



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.21.1

AUGUST 12, 2011

PURPOSE

- (1) This transmits revised IRM 4.21.1, *Electronic Filing Program, Monitoring the IRS E-file Program*.

BACKGROUND

- (1) This section updates existing procedures for monitoring Authorized IRS *e-file* Providers per Rev. Proc. 2007–40, Pub 3112, *IRS e-file Application and Participation*, and Pub 1345, *Handbook for Authorized IRS e-file Providers of Individual Income Tax Returns*.

MATERIAL CHANGES

- (1) Minor editorial changes have been made throughout this IRM. Third Party Data Store (TPDS) has been change numerous times to Employee User Portal (EUP) because the system is accessed via this EUP. Also, website addresses, legal references, and IRM references were reviewed and updated as necessary. Other significant changes to this IRM include the following:

Section	Description
IRM 4.21.1	Replaced “SSN” with “PTIN” based upon new requirements for preparers to use PTINs.
IRM 4.21.1	Clarified to state that an appointment letter should be sent confirming the appointment for targeted and random visits.
IRM 4.21.1.2	Added <i>e-file</i> monitoring report exhibit and instructions. Removed note regarding <i>e-file</i> teams assessing due diligence penalties.
IRM 4.21.1.10	Clarified that follow up visits originate from a previous year’s visit.
IRM 4.21.1.12	Clarified to state that for targeted visits the Exam HQ <i>e-file</i> analyst will provide to the EMC a list of <i>e-file</i> providers that meet the risk based criteria from which they may select targeted visits.
IRM 4.21.1.13	Clarified that the Exam HQ <i>e-file</i> analyst will provide EMCs an inventory of random visits if one is requested.
IRM 4.21.1.15	Modified language regarding the possible individuals to be interviewed to include the principal, responsible official, primary contact or alternative contact representative.
IRM 4.21.1.16 (2) and (3)	Added additional content regarding action taken when conducting visits.
IRM 4.21.1.16 (4)	Added information regarding whom to make contact with in CI and PSP.

Section	Description
IRM 4.21.1.16 (9)	Here as well as in other parts of the IRM where the EMC is directed to access TPDS, a modification was made to change TPDS to EUP (Employee User Portal).
IRM 4.21.1.16 (12)	Clarified paragraph to explain where to document when an <i>e-file</i> provider is failing to cooperate.
IRM 4.21.1.16 (14)	Changed the paragraph to require cases be closed through the group manager rather than directly to the EMC.
IRM 4.21.1.18 (5)	Added language that the EMC of the controlling office will schedule a visit if one has not already been conducted.
IRM 4.21.1.19	Added information concerning disclosure.
IRM 4.21.1.19 (6)	Modified to add targeted visits as visits where an acknowledgment listing can be requested prior to the appointment date. Also, expanded note to advise that when returns have been transmitted prior to or without taxpayer signatures, an IRC 6713 disclosure penalty should be considered and the EMC should be consulted.
IRM 4.21.1.19 (13)	Modified to include PTINs in this security check.
IRM 4.21.1.19 (18)	Changed requirements regarding the EITC due diligence portion on the visit to advised that monitors should make a referral to the EITC due diligence coordinator if they identify due diligence issues. Edited the last bullet of this paragraph to state that when EITC due diligence problems are identified, the monitor should document and make a referral to the EITC Due Diligence Coordinator rather than conduct an EITC Due Diligence examinations.
IRM 4.21.1.19 (22)	Added language regarding verification through IDRS of whether filed returns have the correct preparers' signature and identifying number.
IRM 4.21.1.19 (23)	Added paragraph to instruct monitors that for returns filed without proper preparer signature and/or identifying numbers penalties under IRC 6695 should be considered.

Section	Description
IRM 4.21.1.20	Deleted the exception stating that monitors can do both an EITC due diligence visit and a monitoring visit at the same appointment.
IRM 4.21.1.22.1	Modified to state that the written reprimand letter will be issued by the EMC.
IRM 4.21.1.22.3	Added guidance that the monitor should inform the provider that all sanctions are subject to review. Also clarified the period of the suspension.
IRM 4.21.1.25 (6)	Modified to state that if minor infraction is corrected and verified during the visit it should result in a written warning and not a written reprimand.
IRM 4.21.1.25.2	Deleted the bullet instructing monitor to send a copy of the Proposed Written Reprimand Letter and Summary of Findings to the owning or controlling office (this will be done by the EMC); bullet stating all team members may sign the Proposed Written Reprimand Letter (this letter will be issued and signed by the EMC).
IRM 4.21.1.25.2	The bullet instructing the monitor to prepare and issue the Proposed Written Reprimand Letter to the provider was modified to state that the monitor should prepare the letter and e-mail it with the Summary of Findings to the EMC (who will issue the letter after review).
IRM 4.21.1.25.2 (4)	Modified to include Written Reprimand as a letter that will be issued by the EMC.
IRM 4.21.1.27	Added instructions for EMC tracking and follow up on Appeals cases. Items to be reported match the data contained in the EMC's Master Log of Cases.
IRM 4.21.1.27.1	Modified to instruct EMCs to document Appeals tracking information on the EMC's Master Log of Cases. Additionally, items "Date Sent to Appeals," "Dates of Appeals Follow Ups," "Final Appeals Resolution," and "Date Notified" were added.
IRM 4.21.1.27.2	Added the File Sample Reviewed form should be included in the case file when closed.

Section	Description
IRM 4.21.1.27.2 (1)	Modified to state that complete case should be forwarded to the EMC through the group manager rather than directly.
IRM 4.21.1.27.2 (2)	Added instructions that the group manager should review the file to ensure required forms are included and actions taken. Also added the Manager Check List for <i>e-file</i> Cases as Exhibit 4.21.1-19 as a job aid for managers to use during their review and enclose in the case file.
IRM 4.21.1.27.3	Defined immediate as 3 business days.
IRM 4.21.1.28	Added requirement for the EMC's manager to review and sign the final EMC's Master Log of Cases.
IRM 4.21.1.28 (4)	Added requirement for the EMC's manager to review and sign the final EMC's Master Log of Cases.
IRM 4.21.1.29	Added a requirement that the EMC's Control Log for Suspensions sent to IRS e-help Campus will be reviewed and signed by the EMC's manager prior to final submission to the Exam HQ <i>e-file</i> analyst.
IRM 4.21.1.30 (2)	Added issuance of Written Reprimand Letters to subsequent actions required by the EMC.
IRM 4.21.1.30.4	Deleted paragraph one instructing EMCs to "gather information" to develop provider compliance issues.
IRM 4.21.1.30.5	Clarified that the Exam HQ <i>e-file</i> analyst will provide an inventory of random visits upon written request.
IRM 4.21.1.30.6 (5)	Updated the use of RPVUE to reflect the use of PTIN for processing years 2011 and beyond. Additionally, noted that the EMC should be viewing the RTVUE or BRVUE for the prior year to determine if the ERO and/or firm are in tax compliance.
IRM 4.21.1.30.7	Modified to state that complete case should be forwarded to the EMC through the group manager.

Section	Description
IRM 4.21.1.30.8 (2)	Added a requirement that the final <i>e-file</i> Monitoring Report, EMC's Master Log of Cases, and EMC's Control Log for Suspensions sent to IRS e-help Campus be reconciled, reviewed, and signed by the EMC's manager.
IRM 4.21.1.31 (1)	Updated explanation of the data that EUP allows users to access to include TPDS data.
IRM 4.21.1.31 (2)	Modified to state that the <i>e-file</i> application database is accessed through the EUP.
IRM 4.21.1.5	Added identification of who may be interviewed.
IRM 4.21.1.7	Added note to indicate random cases should be selected only after referral, follow up, and targeted cases have been identified.
IRM 4.21.1.8	Clarified risk based selection criteria.
IRM 4.21.1.8 (2)	Modified to advise that providers with written warnings will be subject to follow up visits.
IRM 4.21.1.9	Clarified use of random selection method and provided instructions to request list of random visits by geographic area.
IRM Exhibit 4.21.1-1	Updated flowchart.
IRM Exhibit 4.21.1-2	Modified the first paragraph to remove reference to suspended. Update letter to reflect it is signed by the EMC.
IRM Exhibit 4.21.1-4	Updated letter title - replaced the "Sample Letter Sustained Written Reprimand" with the "Sample Letter Written Reprimand."
IRM Exhibit 4.21.1-5	Modified the suspension period language.
IRM Exhibit 4.21.1-6	Revised letter to reflect signature line for Area Director.
IRM Exhibit 4.21.1-8	Updated the <i>e-file</i> monitoring visit check sheet. This includes some additions and deletions. Information needed to address the new PTIN requirement has been incorporated.
IRM Exhibit 4.21.1-9	Added two columns "PTIN" and "Self-selected PIN", removed end column "PIN Used", added a note which provides guidance on provider PIN.

Section	Description
IRM Exhibit 4.21.1-10	Added PTIN section to comment on verification of PTIN, Deleted information referencing Form 8453, added section on Electronic Signature (PIN). Also added language in the findings and signature portion of the form to include, "The monitor's recommendation is subject to change after review by the <i>e-file</i> Monitoring Coordinator. You may be subject to sanctions for any violations found."
IRM Exhibit 4.21.1-12	Added PTINs to report.
IRM Exhibit 4.21.1-13	Update to add additional columns to collect needed information.
IRM Exhibit 4.21.1-17	Added <i>E-file</i> Monitoring Report and Instructions.
IRM Exhibit 4.21.1-18	Added <i>E-file</i> Monitoring Appointment Letter.
IRM Exhibit 4.21.1-19	Added Manager's Check List of <i>E-file</i> Cases
IRM Exhibit 4.21.1-20	Add Recommended Suspension After Administrative Review Letter.

EFFECT ON OTHER DOCUMENTS

IRM 4.21.1 dated January 4, 2008 is superseded.

AUDIENCE

Small Business/Self-Employed (SB/SE) and Large Business and International (LB&I) examiners; Wage and Investment (W&I) Field Assistance employees; Campus Compliance Services examiners and other operating division employees that work with the electronic filing.

EFFECTIVE DATE

(08-12-2011)

Duane Gillen
Examination Policy SE:S:E:EP
Small Business/Self-Employed

4.21.1

Monitoring the IRS *e-file Program*

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 - 4.21.1-20 Recommended Suspension after Administrative Review Letter

4.21.1.1
(08-12-2011)
Introduction

- (1) This section discusses monitoring of Authorized IRS *e-file* Providers.

4.21.1.2
(08-12-2011)
General

- (1) Monitoring of authorized IRS *e-file* providers is conducted by IRS e-help and Small Business/Self-Employed (SB/SE) Examination to ensure compliance with Rev. Proc. 2007-40, IRB 2007-26 1488, Pub 3112, *IRS e-file Application and Participation*, and Pub 1345, *Handbook for Authorized IRS e-file Providers of Individual Income Tax Returns*, that govern IRS *e-file*.

- (2) Noncompliance issues discovered outside of IRS *e-file* should not be addressed during the *e-file* monitoring visit. However, prior to closing the case, the *e-file* monitoring coordinator (EMC) **must** document and retain in the case file the reason a referral is warranted and timely complete a referral to the appropriate function:

- Area Return Preparer Coordinator (RPC) for a Program Action Case (PAC)
- Criminal Investigation (CI)
- Area Earned Income Tax Credit (EITC) Coordinator

Visit the following websites for a list of coordinators:

- RPC's - <http://mysbse.web.irs.gov/exam/tip/rp/contacts/12293.aspx>
- CI QRP Coordinators - <http://mysbse.web.irs.gov/exam/tip/rp/contacts/12534.aspx>
- EITC Coordinators <http://mysbse.web.irs.gov/exam/tip/rp/contacts/12536.aspx>

- (3) All referrals to the RPC, CI, or the EITC coordinator must be reported timely to SB/SE Examination Headquarters *e-file* Exam Policy program analyst (herein after referenced as Exam HQ *e-file* analyst) via the “*E-file* Compliance Monitoring Report.” See Exhibit 4.21.1-17.
- (4) IRS e-help is responsible for processing and accepting *e-file* applications from all applicants to participate in IRS *e-file*. In addition, IRS e-help performs suitability checks on all applicants and providers to ensure the provider meets the requirements to participate in IRS *e-file*. IRS e-help also monitors the testing of a transmitter's software and documents and the quality of the transmission of the *e-file* returns. They will contact the provider directly to correct problems identified in the transmission of returns.
- (5) The area office EMC is responsible for all field aspects of monitoring providers. Monitoring is generally accomplished through visits to the provider's establishments either by the EMC and/or *e-file* Monitor(s) trained by the EMC. The monitor(s) or the EMC monitors the operation of a provider and advises providers of violations identified at the locations.
- (6) Violation(s) may result in a warning, a written reprimand, suspension or expulsion from participation in IRS *e-file*, depending on the severity of the infraction. Referral and follow-up visits are used to investigate allegations, complaints, and warnings against Authorized IRS *e-file* Providers. Referrals and follow-ups visits may be mandatory visits depending on the severity of the issue and the facts determined. The decision is made by the EMC after reviewing the information. Random and targeted visits are used to determine general compliance within IRS *e-file*. See IRM 4.21.1.9, *Types of Visits and Workload*, for a description of each type.

- (7) To sanction a provider as a result of monitoring, the EMC faxes a completed *e-file Monitoring Sanction Request*, Exhibit 4.21.1-11, to IRS e-help with a copy of the signed sanction letter. See Exhibit 4.21.1-6, *Sample Letter - Suspension*, that was mailed to the provider. IRS e-help staff will update the Third Party Data Store (TPDS) appropriately to place the provider in non-compliance (field meeting) status. Visit <http://se.ds.irsnet.gov/sites/WI/ETARC/S/TP/ETA/EMC/default.aspx> for fax number.

Note: TPDS is accessed through the Employee User Portal (EUP).

- (8) For definitions of Electronic Return Originator (ERO), Intermediate Service Provider, Software Developer, Transmitter, and Reporting Agent, see Rev. Proc. 2007-40, section 3.

4.21.1.3
(08-12-2011)
**IRS e-file Provider
Options**

- (1) Participants in IRS *e-file* are referred to as Authorized IRS *e-file* Providers (providers). They offer clients a special service which produces higher quality returns. Benefits include an IRS acknowledgement of receipt of the electronic return. This acknowledgement does not occur with paper returns. Electronic returns also go through validation and are rejected for certain kinds of inaccuracies. The accuracy rate of *e-file* returns is greater than that of paper returns.
- (2) Applicants select the provider options that are best for them. They may select one option, or a combination of the following provider options:
- Electronic Return Originator
 - Intermediate Service Provider
 - Transmitter
 - Software Developer
 - Online Provider
- (3) **Electronic Return Originator (ERO)** - An ERO originates the electronic submission of a tax return through IRS *e-file* after the taxpayer authorizes the electronic filing of the return.
- (4) **Intermediate Service Provider (ISP)** - An ISP receives tax returns from EROs (or from a taxpayer or tax exempt organization that files electronically using a personal computer, modem or the Internet, and commercial tax preparation software), processes the return information, and either forwards the information to a transmitter, or sends the information back to the ERO (or to the taxpayer or exempt organization).
- (5) **Transmitter** - A transmitter will send the electronic return data directly to the IRS. EROs can become transmitters and transmit return data themselves, or they may contract with accepted third-party transmitters that will transmit the data for them. A transmitter must have software and computers that allow it to interface with the IRS.
- (6) **Software Developer** - A software developer develops software for the following purposes:
- a. Formatting electronic return information according to publications issued by the IRS that set forth electronic return file specifications and record layouts for tax returns; and /or
 - b. Transmitting electronic tax return information directly to the IRS.

- (7) **Online Filing Provider** - An online filing provider allows taxpayers to self-prepare returns by entering return data directly into commercially available software, software downloaded from an Internet site and prepared off-line, or through an online Internet site.
- (8) The categories used to describe providers are not mutually exclusive. For example, an ERO can simultaneously be a transmitter, a software developer, or an ISP depending on the function being performed.

4.21.1.4
(08-12-2011)
Referrals

- (1) EMCs will receive external referrals by telephone from other providers, tax professionals, and taxpayers as call assistants provide the name and telephone number of the appropriate area EMC to callers wanting to report potential violation of *e-file* rules.
- (2) EMCs will receive internal referrals from IRS employees who believe a provider is violating IRS *e-file* rules. The referring employee will do the following:
 1. Prepare the top portion of Exhibit 4.21.1-15, *IRS e-file Monitoring Referral and Follow Up Template*;
 2. E-mail the completed referral template to the EMC for the state/area of the ERO's location;
 3. Include the name of the EMC in IRS e-help comments; and
 4. Access the following link to obtain the name and e-mail address of the local EMCs:
http://serp.enterprise.irs.gov/databases/who-where.dr/e-file-monitor.dr/e-file_monitor_coord.htm/.

4.21.1.5
(08-12-2011)
Monitoring Visits

- (1) Monitoring visits include the following stages:
 - Preplanning
 - Contacting the provider
 - Interviewing the provider (principal, primary contact, alternate contact, or responsible official, or contact representative identified on Form 8633, *Application to Participate in IRS e-file Program*)
 - Reviewing records and files
 - Issuing summary of findings
 - Issuing a written warning letter or preparing a written reprimand letter, if applicable.

4.21.1.6
(08-12-2011)
Preplan

- (1) Monitors should receive case files via Form 3210, *Document Transmittal*, from the EMC. These cases will not be established on the Audit Information Management System (AIMS). They must be established on Examination Returns Control System (ERCS) or controlled manually by the EMC. Monitors should review the case file and ensure the following information is included:
 - Identification of type of case – referral, follow-up, targeted, or random;
 - EUP Application Information;
 - Exhibit 4.21.1-8, *E-file Monitoring Visit Check Sheet*;
 - Exhibit 4.21.1-12, *Time and Action Report*;
 - Exhibit 4.21.1-10, *Summary of Findings*, and Exhibit 4.21.1-11, *E-file Monitoring Sanction Request*;
 - Historical Information - referrals or complaints, prior provider visits, correspondence, suitability letters, etc., if available;

- Form 9984, *Examining Officer's Activity Record*; and
- Integrated Data Retrieval System (IDRS) information.

4.21.1.7
(08-12-2011)
Priority of Visits

- (1) Visits should be scheduled in the following order:
 1. Referrals (mandatory for each **valid** complaint received)
 2. Follow-up (mandatory if follow-up from prior year's issuance of warning or reprimand letter)
 3. Targeted
 4. Random (random visits should be identified to meet area *e-file* monitoring visit program goals only when all other sources have been exhausted, e.g. referral, follow-up, targeted)

4.21.1.8
(08-12-2011)
**Risk-Based Selection
Criteria**

- (1) For targeted monitoring visits, the established risk-based selection criteria
- (2) In addition, all providers issued written warnings or written reprimands are subject to follow up monitoring visits in the subsequent tax return filing season to ensure corrective actions have been taken.
- (3) Documentation is required to support referrals from internal and external sources, including the receipt and dispositions of referrals and the actions taken based on these referrals.

