



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.23.3

AUGUST 26, 2025

EFFECTIVE DATE

(08-26-2025)

PURPOSE

- (1) This transmits revised IRM 4.23.3, Employment Tax - Examination Programs and Examination Planning Procedures.

MATERIAL CHANGES

- (1) IRM 4.23.3.1.1 - Updated paragraph (5) due to changes in SB/SE organizational symbols to reflect the new Chief Tax Compliance Officer Organization.
- (2) IRM 4.23.3.1.2 - Updated paragraph (1) for clarity.
- (3) IRM 4.23.3.1.3 - Updated the title to "Roles and Responsibilities" to be consistent with IRM 1.11.2.2.4, *Address Management and Internal Controls*.
- (4) IRM 4.23.3.1.4 - Revised the title to "Program Management and Review" to be consistent with IRM 1.11.2.2.4, *Address Management and Internal Controls*. Updated paragraph (1) for clarity. Added paragraphs (4) and (5) that were previously in IRM 4.23.3.1.5.
- (5) IRM 4.23.3.1.5 - Moved existing content to IRM 4.23.3.1.4 paragraphs (4) and (5). Added subsection titled "Program Controls" to document the reviews and quality assurance activities associated with the Employment Tax Program and to be consistent with IRM 1.11.2.2.4, *Address Management and Internal Controls*.
- (6) IRM 4.23.3.1.6 - Expanded and revised table of acronyms. Removed acronyms not used in IRM 4.23.3.
- (7) IRM 4.23.3.1.7 - Replaced information in paragraph (4) with Taxpayer Advocate Service (TAS) approved language. Added paragraph (6) regarding the Office of Servicewide Penalties (OSP) with a cross-reference to OSP Knowledge Base. Added paragraph (7) with an IRM references to procedures for TE/GE employees.
- (8) IRM 4.23.3.2 - Revised the title to "Sources of SB/SE Employment Tax Examinations" to clarify what is within the subsection. Simplified paragraph (2) stating source of ET examinations can be found in IRM 4.23.23.3, *Employment Tax Sources of Work*. Moved compliance check references in paragraph (3) to IRM 4.23.3.4.1. Revised paragraph (5) with additional references. Deleted paragraphs (6) and (7) moved the procedures to IRM 4.23.3.4.1 and all subsequent paragraphs were renumbered. Modified paragraph (8) that referrals to ET are evaluated by Employment Tax - Workload Selection and Delivery (ET-WSD).
- (9) IRM 4.23.3.3 - Revised the title to "SB/SE Employment Tax Examination Classification and Selection" to clarify what is within the subsection. Modified paragraph (1) to clarify that classification and selection is the responsibility of ET-WSD. Modified (2) to clarify ET-WSD uses a data driven approach in case selection. Modified paragraph (3) to provide that sources of ET examinations can be found in IRM 4.23.23.3, *Employment Tax Sources of Work*. Removed paragraphs (4) and (5).
- (10) IRM 4.23.3.3.1 through IRM 4.23.3.3.5 - Removed the subsections at the direction of SB/SE Exam Case Selection. Content can be found in IRM 4.23.23.3, *Employment Tax Sources of Work*.

- (11) IRM 4.23.3.3.6 - Moved content regarding Specialist Referral System (SRS) procedures to IRM 4.23.3.4.2. Moved content regarding non-SRS procedures to IRM 4.23.3.4.3. The subsection was then removed.
- (12) IRM 4.23.3.3.6.1 - Moved content regarding non-SRS procedures to IRM 4.23.3.4.3. The subsection was then removed.
- (13) IRM 4.23.3.3.6.1.1 - Moved the content of the subsection to IRM 4.23.3.5. The subsection was then removed.
- (14) IRM 4.23.3.3.7 - Removed the subsection at the direction of SB/SE Exam Case Selection. Content can be found in IRM 4.23.23.3, *Employment Tax Sources of Work*.
- (15) IRM 4.23.3.4 - New subsection with the title of "Consultation Requests and Referrals." All subsequent subsections will be renumbered accordingly.
- (16) IRM 4.23.3.4.1 - New subsection with the title of "Required Filing Checks by Non-Employment Tax Examiners." This content was moved from IRM 4.23.3.8.2.
- (17) IRM 4.23.3.4.2 - New subsection with the title of "Request for Employment Tax Consultation or Examination Through SRS." The content is from IRM 4.23.3.3.6 and it was revised.
- (18) IRM 4.23.3.4.2.1 - New subsection with the title of "Consultation Request Through SRS." The content is from IRM 4.23.3.3.6 and it was revised. Content regarding SRS was updated to reflect the examination referrals received through SRS will be routed to ET-WSD.
- (19) IRM 4.23.3.4.2.2 - New subsection with the title of "Examination Referral Through SRS." The content is from IRM 4.23.3.3.6. Content regarding SRS was updated to reflect the examination referrals received through SRS will be routed to ET-WSD.
- (20) IRM 4.23.3.4.3 - A new subsection with the title "Other Referrals For Employment Tax Consideration." Content of IRM 4.23.3.3.6.1 was moved to this subsection. Content was updated to reflect current procedures and protocols.
- (21) IRM 4.23.3.5 - New subsection was created with the content of IRM 4.23.3.3.6.1.1. All subsequent subsections were renumbered. Changed title to "IRC 41(h) Payroll Tax Research Credit and Related Referrals to Income Tax PSP." Revised paragraph (1) to include background information on IRC 41, Credit for Increasing Research Activities, and IRC 41(h) Qualified Small Business Payroll Tax Research Credit. Added paragraph (2) on the amount of Payroll Tax Research Credit that can be claimed on an income tax return and applied to payroll taxes, and changes in the law for tax years beginning in 2023. Added paragraph (3) on the Forms used to elect and claim the credit on an income tax return and apply and allocate the credit against payroll taxes on an employment tax return. Added paragraph (4) to describe preliminary compliance checks that must be performed by ET examiners, and provided an IRM references to detailed compliance procedures. Moved Income Tax PSP referral procedures from IRM 4.23.3.3.6.1.1 paragraph (2) to IRM 4.23.3.5 paragraph (5), expanded description of referral procedures, and provided an IRM reference to detailed referral procedures. Clarified paragraph (6) that Income Tax Examination will open the control the employment tax return(s) on which a related payroll tax research credit is claimed by the taxpayer, if the referral to Income Tax PSP is accepted. (7). Corrected paragraph (7) IRS.gov webpage title to "Qualified Small Business Payroll Tax Credit for Increasing Research Activities."
- (22) IRM 4.23.3.7 - Revised definition of "compliance check."
- (23) IRM 4.23.3.7.1 - Clarified if no information return was filed for a worker, it is reasonable to ask how much was paid, whether the recipient was incorporated, and other questions designed to determine whether or not filing was required; these inquiries do not comprise an examination.

