



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

4.11.57

OCTOBER 5, 2022

## EFFECTIVE DATE

(10-05-2022)

## PURPOSE

- (1) This transmits revised IRM 4.11.57, Examining Officers Guide (EOG), Third-Party Contacts.

## MATERIAL CHANGES

- (1) Changes in this revision are reflected below.

Reference	Description of Change
IRM 4.11.57.1.5	Deleted acronyms not used in this IRM and put acronyms in alphabetical order.
IRM 4.11.57.1.6(2)	Deleted reference to the Collection MySB/SE site.
IRM 4.11.57.2	Deleted (3) - info is found in IRM 25.27.1.3.
IRM 4.11.57.3	Added reference to IRM 25.27.1 for examples and moved the note to IRM 4.11.57.4.2.
IRM 4.11.57.3	Moved (2) through (8) to a table and deleted (9) because it is a response rather than a contact and not applicable in this IRM.
IRM 4.11.57.4	Deleted (1) and (3) and replaced with a reference to IRM 25.27.1.3 in IRM 4.11.57.4.1. Moved content from (2) and (4) through (8) to IRM 4.11.57.4.1.
IRM 4.11.57.4.1	Moved (1) to IRM 4.11.57.4.2 and (2) to IRM 4.11.57.4.3. Repurposed subsection to cover notice requirements previously addressed in IRM 4.11.57.4.
IRM 4.11.57.4.2	Moved content to IRM 4.11.57.5. Repurposed subsection to cover recording a TPC. Added instructions to correct Form 12175.
IRM 4.11.57.4.2.1	Deleted subsection and moved contents to new subsection IRM 4.11.57.5.1.
IRM 4.11.57.4.2.2	Deleted subsection and moved contents to new subsection IRM 4.11.57.5.2.
IRM 4.11.57.4.2.3	Removed requirement to complete Form 12175 when a third party raises a reprisal concern. Deleted and moved remainder of content to new subsection IRM 4.11.57.5.3.
IRM 4.11.57.4.2.4	Deleted subsection and moved content to new subsection IRM 4.11.57.5.4.
IRM 4.11.57.4.2.5	Deleted subsection and moved content to new subsection IRM 4.11.57.5.5.
IRM 4.11.57.4.2.6	Deleted subsection and moved content to new subsection IRM 4.11.57.5.6.

Reference	Description of Change
IRM 4.11.57.4.2.7	Deleted subsection and moved content to new subsection IRM 4.11.57.5.7.
IRM 4.11.57.4.3	New subsection – moved general list request content from IRM 4.11.57.4.1. Added information about a processable request and actions required of the employee who receives the request.
IRM 4.11.57.4.3.1	New subsection to address additional instructions for written list.
IRM 4.11.57.4.3.2	New subsection to address additional instructions for oral list request.
IRM 4.11.57.4.3.3	New subsection to address additional instructions when receiving a list request from a representative.
IRM 4.11.57.5	New subsection – content moved from IRM 4.11.57.4.2.
IRM 4.11.57.5.1	New subsection – content moved from IRM 4.11.57.4.2.1. Added instructions for verifying representative’s authorization to sign Form 12180 on the taxpayer’s behalf.
IRM 4.11.57.5.2	New subsection – content moved from IRM 4.11.57.4.2.2.
IRM 4.11.57.5.3	New subsection – content moved from IRM 4.11.57.4.2.3. Added (5) to address safeguarding confidential information in electronic case files.
IRM 4.11.57.5.4	New subsection – content moved from IRM 4.11.57.4.2.4.
IRM 4.11.57.5.5	New subsection – content moved from IRM 4.11.57.4.2.5.
IRM 4.11.57.5.6	New subsection – content moved from IRM 4.11.57.4.2.6.
IRM 4.11.57.5.7	New subsection – content moved from IRM 4.11.57.4.2.7.

- (2) Minor editorial changes have been made throughout this IRM. Website addresses, legal references and IRM references were reviewed and updated as necessary.

### EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 4.11.57, Examining Officer’s Guide (EOG), Third Party Contacts, dated July 20, 2020.

### AUDIENCE

Small Business and Self-Employed (SB/SE), Large Business and International (LB&I), Wage and Investment (W&I) and Tax Exempt and Government Entities (TE/GE) employees conducting tax return examinations.