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4.21.1.9
(08-12-2011)
**Types of Visits and
Workload**

- (1) The number of provider monitoring visits for an area is determined based on the total number of providers within a given geographical area. The Exam HQ *e-file* analyst will advise the area EMCs of the number of visits their area should conduct annually. The visits will be one of the four types listed in priority order below:
 - **Referral Visits:** Involve the receipt of a referral from providers, return preparers, taxpayers, IRS e-help, and other IRS functions. If the referral clearly suggests non-compliance, a mandatory visit is warranted.
 - **Follow-up Visits:** May be mandatory and are based on violations identified in a previous year.
 - **Targeted Visits:** Based on selection criteria indicating that *e-file* compliance issues may be present. The risk-based criterion must be used when selecting providers for targeted visits. See IRM 4.21.1.8, *Risk-Based Selections Criteria*, for additional information.
 - **Random Visits:** Determines general compliance within IRS *e-file* and are based upon non-discriminatory sampling of active providers. The random visits will be identified after the workload for referral, follow-up, and targeted visits have been identified.

Note: Providers in the other three groups will not be selected for the random visits.

- (2) Referrals and follow-up visits are used to investigate allegations, complaints, and warnings against providers. Referrals and follow-ups may be mandatory depending on the severity of the issue. The decision is made by the EMC after reviewing the information.
- (3) Targeted and random visits are used to determine general compliance with IRS *e-file*. Targeted and random visits are not mandatory and may be scheduled

appointments. The EMC or monitor(s) will take appropriate measures to ensure compliance with IRS *e-file* requirements by conducting a visit and by completing the *E-file Monitoring Visit Check Sheet*. See Exhibit 4.21.1-8

4.21.1.10
(08-12-2011)
Referral Visits

- (1) All referrals must be reviewed and evaluated by the EMC upon receipt. If the referral clearly suggests noncompliance, it must be placed in priority status and becomes a **mandatory** visit. See IRM 4.21.1.9 for a definition of types of visits. The EMC prepares the case file and forwards it to the monitor using Form 3210, *Document Transmittal*, for a visit within five working days upon receipt of the case. If the monitor cannot make the visit within five working days, the area EMC must be contacted.
- (2) Referrals include, but are not limited to:
 - Information or complaints received from providers, other tax preparers, taxpayers, IRS e-help, and other IRS functions.
 - The EMC may acknowledge receipt of the complaint or information as appropriate. However, any actions taken may not be disclosed to external sources.

4.21.1.11
(08-12-2011)
Follow-up Visits

- (1) A follow-up visit originates from a previous year's visit that involved an identified violation. If the follow-up visit is based upon a written reprimand, the EMC determines if a visit is necessary to ensure corrective action has taken place. See Exhibit 4.21.1-2, *Sample Letter - Warning*, or Exhibit 4.21.1-4, *Sample Letter - Written Reprimand*.

4.21.1.12
(08-12-2011)
Targeted Visits

- (1) A targeted visit is based upon reject rates provided in IRM 4.21.1.8, *Risk-Based Selection Criteria*, due to error codes that indicate *e-file* compliance issues may be present in a particular provider's *e-file* practice. The Exam HQ *e-file* analyst will provide a list of *e-file* providers that meet this criteria to the EMC. To select targeted visits, the EMC should select *e-file* providers with the highest reject rates from the list provided by the Exam HQ *e-file* analyst for the geographic location needed.

4.21.1.13
(08-12-2011)
Random Visits

- (1) A random visit is a tool used to conduct monitoring visits based upon a non-discriminatory sampling of active providers. Random monitoring visits are conducted by area offices and should be made by appointment. Random visits are determined based on a sample selected from a central database of active providers in the monitor's geographic area. The Exam HQ *e-file* analyst will provide an inventory of random visits if requested. See IRM 4.21.1.9 (3).

4.21.1.14
(08-12-2011)
Contacting the Provider

- (1) Referral and Follow-up Visits - Unannounced visits are recommended. Immediately upon arrival, the monitor should advise the provider of the purpose of the visit and the approximate time needed to perform the monitoring visit. The monitor should request the necessary records to conduct the visit. Monitors should be as unobtrusive to the provider's operation as possible.
- (2) Targeted and Random Visits - Targeted visits and random monitoring visits should be made by appointment. Upon receipt of the provider case file, it is recommended that the monitor contact the provider by telephone to schedule an initial appointment and advise the provider of the purpose of the visit and the approximate time needed to perform the monitoring visit. The monitor should send an *e-file Monitoring Appointment Letter*, Exhibit 4.21.1-18, to the

e-file provider confirming the appointment and identifying the records that should be made available for review during the *e-file* monitoring visit. Monitors should be as unobtrusive to the provider's operations as possible.

4.21.1.15
(08-12-2011)
Interview

- (1) All visits should be conducted in a professional and courteous manner. It is recommended that the monitor conduct the interview prior to reviewing the provider's records. If the team approach is used, one monitor may interview the provider while the other monitor reviews the records. Interviews should only be conducted with an authorized individual identified on Form 8633, *Application to Participate in IRS e-file Program*, information which could include a principal, responsible official, primary contact, or alternative contact representative.
- (2) Monitors should use Exhibit 4.21.1-8, *E-file Monitoring Visit Check Sheet*, to conduct the interview with the provider.

4.21.1.16
(08-12-2011)
Provider Visitations

- (1) The promotion of goodwill and open communication between the IRS and providers is important. Provider visitations promote goodwill and open communication between the IRS and providers. The visitations are also a means of communicating fraud awareness to providers, detecting fraud, and ensuring that providers are in full compliance with Rev. Proc. 2007-40, Pub 3112, and Pub 1345.
- (2) The monitor or the EMC reviews the operations of a provider, which may include its satellite offices, temporary offices, and seasonal offices and advises the provider of any violations identified at those locations. Monitoring includes, but is not limited to:
 - Reviewing IRS *e-file* submissions;
 - Investigating complaints;
 - Scrutinizing advertising material;
 - Visiting offices and observing office procedures;
 - Inspecting files, see Exhibit 4.21.1-9, *File Sample Reviewed*;
 - Confirming the signature or personal identification number (PIN) requirements for transmitting returns;
 - Confirming paid return preparer's signature (name), PTIN, and EIN of the firm (if applicable) are correctly reported on all returns transmitted;
 - Verifying compliance with the provision of IRC 6695(g) relating to the due diligence requirements for returns claiming EITC if the provider is an income tax return preparer;
 - Scrutinizing refund procedures to ensure compliance with IRC 6695(f), *Negotiation of Check*; and
 - Evaluating security requirements to ensure unauthorized disclosure of taxpayer information does not occur.
- (3) Violation(s) may result in a warning letter, written reprimand, suspension, or expulsion of the provider depending on the severity of the infraction, and/or penalties under IRC 6695 and/or IRC 6713.
- (4) Prior to any visitation, the EMC must coordinate with other functions to determine:
 - a. If CI has any providers under investigation, a "request for deconfliction." will be prepared by the Exam HQ *e-file* Analyst for all providers identified for visits at the beginning of each fiscal year program and submitted to the CI Refund Crimes Headquarters Analyst. The EMC must then deconflict

these providers at the local level by submitting an e-mail request to deconflict to the local CI Return Preparer Program/Questionable Refund Program (RPP/QRP) Coordinator. For providers identified for visitations by the EMCs **after** the start of the program, the EMC is responsible for requesting deconfliction. The EMC will submit a deconfliction request via e-mail to the CI Refund Crimes Headquarters Analyst and the local RPP/QRP Coordinator.

- b. If Examination is considering a return preparer PAC, contact the area's PSP Return Preparer Coordinator with responsibility for PAC cases.

Caution: Contact with a provider for purposes of a monitoring visit may adversely impact a potential CI or PAC case.

- (5) A team from the area office may perform the compliance monitoring visits. A team approach is preferred if resources are available. A team consists of two IRS representatives. At least one member of each team must represent Examination.
- (6) Team members will be trained by the EMC to perform targeted visits, random visits, mandatory visits, identify violations, to issue written warnings and prepare written reprimands, summarize findings, and make referrals. Additional training will be given to team members as rules, tax law, and procedures are amended.
- (7) Team assignments will be made by the EMC based upon the geographic location of the providers, staffing, and the required number of visits to be performed.
- (8) All monitors should advise the provider of the purpose of the visit and the approximate length of time needed immediately upon arrival. Monitors should be as unobtrusive to the provider's operations as possible. Monitors should always be professional and courteous when performing visitations.
- (9) The EMC should gather all available reports for supporting documentation. This includes:
 - a. IDRS research data or other internal compliance reports used in supplementing this effort.
 - b. IRS *e-file* application (Form 8633) information from the EUP, including the summary and any other pertinent pages.
- (10) The monitoring team should complete an *E-file Monitoring Visit Check Sheet* for each visitation.
- (11) The following are some items to consider when conducting visitations:
 - a. Advertising
 - b. Recordkeeping retention
 - c. Fee schedule
 - d. Form 8879, *IRS e-file Signature Authorization*
 - e. Form W-2s, *Wage and Tax Statement*
 - f. Return preparation
 - g. EITC requirements/due diligence
 - h. Security of taxpayer documents
 - i. Fraud awareness
 - j. Additional comments, including suggestions/feedback from the provider

- (12) A provider that does not cooperate with monitoring efforts must be advised that such action may result in immediate suspension from participating in IRS *e-file*. The facts regarding the provider's failure to cooperate must be documented on the Form 9984, Examining Officer's Activity Record, and the monitor should initiate immediate suspension procedures. See IRM 4.21.1.25.7.
- (13) The area office monitors must close the *e-file* monitoring visit case file to their group manager who will then close it to the EMC using Form 3210 according to the due dates prescribed by the area office.
- (14) If the monitor visits a physical location for an Authorized IRS *e-file* Provider and finds that the provider is no longer operating at that address:
 - a. The monitor will attempt to contact the provider by telephone to obtain the correct address and/or other relevant information. If the monitor is able to contact the provider, he/she should request that the provider update applicable information on Form 8633 via the Registered Users Portal (RUP) or contact IRS e-help at 866-255-0654. The monitor should then conduct a site visit at the new location.
 - b. If the monitor is not able to contact the provider, the monitor will contact the EMC who will research all available systems to attempt to locate a new address, or an alternate address or phone number for the provider. If a new address cannot be found, the EMC will fax an *E-file Monitoring Sanction Request*, Exhibit 4.21.1-11 to ANSC requesting the electronic filing identification number (EFIN) be suspended due to "Form 8633 not updated. The EMC must flag the case as "follow-up."
 - c. IRS e-help assistors will update the information on the comments section of the Form 8633 associated with the EFIN to show that the provider is not operating at the physical address on record per the field monitoring visit. The EFIN will be placed in "inactive" status and the Provider Option will be put in "dropped" status, using Reason Code 64 (Inactive – no response to inquiries).
 - d. If the provider subsequently calls IRS e-help inquiring about its EFIN being inactive, the IRS e-help assistor will update the address and other information on TPDS with information secured from the provider. Documentation will be entered into the e-case to reactivate the provider and return the EFIN to "active" status. The EMC must access EUP weekly during the filing season to determine if the provider's address on EUP has been updated and the provider's EFIN has been re-activated.

4.21.1.17
(08-12-2011)
Advertising

- (1) Competitors and taxpayers often call the EMCs or Customer Service call sites to report advertising irregularities.
- (2) The EMC and/or monitor reviews questionable advertising brought to their attention from internal and external referrals to ensure compliance.
- (3) Advertisements that the *e-file* monitor determines are not in compliance with the requirement of Rev. Proc. 2007–40, Pub 3112, and Pub 1345 must be brought to the attention of the provider to resolve the problem. If the provider does not take any corrective action, issue a warning letter specifically outlining the corrective action necessary to resolve the cited deviation, including a specified date for compliance. If the provider declines to take action to correct an advertisement or if the advertisement is not discontinued, pursue sanctions in accordance with the level of infractions.

4.21.1.18
(08-12-2011)
**General Monitoring
Visitation Information**

- (4) A provider must **not** use “Internal Revenue Service” or “IRS” within a firm’s name, or within a firm’s name for advertising purposes.
- (1) In situations where a provider does not comply with *e-file* rules, the monitor is responsible to initiate a warning, or draft the appropriate sanction letter and notify the EMC in the area where the provider has its main office. Reasons for suspensions may also be the same reasons for denials of participation, included in Pub 3112.
- (2) The IRS can immediately suspend, without notice, a provider from participation in IRS *e-file*. However, in most circumstances, a suspension from participation in IRS *e-file* is effective as of the date stated in the letter informing the provider of the suspension.
- (3) If a provider is being investigated by CI, the EMC should contact CI and discuss sanctions. If CI agrees the provider can be sanctioned, but advises the Scheme Development Center (SDC) not to initiate sanctions, the EMC can use another documented infraction to sanction the provider.
- (4) If the area office is notified of, or finds during a monitoring visitation, that a provider is not complying with IRS *e-file* rules, the area will perform the following:
- Document the questionable practice;
 - Determine which geographical area is affected (area office only or multiple areas);
 - If more than one area is affected, determine the controlling area;
 - Provide documentation of the violations to the EMC of the controlling area; and
 - Advise the W&I National Account Manager, if applicable.
- (5) The EMC of the controlling area will determine the severity of the reported violations and will schedule a monitoring visit if one has not been conducted, or issue the appropriate sanctions letter.

Note: If the provider is operating on a multi-area or national basis, the Headquarter RPC Coordinator will notify the “**ETA *e-file* Monitoring Liaison.**”

- (6) The monitor(s) may sign warning letters issued during a site visitation. In addition, a warning letter signed by the EMC must be issued to the controlling office. For the purpose of this section, a designated individual may represent the EMC.

4.21.1.19
(08-12-2011)
Monitoring Techniques

- (1) The following techniques may be used by the monitoring team to identify potential violations within IRS *e-file*. The list is not all inclusive. The monitoring team may develop its own techniques to identify violations.
- (2) **Tax Returns** - Confirm that the provider provided a copy of the completed tax return to the taxpayer. Select a sample of tax returns for review and complete the “File Sample Reviewed” form. Based upon the analysis of the returns, monitors may identify the preparation of questionable tax returns. If this occurs, the monitor should make a referral to the RPC and identify the issues in question.
- (3) **IRS *e-file* Application** - To become an authorized IRS *e-file* provider, an applicant must complete Form 8633, *Application to Participate in IRS e-file*

Program. Any changes to the application information must be submitted to the IRS within thirty (30) calendar days. Once approved to participate in IRS *e-file*, the provider will receive an "acceptance letter" containing his/her EFIN. Review the ERO's application information on EUP to ensure that the provider's information is correct.

- Ensure that the provider contacted the IRS with Form 8633 changes within thirty (30) calendar days.
- Review Form 8633 closely to determine if the owner's structure is correct and the owners are the same. Ask the employees to identify the owner of the business and who pays them. A sole proprietor with five (5) employees or more may lead to a referral for an employment tax issue.

Note: Employment tax referrals are made through SRS at <https://srs.web.irs.gov/Default.asp/>.

- Research Form 8633 to determine if the real owner is a suspended provider or employs a suspended provider.

(4) **Electronic Signatures** - Beginning with the 2008 filing season, providers can *e-file* individual returns only if taxpayer signs the return electronically using one of two methods: either a self-selected PIN or a practitioner PIN. Both methods allow taxpayers to electronically sign *e-file* returns using a five-digit PIN. A self-select PIN is used when a taxpayer enters either the prior year's adjusted gross income (AGI) or the prior year's PIN and is paperless if the taxpayer enters a PIN. PINs require the use of Form 8879, *IRS e-file Signature Authorization*, which must be retained by the provider.

(5) **Form 8879, IRS e-file Signature Authorization** - If both taxpayers on a joint return are present at the time of tax return preparation, both taxpayers may choose to utilize the self-selected PIN option of signing the tax return. If one or both of the taxpayers on a joint return are not available to select a PIN, and if the provider participates in the preparer PIN method, the provider may select the PIN. In order for the provider to select the PIN, the provider must have a completed and signed Authorization/Authentication Form before the tax return is transmitted.

- Ask if the provider is using the self-selected PIN or a practitioner PIN. Ask the provider how PINs are entered into the system. Compare the date of the signed authorization form to the date the return was transmitted.
- Verify that the provider is keeping the authorization, Form 8879, for three (3) years from the later of the due date of the return or the date IRS received the return.

Note: Providers are required to sign Form 8879, Part III, and input their provider EFIN/PIN for all returns using the practitioner PIN method. The provider EFIN/PIN consists of eleven digits (the first six digits must be his/her EFIN and the last five digits can be any five digits except all zeros).

(6) **Acknowledgement Report** - An acknowledgement report is generated electronically by the IRS to a transmitter indicating receipt of all transmissions. An acknowledgement report indicates which returns are accepted or rejected. It also indicates if the taxpayer(s) PIN was accepted by IRS. The listing identifies the source of processing problems using a system of error reject codes.

- Request an acknowledgement list from the provider starting from the beginning of the filing season through the date of the visit. This list may be

requested prior to the appointment if the visit is a scheduled random or targeted visit. Request the list upon arrival if it is a mandatory referral or follow up visit.

- Use the list to pull a sample of tax returns and Forms 8879 to review.
- Check Forms 8879 for signature the dates and compare the dates to the acknowledgement file dates which reflect the dates that the returns were transmitted.

Note: The appearance of the acknowledgement files will vary depending on the software used by the ERO. A return transmitted prior to or without taxpayer authorization (signature) on Form 8879 may constitute an unauthorized disclosure of taxpayer information. A penalty for disclosure under IRC 6713 should be considered. The monitor should consult the EMC regarding the possible assessment of this penalty.

(7) **Tax Return Electronic Portion** - A review of the acknowledgement listing must be made to identify possible *e-file* compliance issues relating to the transmission of the electronic tax return.

- Review reject codes to determine if a potential pattern has developed.
- Determine whether the provider has office procedures in place to correct rejects.
- Inquire whether the provider provides the taxpayer with a copy of the electronic tax return.

(8) **Refund Anticipation Loans/Fees** - A refund anticipation loan (RAL) is money borrowed by a taxpayer based on the anticipated tax refund. The taxpayer may need access to the tax refund quicker than the IRS can release the funds. Since the ERO offers his/her client a RAL based on the federal tax return, the taxpayer gains access to the money faster.

Note: The Service has no involvement in RALs because a RAL is a contract between the taxpayer and the lender.