-
- (24) IRM 4.23.3.8 - Added paragraph (1) that provides the authority for the IRS to request and receive the books, records, etc., necessary to properly examine an entity's tax return. All subsequent paragraphs are renumbered.
- (25) IRM 4.23.3.8.2 - Moved the content of the subsection to IRM 4.23.3.4.1. The subsection was deleted and all subsequent subsections are renumbered.
- (26) IRM 4.23.3.8.3.1 - Added paragraph (1) to provide additional citations and subsequent paragraphs were renumbered. Moved items in bullet list of paragraph (2) to paragraph (2) through (6) of this subsection. Provided additional citations and clarified procedures. Removed paragraphs (7) and (8).
- (27) IRM 4.23.3.8.3.2 - Moved contents of paragraph (8) to paragraph (2) of this subsection. Paragraph (2) contents were expanded and clarified. Added paragraph (3) from the content of IRM 4.23.3.8.4.2 and additional guidance for expanding the scope of any ET examination to include prior and subsequent years. Moved the contents of paragraphs (4), (5), and (6) to IRM 4.23.3.8.3.2.1. Added paragraph (7) that requires the notification of the taxpayer when picking up additional tax period(s).
- (28) IRM 4.23.3.8.3.2.1 - A subsection was created with the contents of paragraphs (4), (5), and (6) of IRM 4.23.3.7.3.2. Inserted additional instruction and resources for "Limited Scope Examinations." All subsequent subsections were renumbered.
- (29) IRM 4.23.3.8.3.2.2 - Revised title to "Collectibility Consideration." Moved contents of paragraph (5) to paragraph (1) and inserted additional resources. Moved contents of paragraph (6) and (7) to paragraph (2) and inserted additional resources. Moved contents of paragraph (8) to paragraph (3). All subsequent paragraphs were renumbered. Paragraph (9) was removed.
- (30) IRM 4.23.3.8.3.3 - Split the contents of paragraph (1) into paragraphs (1) and (2). The example of paragraph (5) was updated. Paragraph (6) was removed since its instructions and guidance were covered IRM 4.23.3.8.3.2 paragraphs (2) and (3).
- (31) IRM 4.23.3.8.3.3.1 - Updated content of paragraph (1) for TE/GE procedures and references.
- (32) IRM 4.23.3.8.4 - Revised the title to "Initiating Contact and Scheduling Appointments." This will clarify to the user what is within the subsection. Revised the content in paragraph (2) by combining it with paragraph (3) and content of IRM 4.23.7.4.1. All subsequent paragraphs were renumbered. Moved content of paragraph (4) to a note at the end of paragraph (2). Moved the content of paragraph (13) to paragraph (3). Paragraph (5) content is moved to paragraph (4). Paragraph (6) is moved to paragraph (5). Moved content of paragraph (8) to paragraph (6). Added paragraph (8) that the notification of the taxpayer of picking up additional tax periods can either be verbal or written. If written, Letter 5968 will be used to notify the taxpayer.
- (33) IRM 4.23.3.8.4.1 - Moved the content of the subsection to IRM 4.23.3.8.4 paragraph (2) item 2. The subsection was then removed.
- (34) IRM 4.23.3.8.4.2 - Moved the content of the subsection to IRM 4.23.3.8.3.2 paragraph (3). The subsection was then removed.
- (35) IRM 4.23.3.8.5 - Changed title of the subsection to "Initial Interview with Taxpayer" to properly reflect the content. Paragraph (3) was removed and all subsequent paragraphs renumbered. Contents of paragraph (3) were moved to paragraph (8) item a. Paragraph (5) content was expanded to discuss LB&I examinations. Expanded paragraph (6) with additional resources. Added a note to paragraph (7) that explains the use of interviews. Paragraph (8) was revised for clarification of actions before or at an initial interview. Add new paragraph (9) that the ET examiner should explain the timeframe Appeals will take an unagreed case. Removed paragraph (10) since it was not appropriate in this subsection.

- (36) IRM 4.23.3.8.6 - Added new paragraphs (1) and (2) to clarify taxpayer rights and provide additional resources. Subsequent paragraphs were renumbered. Removed paragraph (4) since it duplicates paragraph (3) of subsection 4.23.3.1.7. Moved content of the paragraphs (5) and (6) to new subsection IRM 4.23.3.8.6.1 and removed the content.
- (37) IRM 4.23.3.8.6.1 - A subsection was created with the contents of paragraphs (5) and (6) of IRM 4.23.3.7.6. In paragraph (2), clarified that group managers will document all inquiries being referred to TAS on Form 911 or Form e-911 and forward to TAS immediately. All subsequent subsections were renumbered.
- (38) IRM 4.23.3.8.6.2 - Revised paragraph (1) with the definition and purposes of a third-party contact. Removed historical information regarding the legislative change in IRC 7602(c)(1), retaining the current requirements. Removed paragraph (3) and all subsequent paragraphs were renumbered. Clarified paragraph (6) with a citation to IRM 4.11.57.4.2, *Recording a TPC*.
- (39) IRM 4.23.3.8.7 - Revised the title of the subsection to "Power of Attorney and Tax Information Authorization." Replaced paragraphs (1) and (2) with new content in paragraphs (1) through (4) that clarifies background information and CFINK. Revised paragraph (7) to clarify the procedures for revoking or withdrawing an existing Form 2848 and Form 8821.
- (40) IRM 4.23.3.8.7.1 - Revised the title of the subsection to "Enclosures with Correspondence to Representatives and Designees." In paragraphs (1) and (2), sequentially reordered the bullet list. Changed example in paragraph (3) to reference Letter 3850. Moved paragraph (4) to a note under the bullet list in paragraph (1). Removed paragraph (5).
- (41) IRM 4.23.3.8.7.2 - In paragraph (1), added condition for which bypassing a taxpayer's representative would be considered and edited for clarity.
- (42) IRM 4.23.3.8.7.3 - Clarified paragraph (1) that the procedures are addressed to ET examiners instead of IRS personnel and insert an example of fraudulent CAF activity.
- (43) IRM 4.23.3.8.8 - In paragraph (2), moved uncovered sentence under bullet list to first sentence, to clarify the updates that are input on ERCS by the Shared Administrative Assistant or clerk. In paragraph (3), moved uncovered sentence under bullet list to first sentence, to clarify the updates that are sent to the local AIMS/ERCS Analyst for input.
- (44) Throughout the IRM replaced URL/web address to internal sites with a hyperlink.
- (45) Editorial changes were made throughout the IRM. Reviewed and updated Signature name, IRS organization titles and symbols, organization terminology, plain language, grammar, spelling, punctuation, IRM references, legal citations, and broken links.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 4.23.3 dated February 25, 2021.

AUDIENCE

All Large Business & International (LB&I), Tax Exempt/Government Entities (TE/GE), and Small Business/Self Employed (SB/SE) employees dealing with employment tax issues.

Heather Yocum
Acting Director, Specialty Policy
Small Business/ Self-Employed Division

4.23.3

Employment Tax - Examination Programs and Examination Planning Procedures

Table of Contents

4.23.3.1 Program Scope and Objectives

4.23.3.1.1 Background

4.23.3.1.2 Authority

4.23.3.1.3 Roles and Responsibilities

4.23.3.1.4 Program Management and Review

4.23.3.1.5 Program Controls

4.23.3.1.6 Acronyms

4.23.3.1.7 Related Resources

4.23.3.2 Sources of SB/SE Employment Tax Examinations

4.23.3.3 SB/SE Employment Tax Examination Classification and Selection

4.23.3.4 Consultation Requests and Referrals

4.23.3.4.1 Required Filing Checks by Non-Employment Tax Examiners

4.23.3.4.2 Request for Employment Tax Consultation or Examination Through SRS

4.23.3.4.2.1 Consultation Request Through SRS

4.23.3.4.2.2 Examination Referral Through SRS

4.23.3.4.3 Other Referrals For Employment Tax Consideration

4.23.3.5 IRC 41(h) Payroll Tax Research Credit and Related Referrals to Income Tax PSP

4.23.3.6 Selection Criteria for Large Case Referrals

4.23.3.7 Compliance Checks

4.23.3.7.1 Guidelines for Compliance Checks

4.23.3.8 Employment Tax Examination Procedures

4.23.3.8.1 Pre-Contact Analysis

4.23.3.8.2 Procedures for Required Filing Checks, Scope, and Controls of Employment Tax Examinations

4.23.3.8.2.1 Required Filing Checks

4.23.3.8.2.2 Scope of an Employment Tax Examination

4.23.3.8.2.2.1 Limited Scope Examination

4.23.3.8.2.2.2 Collectibility Considerations

4.23.3.8.2.3 Controlling Employment Tax Returns

4.23.3.8.2.3.1 Examination Request Master File, Form 5345-D

4.23.3.8.3 Initiating Contact and Scheduling Appointments

4.23.3.8.4 Initial Interview With Taxpayers

4.23.3.8.5 Taxpayer Rights

4.23.3.8.5.1 Taxpayer Advocate Service

4.23.3.8.5.2 Third-Party Contacts

4.23.3.8.6 Power of Attorney and Tax Information Authorization

-
- 4.23.3.8.6.1 Enclosures with Correspondence to Representatives and Designees
 - 4.23.3.8.6.2 Bypassing a Taxpayer's Representative
 - 4.23.3.8.6.3 Compromised or Potentially Compromised CAF Number
 - 4.23.3.8.7 Examination Control Updates
 - 4.23.3.8.8 Request For Terminal Action, Form 4844
 - 4.23.3.8.9 Time Reporting