Lori L. Caskey  
 Director, Examination Field and Campus Policy  
 SE:S:DCE:E:HQ:EFCP  
 Small Business/Self-Employed

4.11.57

Third-Party Contacts

## Table of Contents

- 4.11.57.1 Program Scope and Objectives
  - 4.11.57.1.1 Background
  - 4.11.57.1.2 Authority
  - 4.11.57.1.3 Responsibilities
  - 4.11.57.1.4 Program Reports
  - 4.11.57.1.5 Acronyms
  - 4.11.57.1.6 Related Resources
  - 4.11.57.1.7 Taxpayer Bill of Rights (TBOR)
- 4.11.57.2 TPC Introduction
- 4.11.57.3 TPC Defined
- 4.11.57.4 Third-Party Contact Notice
  - 4.11.57.4.1 Providing Advance Notice
  - 4.11.57.4.2 Recording a TPC
  - 4.11.57.4.3 TPC List Request
    - 4.11.57.4.3.1 Written Request
    - 4.11.57.4.3.2 Oral Request
    - 4.11.57.4.3.3 Request From Authorized Representative
- 4.11.57.5 Exceptions to the Notice Requirements
  - 4.11.57.5.1 Authorized by Taxpayer
  - 4.11.57.5.2 Collection Jeopardized
  - 4.11.57.5.3 Reprisal
  - 4.11.57.5.4 Pending Criminal Investigation
  - 4.11.57.5.5 Government Entities
  - 4.11.57.5.6 Confidential Informants
  - 4.11.57.5.7 Non-Administrative Contacts



4.11.57.1  
(05-26-2017)  
**Program Scope and Objectives**

- (1) **Purpose.** This IRM section describes procedures for making and recording third-party contacts as required by IRC 7602(c). It directs examiners to give notice to taxpayers, allowing them an opportunity to provide the information, before disclosing to a third party that the taxpayer is the subject of an IRS action.
- (2) **Audience.** These procedures apply to examiners in SB/SE, LB&I, TEGE and W&I.
- (3) **Policy Owner.** The Director, Examination Field and Campus Policy, who is under the Director, Headquarters Examination.
- (4) **IRM Owner.** Field Examination Special Processes (FESP), which is under the Director, Examination Field and Campus Policy.
- (5) **Primary Stakeholders.** SB/SE Collection Division is the primary stakeholder of the Third-party Contact Program.
- (6) **Contact Information.** To recommend changes or make any other suggestions related to this IRM section, see IRM 1.11.6.5, Providing Feedback About an IRM Section - Outside of Clearance.

4.11.57.1.1  
(07-20-2020)  
**Background**

- (1) IRM 25.27, Third Party Contacts, provides servicewide guidance for conducting third-party contacts. This IRM provides examiners with additional guidance not found in the servicewide IRM.
- (2) The Revenue Reconciliation Act of 1998 (RRA 98) added IRC 7602(c), Notice of contact of third parties, requiring the IRS to provide reasonable notice in advance of possible contact with third parties, maintain a record of such contacts and provide a record of contacts to the taxpayer upon request.
- (3) The Taxpayer First Act of 2019 (TFA) revised IRC 7602(c)(1) to require the IRS to provide advance notice of the intent to contact third parties, specify in the notice the time period (not to exceed 1 year) in which contact will be made and send the notice 45 days before the first contact with a third party.

4.11.57.1.2  
(05-26-2017)  
**Authority**

- (1) By law, the IRS has the authority to conduct third-party contacts under Title 26, Internal Revenue Code, Subtitle F - Income Taxes, Chapter 78 - Discovery of Liability and Enforcement of Title, Subchapter A - Examination and Inspection, which includes, but is not limited to, the following IRC sections and accompanying regulations:
  - IRC 7602, Examination of books and witnesses;
  - IRC 7602(c), Notice of contact of third parties;
  - Treas. Reg. 301.7602-2, Third Party Contacts (Link 26 CFR 301.7602-2).