- What is the time frame for a taxpayer to receive a RAL? It depends on the bank service of the ERO. If the ERO applied for a RAL and it was approved, the taxpayer can receive funds within 1-2 business days from the date the IRS accepts the *e-file* return.
- Ask the provider what steps are taken to ensure the taxpayer understands that RALs are not IRS refunds but interest bearing loans.
- Ask the provider what steps are taken to ensure the taxpayer understands that in the event a direct deposit is not received within the expected time frame for any reason, the taxpayer may be liable to the lender for additional interest on the RAL.
- Verify through oral testimony whether the lender is related to the provider within the meaning of IRC 267 or IRC 707.
- "24 Hour Refunds" - Examine the office practices and advertising. Is the advertising misleading? Does the advertising suggest taxpayers will receive an IRS refund within a specific time period?
- The ERO can print his/her client a cashier's check in the tax office, issue a cash card or direct the refund via automatic clearing house direct deposit.

Note: "Automatic Clearing House (ACH)" is the system used by banks and governmental agencies (e.g., IRS) to transmit direct deposits and debits. This process is unlike a wire transfer (a same day transaction) and may take up to 1-3 business days to complete the process from one bank to another.

- (9) **Refund Anticipation Loan Advance** - Is money advanced to taxpayers based on their anticipated tax refund? If taxpayers are approved for a "RAL Advance," they can receive part of their RAL proceeds the same day. Usually, the "RAL Advance" will be disbursed using the same disbursement method as the RAL proceeds.
- Ask the provider if he/she offers this service to his/her clients?
 - What steps does the ERO take to ensure that the taxpayer understands the fees connected with this process?
- (10) **Refund Transfer** - By offering a refund transfer bank product, the ERO can have all preparation fees deducted from the taxpayer's refund. The taxpayer may not have the funds to pay up front to have the tax return prepared. The benefits to ERO's clients are no out-of-pocket costs.
- The taxpayer can receive the refund in approximately 7-14 days (upon IRS and/or state funding).
 - The tax professional prints the cashier's check, issues a cash card, or directs the refund via Automated Clearing House (ACH) direct deposit.
- (11) **Stockpiling** - Tax returns must be transmitted within three calendar days of completion.
- Ensure that the provider is not "stockpiling" returns by verifying that the returns are transmitted within three days of completion.
- (12) **Fee Schedules** - Treasury Department Circular 230, *Regulations Governing Practice Before the Internal Revenue Service*, states, "that it is beyond the scope of their authority to receive checks in payment of any refund of Internal Revenue taxes, penalties, or interest," nor can the preparer charge an "unconscionable fee in connection with any matter before the Internal Revenue Service." No fee may be charged for direct deposit. Ask to review the office fee schedule. Confirm that the fees are neither unconscionable nor negotiated based on the amount of the refund.
- Confirm that the provider does not charge the taxpayer for direct deposit.
 - Confirm that the provider does not charge a fee related to a refund or RAL amount for RAL services. The provider may assist the taxpayer in applying for the RAL and may charge a flat fee for the service.
- (13) **Security** - Inspect the office for tax returns lying around where the returns might be in view of other taxpayers. Also, inspect the office to ensure the EFIN or PTINs are not posted in large numbers. In addition, determine the answers to the following questions:
- Is more than one EFIN used by the preparer?
 - Who has access to the computer?
 - Who has access to the taxpayer files?
 - Are the taxpayer records locked and secured at the end of each day?
 - Who has access to the office keys?
 - Is there a security plan? If yes, review the security plan.

See IRM 4.21.1.5 to determine who you should interview.

Note: If the provider and/or preparer disclosed taxpayer information without authorization to a third party, the facts surrounding the disclosure should be

determined and well documented and a penalty under IRC 6713 must be considered. Consult the EMC in this situation.

(14) **Physical Checks** -

- Check the office procedures and inspect the office for organization. If the office appears to be in disarray, there is the likelihood for potential problems.
- Any indication of suspected wrongdoing might be confirmed by asking the employees. For instance, an "85 year-old" mother might be a front for a son who has been previously suspended, and the employees may reveal the actual owner if questioned.

Note: See IRM 4.21.1.5 to determine who you should interview.

- The monitors should rely upon their own instinct and judgment about the office environment, keeping in mind all offices are different.

(15) **Advertising** - Refer to Pub 3112, *IRS e-file Application and Participation*, Pub 1345, *Handbook for Authorized IRS e-file Providers of Individual Income Tax Returns*.

- Request copies of printed ads, flyers, yellow page ads.
- Obtain copies of radio scripts, recordings, TV advertisements.
- Take pictures of advertising violations, such as signs, billboards, and banners, if a camera is available in the office or if a disposable camera is available.
- Obtain a printout of any Internet advertising.
- Look closely for the incorrect usage of the official IRS eagle logo.
- Check for ads referring to "Bring in your last pay stub." Does the language suggest a return will be prepared and transmitted based on the last pay stub or the "Leave and Earnings Statement?"

Note: See Circular 230 (31 CFR Part 10.30(a)), *Regulations Governing Practice Before the Internal Revenue Service*

(16) **Forms W-2s, W-2G and 1099-R** - Returns must not be electronically filed prior to the provider's receipt of the related Form W-2, *Wage and Tax Statement*, Form W-2G, *Certain Gambling Winnings*, or Form 1099-R, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*

- Request that the contact person pull a report for a certain time period, usually the first two weeks of the electronic filing season. Look in the corresponding case files transmitted during that time period to analyze and determine if any returns were transmitted using the last pay stub or other improper documents.
- Some branch offices fax documents to the main office as a normal office processing procedure. Examine the date of the fax that contains the taxpayer's signature and the fax date of the actual W-2 submitted.
- In cases where the provider has used Form 4852, *Substitute for Form W-2, Wage and Tax Statement* or Form 1099-R, *Distribution From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs,...* ensure that the provider has exhausted all efforts to obtain Forms W-2, W-2G, or 1099-R. Ensure that the provider included the non-standard W-2 indicator in the electronic record.

- (17) **Knowledge** - The provider should be familiar with Pub 3112, Pub 1345, and Rev. Proc. 2007–40. Inquire whether the provider has attended any tax forums or local seminars sponsored by the local Stakeholder Partnership, Education and Communication (SPEC) tax specialists.
- Ask the provider if he/she has access to the Internet. Law changes and other valuable information are available on the www.irs.gov website.
 - Ask the provider who he/she contacts when assistance is needed with IRS *e-file*.
 - Ask the provider about the type of medium is used by the provider to access Pub 3112 and Pub 1345, i.e., electronic, paper, etc.
 - Ask the provider if he/she has subscribed to receive “IRS Quick Alerts.” Alerts and other valuable updates and information are available through this service. This service is available at <http://www.irs.gov/taxpros/providers/article/0,,id=97623,00.html>.
- (18) **Earned Income Tax Credit (EITC)** - The provider must comply with IRC 6695(g).
- During your review of the sample of returns, look for cases where the mother works and EITC is claimed but no child care credit is claimed. Ask the provider about the interview process.
 - Review the EITC checklists and worksheets to determine if the providers are meeting the requirements as outlined in IRC 6695(g). Secure a copy of the provider’s check sheet, worksheet, and taxpayer questionnaire if available. Place copies of these documents in the case file for future reference.
 - Review the provider’s records to determine if the provider took appropriate steps to verify the taxpayer’s eligibility for EITC where eligibility is questionable. Additional steps may include further questioning of taxpayers or securing copies of social security cards, driver’s licenses, school records, lease agreements, etc.
 - Inspect the software used in the office to see if overrides are programmed to allow EITC when taxpayers are not eligible. It is programmed to override when the highlighted color on certain line items on the EITC Worksheet and Form 8867, *Paid Preparers Earned Income Credit Checklist*, is different from normal.
 - Search the computer program for “Initial Forms” where the preparer can set up the same information, such as the preparer’s name and employee identification number (EIN). The monitor can do a check of the EITC portion for any preset information on the computer by inputting a false social security number to see if the program allows EITC.
 - If the monitor identifies due diligence problems, document all problems observed and make a referral to the PSP EITC Due Diligence Coordinator. The monitor must include copies of all relevant documents with the referral. Refer to <http://mysbse.web.irs.gov/exam/tip/rp/contacts/12536.aspx> for a listing of coordinators.
- (19) **Third Parties** - A provider may associate with third parties during the course of his/her business. Under no circumstances may the third parties engage in any behavior or practice that is in violation of the provisions of Pub 3112, and Pub 1345. If the provider derives benefit from misrepresentation of IRS *e-file* or from unethical practices of the third parties, the provider may be warned or sanctioned depending on the nature of the violation.

- Example: A provider sells his service to used car dealers and will prepare returns using information faxed from the dealerships. The provider arranges a refund anticipation loan and the car dealers print out the loan checks at their locations, or receive the proceeds by direct deposit. The dealers would allow the taxpayers to use the refund loans as their down payment on a car. At the dealerships, the advertisements read, "Bring in your W-2 and we'll double your tax refund" and "Refunds in 1 - 3 days." The dealership would offer to allow double the computed refund amount as a down payment on a car from a RAL. Since the dealerships are not the provider, they are not in any violation of the revenue procedure or *e-file* rules. However, the Service can warn or sanction the provider about associating with third parties who use misleading advertising.
- (20) **Return Responsibility** - The ERO must sign and complete all requested information in the "Declaration of Electronic Return Originator (ERO) and Paid Preparer" section. If the return was prepared for a fee, then the ERO must input the "paid preparer information" into the electronic tax return. Paid preparers must disclose their preparer tax identification number (PTIN) on the copies they supply to taxpayers. Paid preparers are not required to disclose their social security number (SSN) or employee identification number (EIN) on the copies they supply to taxpayers.
- (21) The ERO of the return must sign and complete all requested information in the "Certification and Authentication—Practitioner PIN Method Only" section of Form 8879.
- (22) Providers cannot knowingly and directly or indirectly employ or accept assistance from any firm, organization, or individual prohibited from applying or participating in IRS *e-file*, including providers previously suspended or expelled.
- Inspect returns that have not been delivered to the clients to verify proper signatures and identification numbers;
 - Verify through IDRS command codes RTVUE and TRDBV that proper signatures and identifying numbers have been included on filed returns;
 - Look for returns that are visually different from the returns prepared by the transmitting office, such as handwritten returns or returns prepared using a different software application; and
 - Ask the provider if he/she is transmitting returns prepared by others, and if so, the monitor should contact the EMC to verify that they are not individuals prohibited from applying or participating in IRS *e-file*.
- Note:** The above list is not all-inclusive. Be aware that some of these indications alone may not constitute a violation; however, sometimes a combination of several items may be cause for a referral or deeper review into the office activities (referrals are discussed below). Valuable information can be obtained by utilizing various monitoring techniques. Monitoring techniques may corroborate or disprove the provider's oral testimony provided during the interview. Keep in mind that the provider is responsible for the work of his/her employees. The judgment and instinct of the monitor plays a large part in the investigative process.
- (23) If filed returns are found without the appropriate return preparer signature and/or return preparer identifying number, a penalty under IRC 6695(b), *Failure to Sign Return*, and/or IRC 6695(c), *Failure to Furnish Identifying Number*, may be applicable. Consult the EMC regarding assessment of these penalties.

4.21.1.20
(08-12-2011)

Summary of Findings

- (1) At the conclusion of the visit, the monitor and/or the monitoring team must issue a "Summary of Findings" to the provider. The "Summary of Findings" should reflect all items reviewed by the monitoring team. If no violations are noted during the visit, the "Summary of Findings" should reflect the results of each item reviewed. If any violations of IRS *e-file* rules are found, a complete explanation of the violations should be documented on the "Summary of Findings." The monitor should discuss each violation with the provider and ensure that the provider understands what actions should be taken to come into compliance with IRS *e-file* rules. The provider and monitor(s) should sign and date the "Summary of Findings." The original "Summary of Findings" should be retained in the case file and a copy should be given to the provider. The "Summary of Findings" will serve as an attachment to the proposed written reprimand letter sent to the provider if violations were identified. See Exhibit 4.21.1-4, *Sample Letter - Written Reprimand*.

4.21.1.21
(08-12-2011)

Referrals

- (1) During the course of the *e-file* visit, the monitor may recognize compliance issues. Remember that the purpose of the visit is strictly to focus on the provider's adherence to the guidelines in Rev. Proc. 2007-40, Pub 3112, and Pub 1345. If a compliance issue arises outside the parameters of the visit, a "referral" must be made timely to the proper authority for further action.

4.21.1.21.1
(08-12-2011)

Types of Referrals

- (1) **Examination** – During the visit, the monitor may review tax returns, which may have high examination potential. Monitors should complete a *Time and Action Report*. See Exhibit 4.21.1-12, and indicate the type of action required. A referral may be made using Form 5346, *Examination Information Report*. A copy of the referral should be retained in the case file.

Example: A taxpayer has W-2 wages on the tax return and also files a Schedule C business claiming a deduction for gardening expenses with little or no gross receipts. The taxpayer has received the maximum amount of EITC allowable. A referral should be made to Examination.

- (2) **Return Preparer Coordinator (RPC)** – A referral may be made to the RPC in the event the monitor finds evidence of questionable return preparation. Monitors should complete the form titled, "Time and Action Report" and indicate the type of action required. See Exhibit 4.21.1-12.

Example: Several returns reviewed by the monitor show each taxpayer reporting W-2 wages and similar Schedule C businesses with questionable deductions. The taxpayers all claim the maximum amount of EITC allowable. A referral should be made to the RPC for appropriate action.

- (3) **Criminal Investigation (CI)** – If the monitor identifies firm indications of fraud, either by the provider, his/her employees, or by a taxpayer, the monitor must notify the EMC and prepare a referral to CI. The monitor should complete the "Time and Action Report," Exhibit 4.21.1-12, and indicate a referral to CI is required. Be sure to gather enough facts and evidence to make a quality referral. Copies of the referral should be retained in the provider case file. Submit the facts and evidence to the EMC and he/she will forward the referral to CI for consideration.
 - CI should be kept informed of any situations that they may need to investigate. There may be instances where taxpayers or providers have documentation that someone is perpetrating a scheme utilizing IRS *e-file*.

- Obtain as much information as possible immediately forward it to the area office, CI Questionable Refund Coordinator or CI Return Preparer Coordinator.
- Interaction with the provider that may be perpetrating the scheme should be kept to a minimum until the circumstances are discussed with CI.
- Notification to the IRS prior to transmission of fictitious returns should be encouraged. An ideal situation would be to put the RPC and questionable refund coordinator in contact with the transmitter and not have the returns transmitted but picked up by CI. The EMC must check with CI to ensure results of criminal cases involving providers are used to identify potential risk factors or indicators that can be built into the screening and monitoring process.

Note: Depending upon the characteristics of the scheme, the EMC might be asked to provide assistance to the CI RPC and questionable refund coordinator regarding the intricacies of IRS *e-file* and ways to identify additional filings.

4.21.1.22
(08-12-2011)
Infractions

- (1) Monitoring may include reviewing IRS *e-file* submissions, investigating complaints, scrutinizing advertising material, checking Forms 8879, inspecting files and observing office procedures. If the monitoring team or monitor discovers the provider is noncompliant because of a violation of one or more of the rules governing IRS *e-file*, the monitoring team or monitor will issue a "Summary of Findings," a written warning to the provider, or recommend sanctions (written reprimand, suspension, or expulsion). There are various levels of infraction for sanctions based on the severity of the violations. The *e-file* provider has appeal rights after the imposition of sanctions.
- (2) A violation may result in a warning or a sanction of the Authorized IRS *e-file* Provider. Sanctions include written reprimands (level one infraction), suspensions (level two or level three infraction) or expulsions (level three infraction).

Note: For minor violations, a written warning may be issued to the provider.

4.21.1.22.1
(08-12-2011)
**Written Reprimand
(Level One)**

- (1) If the monitoring team or monitor determines a written reprimand is warranted, a written reprimand letter will be attached to the "Summary of Findings" and issued to the provider by the EMC.
- (2) The EMC will fax a sanction request sheet to IRS e-help for input to EUP.

4.21.1.22.2
(08-12-2011)
Reasonable Cause

- (1) Reasonable cause should be considered when addressing the provider's explanations for the noncompliance. The definition of reasonable cause applies to monitoring as it does for penalty relief. For example, the destruction of records due to a casualty qualifies as reasonable cause. Generally, the casualty can be substantiated by fire department or police records. In the absence of a police report or a fire report, other corroborating evidence may be used. For example an insurance claim and news articles establishing a flood.
- (2) The provider must provide documentation that the circumstance was beyond his/her control and reasonable actions were taken to resolve the noncompliance as quickly as possible for reasonable cause to be present.

4.21.1.22.3
(08-12-2011)

Suspension Terms

- (1) When the monitoring team or monitor recommends sanctions, this action should be discussed with the provider on the day of the visit; however, the proposed letter of suspension, see Exhibit 4.21.1-5, *Sample Letter - Proposed Suspension*, letter of immediate suspension, see Exhibit 4.21.1-6, *Sample Letter - Suspension*, or expulsion letter will be issued by the EMC at a later date. It is important to inform the provider that all sanctions are subject to review.
- (2) Suspensions are for either one year or two years, based on the level of infraction from the effective date of the suspension. The eligibility date to reapply to participate will be set in TPDS as the date 45 days prior to the end of the one or two year suspension period for each case.

4.21.1.23
(08-12-2011)

**Proposed Suspension
(Level Two Infraction)**

- (1) When it is determined the infraction(s) is serious enough to warrant suspension, but not egregious enough to warrant immediate suspension or expulsion from IRS *e-file*, the following actions should be taken:
- (2) The EMC must issue a proposed suspension letter, see Exhibit 4.21.1-5, *Sample Letter - Proposed Suspension*, within 14 days of the visitation. Include the following information in the proposed suspension letter:
 - a. EFIN of provider;
 - b. Complaints documented by monitors;
 - c. Section of Rev. Proc. 2007–40, Pub 3112, and/or Pub 1345 violated;
 - d. Action required by the provider to continue participating in IRS *e-file* (opportunity for the provider to provide additional documentation, or position concerning the infraction);
 - e. Length of proposed suspension; and
 - f. Appeal Rights.
- (3) Send copies of the proposed suspension letters to the owning and/or controlling provider, if applicable. Be sure to follow disclosure guidelines when providing copies of suspension letters to the owning or controlling provider.
- (4) Advise the W&I National Account Manager, if applicable.
- (5) Document the case history with actions taken, and follow-up action is required 30 days from the proposed suspension date.
- (6) If the provider fails to appeal the proposed suspension letter within the 30-day time limit, the provider is then considered suspended from participation in IRS *e-file*. The EMC must fax an *E-File Monitoring Sanction Request*, Exhibit 4.21.1-11 and a copy of the signed proposed sanction letter to IRS e-help.