Exhibits

- 4.23.3-1 Guidelines for Evaluation of Referrals and Income Tax Returns

4.23.3.1
(08-26-2025)
Program Scope and Objectives

- (1) **Purpose:** This section describes employment tax general procedures and describes various programs for selected employment tax issues.
- (2) **Audience:** This section contains instructions and guidelines for all Large Business & International (LB&I), Tax Exempt/Government Entities (TE/GE), Independent Office of Appeals, Taxpayer Services (TS), and Small Business/Self-Employed (SB/SE) employees dealing with employment tax issues.
- (3) **Policy Owner:** Director, Specialty Examination Policy of the Small Business/Self-Employed Division.
- (4) **Program Owner:** Program Manager - Employment Tax Policy.
- (5) **Primary Stakeholders:**
 - Employment Tax – Workload Selection and Delivery (CT-CO:S:E:HQ:ECS:S:ETEGCS:EWSD)
 - Specialty Examination - Employment Tax (CTCO:S:E:SE:ET)
 - Examination - Specialty Policy, Employment Tax Policy (CT-CO:S:E:HQ:SEP:EMTP)
 - Other areas that are affected by these policies and procedures include Appeals, Counsel, SB/SE Examination, LB&I, and TE/GE.

4.23.3.1.1
(11-19-2018)
Background

- (1) Employment tax returns generally do not contain information that would provide a basis for identifying issues for examination potential. Examination of returns are focused on known or probable areas of non-compliance. There are a number of programs and criteria used to identify those issues or returns that have the greatest potential.
- (2) The ET Examination Program is a lead-driven program. Examinations can originate from a variety of sources, some of which are listed in this section.
- (3) This IRM provides the basics for
 - Initiating an ET examination,
 - Conducting required filing check,
 - Taxpayer Rights,
 - Referrals, and
 - Power of Attorney and Tax Information Authorization.

4.23.3.1.2
(08-26-2025)
Authority

- (1) Employment tax provisions are found at Internal Revenue Code (IRC) Subtitle C:
 - Chapter 21, Federal Insurance Contributions Act (FICA): IRC 3101 through IRC 3128,
 - Chapter 22, Railroad Retirement Tax Act (RRTA): IRC 3201 through IRC 3233,
 - Chapter 23, Federal Unemployment Tax Act (FUTA): IRC 3301 through IRC 3311,
 - Chapter 23A, Railroad Unemployment Repayment Tax (RURT): IRC 3321 and IRC 3322,
 - Chapter 24, Federal Income Tax Withholding (FITW): IRC 3401 through IRC 3406, and

- Chapter 25, General Provisions relating to employment taxes and collection of income taxes at source: IRC 3501 through IRC 3512.
- (2) The Employment Tax Program is governed by Policy Statements and other internal guidance that apply to all IRS personnel regardless of operating division. The Policy Statements found in IRM 1.2, *Servicewide Policies and Authorities*, apply to all employment tax issues and examinations. Examiners should review these Policy Statements to properly perform their examination duties.
 - (3) A website, *IMD Search Servicewide Delegation Orders* provides a searchable list of Servicewide Delegation Orders issued by the Commissioner of the Internal Revenue, or on their behalf by the deputy commissioner. Delegation Orders pertaining to each IRS business process can be found in IRM 1.2.2, *Servicewide Policies and Authorities, Servicewide Delegations of Authority*.
 - (4) IRM 4.23 provides Servicewide instructions for all operating divisions with employees involved with the correct filing, reporting, and payment of employment taxes. It serves as the foundation for consistent administration of employment taxes by various IRS operating divisions. By providing one source of authority for all operating divisions, the IRS greatly reduces philosophical and procedural inconsistencies.

4.23.3.1.3
(11-19-2018)
Roles and Responsibilities

- (1) Director, Specialty Examination Policy is responsible for the procedures and updates addressed in this IRM.
- (2) Director, Specialty Examination is the executive responsible for examination operational compliance.

4.23.3.1.4
(08-26-2025)
Program Management and Review

- (1) Program Goals: The processes and procedures provided in this IRM are consistent with the objectives or goals addressed in IRM 1.1.16.5.3.3, *Employment Tax Examination*, and IRM 1.1.16.5.5.2.2, *Employment Tax Policy*.
- (2) Program Effectiveness: Program goals are measured with Employment Tax Embedded Quality Performance Reports that monitor whether quality attributes are applied uniformly and consistently.
- (3) Annual Review: Employment Tax Policy - Program Manager, is responsible for reviewing the information in this IRM annually to ensure accuracy and promote consistent tax administration.
- (4) Program Reports: Information regarding the reporting of program objectives are included on, but not limited to, the following reports:
 - Headquarters Examination Monthly Briefing,
 - Program Manager Monthly Briefing,
 - Examination Operational Review, and
 - Business Performance Reviews.
- (5) The Quarterly Business Performance Review (BPR) provides updates on the status of the Whistleblower claims in Operating Division SME (OD-SME) status.

4.23.3.1.5
(08-26-2025)
Program Controls

- (1) All information management systems have safeguard measures in place that address key components of Information Technology (IT) security requirements to restrict access to sensitive data.
- (2) The Employment Tax (ET) program has established a separation of duties of users' roles:
 - Policy and procedures – Employment Tax Policy is within SB/SE Specialty Exam Policy,
 - Case selection – Employment Tax – Workload Selection and Delivery is within SB/SE Examination Case Selection,
 - Examination - ET Examination is within SB/SE Specialty Exam, and,
 - Quality and review - Embedded Quality is within SB/SE Field and Specialty Exam Quality.
- (3) The Issue Management System (IMS) is required to be used during employment tax examinations by ET examiners assigned to Specialty – ET Operations.
- (4) ET examiners will use the Employment Tax Lead Sheets (ETLS) developed specifically for employment tax cases.
- (5) ET examiners working ET Large Cases will use Large Case Lead Sheets (LCLS). LCLS are developed specifically for large case employment tax cases. Examiners working ET Large Cases will follow workpaper preparation, specific examination techniques, and case closing procedures unique to these types of examinations.
- (6) The Specialty Employment Tax Application (SETA) is a web-based application that ET examiners may use in ET exams to generate most of the documents needed to prepare an examination report and close their examination.
- (7) The delegated authorities for the IRS under the control of SB/SE Specialty Exam Policy - Employment Tax are:
 - IRM 1.2.2.5.39, *Delegation Order 4-50 (Rev. 1), Voluntary Classification Settlement Program (VCSP) Applications*,
 - IRM 1.2.2.8.13, *Delegation Order 7-13 (Rev. 2) (formerly DO-248, Rev. 1), Authority to Accept Classification Settlement Program (CSP) Offers and to Execute the Pro Forma Closing Agreements on CSP Issues*, and
 - IRM 1.2.2.15.19, *Delegation Order 25-19 (Rev. 1), Professional Employer Organization (PEO) Certification*.