4.11.57.1.3  
(05-26-2017)  
**Responsibilities**

- (1) The Director, Examination Headquarters, is the executive responsible for providing policy and guidance for compliance activities in Field, Specialty and Campus Exam operations and ensuring consistent application of policy, procedures and tax law to effect tax administration while protecting taxpayers' rights. See IRM 1.1.16.5.5, Examination Headquarters, for additional information.
- (2) The Director, Examination Field and Campus Policy, reports to the Director, Examination Headquarters, and is responsible for the delivery of policy and

guidance that impacts the SB/SE Campus and Field examination process. See IRM 1.1.16.5.5.1, Examination Field and Campus Policy, for additional information.

- (3) Field Examination Special Processes (FESP), which is under the Director, Examination Field and Campus Policy, is the group responsible for providing oversight and policy and procedural guidance on specialized examination processes to SB/SE field examiners and managers. See IRM 1.1.16.5.5.1.2, Field Examination Special Processes.

4.11.57.1.4  
(05-26-2017)

**Program Reports**

- (1) Periodic program reviews are conducted by FESP to:
- Assess the effectiveness of specific programs within Examination or across the organization,
  - Determine if procedures are being followed,
  - Validate policies and procedures, and
  - Identify and share best/proven practices.

4.11.57.1.5  
(07-20-2020)

**Acronyms**

- (1) The following table lists acronyms used throughout this IRM:

Acronym	Definition
AT	Abusive Transactions
BBA	Bipartisan Budget Act of 2015
CFR	Code of Federal Regulations
EOG	Examining Officers Guide
FESP	Field Examination Special Processes
LB&I	Large Business & International
PAC	Program Action Case
SB/SE	Small Business and Self Employed
TEFRA	Tax Equity & Fiscal Responsibility Act of 1982
TMP	Tax Matters Partner
TPC	Third-Party Contact
TPCC	Third-Party Contact Coordinator

4.11.57.1.6  
(07-20-2020)

**Related Resources**

- (1) The following table contains a listing of additional IRMs referencing third-party contacts.

IRM	Title	Summary
IRM 1.2.2.14.12	Delegation Order 25-12 (Rev 1), Third-Party Contact Jeopardy or Reprisal Determination	Delegates authority to determine for good cause shown that providing the taxpayer with general notice or notice of a specific TPC would jeopardize the collection of any tax or may involve reprisal against any person.
IRM 2.4.52	Command Codes TPCIN and TPCOL	Provides instructions for using TPCIN and TPCOL to input TPC information and access the data already on the TPC file.
IRM 4.1.10.6	Third Party Notification in PACs	Provides Return Preparer Coordinators with guidance on notice procedures in Program Action Cases (PACs).
IRM 4.8.8.18	Third-Party Contacts	Provides Technical Services' staff with the basic procedures to conduct reviews to determine whether Examination employees observed the advance general notice requirements of IRC 7602, Examination of Books and Witnesses.
IRM 4.16.1.4.5	Third Party Contacts	Provides Special Enforcement Program agents with direction regarding TPCs.
IRM 4.19.13.10	IRC 7602(c)(1) Third Party Contacts	Provides Campus examiners with TPC procedures.
IRM 4.24.15.2.2	Third Party Contacts	Provides Fuel Compliance employees with TPC procedures.
IRM 4.32.2.8.3.2	Third-Party Contacts	Provides Abusive Transactions examiners with TPC procedures.
IRM 4.46.3.4.1	Third-Party Contacts	Provides LB&I examiners with TPC procedures.
IRM 4.86.5.10.2	Third-Party Contacts	Provides TE/GE examiners with TPC procedures for examinations of Indian Tribal Governments.
IRM 20.1.6.22	Third Party Contacts - IRC 7602(c)	Provides servicewide policy for the administration of return preparer penalties, promoter penalties, and material advisor penalties and the effect of IRC 7602(c), Notice of contact of third parties, on penalty development.
IRM 25.27.1	Third Party Contacts, Third Party Contact Program	Provides servicewide guidance for all personnel who make TPCs.

- (2) Additional information, contacts and FAQs can be found in the *Third-Party Contacts* book located on the SB/SE Field Exam Procedures Shelf in the Exam Procedures Knowledge Base.

4.11.57.1.7  
(10-05-2022)  
**Taxpayer Bill of Rights  
(TBOR)**

- (1) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see <https://www.irs.gov/taxpayer-bill-of-rights>.