4.21.1.24
(08-12-2011)

**Suspension/Expulsion
(Level Three Infraction)**

- (1) When it is determined that the violation is serious enough to warrant immediate suspension or expulsion, ensure that all complaints and non-compliance issues are thoroughly documented in the case history, then take actions listed below.
- (2) The EMC must issue an immediate suspension or expulsion letter. The letter should be issued within 14 days of the visitation. Include the following information in the suspension letter:
 - a. EFIN of provider;
 - b. Complaints documented by the area office;
 - c. Section of Rev. Proc. 2007–40, and/or Pub 1345 violated;

- d. Notification of suspension or expulsion;
- e. Length of the suspension period; and
- f. Appeal rights.

See Exhibit 4.21.1-6, *Sample Letter - Suspension*.

- (3) Provide copies of the signed suspension letters to the following:

- IRS e-help
- The owning and/or controlling provider, if applicable.

Note: Be sure that the disclosure rules are followed when providing copies of suspension letters to the owning or controlling provider. See IRM 4.2.5, *General Examination Procedures, Disclosure of Official Information*.

- (4) Advise the W&I National Account Manager, if applicable.

- (5) The EMC must fax an *E-File Monitoring Sanction Request*, Exhibit 4.21.1-11, and a copy of the signed proposed sanction letter to IRS e-help.

Note: Ensure that all related EFINs are listed on the Sanction Request sheet.

- (6) Suspended providers can reapply for participation in IRS *e-file* after they have served their period of suspension (sanction period) as defined in Rev. Proc. 2007-40 and Pub 3112.

4.21.1.25
(08-12-2011)
Level of Infractions

- (1) The IRS will monitor an authorized IRS *e-file* provider for conformity with all rules and guidelines governing IRS *e-file*.
- (2) The IRS will monitor the Authorized *e-file* Provider's compliance in the following areas:
- a. Compliance with IRC 6695(g) (relating to the due diligence requirements for returns claiming the earned income tax credit);
 - b. *E-file* rules listed in Rev. Proc. 2007-40, Pub 3112, and Pub 1345;
 - c. Deterioration in the format of individual transmissions;
 - d. Unacceptable cumulative error or rejection rate;
 - e. Proper signing and retention of Form 8879;
 - f. Stockpiling returns at any time while participating in Form 1040 IRS *e-file*;
 - g. Failure on the part of a transmitter to retrieve acknowledgement files within two workdays of transmission by the IRS;
 - h. Failure on the part of a transmitter to provide a provider or ISP with acknowledgement files within two workdays after receipt from the IRS;
 - i. Failure on the part of an Authorized IRS *e-file* Provider to ensure against the unauthorized use of its EFIN and/or ETIN;
 - j. Having more than one EFIN for the same business entity at the same location (the business entity is generally the entity that reports on its return the income derived from electronic filing), unless the IRS has issued more than one EFIN to a business entity at the same location. For example, the IRS may issue more than one EFIN to accommodate high volumes of returns;
 - k. Failure on the part of an Authorized IRS *e-file* Provider to properly use the standard/non-standard Form W-2 indicator;
 - l. Failure on the part of an Authorized IRS *e-file* Provider to properly use the refund anticipation loan (RAL) indicator;
 - m. Failure on the part of a transmitter to include the provider's EFIN as part of a return that the provider submits to an ISP or the transmitter;

- n. The IRS will monitor satellite offices and advise the provider of any IRS *e-file* violations that the IRS has encountered with the satellite office;
 - o. Violation of advertising standards;
 - p. Failure to retain and make records available as described in Pub 1345;
 - q. Submitting the electronic portion of a return with information that is not identical to the information on Form 8879;
 - r. Failure to timely update an IRS *e-file* application; and
 - s. Failure to comply with a provision of an implementing document for any pilot in which the Authorized IRS *e-file* Provider is a participant.
- (3) Reasonable cause should be applied when addressing the above, for example:
- a. A provider fails to produce 1 out of 15 of a given record (i.e., Forms 8879, Forms W-2, etc.)
 - b. Provider states that he maintained acknowledgement file and materials described in Pub 1345; however, due to a casualty, he/she cannot locate the files (provider provides documentation to substantiate casualty).
 - c. Provider attempts to contact the taxpayer via phone and mail to no avail, but maintain a copy of the letter in the file.
 - d. Software developer diligently works to resolve communication problems in a timely fashion. The developer keeps the IRS informed of progress.
 - e. If a physical review indicates that the provider failed to note a small percentage of address variables [5 (or less) out of 20], a warning should be issued.
 - f. Minor violations of the advertising standard by an Authorized IRS *e-file* Provider and/or financial institutions should result in a written warning to the provider. A violation of the advertising standard is considered a minor violation if it has NO NEGATIVE MEDIA IMPACT to the provider or the IRS. A minor advertising violation is a violation that should be corrected immediately by the provider, i.e., removal of a poster, billboard, news article etc.
- (4) The provider must provide documentation establishing that the circumstances were beyond his/her control and that action is being taken to immediately resolve the violation (reasonable cause). If negligence is due to poor administration, a level two sanction should be considered.
- (5) In all cases, the IRS should review all factors relevant to the violation. In most cases, the provider will bring the issue to the IRS's attention.
- (6) When the violation is minor, a written reprimand should be issued unless it is an infraction that is corrected and verified during the monitoring visit. In this case, a written warning should be issued.
- (7) In most situations, a provider can take corrective action to resolve the minor violation immediately.
- (8) When providers fail to correct a violation(s) after a warning letter is issued, a proposed suspension should be imposed (level two sanction). A suspension or expulsion (level three sanction) may be imposed if the violation(s) warrant it.
- (9) If it is determined that the provider has established a fiduciary relationship for accepting returns for the purpose of electronic filing, either directly or indirectly, from a firm, organization, or individual other than the taxpayer, this should be viewed as a level three violation warranting immediate suspension.

4.21.1.25.1
(08-12-2011)
**Level One – Written
Reprimand**

- (1) Level one (minor infractions):
 - Have little or no adverse impact on the quality of *e-file* returns or on IRS *e-file*,
 - Limited impact to the government,
 - No negative media impact,
 - Self-corrected non-compliance, or
 - Procedural infraction of the above criteria.
- (2) Examples of level one infractions might include the following:
 - a. Failure to update IRS *e-file* application, Form 8633, for minor items, such as changes in phone number or contact representative. For instance, during a monitoring visit, the only violation noted is a discrepancy with the phone number listed on the printout of Form 8633. The provider submits the correction to IRS e-help in the presence of the monitor. This action constitutes a minor violation and a written warning is warranted. The monitor should note the corrected violation on the daily activity record and indicate a warning was issued to the provider on the "Time and Action Report."
 - b. A minor advertising issue that can be corrected immediately by the provider. For example, immediate removal of a poster, billboard, news article, etc.
- (3) Reasonable cause should be considered when addressing the above examples. If the violation is due to lack of proper internal controls or office policy, consider a level two infraction.
- (4) In all cases, the monitor and EMC should review all facts and circumstances of a case and the particulars of the violation. When the violation is minor, it is in the best interest of all parties to issue a written warning or written reprimand.
- (5) In most situations, a provider can correct or take corrective action to resolve the minor violation immediately.
- (6) If the provider remains noncompliant after a written reprimand is issued, the infraction may be elevated to a proposed suspension (level two) or immediate suspension (level three).

4.21.1.25.2
(08-12-2011)
**Written Reprimand
Process (Level One)**

- (1) If during a visit it is determined that a violation exists, but it is not serious enough to warrant a proposed suspension or immediate suspension of the provider, the following actions should be taken by the monitor:
 - a. Issue the "Summary of Findings" outlining the complaints and specific areas of noncompliance.
 - b. Cite the section of the Rev. Proc. 2007-40 and/or Pub 1345 the provider's action(s) violated.
 - c. Advise what action must be taken by the participant to be in compliance and continue participation in IRS *e-file*.
 - d. Advise the provider that the sanction is subject to review.
 - e. Advise the provider of his/her appeal rights.
 - f. Advise the provider that follow-up visits may be made to verify compliance. Continued non-compliance may result in suspension or expulsion from IRS *e-file*.
 - g. Prepare the *Written Reprimand Letter*, Exhibit 4.21.1-4, and immediately forward it to the EMC via e-mail along with the *Summary of Findings*, Exhibit 4.21.1-10.

h. Advise the EMC to contact the W&I National Account Manager, if applicable.

- (2) Written Reprimands may be issued for level one (first-time occurrence) infractions.
- (3) If the visit is a follow-up visit and the provider has failed to take the required corrective action, suspension or expulsion may be appropriate.
- (4) Written reprimand, proposed suspension, and immediate suspension letters are issued by the EMC.

4.21.1.25.3
(08-12-2011)
**Level Two – One Year
Suspension**

- (1) Level two (serious infractions):
 - Have an adverse impact on the quality of *e-file* returns or on IRS *e-file*
 - Continued level two behavior or egregious infractions
 - Media Impact
 - Negative impact on taxpayers
 - Voluntary compliance
 - Substantial omission
 - Intentional disregard
 - Misrepresentation
 - Non-compliance (not self-corrected)
- (2) Level two infractions will generally result in a one-year suspension from participating in IRS *e-file*.

4.21.1.25.4
(08-12-2011)
**Proposed Suspension
Process (Level Two)**

- (1) Level two infractions are serious and may result in the loss of privilege or a one-year suspension. Continued or an additional level one infraction(s) after the Service brought the level one infraction(s) to the attention of the Authorized IRS *e-file* Provider would constitute a level two sanction. The suspension is for one year from the effective date of the suspension.
- (2) Examples of level two infractions might include the following:
 - a. Last filing season, a provider was trained not to transmit returns prepared using leave and earnings statements prior to receiving Forms W-2. The provider case file documented the phone conversation with the provider. This filing season, the provider continues to use leave and earnings statements to prepare tax returns without waiting for Form W-2. This action constitutes continued level one behavior and warrants a proposed suspension letter.
 - b. At the beginning of filing season, a visit was made to a provider and a Summary of Findings was issued for violation of advertising guidelines. The provider was instructed to remove the misleading advertising immediately. A follow-up visit was made and the misleading advertising had not been removed. This action constitutes continued level one behavior and warrants a proposed suspension letter.
 - c. During a provider visit, the monitor questioned the provider regarding Form 8633 information. According to the manager of the location, the responsible official of the business had changed six months prior. This action constitutes a level two behavior because a substantial misrepresentation has occurred. This behavior warrants a proposed suspension letter.
 - d. During a provider visit, the monitor determines through testimony and review of records that it is standard office procedure for the provider to

transmit tax returns prior to obtaining taxpayers' signatures. This action constitutes level two behavior because the violation has an adverse impact on IRS *e-file*. This behavior warrants a proposed suspension letter.

Note: The examples given are not all-inclusive. Each case should be reviewed on its own history, facts and circumstances.

4.21.1.25.5
(08-12-2011)
Level Two Infraction Letters

- (1) Proposed Suspension Letter - If the EMC determines that the provider's behavior meets level two criteria, the EMC will issue the proposed suspension letter to the provider's controlling office via certified mail.
- (2) Recommended Suspension Letter – If the provider timely appeals the proposed suspension letter and the appeal is denied by the Administrative Review Panel, the EMC should issue the recommended suspension letter to the provider via certified mail. If the provider timely appeals the recommended suspension, the EMC will forward the package to the Office of Appeals within 15 days. If the Office of Appeals upholds the EMC's recommendation to suspend the provider, the EMC must fax a Sanction Request sheet and copies of the sanction letter to IRS e-help to suspend the provider to be suspended.

4.21.1.25.6
(08-12-2011)
Level Three – Suspension or Expulsion

- (1) Level three (major infractions):
 - Have a significant adverse impact on the quality of *e-file* returns or on IRS *e-file*
 - Continued level two behavior or egregious infractions
 - Fraud
 - Association with known criminals
 - Monetary crimes
 - Fiduciary crimes
- (2) Level three infractions are violations of the rules governing IRS *e-file* that, in the opinion of the Service, have a significant adverse impact on the quality of electronically filed returns or on IRS *e-file*. Level three infractions include continued level two infractions after the Service has brought the level two infractions to the attention of the Authorized IRS *e-file* Provider. Level three infractions may result in immediate suspension from IRS *e-file*, and depending on the severity of the infraction, such as fraud or criminal conduct, could result in expulsion from IRS *e-file* without the opportunity for future participation. If the Service suspends an Authorized IRS *e-file* Provider from IRS *e-file* for a level three infraction, the period of suspension is two years from the effective date of suspension.
- (3) **The IRS reserves the right to immediately suspend or expel a provider from participation in IRS *e-file*.**
- (4) The following reasons may lead to an immediate suspension of an Authorized IRS *e-file* Provider from IRS *e-file* (this list is not all-inclusive):
 - a. Failure on the part of an Authorized IRS *e-file* Provider to cooperate with the IRS's efforts to monitor electronic filing abuse.
 - b. Accepting a tax return for filing through IRS *e-file*, either directly or indirectly, from a firm, organization, or individual (other than the taxpayer who is submitting his or her return) that is not an Authorized IRS *e-file* Provider.
- (5) The above infractions (a and b) should result in immediate suspension.

- (6) Egregious infractions such as tax fraud and unethical practices in return preparation may result in expulsion from participation in IRS *e-file*.
- (7) Examples of infractions requiring immediate suspensions:
 - a. Failure on the part of an Authorized IRS *e-file* Provider to cooperate with the Service's efforts to monitor;
 - b. Accepting tax returns for filing through the IRS *e-file*, either directly or indirectly, from a firm, organization, or individual (other than the taxpayer) that is not an Authorized *e-file* Provider;
 - c. Signing for the taxpayer without proper authorization;
 - d. Entering the taxpayer's personal identification number (PIN) without authorization; or
 - e. Any continued level one or level two infractions that have not been corrected.
- (8) Examples of infractions requiring expulsion:
 - a. Activities which involve fraud (e.g., changing the dollar amounts on electronically filed return after providing a copy to the taxpayer);
 - b. Association with known criminals (disreputable conduct);
 - c. Convictions involving monetary or fiduciary crimes, such as fraud, money laundering, embezzlement, falsifying documents, etc.;
 - d. Conduct indicative of potential fraudulent acts, (e.g., directing all or a portion of the taxpayer's refund via direct deposit to the preparer's bank account or negotiating the taxpayer's refund check);
 - e. Any criminal conduct.

4.21.1.25.7
(08-12-2011)
**Immediate Suspension
Process (Level Three)**

- (1) If the monitoring team or monitor determines that the violation(s) are serious enough to warrant "immediate suspension" or "expulsion," the monitoring team should immediately contact the EMC. The monitoring team will discuss their recommendation with the provider during the visit. The provider should be made aware that the recommendation is subject to the approval of the EMC. The EMC is responsible for the necessary actions to complete the suspension.

4.21.1.26
(08-12-2011)
Appeals Process

- (1) The provider should be made aware of the appeal rights regarding a written reprimand, suspension or expulsion. There are two levels of appeal for suspension and expulsion of participation in IRS *e-file*.
- (2) The first level of appeal is the "Administrative Review Process." A provider who has been advised of a proposed sanction has the right to an administrative review. When the provider receives the letter proposing sanctions, the provider may submit a detailed written explanation with supporting documentation as to why the proposed sanction action should be withdrawn within thirty (30) calendar days of the date of the letter proposing sanctions from the EMC. This written response should be sent to the EMC's office that issued the proposed sanction letter. A local Administrative Review Panel will review the provider's written response and will either withdraw the proposed sanction (see Exhibit 4.21.1-16, *Administrative Review Reversing a Sanction Letter*), or affirm it. The Administrative Review Panel generally consists of the EMC and the Penalty Screening Committee.

Note: If the sanction is a written reprimand, the provider's appeal rights end with the Administrative Review Process.

- (3) If the Administrative Review Panel upholds the sanction (suspension or expulsion), then the provider may proceed to the second level of appeal to the Office of Appeals. The appeal must be in writing and mailed to the IRS office that issued the recommended sanction letter within thirty (30) calendar days of the date of the letter recommending sanctions. The provider's written appeal must contain a detailed explanation, with supporting documentation of why the recommended sanction should not be imposed.
- (4) Failure to respond within thirty (30) days, beginning with the date of either the proposed suspension letter or the recommended suspension letter, irrevocably terminates the provider's right to an administrative review or an appeal.

4.21.1.27
(08-12-2011)
Formal Appeal

- (1) A provider that receives a recommended or continued suspension or expulsion letter after the administrative review has a right to a formal appeal. See Exhibit 4.21.1-20, *Recommended Suspension after Administrative Review Letter*.
- (2) The appeal must be written and filed with the area office that issued the suspension or expulsion. A letter requesting formal appeal must be submitted to the EMC within 30 days of the date of the final sanction letter. A provider's written appeal must contain a detailed explanation with supporting documentation of why the suspension or expulsion should be reversed.
- (3) In order for the Office of Appeals to sustain a suspension, the EMC must provide full documentation of the facts used in determining that the provider violated Rev. Proc. 2007-40, Pub 3112, and/or Pub 1345. In situations where the provider is alleged to have had knowledge of a specific fact, the EMC should provide substantiation of the provider's purported knowledge. The area office must provide an EUP summary of the provider's Form 8633 and a copy of the initial and final suspension or expulsion letters.
- (4) The office that issued the letter will, upon receipt of a written appeal from the provider, forward to the Office of Appeals the file with all related materials the provider has submitted to the area office. The file will be transmitted via Form 3210. The case file must contain the following:
 - a. Copy of the provider's appeal to the Office of Appeals;
 - b. A rebuttal to the provider's appeal addressing all of the provider's assertions;
 - c. Any assertion made by the provider which was not previously addressed by the area office should be addressed in the rebuttal;
 - d. Reason(s) for suspending or expelling the provider from participation (i.e., copy of warning letter, proposed suspension letter, and/or suspension letter);
 - e. Proof that all assertions made in the letters are accurate and well documented;
 - f. Complete history of provider's previous violations and suspensions;
 - g. Complete copy of the IRS *e-file* Application for the provider;
 - h. All IDRS research used in making the decision; and
 - i. If a representative on behalf of the provider files the appeal, ensure a valid power of attorney (Form 2848, *Power of Attorney and Declaration of Representative*,) has been filed. The Office of Appeals has determined that a protest filed by a representative without a valid power of attorney is not a valid protest. The word "Electronic Filing" should appear under the heading, "Type of Tax," on the Form 2848.