4.23.3.1.6
(08-26-2025)
Acronyms

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

Acronym	Definition
AAC	AIMS Assignee Code
AIMS	Audit Information Management System
AMDIS	Audit Management Display Information System

Acronym	Definition
BMF	Business Master File
BMFOL	Business Master File On-Line Command Code
BPR	Business Performance Review
BRTVU	Business Return View Command Code
BWH	Backup Withholding
BWH-B	“B” Backup Withholding Program
CAF	Centralized Authorization File
CAWR	Combined Annual Wage Report
CBWH	Cincinnati Campus Backup Withholding Program
CFOL	Corporate Files On-Line
CI	Criminal Investigation
CIP	Compliance Initiative Project
CP	Computer Paragraph
CSP	Classification Settlement Program
EIN	Employer Identification Number
EO	Exempt Organizations
EOG	Examining Officers Guide
ERCS	Examination Returns Control System
ET	Employment Tax
ET-TCO	Employment Tax, Tax Compliance Officer
ET-WSD	Employment Tax - Workload Selection and Delivery
ETLS	Employment Tax Lead Sheets
EUP	Employee User Portal
FEA	Fraud Enforcement Advisor
FICA	Federal Insurance Contributions Act
FITW	Federal Income Tax Withholding
FTS	Fast Track Settlement
FUTA	Federal Unemployment Tax Act

Acronym	Definition
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IMFOL	Individual Master File On-Line Command Code
IMS	Issue Management System
IRA	Inflation Reduction Act of 2022
IRPTR	Information Returns Processing Transcript Request Command Code
LCC	LB&I Large Corporate Compliance Program
LB&I	Large Business & International
LCLS	Large Case Lead Sheets
LUQ	Large, Unusual, and Questionable
OD-SME	Operating Division - Subject Matter Expert
PATH	Protecting Americans from Tax Hikes Act of 2015
PMFOL	Payer Master File On-Line Command Code
PMTA	Program Manager Technical Advice
POA	Power of Attorney (Form 2848)
PSP	Planning and Special Programs
QSB	Qualified Small Business
RCCMS	Reporting Compliance Case Management System
RGS	Report Generation Software
RRA 98	Internal Revenue Service Restructuring and Reform Act of 1998
RRB	Railroad Retirement Board
RRTA	Railroad Retirement Tax Act
RTVUE	Returns Transaction View Command Code

Acronym	Definition
RURT	Railroad Unemployment Repayment Tax
SB/SE	Small Business/Self-Employed
SEC	Securities and Exchange Commission
SETA	Specialty Employment Tax Application
SME	Subject Matter Expert
SRS	Specialist Referral System
SSA	Social Security Administration
TAS	Taxpayer Advocate Service
TBOR	Taxpayer Bill of Rights
TCO	Tax Compliance Officer
TE/GE	Tax Exempt/Government Entities
TIA	Tax Information Authorization (Form 8821)
TIN	Taxpayer Identification Number
TPC	Third-Party Contact
TXMOD	Tax Module Information Command Code
VCSP	Voluntary Classification Settlement Program

4.23.3.1.7
(08-26-2025)

Related Resources

- (1) The following table lists the primary sources of guidance:

Source	Title	Description of Guidance
IRM 4.23	Employment Tax	IRM sections, the majority of which are owned by SB/SE Specialty Examination Policy. Provides Servicewide instructions for employees of all operating divisions involved with the correct filing, reporting, and payment of employment taxes. IRM 4.23 serves as the foundation for consistent administration of employment taxes by various IRS operating divisions.
IRM 25.2.1	Information and Whistleblower Awards - General Operating Division Guidance for Working Whistleblower Claims	Provides procedures and guidance for all IRS personnel to follow when dealing with information and Whistleblower awards.

(2) Additional resources include:

- a. *SB/SE Employment Tax Small Business Knowledge Base* provides guidance, resources and information for ET examiners to aid in raising, developing, and resolving employment tax issues.
- b. *Specialist Referral System* can be used by any employee, regardless of operating division. In addition to requesting assistance or a referral, SRS may be used to submit informal questions or to request a consultation with an employment tax specialist to discuss employment tax potential in an examination.
- c. *Contacts, Tools, and Training* provides contact information and program assignments for SB/SE ET Policy Analysts and SB/SE ET group contacts and areas of coverage.

(3) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the IRC, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accordance with taxpayer rights. See IRC 7803(a)(3). For additional information about the TBOR, see Pub 5170, *Taxpayer Bill of Rights*, or *Taxpayer Bill of Rights*.

(4) The Taxpayer Advocate Service (TAS) is an independent organization within the IRS, led by the National Taxpayer Advocate, that helps taxpayers and protects taxpayer rights. TAS offers free help to taxpayers when a tax problem

is causing a financial difficulty, when they've tried and been unable to resolve their issue with the IRS, or when they believe an IRS system, process, or procedure just is not working as it should. TAS strives to ensure that every taxpayer is treated fairly and knows and understands their rights under the TBOR. TAS has at least one taxpayer advocate office located in every state, the District of Columbia, and Puerto Rico.

- (5) ET examiners should consider the disclosure and privacy provisions when preparing agreed and unagreed case reports. For further information, see the Privacy, Government Liaison and Disclosure (PGLD) knowledge base at *Disclosure and Privacy Knowledge Base Homepage*.
- (6) Overall responsibility for civil penalty programs is assigned to the Office of Servicewide Penalties (OSP). OSP is charged with coordinating policy and procedures concerning the civil penalty program administration, ensuring consistency with the penalty policy statement, reviewing and analyzing penalty information, researching penalty effectiveness on compliance trends, and determining appropriate action necessary to promote voluntary compliance. For further understanding of the civil penalty program and penalty relief, refer to the *Penalties Knowledge Base Homepage*.
- (7) TE/GE employees must refer to IRM 4.70.13, *Executing the Examination*, IRM 4.70.14, *Resolving the Examination*, and IRM 4.70.17, *Claims and Abatements*, for guidance and procedures for TE/GE employment tax examinations.

4.23.3.2 (08-26-2025) **Sources of SB/SE Employment Tax Examinations**

- (1) SB/SE Employment Tax Workload Selection and Delivery (ET-WSD) has primary responsibility for workload identification for Employment Tax. However, ET examiners must be continuously aware of new developments, rulings, and decisions affecting industries within their jurisdictions. ET Examination is encouraged to forward suggestions for Preparer Projects, Compliance Initiative Projects (CIP) and partnering opportunities to ET-WSD at **SBSE ET WSD Referrals*.
- (2) Sources of ET examinations can be found in IRM 4.23.23.3, *Employment Tax Sources of Work*.
- (3) Strong emphasis is placed on the required filing-check program. During an examination of an income tax, excise tax, or exempt organization return, the examiner will follow the established procedures to determine if the taxpayer is in compliance with employment tax filing requirements and will decide if an examination of employment tax returns is warranted. See IRM 4.23.3.4.1.
- (4) Related return information must be considered when determining examination potential for employment tax returns. This includes a review of the related income tax returns and, in the case of large corporations or publicly traded companies, a review of financial statements. Information may also be gained from news articles, company publications, and internet searches, such as *Securities and Exchange Commission (SEC)* filings and company websites.
- (5) All income tax cases selected for examination under the LB&I program should include consideration of employment tax potential. See IRM 1.2.1.5.2, *Policy Statement 4-4, Income tax examination will include consideration of taxpayer's liability for employment tax*. Employment tax issues encounter by LB&I are a mandatory referral through SRS.

- (6) ET-WSD will evaluate referrals from Criminal Investigation (CI). These lead cases should be worked with continual awareness of fraud potential. If indications of fraud are developed during the examination, the case should be discussed with the group manager and Fraud Enforcement Advisor (FEA) to determine if a fraud referral to CI is warranted.