4.11.57.2  
(10-05-2022)  
**TPC Introduction**

- (1) A third-party contact (TPC) is made when the taxpayer is unable or unwilling to provide the necessary information or when the examiner needs to verify information provided. The examiner should generally request the information on a Form 4564, Information Document Request, before making a TPC. Examiners must document the case file to support the need to verify information already provided by the taxpayer.
- (2) If it is necessary to contact a third party, IRC 7602(c), Notice of Contact of Third Parties, and Treas. Reg. 301.7602-2, Third party contacts, (Link 26 CFR 301.7602-2) impose three obligations on the IRS regarding these contacts:
- a. Provide the taxpayer advance notice of the intent to make third-party contacts;
  - b. Record each third party contacted; and
  - c. Provide a list of third parties contacted to the taxpayer upon request.
- (3) IRC 7602(c)(3), Exceptions, and Treas. Reg. 301.7602-2(f), Exceptions, (Link 26 CFR 301.7602-2(f)) contain seven exceptions to the advance notice and notice of specific contact requirements. See IRM 4.11.57.5.

**Note:** When a TPC is necessary and proper notification has been made to the taxpayer, initial contact may be made by mail using Letter 1995, Third Party Contact Letter to Request Information.

- (4) Generally, third parties should not be contacted prior to an examination.

4.11.57.3  
(10-05-2022)  
**TPC Defined**

- (1) Treas. Reg. 301.7602-2, Third party contacts, (Link 26 CFR 301.7602-2) defines a TPC as a communication which:
- a. Is initiated by an IRS employee,
  - b. Is made with a person other than the taxpayer,
  - c. Is made with respect to the determination or collection of a tax liability of such taxpayer,
  - d. Discloses the taxpayer's identity, and
  - e. Discloses the association of the IRS employee with the IRS.
- (2) The table below provides examples of what are and are not TPCs. See IRM 25.27.1.2, Third-Party Contact (TPC): Definition, for additional examples of common contacts that are and are not TPCs.

Example	Is this a TPC?
A summons issued to a third party to obtain information with respect to the determination or collection of tax.	Yes, this is a TPC.

Example	Is this a TPC?
Contact with a client in a Program Action Case (PAC) examination.	This may be a TPC - see IRM 4.1.10.6, Third Party Notification in PACs.
Contact with someone other than the subject of an Abusive Transactions (AT) investigation.	This may be a TPC - see IRM 4.32.2.8, Promoter Investigation Guidelines.
Contact with a current employee or officer of a taxpayer who is acting within the scope of their employment. An employee or officer shall be presumed to be acting within the scope of their employment during business hours on business premises.	No, this is not a TPC. See Treas. Reg. 301.7602-2(c)(2) (Link 26 CFR 301.7602-2(c)(2)).
Contact with an employee to ask questions about the personal dealings of the business owner.	Yes, this is a TPC.
Contact with an officer/employee of a corporation to ask questions about a shareholder's individual tax return.	Yes, this is a TPC.
Contact with a partner or shareholder of a partnership or S corporation under examination.	Generally this is not a TPC.
Contact with a partner or shareholder to discuss transactions that will affect the separate tax liability of a specific partner or shareholder.	Yes, this is a TPC with respect to the partner or shareholder whose return may be impacted.
Contact with any partner/shareholder during a partner/shareholder level exam, other than the partner/shareholder under exam.	Yes, this is a TPC.
Contact with the partnership representative of a Bipartisan Budget Act of 2015 (BBA) partnership.	No, this is not a TPC.
Contact with any other person who is a partner of a BBA partnership.	Yes, this is a TPC unless the contact with such partner is in their capacity as a current officer or employee of the BBA partnership or of any entity that manages the business of the BBA partnership.

**Caution:** There may be a fine line between what is and what is not a TPC when contacting a partner or S Corporation shareholder, except when contacting the tax matters partner (TMP) or designated partnership representative; if there is any doubt then treat a contact with a partner or S Corporation shareholder as a TPC.

4.11.57.4  
(10-05-2022)

**Third-Party Contact  
Notice**

- (1) A TPC requires advance notice to the taxpayer, a recording of the contact and a list of third parties contacted to be provided to the taxpayer, if requested.