- (5) This is especially true if the provider:
 - a. Is suspended for knowingly employing or being employed or otherwise associating with a suspended or denied provider;
 - b. Is suspended for accepting a tax return for e-filing either directly or indirectly from a person who is not an Authorized IRS *e-file* provider;
 - c. Is engaged in conduct of a disreputable nature; or
 - d. Engages in unethical practices in return preparation, and the provider failed to safeguard its EFIN/ETIN.
- (6) The case file of an administrative appeal to the Office of Appeals must be forwarded **within 15 calendar days** of receipt of the providers written request for appeal. The EMC will make a copy of the case file prior to forwarding. This copy will be used as the EMC's administrative case file. The original case file should be sent via Form 3210 to:

Office of Appeals
Internal Revenue Service, Long Island Appeals
50 Clinton Street, 3rd Floor
Hempstead, NY 11550
Voice: (516) 539-6248, Fax: (516) 539-6220.
- (7) Failure to appeal within 30 days from the date of the **suspension or expulsion letter** terminates the provider's right to a formal appeal.
- (8) The Office of Appeals will send a letter to the EMC indicating the results of the formal appeal.
 - a. If the formal appeal is denied, the Office of Appeals will notify the applicant and the EMC must fax a Sanction Request sheet for level two infractions or level three infractions that were not immediate;
 - b. If the appeal is granted and the provider was immediately suspended or expelled, the EMC will advise the IRS e-help Campus to activate the provider's participation in IRS *e-file*.
- (9) The EMC must take the following actions:
 - a. Place the appeals report in the administrative case file
 - b. Send a copy of the appeals report via Form 3210 to the Exam HQ *e-file* Analyst
 - c. Flag the case for a follow up visit on the EMC's Master Log of Cases, if appropriate

Example: You should flag the case for a follow-up visit if an appeal is granted; however, infractions warrant a follow up visit in subsequent year.

4.21.1.27.1
(08-12-2011)
Tracking of Appeals Cases

- (1) All cases forwarded to Appeals must be adequately tracked using the EMC's Master Log of Cases to insure that the Appeals outcome is properly documented and actions are taken if the government's position is sustained in full or part.
- (2) The area EMC will keep a copy of the case file and document on the EMC's Master Log of Cases quarterly follow-ups with Appeals as to the status of the case.
- (3) The following information on provider cases sent to Appeals will be sent to the Exam HQ *e-file* analyst on a quarterly basis at the end of each quarter:

- Control Number
- Firm Name and DBA
- Address
- EFIN
- SSN/PTIN/EIN
- Date Forwarded to Appeals
- Appeals Follow-up Date (if applicable)
- Appeals' Resolution and Date Received

4.21.1.27.2
(08-12-2011)
Case File Assembly

- (1) At the conclusion of the monitoring visit, the monitoring team should submit a complete case file using Form 3210 to the area EMC through their group manager. The case file should include the following items attached to the left inside case folder:

A complete "Time and Action Report," including:

- Monitor's name(s)
- Position Title(s)
- Time charged to the visit
- Time charged to travel
- Provider's name and dba
- Provider's EFIN
- Date of visit
- Type of visit
- Recommended action

Forms and other documents enclosed inside the case:

- Original "Summary Of Findings"
- Form 9984
- File Sample Reviewed, Exhibit 4.21.1-9
- Copy of Appointment Letter (if applicable)
- "E-file Monitoring Visit Check Sheet"
- Any other workpapers used to determine compliance
- E-file application information
- IDRS research data or other internal compliance reports used in supplementing this effort

- (2) The monitor's group manager should review the file to ensure that the required forms are included in the case file and required actions have been taken by the monitor. The manager should use the *Manager Check List for e-file Cases* to assist with the review. See Exhibit 4.21.1-19. Upon completion of the review, the group manager should sign the checklist and enclose it in the case file prior to forwarding the case, to the EMC via Form 3210.

4.21.1.27.3
(08-12-2011)
Case Closure

- (1) Once the provider visit is completed, the monitor should review the case file and ensure all necessary items are fully documented and assembled correctly. The monitor should close the case immediately (within 3 business days) to his/her manager who will close it to the EMC via Form 3210, *Document Transmittal*. The EMC must be made aware of the results of the visit as soon as possible. Notify the EMC immediately if a delay in returning the case file is expected.

4.21.1.28
(08-12-2011)

Master Log of Cases

- (1) To ascertain the number of *e-file* monitoring receipts/dispositions, such as planned/actual visits, referrals to CI and other actions during the calendar year, the following procedures will be used:
 - EMCs will use Form 3210 for all provider/preparer packages sent to CI and/or the Lead Development Center in order to maintain a paper trail at the PSP level for the disposition of these cases. Also, Form 3210 will be used for all provider/preparer packages sent or moved out from the area PSP to any other individual or function. This may entail creating a dummy file folder with only parts 3 (Acknowledgement copy) and 4 (To be retained by the originator) of Form 3210 with a copy of the case contact sheet, a copy of the "E-file Monitoring Visit Check Sheet" and a copy of the "Summary of Findings."
- (2) EMCs will maintain a master log of cases for all provider/preparer packages of random visits, targeted visits, and referrals of follow-up visits whether the visits were completed or not. See Exhibit 4.21.1-13, *EMC's Master Log of Cases*. This information will assist the EMC in the calendar year-end reconciliation of area *e-file* visits. This year-end reconciliation will be forwarded to the Exam HQ *e-file* analyst to ascertain a final count for the year.
- (3) The log will contain, at a minimum the following information:
 - Control number
 - Firm name and/or dba
 - EFIN
 - Address
 - Type of visit
 - IRS team member(s)
 - Received date
 - Closed date
 - Disposition of case (identify case as in compliance or sanction imposed)
- (4) The EMC's "Master Log of Cases" will be reviewed and signed by the EMC's Manager to ensure accuracy prior to submission to Exam HQ *e-file* analyst at the conclusion of the program for the fiscal year. See IRM 4.21.1.30.8 (2) for due dates.

4.21.1.29
(08-12-2011)

**Master Log of Requests
for Electronic Filing
Identification Number
(EFIN) Suspensions**

- (1) EMCs will maintain a master log of request for EFIN Suspensions for all faxes sent to IRS e-help for EFIN suspensions. See Exhibit 4.21.1-14, *EMC's Control Log for Suspensions Sent to IRS e-help Campus*. EMCs will document all follow-up contacts needed with the IRS e-help to ensure that the suspension actually occurred as requested. EMCs will check Form 8633 on EUP and place an updated printout in the provider's case file.
- (2) The EMC's *Control Log for Suspensions* sent to IRS e-help Campus will be reviewed and signed by the EMC's manager to ensure accuracy prior to submission to HQ at the conclusion of the program for the fiscal year. See IRM 4.21.1.30.8, *Managerial Reports*.

4.21.1.30

(08-12-2011)

EMC's Responsibilities

- (1) The EMC is responsible for coordinating all field aspects of the monitoring of the *e-file* providers' operations. Annually, Exam HQ *e-file* analyst in conjunction with ETA will establish the number of the total visits required. This number is usually a percentage of the total number of active *e-file* providers in the database for the area. Prior to the completion of the monitoring visits, the EMC will:
 - Train the monitoring teams;
 - Receive and document any referrals;
 - Prepare and issue the case files;
 - Review any subsequent actions recommended by the monitoring teams;
 - Provide reports to Exam HQ *e-file* analyst as required;
 - Prepare and keep accurate logs; and
 - Maintain closed case files in accordance with retention requirements.
- (2) Subsequent actions required by the EMC after the monitoring visits are completed may include:
 - Monitoring and tracking the cases through completion;
 - Issuing written reprimand, proposed suspension and recommended suspension letters;
 - Participating on the Administrative Review Panel;
 - Preparing the rebuttal documentation to present to the Office of Appeals;
 - Preparing, updating and submitting reports to the Exam HQ *e-file* analyst;
 - Contacting IRS e-help Campus, Submission Processing Center to input Status 8 code for immediate suspension or expulsion;
 - Following up on suspensions and expulsions to ensure IRS e-help Campus completed requested actions;
 - Tracking cases through the formal Appeals process and ensuring appropriate actions are taken; and
 - Assigning follow-up visits as necessary.
- (3) The majority of time spent coordinating the *e-file* monitoring program takes place between October and the end of filing season in April; however, there will be some occasional referrals, quarterly reports, and case tracking after the filing season is complete.

4.21.1.30.1

(01-04-2008)

Soliciting and Training Monitors

- (1) The EMC will evaluate the geographic locations of the staffing personnel in the area to determine the number of participants to monitor providers. Travel time may be a consideration in the determination of the number of monitors. The EMC should consult the historical files for the number of monitors that participated in prior years. The EMC will schedule, arrange and provide training to the participating monitors. The training should be completed by January 1 to enable the monitors to be available to conduct visits at the start of the filing season.

4.21.1.30.2

(08-12-2011)

Referral Visits

- (1) The EMC will receive referrals through various sources, such as the Exam HQ *e-file* analyst, other practitioners, taxpayers, Criminal Investigation, or internally from operating divisions. All "valid" referrals require a mandatory visit by the monitoring team. The referral suggests non-compliance and these visits should be unannounced. The EMC will use HQ provided control logs as their control system to ensure that the visits are properly accounted for and timely completed.

4.21.1.30.3
(08-12-2011)
Follow-up Visits

- (1) A follow-up visit will usually be performed when a written warning or written reprimand has been issued to the *e-file* provider to verify that corrective action was taken. Prior to scheduling a follow-up visit, the EMC should consider the following:
 - Prior violations
 - Severity of violations
- (2) The EMC will determine if the follow-up visit should be completed in the current filing season or the subsequent filing season and update the Exhibit 4.21.1-13, *EMC's Master Log of Cases* for the future action. The EMC will timely reassign the case file to a monitor to conduct the follow-up visit. The monitor should review the noted infractions, ensure the provider is in compliance and make any necessary recommendations to the EMC.

4.21.1.30.4
(08-12-2011)
Targeted Visits

- (1) To select targeted visits, the EMC should select *e-file* providers with the highest reject rates for the geographic location needed from the list of providers who have met the risk based criteria provided by the Exam HQ *e-file* analyst.
- (2) For all targeted visits, the established risk-based selection criteria must be followed when selecting providers for a monitoring visit. See IRM 4.21.1.8 for additional information on risk-based criteria.

4.21.1.30.5
(01-04-2008)
Random Visits

- (1) Exam HQ *e-file* analyst will provide an inventory of random visits upon written request to meet area needs when required. See IRM 4.21.1.9, for additional information on workload identification.

4.21.1.30.6
(08-12-2011)
Case Building

- (1) When a referral is received or a random visit scheduled, research is needed to identify all potential *e-file* issues that need to be addressed by the monitoring team. This research may also alert the team to potential problems that could warrant a referral to another function.
- (2) If a referral was received on the provider, the referral and any documentation provided by the referral source should be used as the starting point for the case.
- (3) The following research should be done to develop the case file:
 - Criminal Investigation - verify there is not a current investigation.
 - SPEC Tax Specialist - determine if the provider is a volunteer income tax assistance (VITA) site.
 - Historic *e-file*- review case files for any historic data.
 - Return Preparer Coordinator - determine if there is current or planned PAC activity.
- (4) Research EUP for:
 - Current copy of Form 8633
 - Historical comments on past visits and activity related to the EFIN
 - Other EFINs that may be related, i.e., same owners, responsible officials, etc.
- (5) Research IDRS for:

- RPVUE - current and prior year will show percentage of refund returns and EITC returns; for processing year 2011, RPVUE research should be conducted using the preparer's PTIN. Conduct RPVUE research for processing years prior to 2011 using the preparer's SSN, and/or PTIN ;
- IMFOLI and/or BMFOLI - to verify filing of income and payroll tax returns on controlling SSN or EIN;
- RTVUE or BRTVU - to determine if prior year income is reported for return preparation/transmission. Also, determine whether the income reported is consistent with the number of returns prepared/transmitted and the fees as reported during the interview.

4.21.1.30.7
(08-12-2011)
Control System

- (1) Once the case file is assembled, the EMC should send it via Form 3210 to the appropriate monitor(s).
- (2) When the monitors conclude their visits, the monitors will send the completed case file back to the EMC via Form 3210 through their group manager for processing along with any recommendations for subsequent actions. The EMC will update the activity record with all actions taken and will update the *EMC's Master Log of Cases*, Exhibit 4.21.1-13, and the *E-File Monitoring Report and Instructions*, Exhibit 4.21.1-17. The spreadsheet is addressed in the Coordinator's Reports section.
- (3) The EMC will maintain all documents in the EMC's *e-file* provider case file.

Note: All files should currently be in the possession of the EMC. These files should be retained three years and then disposed of in compliance with the *Records Control Schedule for Tax Administration - Examination*, IRM Exhibit 1.15.23-1.

4.21.1.30.8
(08-12-2011)
Managerial Reports

- (1) EMCs are responsible for preparing reports periodically throughout the year using format and instructions issued by SB/SE Headquarters. These reports are subject to change by the Exam HQ *e-file* analyst. Reports generally include the following (not all inclusive):
 - Number of W-2 referrals received internally and externally
 - Number of referrals received internally and externally
 - Number of phone calls made to the providers
 - Number of visits performed
 - Number of written warnings issued
 - Number of written reprimands issued
 - Number of proposed suspensions
 - Number of immediate suspensions
 - Number of expulsions
 - Number of referrals to CI
- (2) At the conclusion of the program for the fiscal year (generally June 15th of each calendar year), the final *E-file* Monitoring Report, final *e-file* Master Log of Cases and final Master Log of Requests for EFIN Suspension must be reconciled, reviewed for accuracy, and signed by the EMC's manager prior to submission to the Exam HQ *e-file* Analyst. If an area has outstanding cases, an interim report must be submitted by June 15th and bi-monthly thereafter until a final report is submitted.

4.21.1.31
(08-12-2011)
**Employee User Portal
(EUP)**

- (1) The "Employee User Portal" is the internal IRS portal that allows employees to access IRS data and systems, such as TPDS, tax administration processing systems, financial information systems, and other data and applications, including mission critical applications. Registration and authentication are required for access to sensitive and mission critical applications and all user interactions with those systems are encrypted from workstation to portal across the IRS internal network. The EUP also allows IRS employee users with LAN accounts (Windows Network Login) to access intranet sites, selected applications, non-sensitive data, and selected sensitive processing where network encryption and modernization logon are not required (e.g., employees access to selected elements of their own personnel data). IRS network authentication is required for access to any secure materials or services, and is required in order to access registration and authentication. IRS employees access internal IRS applications through a portal accessible only from the IRS Intranet. The EUP authenticates internal IRS users and provides role-based access control to modernized applications. All web sites dealing with sensitive tax, identification, or financial data will be accessed via the EUP. At this time, modernized applications using the EUP for access include e-Services, Modernized *e-file* and Integrated Financial System (IFS). The database will be updated weekly throughout the year. Access to the website requires completion of an Online 5081, *Automated Information System (AIS) User Registration/Change Request*.
- (2) The *e-file* application database accessed through the EUP contains the following information:
 - a. Complete IRS *e-file* Application information for each EFIN or ETIN.
 - b. History of warnings/reprimands/suspensions and the reason codes.
 - c. Historical information on returns prepared/transmitted for each EFIN.
 - d. Current year filing statistics including:
 - Total returns transmitted
 - Total returns accepted
 - Percentage of transmissions rejected
- (3) The database may be searched by the following parameters:
 - a. EFIN/ETIN
 - b. EIN/PTIN
 - c. SSN
 - d. DBA
 - e. Street address
 - f. City
 - g. Zip code

Note: A specific report has been designed for the EMC's that will contain all active EROs. This report may be manipulated for use in reports or custom research projects.

4.21.1.32
(08-12-2011)
**Visits to Volunteer
Income Tax Assistance
(VITA) and Tax
Counselors for the
Elderly (TCE) Locations**

- (1) The EMCs should contact the respective SPEC area office prior to visiting IRS sponsored VITA and TCE locations. SPEC visits many VITA and TCE locations to conduct quality reviews. Consideration must be given to each situation to determine if an *e-file* monitoring visit is appropriate. Duplicate visits by SB/SE and SPEC may not be necessary.

Exhibit 4.21.1-1 (08-12-2011)**Monitoring Visit - Non Compliance Diagram**

Exhibit 4.21.1-1 (MM-DD-YYYY)

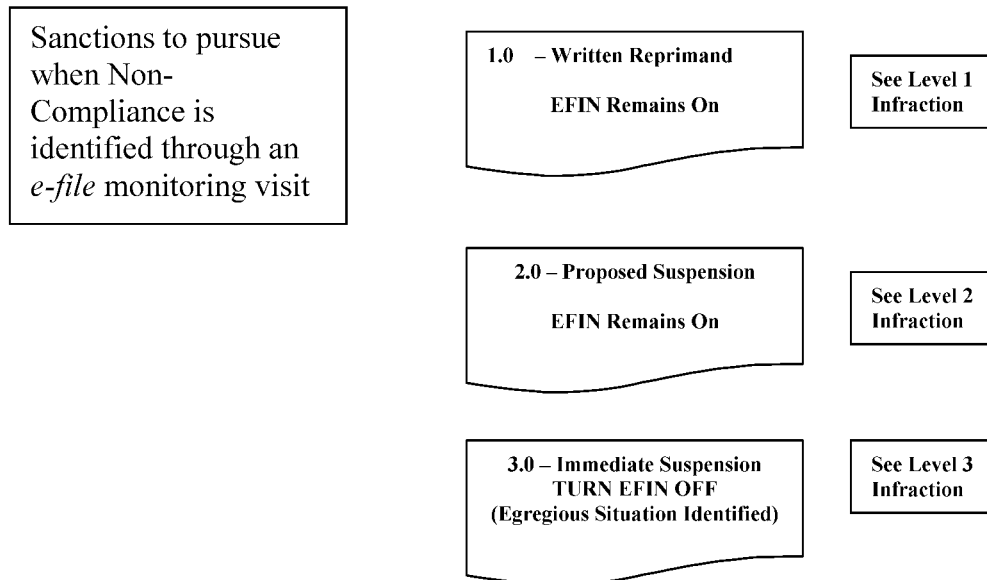
Monitoring Visit – Sanction Flow Chart

Exhibit 4.21.1-1 (Cont. 1) (08-12-2011)