4.23.3.3 (08-26-2025) **SB/SE Employment Tax Examination Classification and Selection**

- (1) Classification and selection of employment tax returns for examination in SB/SE is the responsibility of ET-WSD. See IRM 4.23.23, *Employment Tax Workload Selection and Delivery*.
- (2) ET-WSD uses a data-driven approach to case selection involving the filtering and analyzing of electronically stored information from taxpayer forms and returns, searching for anomalies that may raise employment tax compliance issues.
- (3) Sources of ET examinations can be found in IRM 4.23.23.3, *Employment Tax Sources of Work*.

4.23.3.4 (08-26-2025) **Consultation Requests and Referrals**

- (1) A source of consultation requests to ET and referrals to ET-WSD are a result of the required filing checks procedures conducted during the examination of an income tax, excise tax, or exempt organization return. The following subsections will provide the general guidelines and procedures for an IRS employee to request technical assistance from an ET examiner or refer an employment tax issue to ET-WSD.

4.23.3.4.1 (08-26-2025) **Required Filing Checks by Non-Employment Tax Examiners**

- (1) During an examination of an income tax, excise tax, or exempt organization return, the examiner will follow the established procedures to determine if the taxpayer is in compliance with employment tax filing requirements. Examiners and their manager will decide if an examination of employment tax returns is warranted. If warranted, it should be conducted concurrently with the primary examination. If a concurrent examination is not possible, an employment tax referral should be made. For more information on employment tax referrals see IRM 4.23.3.4.2.2, *Referral and Exam Leads*. Additional information on required filing checks in other examination functions can be found in:
 - IRM 4.10.5, *Examination of Returns, Required Filing Checks*,
 - IRM 4.46.3.5, *LB&I Examination Process, Planning the Examination, Compliance Checks Summary*, and
 - IRM 4.70.12.3.6, *TE/GE Examination, Planning the Examination, Required Filing Check*

Note: Policy Statement 4-4 states that an income tax examination will include consideration of taxpayer's liability for employment tax. See IRM 1.2.1.5.2, *Policy Statement 4-4, Income tax examination will include consideration of taxpayer's liability for employment tax*.

- (2) An income tax return or tax-exempt return classified for examination usually does not include the related employment tax returns. Examiners will evaluate whether an ET examination is warranted. For additional information on required filing check of employment tax returns, see IRM 4.10.5.5, *Employment Tax Returns and Other Withholding Taxes*. Examiners will evaluate the filing of nonpayroll information returns and related Form 945. Examiners will consider any indicators for unreported backup withholding (BWH) or nonpayroll FITW.

- (3) Examination of the related employment tax returns can be conducted from the taxpayer's retained copies of such returns, TRDBV, BRTVU, or MeF/EUP (for electronically-filed employment tax returns).
- (4) Collection employees share full compliance check responsibilities. When making a field visit, the revenue officer will determine whether all required employment tax returns were filed and all employment taxes paid. If it appears that an employer is treating employees as non-employees, or if there are questionable fringe benefits, a referral will be made for LB&I or SB/SE taxpayers using the procedures provided in IRM 4.23.3.4.3 or the procedures of provided by the Collection function. Employment tax referrals for TE/GE taxpayers may use the procedures in IRM 4.23.2.2.3.1, *Consultation Requests or Referrals to Employee Plans and Exempt Organizations / Government Entities* or the procedures provided by collection employee's function.

Note: Collection employees will refer to the Collection Handbook for further guidance.

- (5) Exhibit 4.23.3-1 provides further guidance to examiners on evaluating income returns for potential employment tax issues.

4.23.3.4.2
(08-26-2025)
**Request for Employment
Tax Consultation or
Examination Through
SRS**

- (1) Employment tax consultation services or examination referral may be requested through the *Specialist Referral System Portal*.

4.23.3.4.2.1
(08-26-2025)
**Consultation Request
Through SRS**

- (1) Consultation services include:
 - a. Reviewing and analyzing the referral's potential,
 - b. Discussion of employment tax issue(s) with the income tax examiner, or
 - c. Providing assistance with report writing, issue development, or case processing.

Reminder: The requester will retain control of the case.

- (2) On the SRS homepage the requester starts by selecting "Create Consultation."
 - a. The requester must select either "Employment Tax (SB/SE)" or "Employment Tax - Large Case." Taxpayers with assets exceeding \$10 million are designated as "Employment Tax - Large Case."
 - b. The requester must provide the taxpayer's examination site.
 - c. The requester must select the potential ET issue(s) identified under the following categories "General Employment Tax Issues", "Executive Compensation", or "Fringe Benefits." If the issue is related to tips indicated "Tips" in "Additional Comments." If the issue is not included in the categories provide explanation of the issue in "Additional Comments."
- (3) A request for consultation services for:
 - a. ET General Case taxpayer will be routed to the appropriate ET group manager,
 - b. Employment tax tip issue will be routed to the appropriate ET National Tip Reporting Compliance Program group manager, or

- c. ET Large Case taxpayer will be routed to the appropriate large case ET group manager.

- (4) The group manager will review the consultation services and assign the request to the appropriate ET examiner.

Note: If the group manager changes a consultation to a referral in SRS prior to assigning the consultation to an ET examiner, the referral will be routed to ET-WSD for evaluation.

- (5) Activity Code 514, Special Consultations or Informal Assistance will be use by examiners for consultation services assigned to them through the SRS. Examiners can charge up to 8 hours to Activity Code 514.
- (6) Once a decision is made to pursue an ET examination the group manager will send an encrypt email to ET-WSD mailbox at **SBSE ET WSD Referrals* with a "High Importance" tag. The subject line will state "SRS Consultation to Referral – SRS (tracking number)." The encrypted email will include:
 - Name and contact information of the ET examiner assigned the consultation,
 - A brief narrative of the ET issue(s) and assigned income tax examiner,
 - A PDF of the SRS consultation request, and
 - Any supporting documents provided or created as part of consultation process.
- (7) When a request for an elevation of a consultation to a referral is received, ET-WSD will take the following actions:
 - 1. Within one week a review of the referral and a determination if case should be selected for examination, and
 - Note:** The group manager will be informed if the case is being selected for examination or not.
 - 2. Within two weeks of determination, ECS will establish controls and move case to group for assignment

4.23.3.4.2.2 (08-26-2025) **Examination Referral Through SRS**

- (1) To request an examination of an ET return the requester selects "Create Referral Notification" on the SRS homepage and provides the required information.
- (2) All requests through the SRS for ET examiner to examine an ET return(s) will be routed to ET-WSD for evaluation and assignment.

4.23.3.4.3 (08-26-2025) **Other Referrals For Employment Tax Consideration**

- (1) ET-WSD has the primary responsibility for evaluating referrals received from all sources. ET-WSD will make the determination on whether the taxpayer will be selected for examination.
- (2) Referrals will be submitted to ET-WSD on a Form 5346, *Examination Information Report* by secured email at **SBSE ET WSD Referrals* for consideration.

- (3) Instructions for preparing Form 5346 are included on the reverse side of the form. Examiners should include sufficient information to allow evaluation of the examination potential. If necessary, documentation may be attached to the form.
- (4) The Form 5346 is to be completed electronically and sent with supporting documentation. If the Form 5346 and supporting information is in a paper format, they are to be scanned and sent to ET-WSD by secured email at **SBSE ET WSD Referrals*. In any case where LUQ items are identified in a return submission, a copy of the return is attached to the referral. Electronic scans or copies of tax returns or information returns must be marked **copy** before attaching them to the referral. Do not send original returns to ET-WSD. If supporting documentation is too voluminous to scan, the manager or examiner will coordinate with ET-WSD to submit the documentation via mail to associate with the referral.

Reminder: Scanned documents must be reviewed to confirm scans are complete and legible.

