarios for preparing the Form 5344 when both the RBA and civil need to go on the same MFT 31 module:

If the MFT 31 restitution assessment is...	Then...
The same as (equal to) the tax due on the civil report,	Prepare the MFT 31 Form 5344 with TC 300 \$0 and amount of the non-duplicate penalties to be assessed and / or penalty reference number (PRN); Disposal Code 12; \$1 in Item 35; and Reason Code 143 in Item 51.
Greater than the tax due on the civil report,	Prepare the MFT 31 Form 5344 with TC 300 \$0 and amount of the penalties to be assessed and / or penalty reference number (PRN); Disposal Code 12; \$1 in Item 35; and Reason Code 143 in Item 51.

If the MFT 31 restitution assessment is...	Then...
Less than the tax due on the civil report,	Prepare MFT 31 Form 5344 with TC 300 for the difference of the restitution already assessed on MFT 31 and the tax due per the report; applicable TC and amount of the penalties to be assessed and / or penalty reference number (PRN); Disposal Code 03, 04, 09, 10 as applicable; and Reason Code 143 in Item 51.

Caution: The field has been advised that they should not issue an examination report to the taxpayer if the total restitution-based assessment is greater than the total proposed civil assessments for the same years reflected on the examination report (tax plus penalties). If a case comes to TS and a report was issued to the taxpayer, local Area Counsel should be contacted for guidance on how to proceed.

4.8.6.3.3.3
(08-26-2020)
Agreed (to Include Survey and No Change Cases) and Defaulted SNOD Cases With Assessable Criminal Restitution

- (1) The case should be closed to Memphis CCP following current procedures.
- (2) The account should be monitored until the civil assessment(s) has posted, if applicable. If there will be a duplicate assessment after the assessments post, the LTSFC can prepare linkages update and submit Form 3177s and GII spreadsheet as described in IRM 4.8.6.3.3.3(4) below while waiting for the assessment to post.
- (3) If the case includes COP, notify CI and Collection Advisory per IRM 4.8.11.6.2 (1)(h).
- (4) Once the assessment(s) posts, there will be duplicate assessments: an assessment of the restitution on MFT 31 and civil tax on MFT 30 (or 01, 02, 10, etc.). Certain TC 971 AC 18X transaction codes are required to identify the two accounts as duplicate assessment accounts. An RBA Update, Form 3177 and an RBA GII Spreadsheet should be prepared to cross reference the MFT 31 account(s) to the related MFT account(s) (i.e., MFT 30, 02, 01, 10). Each separate tab in the RBA GII Spreadsheet represents one tax period with one respective TC 971 AC 18X combination. Once input, this will direct any IDRS account viewer to the applicable restitution account and other related accounts. See Exhibit 4.8.6-4.
 - a. Prepare a Form 3177 to input a TC 972 with the same action code and date as was previously input on MFT 31 module (e.g., AC 180). This reverses the no longer correct AC 18X on MFT 31.
 - b. Prepare a Form 3177 to input a TC 972 with the same action code and date as was previously input on the MFT 30, 02, 01, 10, etc. module (e.g., AC 181). This reverses the no longer correct AC 18X on MFT 30, 02, 01, 10, etc. for a
 - c. Prepare a RBA Update Form 3177 per the line by line instructions indicated as follows: See Exhibit 4.8.6-3.

Line Item:	Instruction:
Initiator information	Enter your name, phone number, and employee number.
Date	Enter the date the form is prepared.
Taxpayer Name	Enter the name as it appears on the MFT 31 module.
EIN or SSN	Enter the TIN of the defendant liable for criminal restitution as it appears in the MFT 31 module.
TC 971	Enter "See Attached".
Tax Period	Enter "See Attached".
MFT	Enter "See Attached".

- d. Prepare an RBA GII Spreadsheet to submit with the RBA Update, Form 3177 showing the amount of the duplicate assessment per period. A separate tab in the RBA GII Spreadsheet should be prepared to represent one tax period with one specific TC 971 AC 18X combination. The line by line instructions for preparing the RBA GII Spreadsheet are outlined in the table below. See Exhibit 4.8.6-3 for current XRef and MMA definitions and Exhibit 4.8.6-4 for a sample RBA GII.