Monitoring Visit - Non Compliance Diagram

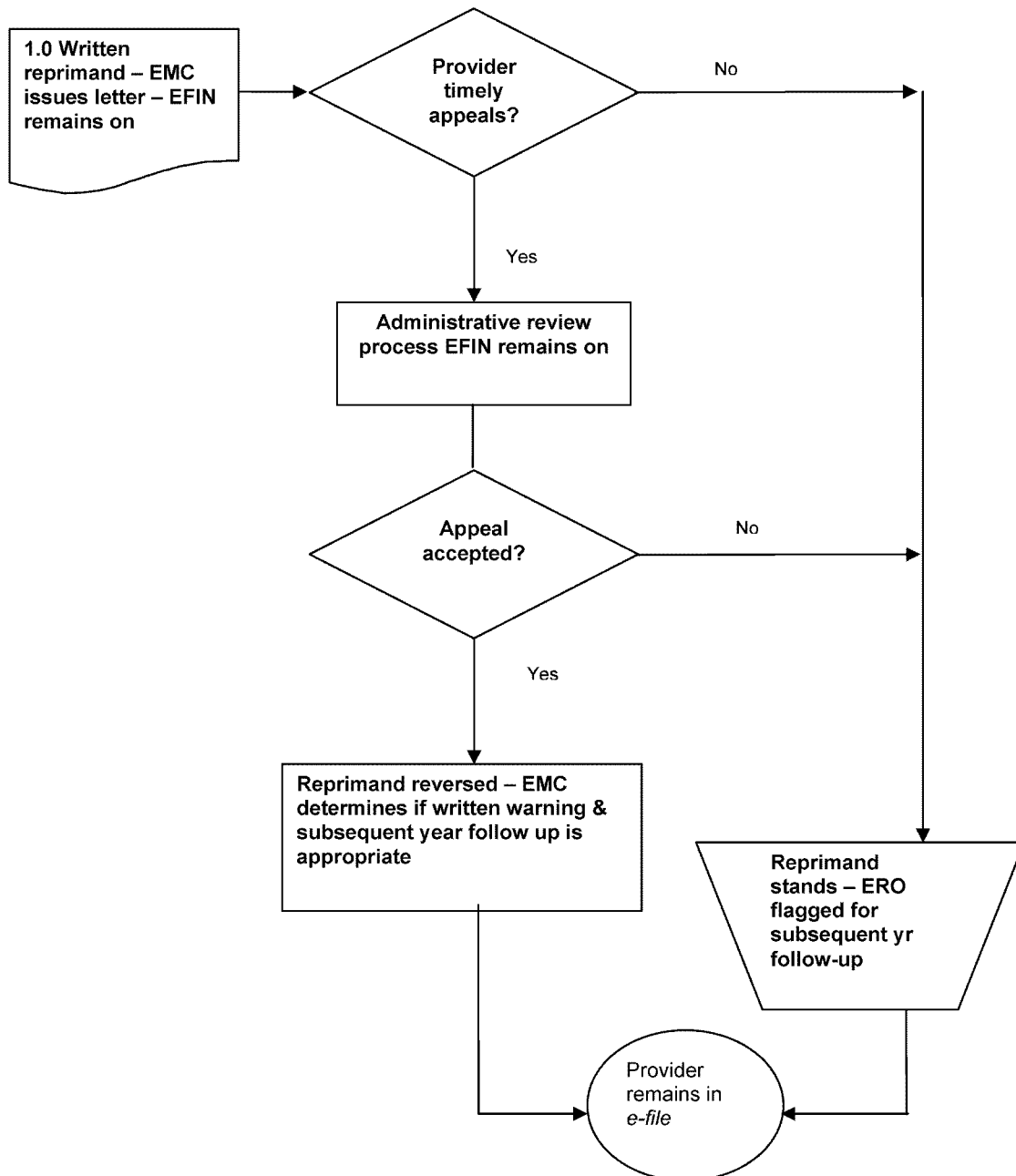
Level 1 Infraction

Exhibit 4.21.1-1 (Cont. 2) (08-12-2011)

Monitoring Visit - Non Compliance Diagram

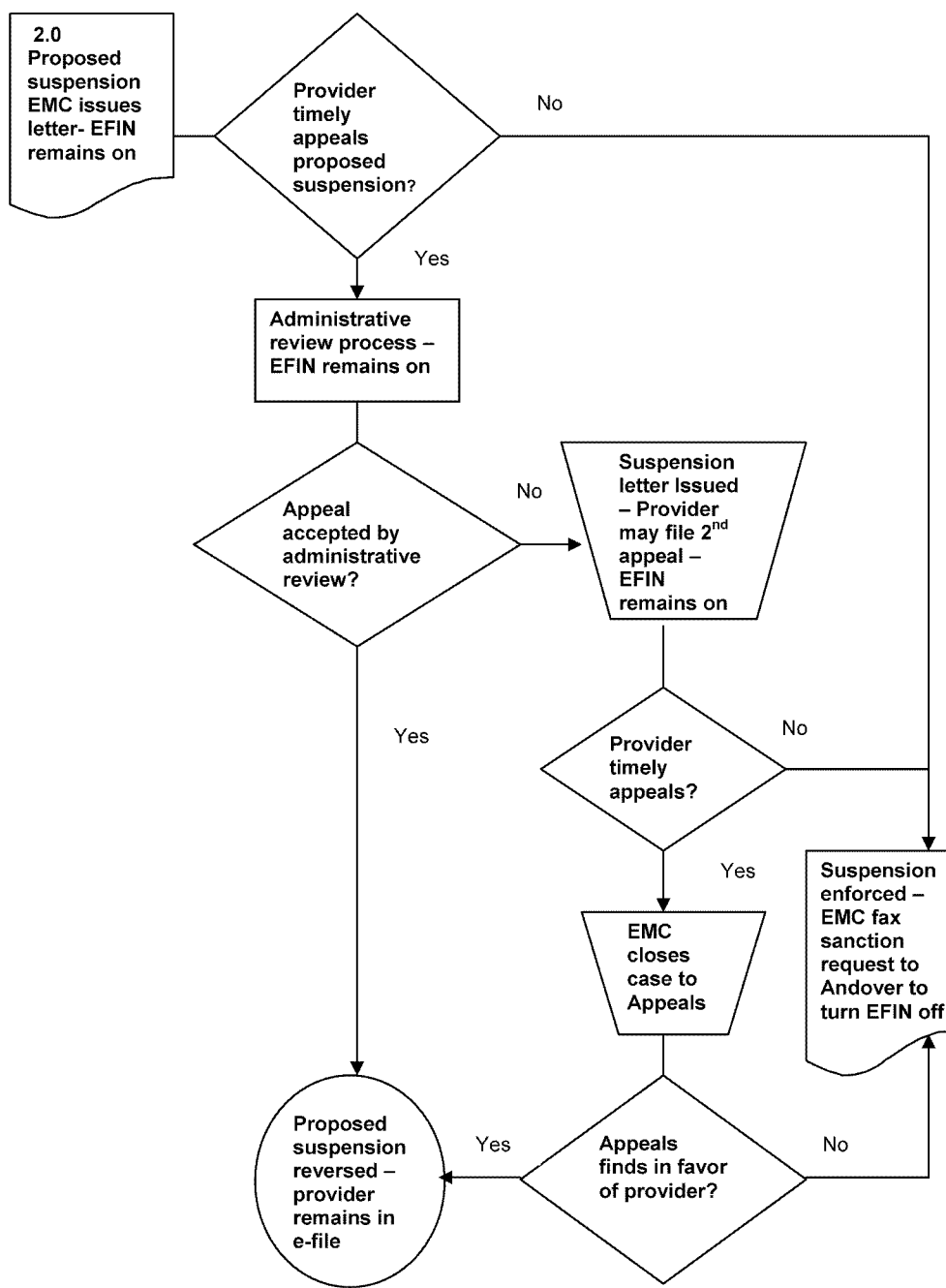
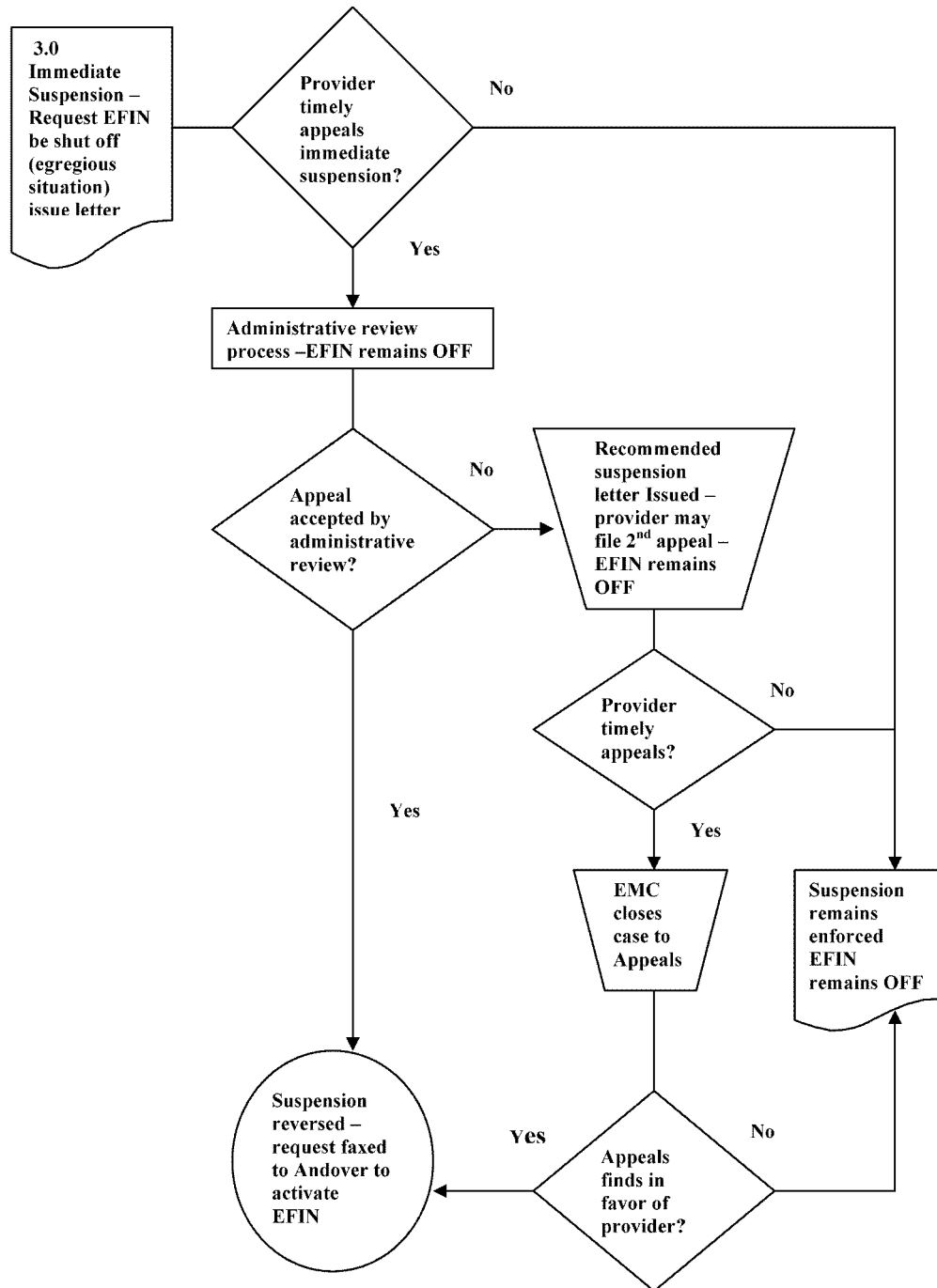
Level 2 Infraction

Exhibit 4.21.1-1 (Cont. 3) (08-12-2011)

Monitoring Visit - Non Compliance Diagram

Level 3 Infraction – Immediate Suspension

**Exhibit 4.21.1-2 (08-12-2011)
Sample Letter - Warning****DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Washington, D.C. 20224****SMALL BUSINESS/SELF-EMPLOYED DIVISION****Contact Person
Business Name
Street Address
City, State, Zip**

Date:

EFIN:

Contact

Badge Number:

Telephone Number:

Dear (Provider)

This is to notify you that we are warning your office of a failure to adhere to the requirements of the IRS e-file Program as explained in Revenue Procedure 2007-40, Publication 3112, *IRS e-file Application and Participation* or Publication 1345, *Handbook for IRS e-file Providers*.

Our decision is based on our monitoring visit conducted at your office located above. As a result of the monitoring visit, our compliance team has identified violations of Revenue Procedure 2007-40, Publication 3112, and/or Publication 1345 as cited on the attached Summary of Findings.

We will continue to monitor your IRS e-file operations to ensure that you correct this situation and meet program requirements in the future. If you fail to make the necessary corrections, we may have to take additional action that may include suspension or even expulsion of your office from the IRS e-file program.

If you have any questions regarding this letter, you may contact me at the number listed above.

Sincerely,

[EMC's Name]
*e-file Monitoring Coordinator***SAMPLE –WARNING LETTER**

Exhibit 4.21.1-3 (08-12-2011)**Sample Letter - W-2 Pay Stub Warning Letter**

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

Date:

EFIN Number:

Contact Person:

Badge Number:

Telephone Number:

**Contact Person
Business Name
Street Address
City, State, Zip****Dear Provider:**

This is to notify you that we have received information that you are e-filing or have e-filed returns using the "last pay stub." If you are, this could be in violation of the provisions of the IRS *e-file* program.

You are required to follow the provisions of the IRS *e-file* program as explained in Revenue Procedure 2007-40, Publication 1345, *Handbook for IRS e-file Providers*, and Publication 3112, *IRS e-file Application and Participation*.

A record of this alert will be kept to show that you have been notified of the above potential violation. Meanwhile, we will continue to monitor your IRS *e-file* operations to ensure that you meet program requirements in the future. If you are found in violation of the provisions of IRS *e-file*, you are subject to having sanctions imposed. Sanctions can range from a written reprimand to expulsion.

If you have questions regarding this letter, you may contact **(EMC's name)** at **(phone number)**.

Sincerely,

(EMC's Name)
e-file Monitoring Coordinator**SAMPLE - W-2 PAY STUB WARNING LETTER**

Exhibit 4.21.1-4 (08-12-2011)

Sample Letter - Written Reprimand

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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

Date:

EFIN:

Contact

Badge Number:

Telephone Number:

Contact Person
Business Name
Street Address
City, State, Zip

Dear (Provider)

This is to notify you that we are proposing that your office be reprimanded for failure to adhere to the requirements of the IRS *e-file* Program as explained in Revenue Procedure 2007-40, Publication 3112, *IRS e-file Application and Participation* and/or Publication 1345, *Handbook for IRS e-file Providers*.

Our decision is based on our monitoring visit conducted at your office located above conducted on **(date of visit)**. As a result of the monitoring visit, our compliance team has identified violations of the Revenue Procedure, Publication 3112, and/or Publication 1345 as cited on the attached Summary of Findings.

If you want to appeal this decision, write us at the address shown below. Include a detailed explanation of why you believe we should reverse our decision. You should also include documents to support your position.

Please mail your appeal to:

Internal Revenue Service
Street Address
City, State, Zip
Attn: Program Coordinator's Name

You have thirty (30) days from the date of this letter to appeal our decision or you will forfeit your right to an administrative review.

We will continue to monitor your IRS *e-file* operations to ensure that you correct this situation and meet program requirements in the future. If you fail to make the necessary corrections, we may have to take additional action that may include suspension or even expulsion of your office from the IRS *e-file* program.

If you have any questions regarding this letter, please call the *e-file* Monitoring Coordinator at the number listed above.

Sincerely,

[EMC Name]
e-file Monitoring Coordinator

Attachment: Summary of Findings

SAMPLE –WRITTEN REPRIMAND LETTER

Exhibit 4.21.1-5 (08-12-2011)

Sample Letter - Proposed Suspension



SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

Date:

EFIN Number:

Contact Person:

Badge Number:

Telephone Number:

Contact Person
Business Name
Street Address
City, State, Zip

Dear (Provider)

This is to notify you that we are proposing to suspend your office from the IRS *e-file* program for failing to adhere to the requirements as explained in Revenue Procedure 2007-40, Publication 3112, *IRS e-file Application and Participation*, and Publication 1345, *Handbook for IRS e-file Providers of Individual Income Tax Returns*.

Our decision is based on our monitoring visit conducted on **(date of visit)**, in your office, located at **(street address, city, and state)**. As a result of the monitoring visit, our compliance team has identified that you did not follow the requirements set forth in Publication 3112 and Publication 1345. **(State the violation and cite the Revenue Procedure and/or the Publication 3112 and Publication 1345 applicable section(s).)**

If you want to appeal this decision, write to us at the address shown below. Include a detailed explanation of why you believe we should reverse our decision. You should also include documents to support your position.

Please mail your appeal to: **Internal Revenue Service**
Street Address
City, State, Zip
Attn: Program coordinator's name

You have thirty (30) days from the date of this letter to appeal our decision or you will forfeit your right to an administrative review. If we do not receive your appeal within this time frame, this letter will be considered notice that you are suspended from participation in IRS *e-file*. Your suspension will be in effect for thirty days from the date of this notice plus **(calendar year XXXX or calendar years XXXX and XXXX.)**

Meanwhile, we will continue to monitor your IRS *e-file* operations to ensure that you correct this situation and meet program requirements in the future. If you fail to make the necessary corrections, we may immediately suspend or expel your office from participation in the IRS *e-file* program.

If you have questions regarding this letter, you may contact **(EMC's name)** at **(phone number)**.

Sincerely,

SAMPLE – PROPOSED SUSPENSION LETTER

Exhibit 4.21.1-6 (08-12-2011)
Sample Letter - Suspension



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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

Date:

EFIN Number:

Contact Person:

Badge Number:

Telephone Number:

Contact Person
Business Name
Street Address
City, State ZIP

Dear (Provider):

This is to notify you that we are immediately suspending your office from the IRS e-file Program for failing to adhere to the requirements as explained in Revenue Procedure 2007-40, Publication 3112, *IRS e-file Application and Participation*, and Publication 1345, *Handbook for IRS e-file Providers of Individual Income Tax Returns*.

Our decision is based on our monitoring visit conducted on **(date of visit)** in your office located at **(Street Address, City, State)**. As a result of the monitoring visit, our compliance team has identified that you did not follow the requirements set forth in Publication 3112 and Publication 1345. **(State the violation and cite the Revenue Procedure and/or the Publication 1345 Section.)**

If you want to appeal this decision, write to us at the address shown below. Include a detailed explanation of why you believe we should reverse our decision. You should also include documents to support your position.

Please mail your appeal: **Internal Revenue Service**
Street Address
City, State, ZIP
Attn: Program Coordinator's Name

You have thirty (30) days from the date of this letter to appeal our decision or you will forfeit your right to an administrative review. If we don't receive your appeal within that time, this letter will be considered notice that you are suspended from participation in the IRS e-file program. Your suspension will be in effect for _____ **(The suspension period will be either one or two years depending on the level of infraction)** from the date of this notice. Your eligibility date to reapply to participate in e-file is 45 days prior to the end of your suspension period.

If you have questions regarding this letter, you may contact **(EMC's Name)** at **(Phone Number)**.