- (5) Referrals to ET-WSD include but are not limited to:
 - a. When an employer provides an employee additional compensation (including noncash payments) that should have been reported as wages. Additional compensation may be reported on a nonpayroll information return, such as Form 1099-MISC, *Miscellaneous Information*, or Form 1099-NEC, *Nonemployee Compensation*. See IRM 4.23.5.2.1, *Classification of Employment Tax Issues*.
 - b. A referral should be made only if there is an indication that the worker was misclassified as a non-employee. Compensation may be reported on a nonpayroll information return, such as Form 1099-MISC or Form 1099-NEC. See IRM 4.23.5.2.1, *Classification of Employment Tax Issues*.
 - c. Social security or Medicare wages or taxes withheld are not reported on the Form W-2.
 - d. Form 941 contains questionable item.
- (6) Form 5346 is not used when the information discovered is not related to an ongoing examination (for example, newspaper articles, informant, etc.). In these situations, examiners must complete Form 3949-A, *Informal Referral*. The public may use a Form 3949-A to voluntarily report alleged violations of tax law by individuals and businesses to the IRS and remain confidential. If Form 3949-A is prepared due to contact with the informant and the informant intends to claim a reward, the informant should be advised to file Form 211, *Application for Award for Original Information*. See IRM 25.2.1, *General Operating Division Guidance for Working Whistleblower Claims*. If a Form 3949-A is received by an IRS employee in paper format they are to be scanned and forwarded by secured email to **SBSE ET WSD Referrals*. For more information regarding Form 3949-A, see IRM 3.28.2.3, *What is Form 3949-A?*.

4.23.3.5
(08-26-2025)
**IRC 41(h) Payroll Tax
Research Credit and
Related Referrals to
Income Tax PSP**

- (1) For employment tax returns claiming the payroll tax research credit, ET-WSD and ET Examination will perform preliminary compliance checks, reviewing Form 3800, *General Business Credit*, Form 6765, *Credit for Increasing Research Activities*, and Form 8974, *Qualified Small Business Payroll Tax Credit for Increasing Research Activities*, to determine whether the payroll tax election appears correctly made on the income tax return and the payroll tax

credit appears correctly applied on the employment tax return. For these procedures, see IRM 4.23.5.23, *Qualified Small Business Payroll Tax Credit for Increasing Research Activities*, and subsequent subsections.

- (2) If the return meets referral criteria in IRM 4.23.5.23.7.1, *SB/SE PSP Referral Criteria*, it will be referred to SB/SE Income Tax Planning and Special Programs (PSP) using Form 5346, *Examination Information Report*, and submitted with the spreadsheet "ET Research Referral Information" via email to **SBSE R&E Credit ETax Referral*. For information required in the referral, see IRM 4.23.5.23.7.2, *SB/SE PSP Referral Procedures*.
- (3) If the referral is accepted, Income Tax Examination will examine the IRC 41 research tax credit and will open and control the employment tax return(s) on which a related payroll tax research credit is claimed by the taxpayer.
- (4) For additional information, see:
 - *Notice 2017-23, 2017-16 IRB 1100 Interim Guidance and Request for Comments; Election by Qualified Small Business to Claim Payroll Tax Credit for Increasing Research Activities.*
 - IRS.gov website at *Qualified Small Business Payroll Tax Credit for Increasing Research Activities*.

4.23.3.6 (02-25-2021) **Selection Criteria for Large Case Referrals**

- (1) Often, the selection of an LB&I employment tax return for examination is initiated from a referral generated at the start of a related income tax examination. All referrals, including referrals from LB&I, will be submitted to ET-WSD for evaluation and assignment.

4.23.3.7 (08-26-2025) **Compliance Checks**

- (1) In certain situations, employment tax leads may be assigned directly to the ET examiner to determine if a compliance check is preferable to an examination.
- (2) A compliance check is a review conducted by the IRS, to determine whether a taxpayer is adhering to the requirements under the IRC, including recordkeeping and information reporting requirements. A compliance check is **not** an examination, it does not directly relate to determining a tax liability for any particular period.
- (3) A compliance check is an opportunity to educate the taxpayer and encourage voluntary compliance. Pub 3114, *Compliance Checks*, contains additional information on compliance checks and is used as a taxpayer handout.
- (4) A compliance check is neither an inspection under IRC 7605(b) nor an examination under Section 530 of the Revenue Act of 1978.
- (5) Compliance checks can be useful tools in certain situations. However, care must be exercised to prevent examining the taxpayer under the guise of a compliance check to avoid infringing on taxpayer rights and establishing a section 530 safe haven.

Note: Generally, SB/SE Employment Tax does not conduct compliance checks, but uses examinations to determine adherence to information and reporting requirements. Managerial approval must be secured by an ET examiner to conduct a compliance check.

Note: For information on tip compliance checks, see IRM 4.23.7.11, *Mandatory Compliance Follow up Reviews on Voluntary Tip Agreements*.

4.23.3.7.1
(08-26-2025)
**Guidelines for
Compliance Checks**

- (1) Examiners will schedule a compliance check by letter and enclose Pub 3114, Pub 1, *Your Rights as a Taxpayer*, and Notice 609, *Privacy Act Notice*. At the review, the ET examiner must explain to the taxpayer that the appointment is merely a compliance check and it does not qualify as an inspection under IRC 7605(b) or as an examination for purposes of section 530.
- (2) To avoid unauthorized disclosures of return information, immediately identify the taxpayer or their authorized representative. For purposes of identification, the ET examiner must verify and document the complete name, title, and the purpose of the call/contact. For further information, see IRM 21.1.3.2.3, *Required Taxpayer Authentication*.
- (3) A compliance check is limited to a review of the information and tax returns that the IRS requires a taxpayer (e.g., an employer) to file or maintain; for example, Forms 940, 941, 8027, W-2, 1099, or W-4.
- (4) During a compliance check, **do not**:
 - Inspect books and records
 - Discuss books and records
 - Question whether a worker is an employee or independent contractor
 - Ask how the taxpayer determined whether to report a worker's compensation on a Form W-2, Form 1099-NEC, Form 1099-MISC, or other information return.

Note: If no information return was filed, it is reasonable to ask how much was paid, whether the recipient was incorporated, and other questions designed to determine whether or not filing was required.

- (5) If the ET examiner is able to determine the taxpayer is in compliance or is able to bring the taxpayer into compliance at the compliance check interview without reviewing the books or records or asking common law questions, the ET examiner may recommend that no examination be conducted. If delinquent tax or information returns are secured by the ET examiner, they will follow procedures as described in IRM 4.23.12, *Delinquent Return Procedures*.
- (6) If the ET examiner cannot determine the taxpayer's compliance at the initial compliance check interview, the ET examiner will inform the taxpayer that the compliance check is completed and an ET examination will be opened. At that time, the ET examiner must follow all established examination procedures.

4.23.3.8
(08-26-2025)
**Employment Tax
Examination Procedures**

- (1) IRC 7602 and 26 CFR 301.7602-1(a) provide the ET examiner with the authority to request and receive the books, records, etc., necessary to properly examine an entity's tax return. See IRM 4.10.2.10.2, *Authority to Request Books, Records, and Accountant's Workpapers*.
- (2) The following procedures are provided to assist ET examiners in the examination of employment tax returns.

4.23.3.8.1
(02-25-2021)
Pre-Contact Analysis

- (1) The ET examiner is responsible for determining the scope of the examination, beginning with the issues identified by the classifier on the classification check sheet. The ET examiner must perform a pre-contact analysis including a thorough review of the case file to identify LUQ items beyond those selected on the classification check sheet. For additional information regarding the Pre-Contact Analysis, see IRM 4.10.2.3, *In-Depth Pre-Contact Analysis*.

4.23.3.8.2
(11-19-2018)
Procedures for Required Filing Checks, Scope, and Controls of Employment Tax Examinations

- (1) The following subsections outline an ET examiner's responsibilities regarding required filing checks, scope of exams, and examination controls, and will assist the ET examiner in meeting quality standards and ensuring appropriate and consistent examination procedures.