Line Item:	Instruction:
Initiator	Enter your name.
Phone Number	Enter your phone number.
Employee Number	Enter your employee ID number.
Date	Enter the date the spreadsheet is completed.
MFT 31 name control	Enter the defendant taxpayer's name control.
SSN	Enter the defendant taxpayer's SSN (or EIN if the defendant is a BMF entity).
MFT/TXPD/18X	Enter MFT 31 (or the respective RBA BMF MFT for BMF entity defendants), the respective tax period (e.g., 201612, 201503, etc.) and the specific 18X code to be input on the MFT 31 tax module.
Related Accounts	Enter the name that's on the tax module that is being linked to the RBA module.
TIN	Enter the respective SSN or EIN of the related account.
MFT	Enter the MFT of the tax module that is being linked to the defendant taxpayer's RBA module.
Tax Period	Enter the tax period of the module that is being linked to the defendant taxpayer's RBA module. This tax period should be the same as the tax period input on in the MFT 31 tax period above.

Line Item:	Instruction:
18X	Enter the respective TC 971 18X action code of the module that is being linked to the defendant taxpayer's RBA module. This 18X AC should be the 2nd leg of the TC 971 18X pair of linkages. For example, if the AC 18X code input in the heading of the spreadsheet is 185, the action code on this section of the spreadsheet is 184. When inputting TC 971 AC 187 in the MFT 31, leave this cell blank.
MMA	Enter the respective MMA amount.

- (5) All completed TC 972 Form 3177s, and the correct / updated RBA GII Spreadsheet with the applicable RBA Update Form 3177 should be e-mailed to Ogden CCO at *SBSE Ogden RBA (sbse.ogden.rba@irs.gov). The RBA Updates, Form 3177 and the RBA GII Spreadsheet should also be e-mailed to Memphis CCP at *SBSE HQ RAPID (sbse.hq.rapid@irs.gov). The e-mails should use the following subject line: "EXPEDITE: Criminal Restitution Linkage / Duplicate Assessment Updates - NAME CONTROL."

Description	Send to Ogden CCO?	Send to Memphis CCP? (For CC RAPID input)
Form 3177 to enter TC 972 AC 180 on MFT 31	Yes	No
Form 3177 to enter TC 972 AC 181 on MFT 30	Yes	No
RBA Update Form 3177 to enter TC 971 AC 184 OR 185 on MFT 31	Yes	Yes
RBA GII Spreadsheet	Yes	Yes

Note: The Form 3177s for the input of the TC 972 entries do not require CC RAPID input and should not be sent to Memphis CCP.

- (6) The LTSFC will monitor all affected modules for the posting of the corrected TC 971 / 972 AC 18X cross referencing. When the civil assessment and TC 971s correctly post, the LTSFC responsibilities for criminal restitution monitoring and if applicable, COP monitoring are finished. If the cross referencing TC 971 AC 18Xs do not appear on the module within three weeks (as shown on TXMODA), the reviewer should follow up with Ogden CCO.
- (7) If duplicate assessment linkages (TC 971 AC 184 / 185 or AC 188 / 189) are not reflected on IDRS correctly, Form 3177s should be prepared as described in IRM 4.8.6.3.3.3 (4) (a) and (b) to enter a TC 972 AC 18X to reverse the incorrect codes. The RBA Update Form 3177 and the RBA GII Spreadsheet should be prepared as described in IRM 4.8.6.3.3.3 (4) (c) and (d) to enter the correct TC 971 AC 18X and MMA. The latter should also be sent to Memphis CCP at *SBSE HQ RAPID (sbse.hq.rapid@irs.gov) for CC RAPID input. See IRM 4.8.6.3.3.3 (5).

Example: A TC 971 AC 185 with a MMA \$100 was entered on the MFT 31 module and a TC 971 AC 184 with a MMA \$100 was entered on the MFT 30 module. The TC 971 AC 184 with a MMA \$100 was also sent to Memphis CCP to be used for the CC RAPID input. The MMA amount should have been \$1,000. Form 3177s would be submitted to Ogden CCO to enter a TC 972 AC 185 MMA of \$100 and TC 972 AC 184 MMA \$100 to reverse the TC 971s. The RBA Update Form 3177 and correct / updated RBA GII Spreadsheet would be submitted to Ogden CCO to enter a TC 971 AC 185 MMA of \$1,000 on MFT 31 and TC 971 AC 184 MMA \$1,000 on MFT 30. The RBA Update Form 3177 and the correct / updated RBA GII Spreadsheet would also be sent to Memphis CCP for CC RAPID input for the TC 971 AC 184 MMA of \$1,000 on MFT 30.