4.11.57.4.1  
(10-05-2022)

**Providing Advance  
Notice**

- (1) The Letter 3164, Third Party Contact, series must be issued to the taxpayer to satisfy the advance general notice requirement of IRC 7602(c)(1). See IRM 25.27.1.3.1, TPC Notification Procedures, for preparation and delivery instructions.

**Note:** If Letter 3164 is mailed to the last known address and a new address is subsequently identified, a copy of the original Letter 3164 with “copy” noted in the letter heading must be mailed to the taxpayer at the newly identified address. Third-party contacts can begin on the 46th day following the date on the original Letter 3164.

- (2) In the case of a decedent, notification must be given to the person who would normally receive a statutory notice if one were issued. See IRM 4.8.9.8.2.6, Fiduciary Relationship.
- (3) If an employee or officer of a corporation will be questioned about an issue on the shareholder’s individual tax return, the shareholder must receive advance notice of an intended TPC before the contact occurs.
- (4) In the case of a non-TEFRA or non-BBA pass-through entity, if the examination is at the partnership/S-corporation level, advance notice must be provided to the partnership or the S-corporation. In the rare case, if the entity books/ records are reviewed during the examination of a partner/shareholder, advance notice must be provided to the particular partner/shareholder and to the partnership/S-corporation.
- (5) In the case of a TEFRA entity, advance notice must be provided to the TMP.

**Note:** If the IRS is making a TPC regarding transactions between the partnership and specific partners, which will affect only the specific partners’ tax liability, then those specific partners must be provided Letter 3164.

- (6) In the case of a BBA partnership, notification must be sent to the partnership representative.

4.11.57.4.2  
(10-05-2022)

**Recording a TPC**

- (1) When a third party is contacted, the examiner must record the contact using Form 12175, Third Party Contact Report Form, unless an exception applies. See IRM 25.27.1.4, Recording and Reporting TPCs, for Form 12175 processing instructions.
- (2) TPC reporting on Form 12175 is not required if the procedures for issuing a third-party summons under IRC 7609, Special procedures for third-party

summonses, are followed. Providing a copy of the third-party summons to the taxpayer satisfies the post-contact recording, record maintenance, and reporting requirement of IRC 7602(c), Notice of Contact of Third Parties.

- Note:** A bank discovery summons issued solely to determine if records exist **must** be recorded on Form 12175, Third Party Contact Report Form. The discovery summons is exempt under IRC 7609(c)(2)(B), and the taxpayer is not provided notice of the summons; therefore, a record of the contact must be made per IRC 7602(c)(2).
- (3) TPC reporting on Form 12175 is not required if the third party fears reprisal. See IRM 4.11.57.5.3.
  - (4) If a Form 12175 is submitted and it is later determined that a TPC did not occur, include “void” on the top right portion of the original Form 12175 and send to the TPC Coordinator (TPCC). TPCCs are designated by state and can be found in Knowledge Management at *Program Contacts - Exam Technical Services*.
  - (5) If a Form 12175 is submitted and later found to be in error:
    - a. Prepare a new Form 12175 to reflect the correct information and include “amended” on the top right portion of the form. Void the original Form 12175 by including “void” on the top right portion of the form. Submit the new form with the voided copy of the previously submitted Form 12175 to the TPCC. Retain a copy of the new Form 12175 along with the original in the case file.
    - b. If the correction is to report a reprisal concern, the amended Form 12175 must be completed with Item 7, Reprisal determination, checked and Item 8, Name of third party, left blank. The original Form 12175 and any information that could identify the third party must remain confidential and be protected in accordance with the electronic case file instructions in *Informant or Suspicious Activity Reports (SARS) Information* in the Electronic Case Procedures on Knowledge Management.