4.23.3.8.2.1
(08-26-2025)
Required Filing Checks

- (1) ET examiners will follow the procedures outlined below and in IRM 4.10.5, *Required Filing Checks*, when conducting required filing checks.
Note: Policy Statement 4-4 states that examiners will determine during the examination of any return whether the taxpayer is filing or has filed all of the other Federal tax or information returns they are required to file. See IRM 1.2.1.5.2, *Policy Statement 4-4, Income tax examination will include consideration of taxpayer's liability for employment tax*.
- (2) ET examiners must determine and document in the case file whether or not the taxpayer has nonfiled employment tax returns.
 - a. The examination will generally be expanded to include those employment tax returns.
 - b. The ET examiner will refer to IRM 4.23.12.4, *Controlling and Processing Delinquent and Substitute for Returns*, for the procedures in handling delinquent employment tax returns.
 - c. If the ET examiner expands their examination to the prior and/or subsequent tax years, they are to refer to IRM 4.23.3.8.2.2 (6).
- (3) ET examiners must determine if the taxpayer filed required information returns. Examiners must address whether the appropriate information returns were filed for any reportable payments, such as Form W-2, Form 1099-MISC, Form 1099-NEC, Form 1099-R, and so on.
 - a. An ET examiner will refer to IRM 4.23.8.11, *Delinquent Forms W-2/W-2c*, and IRM 4.23.8.11.4, *Delinquent Forms 1099 Secured by Examiner*, for the procedures in handling delinquent information returns.

- Note:** For recipients of Form 1099 or Form W-2/W-2c that appear to have high income tax potential for possible income tax under-reporting, ET examiners may consider making a referral using Form 5346. Using secured email, send the Form 5346, copies of delinquent Form 1099 or Form W-2/W-2c, and any other supporting documentation with Form 3210, *Document Transmittal*, to ET-WSD at **SBSE ET WSD Referrals*. Examiners are not responsible for evaluating whether secured delinquent information returns have high income tax potential for possible income tax under-reporting.
- b. If the appropriate forms were not correctly filed, the ET examiner must consider expanding the examination to include an information return pen-

alty case. See IRM 4.23.9.13, *Penalties for Failure to File Certain Information Returns or Furnish Certain Statements*, and IRM 4.23.8.12, *Information Return Penalty Case File*.

- (4) ET examiners should determine if backup withholding noncompliance exists, including but not limited to nonfiled Form 945, *Annual Return of Withheld Federal Income Tax*. If backup withholding noncompliance is present, the ET examiner must document whether the issue was addressed during the examination, and the reason it was not addressed. ET examiners must consider:
 - a. Missing payee TIN(s) as indicated in CC BMFOLI, IRPTRI, and PMFOLB, and
 - b. Nonfiled Form 945 and a history of name/TIN mismatches as indicated in CC BMFOLI and PMFOLB.

Note: See IRM 4.23.8.14, *IRC 3406 - Backup Withholding*.

- (5) The ET examiner must determine if the taxpayer withheld income tax and FICA taxes (including Additional Medicare Tax) from wages, or reported these taxes on Forms W-2, but the taxpayer did not file an employment tax return (and did not deposit the tax, if applicable). See IRM 4.23.8.6, *FICA Tax*, and IRM 4.23.8.8, *Computing Income Tax Withholding*.
- (6) The ET examiner must determine if the taxpayer met all other federal return reporting requirements.
 - a. Other nonfiled returns (for example, income, excise, etc.) will generally be solicited as part of the examination.
 - b. If a delinquent return is secured the ET examiner must follow IRM 4.23.12.5, *Delinquent Tax Returns Secured (Other than Employment Tax Returns)*.

Reminder: ET examiners are instructed to refer secured delinquent SB/SE income tax returns to ET-WSD so they may be evaluated. For SB/SE income tax referrals, send Form 5348, copy of the delinquent return, and any other supporting documentation with Form 3210 in a secured email to **SBSE ET WSD Referrals*. Examiners are not responsible for evaluating whether secured delinquent returns have high income tax potential for possible income tax under-reporting.

Reminder: For fraud referrals, see IRM 4.23.12.10, *Referral to Criminal Investigation*.

Reminder: For consultation request or referral to Employee Plans or Exempt Organization / Government Entities see IRM 4.23.2.2.3.1, *Consultation Requests or Referrals to Employee Plans or Exempt Organization / Government Entities*.

4.23.3.8.2.2
(08-26-2025)
**Scope of an
Employment Tax
Examination**

- (1) All employment tax cases received from ET-WSD contain a classification sheet detailing the issues identified during classification.
- (2) In an examination **not** designated as a limited scope examination, the ET examiner will use facts learned during the pre-contact, the interview of the taxpayer, and the review of books and records to determine the scope of the examination. ET examiners must use their professional judgment to set the scope of the examination and only work issues with merit.

- (3) ET examiners will expand the scope of the examination to other issues found if, in the ET examiner's professional judgment, expansion is warranted to ensure all items necessary for a substantially proper determination of the tax liability have been considered. The case file must be documented as to the basis for the decision to expand or not to expand the scope of the examination.
- (4) ET examiners may reduce (limited) the scope of the examination, if in the ET examiner's judgment it is warranted. The case file must be documented as to the basis for the decision.
- (5) Based on the ET examiner's professional judgment the scope of the examination may be:
 - a. Reduced (limited) if no other items appear worthy of examination or it is not in the government's best interest to pursue the issue(s) further, or
 - b. Expanded if there exist a material potential non-compliance issue(s).

Reminder: The goal of an examination is to determine the "substantially correct" tax liability.

- (6) ET examiners must consider expanding the scope of any ET examination to include prior and subsequent years if the issue(s) under development are material and recurring, or if there appear to be other LUQ items. The reasons the scope of an examination is or is not expanded must be documented in the case file. If the examination of a prior or subsequent year return(s) is warranted see the following for guidance and instruction:
 - IRM 4.10.5.3.2, *Examination of Prior and Subsequent Returns*, and
 - IRM 4.10.2.7.1.2, *Determining the Scope of an Examination - Current, Prior and Subsequent Years*.
- (7) If, during the examination, the scope is expanded to include another tax period(s), the taxpayer must be notified orally or in writing of the expansion. See IRM 4.23.3.8.3 (8).

4.23.3.8.2.2.1 (08-26-2025) **Limited Scope Examination**

- (1) A limited scope examination will have a specific examination issue designated by ET-WSD that is required to be examined. A limited scope examination is generally not limited to a single tax year or period.
- (2) The classification sheet will indicate if a case has been designated by ET-WSD as a limited scope examination. The issue(s) included in the limited scope are clearly reflected on the classification sheet and the sheet is clearly marked **limited scope**.
- (3) Management may designate a case with special circumstances be a limited scope examination.
- (4) Cases classified for "Employment Tax, Tax Compliance Officers" (ET-TCOs) are limited to issues appropriate for their experience and training.
- (5) An Examination group manager may limit the scope of an ET examination due to resource limitations or other considerations. See IRM 4.10.2.7.1.3, *Limiting the Scope*.

Note: For employment tax cases with a concurrent income tax case, the initial scope of the examination will be established by the assigned ET examiner, the income tax examiner, and their managers. The ET examiner must document whether the scope of the ET examination is limited.

Note: TE/GE will follow its own guidelines and procedures regarding limited scope examinations.

Note: Examination of claims for refund **are not** considered a limited scope examination.

- (6) An ET examiner must address and document certain examination steps in a limited scope examination, including:
- a. Interviewing the taxpayer and touring the business. A tour of the business is only applicable for field examinations and is not applicable when remote examination procedures are used. When a tour of the business is not feasible, the reasons must be fully documented in the case file.
 - b. Completing the required filing checks addressed in IRM 4.23.3.8.2.1.