Note: CC RAPID is only used to identify duplicate assessment modules. Therefore, only the RBA Update, Form 3177 and the RBA GII Spreadsheet for the input of a TC 971 AC 182 / 183 or AC 184 / 185 or AC 188 / 189 should be sent to Memphis CCP. Form 3177s for the input of a TC 971 AC 180 / 181 and AC 187 should not be sent to Memphis CCP.

4.8.6.3.3.4
(08-05-2015)
**Closed Case Inquiries
and Linkage Corrections**

- (1) There will be instances when something happens to the MFT 31 module or to the related civil module after restitution is assessed. An amended return may be filed or the civil module may post assessments without the cases going through TS. When this happens, CCO will notify the CRC group of changes made to the RBA or related modules for possible TC 971 AC 18X corrections. When the restitution collateral record is open in the hands of the LTSFC or was closed by the LTSFC, the CCO inquiry will be forwarded to the LTSFC to address possible linkage and/or duplicate assessment issues.
- (2) The LTSFC will review all affected modules to determine if linkage and/or assessment corrections are warranted. If linkage and/or assessment corrections are needed based on the IDRS research, the LTSFC will ensure needed corrections are made to all impacted modules.

4.8.6.3.3.5
(08-26-2020)
**Appealed and Petitioned
SNOD Cases with
Assessable Criminal
Restitution**

- (1) Close appealed and petitioned cases following all existing Appeals / Tax Court procedures. For all RBA (and tax-related COP) cases transferred to Appeals the LTSFC will ensure that Appeals, CI, and Collection Advisory are notified of the transfer to Appeals. Follow the same procedure as detailed in IRM 4.8.11.6.2.5, Procedures for Transferring COP Cases to Appeals.
- (2) The LTSFC criminal restitution and COP responsibilities for the case are suspended until the case has been resolved by Appeals or Tax Court.

4.8.6.3.3.6
(08-26-2020)
**Resolution of the COP /
Restitution Case by
Appeals**

- (1) When the COP / Restitution case has been resolved, Appeals will notify TS, CI, and Collection Advisory, via secure e-mail. The notification to TS is made to the CRC group mailbox (*SBSE TECH Svs Criminal Restitution). Refer to Appeals IRM 8.7.1.11.4(5), Civil Actions on Cases with Restitution-Based Assessments.
- (2) When the notification is received in the TS criminal restitution mailbox, the centralized tax examiner will forward the information to the LTSFC. The LTSFC will do the following:

- a. Review IDRS for all applicable and related modules (MFT 31, 30, 02, 10, 01, etc.) to determine if there are duplicate assessments on MF.
- b. If there are duplicate assessments (restitution on MFT 31 and civil tax on MFT 30, 02, 01, 10, etc.), the TC 971 AC 18X linkages need to be updated accordingly. See IRM 4.8.6.3.3.3.
- c. If there are any errors or other issues identified, the LTSFC will ensure that the issue is addressed by the proper party. For example, if the adjustments processed by Appeals APS improperly adjusts / abates the restitution-based assessment, the LTSFC will notify Appeals and the CR Group by sending an e-mail to *SBSE TECH Svs Criminal Restitution and CRC will ensure that the error will be corrected.

Note: Only the CRC has the authority to assess and adjust the RBA TC 290 / 298. See IRM 4.8.6.2.2.3.3 and IRM 4.8.6.3.3.1 (1).

Example: If Appeals Account and Processing Support (APS) improperly posts a duplicate civil assessment on the same module as the RBA in violation of IRM 4.8.6.3.3.2, the LTSFC will notify Appeals of the need to follow IRM 8.7.1.11, Overview of Criminal Restitution-Based Assessment Process, and subsections thereunder. Specifically, IRM 8.7.1.11.1, Criminal Restitution Debt, paragraph (6), which cross-references to IRM 4.8.6.3.3.2. The LTSFC will use their judgement to determine when it is appropriate to have Appeals APS post the necessary corrections (general rule) or when the LTSFC will post the necessary corrections (exception).