Sincerely,

[Area Director's Name]
Director, XXX Area Examination

SAMPLE SUSPENSION LETTER

Exhibit 4.21.1-7 (08-12-2011)
Samples of Appeals' Letters



SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

Date:

EFIN Number:

Contact Person:

Badge Number:

Telephone Number:

Contact Person
Business Name
Street Address
City, State, Zip

Dear **(Provider)**

The Office of Appeals has notified us of its decision to allow your office to continue participating in the IRS *e-file* program. You may **(resume or continue)** filing electronic tax returns.

If you have questions regarding this letter, you may contact **(EMC's name)** at **(phone number)**.

Sincerely,

(EMC's name)
e-file Monitoring Coordinator

Sample – Office of Appeals Decision Letter

Exhibit 4.21.1-7 (Cont. 1) (08-12-2011)
Samples of Appeals' Letters



SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

Date:

EFIN Number:

Contact Person:

Badge Number:

Telephone Number:

Contact Person
Business Name
Street Address
City, State, Zip

Dear **(Provider)**

This confirms that we have received your appeal dated **(date)** concerning your **(proposed suspension or suspension)** from the IRS *e-file* program. Your appeal and documentation were submitted to the Office of Appeals on **(date submitted to OA)**. The Office of Appeals will notify you of its final decision.

If you have questions regarding this letter, you may contact **(EMC's name)** at **(phone number)**.

Sincerely,

(EMC)
***e-file* Monitoring Coordinator**

Sample Letter– Forward to Office of Appeals

Exhibit 4.21.1-7 (Cont. 2) (08-12-2011)
Samples of Appeals' Letters



SMALL BUSINESS/SELF-EMPLOYED DIVISION

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

Date:

EFIN Number:

Contact Person:

Badge Number:

Telephone Number:

Contact Person
Business Name
Street Address
City, State, Zip

Dear (Provider)

After consideration of the additional information you provided in your letter dated **(date of appeal letter)** we continue to support our decision to suspend your office from participation in the IRS *e-file* program.

If you want to appeal this decision, write us at the address shown below. Include a detailed explanation of why you believe we should reverse our decision. You should include documents to support your position. We will forward your appeal and documentation to the Office of Appeals.

Please mail your appeal to:

Internal Revenue Service
Street Address
City, State, Zip

Attn: **Program Coordinator's Name**

You have thirty (30) days from the date of this letter to appeal our decision or you will forfeit your right to a review by the Office of Appeals. If we do not receive your appeal within this time frame, this letter will be considered notice that you are suspended from participation in the IRS *e-file* program. Your suspension will be in effect thirty days from the date of this letter plus **(calendar year XXX X or calendar years XXXX and XXXX.)**

If you have questions regarding this letter, you may contact **(EMC's name)** at **(phone number)**.

Sincerely,

Type Area Director's name

Sample – Recommended Suspension Letter

Exhibit 4.21.1-8 (08-12-2011)
E-file Monitoring Visit Check Sheet*E-file Monitoring Visit Check Sheet*

Close case to the PSP Electronic Monitoring Coordinator (EMC)
through the Group Manager.

ACTUAL VISIT AND TRAVEL TIME: Report the time spent at the Provider's location and the travel time to and from the Provider's location in whole hours. Include in your case file the total time for all team members. Example: A two member team spends two hours at the Provider's location and two hours traveling to and from the Provider's location. The time reported in the case file would be the team members' aggregate time of 8 hours.

FORM 4502 ACTIVITY CODE: Examiners who participate in the Provider Monitoring Program charge their time to Activity Code 522000.

E-file Coordinator/Monitor: _____ *Phone Number:* _____ *Area/POD:* _____

☐ CI is not currently investigating Provider; ☐ Provider is not a current PAC; ☐ If applicable, advise IRS National Account Manager of visit results

Date of initial visit: _____

Firm Legal Name: _____

D/B/A: _____

EFIN: _____ EIN: _____ SSN: _____ PTIN: _____

Additional EFIN(s)/PTIN (s): _____

Address: _____

Telephone Number(s): _____

TYPE OF VISIT:

- ☐ REFERRAL: [NOTE: These visits should be unannounced]
- ☐ FOLLOW-UP: [NOTE: These visits should be unannounced]
- ☐ TARGETED: [NOTE: These visits should be made by appointment.]
- ☐ RANDOM: [NOTE: These visits should be made by appointment.]

Indicate below the type of visitation: ☐ UNANNOUNCED VISIT ☐ APPOINTMENT VISIT

Exhibit 4.21.1-8 (Cont. 1) (08-12-2011)**E-file Monitoring Visit Check Sheet*****E-file Monitoring Visit Check Sheet*****Form 8633 Information****CASE FILE CONTENT**

Prior to discussing or providing Form 8633 information, **request photo identification** to verify primary contact, alternate contact or responsible official's identity. **KNOW WHO YOU ARE TALKING WITH.** If available, provide **primary contact, alternate contact, or responsible official** with a copy of our Form 8633 Information sheet.

1. Is all the information contained on the *e-file* application Information Sheet correct? ☐ YES ☐ NO

2. Has the Provider revised the *e-file* application, notifying the IRS of any changes? ☐ YES ☐ NO

[NOTE: Providers must revise their IRS *e-file* Application within 30 days of a change of any information on the current Application. Providers may update their *e-file* application via e-services on www.irs.gov or by calling e-help at 1-866-255-0654.]

3. If no, record the correct information below and explain the steps the Provider took during this visit to correct the information:

4. Company's organization: ☐ Sole Proprietorship ☐ Partnership ☐ Corporation ☐ Other

5. Contact Representative's Name:

6. Responsible Official's Name:

(A responsible official is an individual identified on Form 8633, *Application to Participate in the IRS e-file Program*, with authority over the provider's IRS *e-file* operations at a location.) **ASK FOR PICTURE IDENTIFICATION**

7. Current Firm address:

8. Telephone Numbers: Daytime: _____ Evening: _____

9. How many owners (i.e., partners, corporate officers, etc):

10. Owners' Names:

11. Professional background: ☐ CPA ☐ Accountant ☐ Enrolled Agents ☐ Other

Exhibit 4.21.1-8 (Cont. 2) (08-12-2011)
E-file Monitoring Visit Check Sheet

E-file Monitoring Visit Check Sheet

12. Ask if he/she has registered for a PTIN under the PTIN regulations. ☐ YES ☐ NO

13. If the response is YES, the Monitor will ask to see the PTIN Registration, and ask question 14.

14. Did they enter the PTIN on all returns filed? ☐ YES ☐ NO

If yes – how is the preparer PTIN entered on prepared returns? (Have provider show you how it is entered). See note below.

If no, was another return preparer identifier used? Please explain why PTIN was not included on filed returns.

Note: During case sampling, the monitor should validate whether the return was prepared for compensation and, if so, the monitor should confirm with the provider the identity of the preparer, then validate that the preparer's signature and identifying number (PTIN) were included on the filed returns. This is best done by checking IDRS by using command code RTVUE and TRDBV. For any such returns filed without the preparer signature and/or identifying number, an IRC section 6695(b) Failure to Sign Return, and/or IRC section 6695(c) Failure to Furnish Identifying Number penalty should be pursued.

15. If the response to # 12 is NO, explain that all paid federal tax return preparers are required to register for, and use, a PTIN as a means of identification on prepared returns, and assist them with PTIN registration _____

16. Is Provider's EFIN different from the EFIN on the e-file application information sheet? ☐ YES ☐ NO
 If yes, please describe why: _____

17. Does Provider use related EFINs? ☐ YES ☐ NO
 If yes, what are they and why are other EFINs used? _____

18. Does the Provider originate the submission of returns from any other business entity or location?
☐ YES ☐ NO

If yes, provide the following information:

a) Firm's Name: _____

Address: _____

EIN: _____ EFIN: _____ PTIN _____

Exhibit 4.21.1-8 (Cont. 3) (08-12-2011)
E-file Monitoring Visit Check Sheet

E-file Monitoring Visit Check Sheet

b) Firm's Name: _____

Address: _____

EIN: _____ EFIN: _____ PTIN _____

19. Does the Provider have any other business locations where returns are prepared? ☐ YES ☐ NO

a) Firm's Name: _____

Address: _____

EIN: _____ EFIN: _____ PTIN _____

b) Firm's Name: _____

Address: _____

EIN: _____ EFIN: _____ PTIN _____

20. Is EFIN or PTIN posted in large numbers in Provider's office? ☐ YES ☐ NO

21. What measures does the Provider take to ensure the security of their EFIN(s), ETIN(s), PTIN(s) and /or passwords?

General ERO / Employee Information

22. Describe the Provider's type of service (i.e. ERO, return preparation, Transmitter, etc.):

23. What software does the Provider Use? _____

24. How many employees prepare tax returns at all of the Provider's business locations? _____
 Do they all have valid PTINs? If No – why not? If yes, have provider submit list of names and PTINs

25. What steps does the Provider take to verify that employees are eligible to participate in IRS e-file and PTIN programs?

Exhibit 4.21.1-8 (Cont. 4) (08-12-2011)
E-file Monitoring Visit Check Sheet***E-file* Monitoring Visit Check Sheet**

26. Are any employees ineligible to participate in IRS
- e-file*
- ?
- ☐
- YES
- ☐
- NO

If yes, explain:

27. What type and amount of training does the Provider give to employees?

PIN / IRS *e-file* Signature Authorization (Form 8879)

[HISTORY: Beginning with the 2008 filing season, tax practitioners can *e-file* individual income tax returns only if the returns are signed electronically using one of two methods: either a Self-Select Personal Identification Number (PIN) or a Practitioner PIN. A Self-Select PIN allows taxpayers to electronically sign their *e-filed* return by selecting a five-digit PIN. A Practitioner PIN is used when a taxpayer authorizes an Electronic Return Originator (ERO) to input an electronic signature on behalf of the taxpayer. Practitioner PINs require the use of Form 8879, *IRS e-file Signature Authorization*, which is retained by the ERO.

Tax practitioners no longer submit a paper signature for *e-filed* returns by using Form 8453, *U.S. Individual Income Tax Declaration for an IRS e-file Return*. Instead, a newly designed Form 8453 is used to transmit supporting paper documents that are required to be submitted to the IRS with *e-filed* returns.]

28. Which method does the Provider use?
- ☐
- Self-Selected PIN
- ☐
- Practitioner PIN
- ☐
- Both

29. Is Form 8879, IRS
- e-file*
- Signature Authorization, stored on site?
- ☐
- YES
- ☐
- NO

If no, list the locations where Form 8879 is stored:

30. How are Forms 8879 filed in the office?

31. Are Forms 8879 signed prior to transmission?
- ☐
- YES
- ☐
- NO

If no, please explain:

Note: Transmission of returns prior to taxpayers' signing of Form 8879 may constitute an unauthorized disclosure of taxpayer information by the ERO/preparer. A disclosure penalty under IRC section 6713 may be applicable. All facts and circumstances should be carefully documented and contact with the EMC made to discuss assertion of the penalty.

Exhibit 4.21.1-8 (Cont. 5) (08-12-2011)**E-file Monitoring Visit Check Sheet*****E-file Monitoring Visit Check Sheet***

32. Are the Forms 8879 complete? ☐ YES ☐ NO
 If no, what information is missing / incomplete / incorrect?

- ☐ Declaration Control Number (DCN) ☐ Taxpayer's Name and TIN/SSN
☐ Taxpayers PIN, Signature and date ☐ Practitioner PIN, Signature and date
☐ Tax Return Information

33. Was the taxpayer provided with a copy of the return, or in the case of a corrected return, the non-electronic portion? ☐ YES ☐ NO
 If no, please explain:

Acknowledgment Files

34. Are Service Acknowledgment Files maintained? ☐ Yes, Verified ☐ No

If no, please explain:

35. How long does the Provider keep the acknowledgment files? _____

Note: Use the Acknowledgement File Listing to pull a sample of tax returns and Forms 8879 (if applicable) for review

Tax Return – Electronic Portion

36. Are copies of the prepared return maintained?

☐ Hardcopies ☐ Digital Copies ☐ None

37. Does the Provider have clients complete a questionnaire (e.g., drafted locally) along with – or in lieu of – the software questionnaire? ☐ YES ☐ NO

Note: Obtain a copy of the questionnaire/clients interview sheet or a printout of the software questionnaire.

38. Describe the type(s) of form(s) the Provider uses to verify the clients identity (i.e. Social Security Cards, divorce decree, driver's license, etc.)

Are copies retained: ☐ YES ☐ NO

Exhibit 4.21.1-8 (Cont. 6) (08-12-2011)
E-file Monitoring Visit Check Sheet

***E-file* Monitoring Visit Check Sheet**

39. What documentation does the Provider provide the taxpayer?

- ☐ Form 1040 – Tax Return ☐ Copy of a signed Form 8879 (if applicable)
☐ RAL Contract and Documents ☐ Corrected returns the non-electronic portion
☐ Other, list: _____

Security of Tax Return Information and Taxpayer Data

40. Inspect the office for tax returns lying around where the returns might be in view of other taxpayers.
 Inspection results: _____

41. Question the Provider as to who has access to the computer.

42. Question the Provider as to who has access to the taxpayers' files.

43. Are the taxpayer records locked and secure at the end of each day? ☐ YES ☐ NO
 If no, recommend they lock the records because of identity theft

44. Question the Provider as to who has access to the office keys.

45. Does the authorized *e-file* provider use a web site to secure taxpayer's personal information?

If yes, what is their URL?

Has the URL been added to their *e-file* application?

Note: If a potential IRC section 6713 (disclosure) violation is observed, carefully document facts regarding violation and discuss assertion of penalty with EMC.

Exhibit 4.21.1-8 (Cont. 7) (08-12-2011)**E-file Monitoring Visit Check Sheet*****E-file Monitoring Visit Check Sheet*****EITC Due Diligence**

The following questions must be asked of the provider and then verified for any returns that are part of the e-file monitoring sample where EITC is claimed:

46. Does the Provider make additional inquiries of clients who claim EITC when the return claims items impacting EITC eligibility that appear to be incorrect, incomplete or inconsistent?

☐ YES ☐ NO

47. Are any additional inquiries made by the Provider and are the clients' responses to those inquiries documented in Provider's records?

☐ YES ☐ NO

48. Is the Schedule EITC Preparer's Check list part of the electronic record?

☐ YES ☐ NO

49. Is the EITC Worksheet or equivalent part of the electronic record?

☐ YES ☐ NO

If no, can the Provider produce an alternative worksheet?

☐ YES ☐ NO

50. How long does the Provider maintain the EITC Checklist and the EITC Worksheet, or the alternative documents (if applicable)?

CAUTION: If the preparer answered "No" to any Question # 46 through # 50, you must make an EITC Due Diligence Referral. Contact the EITC Coordinator for consultation /procedures.

Return Preparer Responsibilities

51. Does the Provider sign as both Paid Preparer and ERO for those returns prepared in the office?

☐ YES ☐ NO

If no, why?

52. If a preparer outside the firm prepares a return, does the Provider identify the other preparer / entity as the Paid Preparer?

☐ YES ☐ NO ☐ N/A

Exhibit 4.21.1-8 (Cont. 8) (08-12-2011)
E-file Monitoring Visit Check Sheet*E-file Monitoring Visit Check Sheet*

53. List below the names of non-employee preparers from whom the Provider accepts returns for electronic filing:

54. Does the Provider verify whether such preparers are in good standing with IRS and have a valid EFIN and PTIN?

☐ YES ☐ NO ☐ N/A

55. Describe the steps the Provider takes to verify whether such preparers are in good standing with the IRS and have a valid EFIN and PTIN:

REFUND ANTICIPATION LOAN (RAL)-REFUND ANTICIPATION CHECK (RAC)-OTHER BANK PRODUCTS

56. Indicate the various bank products the firm offers.

☐ Refund Anticipation Loan (RAL) ☐ Refund Anticipation Check (RAC)
☐ Other bank products:

Which financial institution / bank?

Routing Transit Nbr (RTN):

Note: Verify through oral testimony whether the lender is related to the ERO within the meaning of IRC section 267 or IRC section 707.

57. How does the ERO ensure the client understand RAL/RAC/Other bank products are not IRS refunds, but interest bearing loans?

58. Ask the ERO what steps are taken to ensure the taxpayer understands that in the event a direct deposit is not received within the expected time frame for whatever reason, the taxpayer may be liable to the lender for additional interest on the RAL/RAC/Other bank Products.

Exhibit 4.21.1-8 (Cont. 9) (08-12-2011)**E-file Monitoring Visit Check Sheet*****E-file Monitoring Visit Check Sheet***

59. "Un-funded Loans" – Request the ERO to pull a report showing the list of clients who are un-funded. These clients received RALs or RACs but the bank never received the deposits from the IRS. This may indicate they may not be conducting good interviews before approving their loans.

Explain any un-funded loans identified:

60. Does the ERO provide the client a business or personal check issued by the preparer or firm in lieu of the client's refund or a RAL?

☐ YES ☐ NO ☐ N/A

61. Does the ERO "assist" clients in cashing their refund checks?

☐ YES ☐ NO ☐ N/A

62. Is the RAL application completed and signed prior to transmitting the return?

☐ YES ☐ NO ☐ N/A

Note: Failure by the ERO to secure a signed application for a RAL or any bank product used before transmitting returns may constitute an unauthorized disclosure of taxpayer information. Discuss possible assertion of penalty under IRC section 6713 with EMC.

Fees

63. For what services does the ERO charge fees? How much is each fee?

Return preparation ONLY? _____

IRS e-file ONLY? _____

Return preparation and e-file? _____

Direct deposit (other than RAL)? _____

RAL fee (breakdown)? _____

Is a fee schedule in the ERO's office? ☐ YES (Obtain a sample if available) ☐ NO

64. Does the provider advise taxpayers of all fees and other known deductions to be paid from their refund? ☐ YES ☐ NO

65. Does the provider advise the taxpayer of the actual amount of the refund that they (the taxpayer) will receive after fees or other deductions are paid? ☐ YES ☐ NO

Exhibit 4.21.1-8 (Cont. 10) (08-12-2011)
E-file Monitoring Visit Check Sheet***E-file* Monitoring Visit Check Sheet****Advertising**

66. What type of advertisements does the Provider use? (Obtain sample(s) if available)

☐ Newspaper ☐ Radio ☐ TV ☐ Internet

If the Provider uses the Internet to advertise, what is the web address (i.e., URL)?

67. Advertising may not contain the words or initials of the "Internal Revenue Service" or "IRS" (other than the IRS *e-file* logo). Is the Provider's advertising OK? ☐ YES ☐ NO

If no, please explain:

68. For RALs and RACs, does the advertising clearly indicate the product is a loan?

☐ YES ☐ NO ☐ N/A

If no, please explain:

69. Examine the office practices and advertising. Is the advertising misleading? Does the advertising suggest clients will receive an IRS refund within a specific time period? (e.g. "24 Hour Refund")

☐ YES ☐ NO ☐ N/A

If yes, please explain:

Form W-2, Form W-2G, Form 1099R

70. Does the Provider maintain copies of Forms W-2, W-2G, and 1099R? ☐ YES ☐ NO

If no, please explain:

71. During this filing season did the Provider use Leave and Earning Statements or 'last pay stub' in lieu of a Form W-2?