4.11.57.4.3  
(10-05-2022)  
**TPC List Request**

- (1) Examiners are required to ensure taxpayers understand their right to receive a report of third parties contacted.
- (2) A processable list request must:
  - a. Include the taxpayer’s name, address, TIN and tax periods requested.
  - b. Contain the information for only one taxpayer. Joint requests, regardless of filing status, are not valid.
  - c. Be for a single list of contacts completed prior to the request date. Do not accept a blanket request for a list of future contacts.
  - d. Be made no less than 90 days from a prior request.
- (3) When a list request is received, verify the address provided matches the address per Master File. If the address does not match, and the taxpayer provides clear and concise notification of the new address, see IRM 4.10.2.11, Taxpayer Change of Address, for procedures to update the taxpayer’s address on Master File.

- (4) Employees must review their file for any unprocessed Form 12175 and immediately forward to the *TPCC* along with the list request. Do not forward a Form 12175 if the period for addressing reprisal has not yet expired. See IRM 25.27.1.3.5, Reprisal Notification Procedures.

4.11.57.4.3.1  
(10-05-2022)  
**Written Request**

- (1) If a written request for a list is received, the receiving employee must review the list request for accuracy and completeness. See IRM 4.11.57.4.3.
- (2) Invalid or incomplete requests should be returned to the taxpayer with Letter 6415, Unprocessable TP List Request.
- (3) Immediately forward the processable list request to the *TPCC* designated for your state.

4.11.57.4.3.2  
(10-05-2022)  
**Oral Request**

- (1) If an oral request for a list is received, the receiving employee must verify the caller's identity when necessary. See IRM 21.1.3.2.3, Required Taxpayer Authentication.
- (2) Ensure all information necessary for a processable request is secured from the taxpayer. See IRM 4.11.57.4.3.
- (3) Send the taxpayer's name, address, TIN and tax period(s) of the request to the *TPCC* designated for your state.

4.11.57.4.3.3  
(10-05-2022)  
**Request From Authorized Representative**

- (1) If the list request is made by an authorized representative, follow the guidance for a written or oral request as applicable. In addition, forward a copy of the POA or CFINK print with the list request to the *TPCC*.

4.11.57.5  
(10-05-2022)  
**Exceptions to the Notice Requirements**

- (1) Treas. Reg. 301.7602-2(f), Exceptions, (Link 26 CFR 301.7602-2(f)) provides seven exceptions to the notice requirements under IRC 7602(c), Notice of Contact of Third Parties. If an exception applies, then the IRS is not required to give the taxpayer advance general notice of the excepted contact or include the name of the excepted contact on a list of third parties contacted.

4.11.57.5.1  
(10-05-2022)  
**Authorized by Taxpayer**

- (1) IRC 7602(c), Notice of Contact of Third Parties, does not apply to any contacts the taxpayer has authorized. See IRM 25.27.1.3.6, Taxpayer Authorizes Contact with a Third Party, for procedures to secure taxpayer authorization.

**Caution:** IRC 7602(c), exempts from the notice requirements any third-party contacts made by the IRS of persons whom the IRS believes, based on good cause shown, that the taxpayer may take reprisal action against if it is known that the IRS has or may contact that person. See IRM 4.11.57.5.3, Reprisal. Authorization must be considered carefully and, if the IRS suspects for any reason the third party may fear reprisal, then authorization must not be requested.

- (2) If a POA signs on behalf of the taxpayer to authorize contact with a third party, they must be properly authorized. Line 5a, Additional acts authorized, of Form 2848, Power of Attorney and Declaration of Representative, must have "Authorize disclosure to third parties" selected. CFINK doesn't provide Line 5a

information; employees must research CFINK for a “M” code in the “AUTHS” field and secure a copy of Form 2848 from the taxpayer if not previously secured.

4.11.57.5.2  
(10-05-2022)  
**Collection Jeopardized**

- (1) IRC 7602(c), Notice of Contact of Third Parties, does not apply when the IRS examiner making a contact has good cause to believe that providing the taxpayer with advance notice of the intent to contact a third party or a record of the specific person contacted may jeopardize the collection of any tax. For a full explanation of jeopardy, see Treas. Reg. 301.7602-2(f)(2), Jeopardy, (Link 26 CFR 301.7602-2(f)(2)).
- (2) If a jeopardy situation exists, see IRM 25.27.1.3.7, Jeopardy Situations, for required actions.