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Criminal Restitution and Restitution-Based Assessments 4.8.6

Exhibit 4.8.6-1 (08-26-2020)

Restitution Codes

Status Codes	TE or Coordinator	Description	Review Type	Suspense Type
Status Code 20	Centralized Tax Examiner	Established Restitution collateral from receipts of Form 14104.	91/95/96	551-10 days
Status Code 25	Centralized Restitution Co-ordinator	Centralized restitution coordinator waiting for CCP or CCO processing "delay" or other issue preventing timely movement of the case. For example, ASED issue on MFT 31 account or multiple submissions needed of Form 3177 or Form 3870.	91/95/96	As applicable
Status Code 30	Centralized Restitution Co-ordinator	<ul style="list-style-type: none"> • CI Premature Referral - package incomplete • CI Premature Referral - package not accurate • Centralized Restitution Coordinator waiting for CI processing delay or other issue preventing timely movement of the case - for example CI Z freeze on module. 	91/95/96	<ul style="list-style-type: none"> • 550 - 14 days • 552 - 45 days • As applicable
Status Code 35	Centralized Restitution Co-ordinator	<ul style="list-style-type: none"> • Submitted package for establishment of MFT 31 account to Memphis CCP. • Establishment of MFT 31 account posted. • Submitted assessment package to Memphis CCP and Ogden CCO. • Assessment posted. • Forwarded Restitution collateral to local Technical Services fraud coordinator. 	91/95/96	<ul style="list-style-type: none"> • 553 - 30 days • 554 - 7 days • 555 - 35 days • 556 - 7 days • 557 - 14 days

Exhibit 4.8.6-1 (Cont. 1) (08-26-2020)
Restitution Codes

Status Codes	TE or Coordinator	Description	Review Type	Suspense Type
Status Code 35	Local Technical Services Fraud Coordinator	<ul style="list-style-type: none"> Local Technical Services fraud coordinator forwards civil closing package to PSP within 14 days of receipt of Restitution collateral AIMS record already established (i.e., case in TS Fraud Suspense). 	92	remains in 557
		<ul style="list-style-type: none"> Local Technical Services fraud coordinator forwards civil closing package to PSP within 14 days of receipt of Restitution collateral - AIMS record is not established. 	92	558 - 60 days
		<ul style="list-style-type: none"> Final actions completed by local Technical Services fraud coordinator and Restitution collateral to be closed to Status Code 90. Ensure correct review type prior to closing collateral 	92 or 93	Not applicable
Status Code 90	Centralized Restitution Coordinator	<ul style="list-style-type: none"> Determine Restitution is not assessable 	92	000
		<ul style="list-style-type: none"> Determine Restitution is not payable to IRS. 	92	000

Review Types	Description
91	IMF-Related Court ordered Restitution
92	Restitution assessment process completed - civil action initiated
93	Restitution assessment process completed - no civil action warranted
94	Restitution is not assessable
95	Restitution is BMF related
96	Restitution is RPP related
97	Restitution is not payable to IRS

Suspense Type	Description
551	10 days (Form 14104 package received, established collateral, CRC to review within 10 days)
552	45 days (CI package not accurate)
553	30 days (Awaiting establishment of MFT 31 account)
554	7 days (MFT 31 account established, prepare assessment package)
555	35 days (Assessment package submitted - waiting for assessment to post)

Exhibit 4.8.6-1 (Cont. 2) (08-26-2020)**Restitution Codes**

Suspense Type	Description
556	7 days (Assessment posted - verify form 3177 linkage, transfer ERCS collateral to LTSFC within 7 days)
557	14 days (Restitution notification received by LTSFC - case to be reviewed for appropriate civil actions)
558	60 days (LTSFC forwards civil closing package to PSP - awaiting establishment of AIMS/ERCS controls)

Exhibit 4.8.6-2 (08-26-2020)
RBA Reason Codes

Reason Codes	Definition
141	Criminal restitution assessment with IMF client returns of the preparer the basis for the underlying tax liability, with duplicate or possible duplicate civil assessments
142	Criminal restitution assessment with BMF client returns of the preparer the basis for the underlying tax liability, with duplicate or possible duplicate civil assessments
143	Criminal restitution assessment with IMF underlying tax liability, with duplicate or possible duplicate civil assessment
144	Criminal restitution assessment with BMF underlying tax liability, with duplicate or possible duplicate civil assessment
145	Criminal restitution assessment with IMF underlying tax liability, with duplicate criminal restitution assessment
146	Criminal restitution assessment with BMF underlying tax liability, with duplicate criminal restitution assessment
147	There is reasonable cause to waive the FTP penalty, if known
148	There is NO reasonable cause to waive the FTP penalty, it known
149	RESERVED
150	Used with CRN 337 to mirror payments