☐ YES ☐ NO

If yes, why didn't the preparer use the Form W-2:

Exhibit 4.21.1-8 (Cont. 11) (08-12-2011)
E-file Monitoring Visit Check Sheet*E-file Monitoring Visit Check Sheet*

72. How many returns did the Provider transmit the first day of IRS e-file? Review to determine if Leave and Earning Statements or "last pay stub" were used.

73. Has the Provider ever received a Form W-2 that was altered, handwritten, or typed? ☐ YES ☐ NO

If yes, what steps did the Provider take to verify that the W-2 was valid (i.e., not Fraudulent)?

74. Does the Provider indicate an altered, handwritten, or typed Form W-2 as "Non-Standard" when entering the information into the tax preparation software? ☐ Yes ☐ NO

If no, please explain:

Additional Comments:

Exhibit 4.21.1-9 (08-12-2011)
File Sample Reviewed

FILE SAMPLE REVIEWED

[illegible]

Note: If both TP's are present at the time of the tax return preparation, the TP's may use the self-selected PIN option. If one or both of the TP's are not available to select a PIN, and if the Provider participates in the preparer PIN method, the Provider may select the PIN. In order for the Provider to select the PIN, the Provider must have a completed and signed Authorized/Authentication Form 8879 before the tax return is transmitted.

Exhibit 4.21.1-10 (08-12-2011)
Summary of Findings

Summary of Findings

Name of Business: _____ **EFIN:** _____

PTIN: PTIN: (Ask to see verification of PTIN Record PTIN below)

Form 8633:

Note: The IRS will no longer issue the annual letters for continued participation in the IRS e-file.

Reference: _____

Electronic Signature/PIN:

Reference: _____

Acknowledgment Files: (Ask for files from beginning of the filing season through the date of Visit' list dates below)

Reference: _____

Tax Return Electronic Portion:

Reference: _____

Refund Anticipation Loan/ Refund Check Loan/ Other Bank Products/ Fees:

Reference: _____

Security:

Reference: _____

Exhibit 4.21.1-10 (Cont. 1) (08-12-2011)
Summary of Findings

Summary of Findings - Continuation

Advertising:

Reference: _____

Forms W-2's, W-2G, and 1099R:

Reference: _____

Physical Checks:

Reference: _____

Other Issues:

Reference: _____

I have reviewed the compliance analysis with the Internal Revenue Service Representative. I understand that I am required to abide by the rules and regulations contained in the Revenue Procedure 2007-40, and Publication 1345 "Handbook for Authorized IRS *e-file* Providers". I also understand that I am required to rectify any violation immediately.

Based upon the monitor's review of your operations, the recommendation below was made. The monitor's recommendation is subject to change after review by the *e-file* Monitoring Coordinator. You may be subject to sanctions for any violations found.

In Compliance/No Action

Warning

Proposed Written Reprimand

Proposed Suspension

Immediate Suspension

Expulsion

We will continue to monitor your *e-file* operation. If you fail to make any requested corrections, we may have to take additional action that may include suspension or even expulsion of your office from the IRS *e-file* Program.

If you have any additional questions regarding this notification, please call the *e-file* Monitoring Coordinator, XXXXXXX, at (XXX)XXX-XXXX.

 Internal Revenue Service Representative / Badge # / Date

 Signature of Firm Representative Date

 Internal Revenue Service Representative / Badge # / Date

 Printed Name of Firm Representative

Exhibit 4.21.1-11 (08-12-2011)**E-file Monitoring Sanction Request*****E-File Monitoring Sanction Request***

Fax with a copy of sanction letter(s) to the Andover Campus Suitability Unit at (978) 474-1655.

☐ Warning ☐ Written Reprimand ☐ 1 Yr Suspension ☐ 2 Yr Suspension ☐ Expulsion

Total # of Pages (including this sheet and Letters): _____

Date Faxed to Andover Campus: _____

EFIN(s): _____ Business Name: _____

ETIN(s): _____ Location: _____

SSN: _____ Individual's Name: _____

SSN: _____ Individual's Name: _____

SSN: _____ Individual's Name: _____

SSN: _____ Individual's Name: _____

Coordinator: _____ Area: _____ Territory: _____

Coordinator's Telephone Number: _____ Coordinator's Fax Number: _____

Comments for Warnings and Written Reprimands: _____

Input Provider Status Non-Compliance (Field Monitoring) and Fail Individuals' Personal Suitability

Input Reason(s) circled below for suspension and expulsions:

- 1 Conviction of a criminal offense
- 5 Suspension/disbarment from practice
- 6 Conduct of a disreputable nature
- 7 Misrepresentation on application
- 9 Unethical practices in return preparation
- 10 Stockpiling returns prior to acceptance
- 11 Knowingly employing a denied/suspended IRS e-file provider
- 12 Knowingly working for a denied/suspended IRS e-file provider
- 17 Advertising standards
- 18 Deterioration in format of transmissions
- 19 Unacceptable cumulative error rates
- 20 Untimely, missing or incomplete Form 8453
- 21 Stockpiling returns
- 22 Failure to retrieve acknowledgment files
- 23 Failure to provide taxpayer acknowledgement
- 24 Significant complaints about authorized IRS e-file provider
- 25 EFIN compromised by authorized IRS e-file provider
- 26 ETIN compromised by transmitter
- 27 ETIN compromised by software developer
- 28 Failure to cooperate with monitoring efforts
- 29 Improper use of W-2 indicator by provider
- 30 Improper use of RAL indicator
- 31 Failure by transmitter to use provider's or intermediate service provider's EFIN appropriately
- 32 Other (Check items that apply or write if not listed)
 _____ EIC Due Diligence checklist and worksheet not on file
 _____ Other: _____
- 35 Failure to adhere to signature requirements
- 57 Accepting returns from persons other than taxpayers or authorized IRS e-file providers
- 58 More than one EFIN for the same business entity at the same location
- 59 Improper origination
- 60 Failure to retain or provide records
- 61 Failure to notify IRS of changes/ Form 8633 not updated

Exhibit 4.21.1-12 (08-12-2011)

Time and Action Report

TIME and ACTION REPORT

(For Internal Use Only)

The Time and Action Report: Report the time spent at the ERO's location and the travel time.**Activity Record:** Report the preplanning and final write up time.

Name - Monitor/EMC	Position Title	Monitor's Time		EMC's Time	
		Travel	Examination	Travel	Examination

ERO Name	EFINs	PTINs

Date of visit _____

Action Recommended:

_____ Closed - no follow-up needed

☐ This filing season ☐ Next filing season

_____ Follow-up needed

Issues: _____

_____ Refer to CID

Issues: _____

_____ Warning Notification

Issues: _____

_____ Written Reprimand

Issues: _____

_____ Proposed Suspension Recommended

Issues: _____

_____ Suspension

Issues: _____

_____ Expulsion

Issues: _____

Exhibit 4.21.1-13 (08-12-2011)**E-file Monitoring Coordinator's (EMC's) Master Log of Cases**

EMC's Master Log of Cases
Sample of Spreadsheet Columns

	A	B	C	D	E	F	G
	Control #	Hours on Time & Action Rept	Time on Activity Record	Type of Visit Referral Follow Up Targeted Random	Legal Name	DBA	TIN/EIN
1							
2							
3							

	H	K	L	M	N	O	P	Q
	EFIN	PTIN	Physical Street Address	City	State	Zip Code	POD	GM
1								
2								
3								

	R	S	T	U	V	W	X
	Monitor	Group Assignment	Date Recvd in PSP	Date closed on rept	Prior yr file returned	***** Disposition ***** (In Compliance, Verbal Warning, Written Warning, Written Reprimand, Proposed Suspension, Immediate Suspension, Expulsion, Appealed)	Subsequent Year Follow Up Visit Needed?
1							
2							

	Y	Z	AA	AB	AC	AD
	If Appealed: Date sent to Office of Appeals	If Appealed: Dates of follow up with Appeals to check status (quarterly)	If Appealed: Final Resolution & Date of Appeals Decision Notification	Suitability ANSC notified (y/n?)	Comments on EUP/copy of comments in file (y/n?)	Year End Reconciliation Yes/No
1						
2						

Exhibit 4.21.1-14 (08-12-2011)

EMC's Control Log for Suspensions Sent to IRS e-help Campus

Area Count Number	Control Number	Date Faxed to Andover	Firm Name and D/B/A and Address	EFIN	Date EFIN Suspended (Check TPDS)	Is Copy of TPDS in Case File? Yes/No
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						

Control numbers are to be assigned to each case file regardless of whether a visit was made or not. Control numbers will be sequential beginning with 001. First 3 digits define the area, second 2 digits define the calendar year, and the last 3 digits are the sequential numbering of cases. Examples are as follows:

- California - 20707000
- Central - 20207000
- Gulf States 20507000
- Midwest - 20407000
- North Atlantic - 20107000
- South Atlantic - 20307000
- Western - 20607000

Exhibit 4.21.1-15 (08-12-2011)**IRS e-File Monitoring Referral and Follow Up****IRS e-file Monitoring
Referral and Follow Up**

ERO/Authorized IRS e-file Provider Being Referred				
Name:				
Address:				
EFIN (If known):				
Telephone Number:				
Person Making Referral (If other than IRS employee)				
Name:				
Company:				
Address:				
Telephone Number:				
<u>Reason for Referral:</u>				
Referred by (To be completed by IRS employee)				
Referred by:			Phone Number:	
SEID:				
Initial Action (To be completed by EMC)				
Is person/company an E-file provider			YES <input type="checkbox"/>	NO <input type="checkbox"/>
Has ERO been contacted by other Compliance employee?			YES <input type="checkbox"/>	NO <input type="checkbox"/>
<u>If Yes, describe:</u>				
Called- date(s)				
Called- date(s)				
<u>Summary of activities and results:</u>				
Final Action (To be completed by EMC)				
<input type="checkbox"/> Proposed Suspension (Date of letter)				
Response within 30 days:				
<u>Appeal:</u>				
<u>Result:</u>				
<input type="checkbox"/> No Action			<input type="checkbox"/> Reprimand – date:	
<input type="checkbox"/> Immediate Suspension – date:				
EMC or Other IRS Employee				
Name:		Title:		
Area:	POD:	Phone No.:		

Exhibit 4.21.1-16 (08-12-2011)

Administrative Review Reversing a Sanction Letter



SMALL BUSINESS / SELF-EMPLOYED DIVISION

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

Date:

EFIN Number:

Contact Person:

Badge Number:

Telephone Number:

Contact Person
Business Name
Street Address
City, State, Zip

Dear **(Provider)**

Thank you for the additional information provided in your correspondence dated **(date)**. After careful consideration of the facts presented in your letter regarding the recent **(written reprimand, proposed suspension or recommended suspension)**, we have decided to allow your office to continue participating in the IRS *e-file* program.

If you have questions regarding this letter, you may contact **(EMC)** at **(phone number)**.

Sincerely,

e-file Monitoring Coordinator

SAMPLE – Administrative Review Reversing a Sanction Letter

Exhibit 4.21.1-17 (08-12-2011)***E-File Monitoring Report and Instructions***

E-file Monitoring Report Instructions.

- The first e-file monitoring report is due to the Exam HQ *e-file* analyst on the final Wednesday in January covering activity through the previous Friday.
- The monitoring reports are due to the Exam HQ *e-file* analyst the Wednesday following the close of the reporting week. If you are going to be out of the office, please submit the report early.
- Do not fill in any blue cells in the Excel spreadsheet because these cells contain formulas. Complete your area's weekly report, using the spreadsheet provided, and send it to the Exam HQ *e-file* analyst.

Note: Please **do not** extract your area's worksheet because there are formulas that combine all areas' worksheets that may be lost if you modify the spreadsheet file.

- A visit is counted as completed and included on the report when the e-file Monitoring Coordinator (EMC) receives the case file from the monitor for closure. If the e-file monitor went to the business location but was unable to perform a compliance visit because it is closed/no longer there, this should not be counted as a visit.
- If a follow-up visit is required and you have counted the visit once, **do not** count it again.
- Letters and phone calls to the providers are reported, but they are not counted as visits.

Sample e-file Monitoring Report below:

Exhibit 4.21.1-17 (Cont. 1) (08-12-2011)
E-File Monitoring Report and Instructions

Sample – e-File Monitoring Report

A	B	C	D	J	K	L	M	N	O	P
e-file Monitoring	Period Totals	Period Totals	Period Totals	Period Totals	Period Totals	Period Totals	Period Totals	Period Totals	Period Totals	Cumulative Totals
e-file PBC XXX	mm/dd/yy	mm/dd/yy	mm/dd/yy	mm/dd/yy	mm/dd/yy	mm/dd/yy	mm/dd/yy	mm/dd/yy	mm/dd/yy	
Report to HQ Analyst Date:	mm/dd/yy	mm/dd/yy	mm/dd/yy	mm/dd/yy	mm/dd/yy	mm/dd/yy	mm/dd/yy	mm/dd/yy	mm/dd/yy	
Number of Visits										-
Referrals Received:										
Referrals Originating outside										
# Referrals Received	-									-
Referrals Originating inside										
# Referrals Received	-									-
Total Referrals Received:	-	-	-	-	-	-	-	-	-	-
Responses:										
# Phone Calls on Referrals										-
# Letters Sent on Referrals										-
Visits:										
# Visits on Referrals										-
# Follow-Up Visits										-
# Targeted Visits										-
Total Visits:	-	-	-	-	-	-	-	-	-	-
Sanctions:										
# In Compliance - No Sanction										-
# Verbal Warnings										-
# of Written Warnings Issued										
Referrals										-
Follow-ups										-
Targeted										-
# of Written Reprimands										
Referrals										-
Follow-ups										-
Targeted										-
# of Recommended										
Referrals										-
Follow-ups										-
Targeted										-
# of Immediate Suspensions										
Referrals										-
Follow-ups										-
Targeted										-
Total Sanctions	-	-	-	-	-	-	-	-	-	-
Total	-	-	-	-	-	-	-	-	-	-
# of Referrals sent to CI										-
# of Referrals sent to RPC for PAC										-
# of Referrals sent to EITC										-
# of Expulsions										-

Exhibit 4.21.1-18 (08-12-2011)**E-file Monitoring Appointment Letter****DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE**

Date:

Contact Person:

Badge Number:

Telephone Number:

Refer Reply To:

RE: *E-File* Monitoring Visit

Dear

This is to confirm our telephone conversation regarding the e-File monitoring visit. Our appointment is scheduled for _____ at _____. Please refer to the information located at the bottom of this letter for documentation that will be needed at this time.

Sincerely,

e-file Monitor

The following should be available for review:

- Form(s) 8453 and 8879
- Acknowledgement Report (ACK)
- Fee Schedules
- Advertising Data (print ads, flyers, website address, etc.)
- EIC Check sheets, Worksheets, and Taxpayer Questionnaires
- Employee Names and PTIN's (employees that prepare tax returns)

Exhibit 4.21.1-19 (08-12-2011)

Manager Check List for *E-file* CasesManager Check List for IRS *e-file* Cases**Check that the following forms are in the file:**

- ☐ Form 9984, *Activity Record*
 - ☐ Exhibit A, *Time and Action Report*
 - ☐ Exhibit B, *Interview Check Sheet*
 - ☐ Exhibit C, *Summary of Findings* (original and 2 copies)
 - ☐ Exhibit D, *File Sample Review* (original and 2 copies)
 - ☐ Appointment Letter (targeted or random visits only)
- For "Non-visits," only Form 9984, Exhibit A, and Appointment Letter needed.

Verify the following for each form:**Form 9984:**

- ☐ Confirm appropriate entries are reported on Form 9984 (i.e. monitors name, date assigned, initial contact date, date of exam, date reviewed by manager, closed to PSP. etc.)

Exhibit A:

- ☐ Hours spent at *e-file* location and travel time are recorded here.
- ☐ Each violation identified during visit is listed as an issue.
- ☐ Sanction recommended matches the sanction recommended on Exhibit C.
(Exception: If "Proposed Suspension Recommended" is checked, then Exhibit C should have "Proposed Written Reprimand" checked).
- ☐ Recommended referrals (EITC, etc) are indicated on case cover sheet.
- ☐ If follow up needed, circle filing season as appropriate
- ☐ Do NOT check "Closed, no follow up needed" if this is a "Non-visit."

Exhibit B:

- ☐ Confirm monitor verified ID of either the primary contact or responsible official, as listed on the *e-file* application. If not listed, the reason for not listing should be documented.

Exhibit C (must include):

- ☐ References citing Publications 1345, 3112, or 4889
- ☐ Monitor's signature and date, with printed information underneath (including ID #).
- ☐ *E-file* provider signature and name printed underneath. Signer must be either the primary contact or responsible official (as shown on *e-file* application), unless otherwise instructed by EMC.
- ☐ If not signed by *e-file* provider, monitor must document that the results and sanction were shared with the *e-file* provider and the reasons for lack of *e-file* provider signature.

Exhibit D (must include):

- ☐ 15 client return samples listed. If not, monitor needs to return to *e-file* provider office to complete sample. (Unless monitor has already confirmed with EMC that 15 returns have not been transmitted by the *e-file* provider this filing season.)

Sanction Letter (Warning or Proposed Written Reprimand only)

- ☐ Letter type should match the sanction recommended on Exhibit C. The letter should be addressed according to corrected application info for primary contact, firm name, and mailing address.

Manager's signature_____
Date

Exhibit 4.21.1-20 (08-12-2011)**Recommended Suspension after Administrative Review Letter**

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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

Date:

EFIN Number-

Contact Person:

Badge Number:

Telephone Number:

Contact Person
Business Name
Street Address
City, State ZIP

Dear **(Provider)**:

We considered the additional information you provided in your letter dated **(date of appeal letter)**. However, we determined that we should continue to support our decision to suspend your office from participation in the IRS e-file program.

If you want to appeal this decision, write to us at the address shown below within (30) days. We will forward your appeal and documentation to the Office of Appeals.

Please mail your appeal: **Internal Revenue Service**
Street Address
City, State, ZIP
Attn: Program Coordinator's Name

If we don't receive your response within that time, this letter will be considered notice that you are suspended from participation in the IRS *e-file* program. Your suspension will be in effect for thirty days from the date of this letter plus the next (one or two) calendar year(s).

If you have questions regarding this letter, you may contact **(EMC's Name)** at **(Phone Number)**.

Sincerely,

[EMC Name]
e-file Monitoring Coordinator

SAMPLE RECOMMENDED SUSPENSION AFTER ADMINISTRATIVE REVIEW LETTER