4.11.57.5.3  
(10-05-2022)  
**Reprisal**

- (1) IRC 7602(c), Notice of Contact of Third Parties, does not apply when the IRS examiner making a contact has good cause to believe providing third-party information to the taxpayer may subject any person to harm. For examples, see Treas. Reg. 301.7602-2(f)(3), Reprisal, (Link 26 CFR 301-7602-2(f)(3)).
- (2) Reprisal must be considered in each contact. Unless reprisal can be determined based on case file information (see IRM 25.27.1.3.4, Reprisal Determinations), the third party must be advised that by law their name will be placed on a list of third parties contacted and provided to the taxpayer if requested. Examiners may use Letter 1995, Third Party Contact Letter to Request Information. Letter 1995 contains reprisal language and provides direction to the third party if they fear reprisal. If Letter 1995 is not used, see IRM 25.27.1.3.5, Reprisal Notification Procedures, for suggested reprisal language.
- (3) Form 12175, Third Party Contact Report Form, is not required to record the contact if a fear of reprisal is present.
- (4) If the third party reports a reprisal concern after the Form 12175 has been processed, see IRM 4.11.57.4.2.
- (5) To protect the identity of the third party, all information that could be used to identify the third party must remain confidential and be protected in accordance with the electronic case file instructions in *Informant or Suspicious Activity Reports (SARS) Information* in the Electronic Case Procedures on Knowledge Management.

4.11.57.5.4  
(10-05-2022)  
**Pending Criminal Investigation**

- (1) IRC 7602(c), Notice of Contact of Third Parties, does not apply to contacts made during an investigation (or inquiry to determine whether to open an investigation) when the investigation (or inquiry) is made with respect to a particular taxpayer being evaluated for criminal prosecution by an IRS employee whose primary duties include either identifying or investigating criminal violations. An examiner who is working on preparing a fraud referral to the Criminal Investigation Division is not an IRS employee whose primary duties include identifying or investigating criminal violations.

**Caution:** If a TC 914 or -Z freeze is identified on the account during an active examination, see IRM 4.19.4.2.4.1, Criminal Investigation (CI) Indicator.

- (2) Contacts made to develop the criminal investigation referral are TPCs under IRC 7602(c). The taxpayer must receive the appropriate Letter 3164, Third Party Contact, and the TPC must be recorded on Form 12175, Third Party Contact Report Form, unless another exception applies.

4.11.57.5.5  
(10-05-2022)

**Government Entities**

- (1) IRC 7602(c), Notice of Contact of Third Parties, does not apply to any contact with any office of any local, state, federal or foreign entity unless the contact is concerning the taxpayer's business with the government office contacted, such as the taxpayer's contracts with, or employment by the office. IRC 7602(c), does not apply to the following:
- a. Contacts made with a county clerk to obtain lien information.
  - b. Contacts made with a clerk of the court to obtain publicly available court records.
  - c. Contacts made with state officials to obtain corporate charters or other publicly available information regarding corporate taxpayers or exempt organizations.
  - d. Contacts made with the U.S. Postal Service to obtain the taxpayer's current address.
  - e. Contacts made to respond to a request from a government of a foreign country with respect to a tax imposed by that foreign country.
  - f. Information received from a foreign country pursuant to an exchange of information clause within a tax convention between the United States and that foreign country.

4.11.57.5.6  
(10-05-2022)

**Confidential Informants**

- (1) IRC 7602(c), Notice of Contact of Third Parties, does not apply when the employee making the contact has good cause to believe providing either the pre-contact notice or the record of the person contacted would identify a confidential informant whose identity would be protected under IRC 6103(h)(4), Disclosure in Judicial and Administrative Tax Proceedings.
- (2) To the extent the IRS Whistleblower Office determines an individual is a whistleblower under IRC 7623, Expenses of Detection of Underpayments and Fraud, etc., such individual shall be deemed to be a confidential informant whose identity shall be protected in accordance with IRC 6103(h)(4). IRC 7602(c) does not apply to any contact made between the IRS and a whistleblower.

4.11.57.5.7  
(10-05-2022)

**Non-Administrative  
Contacts**

- (1) IRC 7602(c), Notice of Contact of Third Parties, does not apply to contacts in the course of pending court proceedings. Three examples are provided in Treas. Reg. 301.7602-2(f)(7) (Link 26 CFR 301.7602-2(f)(7)).