Exhibit 4.8.6-3 (08-26-2020)
TC 971 Definitions and Examples

TC 971 AC 18X action codes are used to define and link Restitution Based Assessment (RBA) and associated court ordered penalties to duplicate and non-duplicate RBA, civil and penalty assessments and/or to underlying tax liabilities for a specific TIN, MFT, and tax period. The linkages are applied to the accounts in pairs (i.e., 971 “points” to a TIN/MFT/tax period and the corresponding TIN/MFT/tax period “points” back).

Example: The Memo Money Amount (MMA) field of the TC 971 AC 18X is used to identify the amount of the Restitution-Based Assessment (RBA) and/or penalty that is duplicate. The dollar amount of the MMA is displayed on CC TXMOD, IMFOLT and BMFOLT only when an amount greater than \$0.00 has been entered. The transactions for the RBA are input by Examination CCP located in Memphis. Associated TC 971 A 18X are input by Ogden CCP.

CCO will review accounts to determine the following:

- Missing and/or broken links (one link points to a TIN/MFT/tax period, but that corresponding TIN/MFT/tax period does not point back)
- TC 971 AC 180/181 has MMA more than zero present in the MMA field.
- TC 971 AC 182 - 189 MMA of the pair of linkages is greater than the smallest duplicate assessment amount.
- TC 971 AC 18X MMA dollar amounts of pair of linkages do not match.

Note: The combination of the TC 767, TC 765 and TC 817 with the TC 30X or TC 29X amounts may represent the duplicate assessment amount.

If these conditions exist, CCO will contact TS via e-mail at **SBSE TECH Svs Criminal Restitution* and request a Form 3177 to update and/or correct the account. If they receive no response, they will elevate the inquiry to the local TS management.

Action Codes	NO DUPLICATE ASSESSMENT
180	Input on RBA module (MFT 31) to cross-reference the module with the underlying tax liability (MFT 30, 01, 02, 10, etc.). No duplicate assessment (MMA = zero).
181	Input on module with underlying tax liability (MFT 30, 01, 02, 10 etc.) to cross-reference the RBA module (MFT 31) where the tax is assessed and collected as Restitution-Based Assessment. No duplicate assessment (MMA = zero).
187	Input on RBA module (MFT 31) to cross-reference the module with the underlying tax liability (MFT 30, 01, 02, etc.) when NO associated tax module exists. No duplicate assessment (MMA = zero). Taxes Receivable.

Exhibit 4.8.6-3 (Cont. 1) (08-26-2020)
TC 971 Definitions and Examples

Action Codes	DUPLICATE PENALTY ASSESSMENT
182	<p>Input on module with duplicate Fraud Penalty or duplicate Fraudulent Failure to File Penalty, with or without the associated tax assessment, where module assessment(s) is smaller, to cross-reference with module in which the duplicate assessment is larger. If assessments are the same, input the TC 971 / AC 183 on either the primary SSN (TPH / TPW) or the Lead Co-Defendant account and the TC 971 / AC 182 on the remaining duplicates.</p> <p>Exception: For cases where no taxes are assessed and only duplicate non-fraud penalties (e.g., Failure to File, Failure to Pay, Estimated Tax Penalty, etc.) are being assessed, input TC 971 AC 182 & 183 with an MMA = \$0. (MMA = \$\$\$ amount of the duplicate)*TC 971 / AC 182 not used by CFO, Ogden CCO needs code for MMA information. This code is generally not used with an MMA of \$0.00 UNLESS a non-fraud penalty is duplicated on the civil module, with no duplicate tax assessment.</p>
183	<p>Input on module with the duplicate Fraud Penalty or duplicate Fraudulent Failure to File Penalty with or without the associated tax assessment, where module assessment(s) is larger, to cross-reference module in which the duplicate assessment is smaller. If the assessments are the same, input the TC 971 / AC 183 on either the primary SSN (TPH / TPW) or the lead Co-Defendant account and the TC 971 / AC 182 on the remaining duplicates.</p> <p>Exception: For cases where no taxes are assessed and only duplicate non-fraud penalties (e.g., Failure to File, Failure to Pay, Estimated Tax Penalty, etc.) are being assessed, input TC 971 / AC 182 & 183 with an MMA = \$0.00. (MMA = \$\$\$ amount of the duplicate)*TC 971 / AC 182 not used by CFO, Ogden CCO needs code for MMA information. This code is generally not used with an MMA of \$0.00 UNLESS a non-fraud penalty is duplicated on the civil module, with no duplicate on the civil module, with no duplicate tax assessment.</p>

Action Codes	DUPLICATE RBA / CIVIL ASSESSMENT
184	<p>Input on module with duplicate RBA / Civil assessment, where module assessment(s) is smaller, to cross-reference module(s) with duplicate RBA / Civil assessment where module assessment is larger. (MMA = \$\$\$ amount of the duplicate) EXCEPTION: On cases with multiple codefendants where one or more parties are civilly assessed, link Civil to codefendant with TC 971 / AC 184 to TC 971 / AC 184. This exception also applies to defendants whose assessments are based on the same taxes even if the court did not order the restitution be paid as joint and several.</p>

Exhibit 4.8.6-3 (Cont. 2) (08-26-2020)

TC 971 Definitions and Examples

Action Codes	DUPLICATE RBA / CIVIL ASSESSMENT
185	Input on module with the duplicate RBA / Civil assessment , where module assessment(s) is larger, to cross-reference module(s) with duplicate RBA / Civil assessment where module assessment(s) is smaller. (MMA = \$\$\$ amount of the duplicate) Taxes Receivable. **When RBA and Civil assessment amounts are equal, normally the TC 971 / AC 185 will be on the MFT 31 module - EXCEPTION: if the Fraud Penalty (TC 320) or Fraudulent Failure to File Penalty (TC 240 PRN 686) has been assessed on MFT 30 creating a larger assessed balance, then Action Code TC 971 / AC 185 will be used on MFT 30 and TC 971 / AC 184 will be on MFT 31.

Action Codes	DUPLICATE RBA / CIVIL ASSESSMENT WITH CODEFENDANT
188	Input on codefendant module with duplicate RBA, where module assessment(s) is the same or smaller, to cross-reference module(s) with duplicate RBA on the lead (primary) codefendant assessment is the same or larger. (MMA = \$\$\$ amount of the duplicate) EXCEPTION: On cases with multiple codefendants, the lead codefendant (the one with the highest assessment amount) will have the TC 971 / AC 189 and linked to all codefendants, and all codefendants will have a TC 971 / AC 188 linked to another TC 971 / AC 188 on each other's codefendant. When cases are not worked simultaneously and the "true" Lead is closed later (i.e., three or more codefendants whose cases were closed at various times), but has the same assessment amounts as one who has already been identified as the lead due to the highest assessment, the linkages 188 / 189 determination does not have to be changed.
189	Input on RBA module(s) of lead (primary) defendant to cross-reference duplicate RBA module to all other codefendant, (MMA = \$\$\$ amount of the duplicate). Taxes Receivable

Exhibit 4.8.6-4 (08-26-2020)

RBA GII Spreadsheet - Attachment to Form 3177

Attachment to Form 3177
Initiator:
Phone Number:
Employee Number:
Date:
MFT 31 Name Control:
SSN:
MFT / TXPD / 18X:

#	Related Accounts	TIN	MFT	TXPD	18X	MMA
1	Taxpayer Name	#	#	YYYYMM	#	\$
2	Taxpayer Name	#	#	YYYYMM	#	\$
3	Taxpayer Name	#	#	YYYYMM	#	\$
4	Taxpayer Name	#	#	YYYYMM	#	\$
5	Taxpayer Name	#	#	YYYYMM	#	\$
6	Taxpayer Name	#	#	YYYYMM	#	\$
7	Taxpayer Name	#	#	YYYYMM	#	\$
8	Taxpayer Name	#	#	YYYYMM	#	\$
9	Taxpayer Name	#	#	YYYYMM	#	\$
10	Taxpayer Name	#	#	YYYYMM	#	\$