Note: If delinquent returns are secured or LUQ items are identified, appropriate referrals must be made.

- c. Considering applicable penalties such as failure to file, failure to pay, failure to deposit, and negligence.
- d. Fully developing the limited scope issue(s).
- e. Preparing workpapers that support the proposed adjustments. See IRM 4.23.4, *Employment Tax – General Procedures and Workpapers*.

Note: If any of these procedures are not completed, the ET examiner must document the reason in the case file.

- (7) If the limited scope examination reveals a potential material non-compliance issue, examiners will use their judgment regarding whether to expand the examination to include the additional issue. If expansion is warranted, the ET examiner must discuss this recommendation with their manager and document the decision in the case file.

4.23.3.8.2.2.2
(08-26-2025)
**Collectibility
Considerations**

- (1) Examiners will follow IRM 4.10.2.4.1, *Collectibility*, when evaluating examination potential and setting the scope of an examination. Collectibility issues (including advice from Collection, if needed) must be discussed with the manager, and consideration given to surveying, no-changing, or limiting the scope of the examination. This decision must be documented in the case file.
- (2) Collectibility also must be considered throughout the examination.
- a. During the initial interview, the ET examiner will discuss payment options in the event a deficiency is proposed.
 - b. The primary objective is to obtain full payment of the deficiency when the examination is complete. For procedures for soliciting payment, see IRM 4.23.11.2, *Soliciting Payment at Closing*, IRM 4.23.11.2.1, *Employment Tax Early Payment Program*, and IRM 4.20.1.3, *Issue Resolution - Solicit Payment*.
- (3) The ET examiner must document consideration of collectibility, collectibility determinations, and the interview in the case file. Lead Sheet 105, *Administrative Lead Sheet*, contains links to assist in documenting collectibility.

(4) Additional procedures related to collectibility consideration can be found in:

- IRM 4.10.1.2.1.10, *Right to a Fair and Just Tax System*.
- IRM 4.20.1, *Examination Collectibility Procedures*.

4.23.3.8.2.3
(08-26-2025)

Controlling Employment Tax Returns

(1) Examination controls must be established on the Examination Returns Control System (ERCS) for all return(s) addressed in an ET examination. This includes any subsidiary or related employment tax return(s) when related taxpayer records have been requested and reviewed.

Note: TE/GE uses the Reporting Compliance Case Management System (RCCMS) for electronic establishment of returns for examination.

- (2) Employment tax examinations generally cover an entire calendar year. Therefore, the ET examiner must establish examination controls on all return(s) to address the entire calendar year. This generally means all four quarters of Form 941, will be opened when the examination is started. This applies even if the case results in a no-change, as it will more accurately reflect the examination work conducted as reflected in case closure statistics.
- (3) ET examiners must document the reasons for controlling less than all four quarters of a calendar year. For example, the ET examiner may determine that it is appropriate to control less than all four quarters of a calendar year when the examination involves a claim filed for a certain period, when bonuses were paid in a specific quarter, or when the business was not operating for a full year.
- (4) Generally, examiners will not start an examination for a calendar year until after the last filing date for all employment tax returns of that year. Normally, this is January 31 following the end of the calendar year.
- (5) Examiners will not request control of any quarter for the current year, unless there are unique circumstances requiring inclusion of the current year quarter(s) (e.g., the taxpayer is no longer in business and the examination is expanded to resolve all remaining employment tax matters). Generally, the ET examiner will ask the taxpayer to correct any errors for the current year in accordance with IRC 6205 and the applicable regulations.

Example: If an examination of the 2022 and 2023 periods was concluded on November 1, 2024, and the same issues exist for 2024, the ET examiner will advise the taxpayer to correct them by filing the appropriate amended returns in accordance with IRC 6205. This procedure is consistent with Policy Statements 4-4 and 5-133. See IRM 1.2.1.5.2, *Policy Statement 4-4, Income tax examination will include consideration of taxpayer's liability for employment tax*, and IRM 1.2.1.6.18, *Policy Statement 5-133, Delinquent returns—enforcement of filing requirements*.

4.23.3.8.2.3.1
(08-26-2025)

Examination Request Master File, Form 5345-D

(1) As soon as it is determined that an examination will be conducted, the ET examiner will complete Form 5345-D, *Examination Request-ERCS (Examination Returns Control System) Users*. A maximum of seven tax periods for the same taxpayer may be requested on each Form 5345-D.

Note: A separate Form 5345-D is required for each TIN and Master File Tax (MFT).

Note: For establishing and controlling examinations in TE/GE, see IRM 4.5.1.6, *TE/GE AIMS Forms*.

- (2) Cases originating in ET-WSD will establish the project and tracking code on the case controls prior to delivery to the Examination group. Project and tracking codes are determined by using the most current listing available *Employment Tax Project and Tracking Codes Job Aid*. Employment Tax project codes are determined by the main issue identified during classification or issue identification, and tracking codes indicate the source of the case. All related tax periods must have the same tracking code as the key case.

Note: TE/GE will follow its own procedures for project and tracking codes.

- (3) After obtaining group manager approval, forward the Form 5345-D for terminal input. Retain a copy of each Form 5345-D in the case file.

Note: Areas with automated inventory controls systems, such as ERCS, Report Generation Software (RGS), and Issue Management System (IMS), will follow locally established procedures for requesting, receiving, or updating controls.

Note: TE/GE will follow its own procedures for establishing and controlling examinations.

4.23.3.8.3 (08-26-2025) Initiating Contact and Scheduling Appointments

- (1) Prior to making initial contact, examiners must check BMFOLT or TXMODA to determine if a valid power of attorney is on file for the tax periods and type of tax under examination. If a TC 960 is posted the ET examiner must secure a CFINK and retain a copy in the file. If CFINK indicates that a valid power of attorney is on file, the ET examiner will mail the appropriate initial contact letter to the taxpayer and a copy of the letter to the representative with Letter 937, *Transmittal for Power of Attorney*. After mailing the initial letter, and sufficient time has elapsed for the taxpayer to respond (allow 14 calendar days from the mailing of the letter), employees can initiate contact by telephone, as needed. For additional information regarding a power of attorney see IRM 21.3.7, *Processing Third-Party Authorizations onto the Centralized Authorization File (CAF)*, and IRM 4.11.55, *Examining Officers Guide (EOG), Power of Attorney Rights and Responsibilities*.
- (2) Examiners will select an appropriate initial contact letter and schedule the initial appointment for employment tax examinations as follows:
 - a. **Remote examination:** Examiners will use Letter 3850-T, *Employment Tax TCO Appointment*, to schedule a date and time for a telephone interview. This letter was specifically developed for use in a remote examination, and may be used by any ET examiner conducting a remote examination. If the taxpayer does not respond to Letter 3850-T, the ET examiner will make a telephone call to the taxpayer or use Letter 3850-F, *Employment Tax Second Contact*, in an attempt to obtain their cooperation. For remote examination procedures see IRM 4.23.21.5, *Conducting the Examination - General*.
 - b. **LB&I team examination:** The initial appointment is set in conjunction with the team lead following established procedures. In instances where the LB&I Income Tax Team issues the initial contact letter, the ET

examiner will use Letter 3850-A, *Employment Tax Examination Notification*, to notify a taxpayer that the employment tax returns have been opened for examination. A separate Letter 3850-A must be issued for each distinct EIN whose return is opened for examination by the Employment Tax Specialist.

- c. **All other employment tax examinations:** Letter 3850, *Employment Tax Appointment*, or Letter 3851, *Employment Tax Call-in Appointment*, are generally used to schedule a field appointment for an employment tax interview. When the taxpayer calls in response to the Letter 3851, the ET examiner will discuss documents necessary for the examination. The ET examiner will send Letter 3253, *Taxpayer Appointment Confirmation*, confirming the appointment and detailing documents needed in the enclosed Form 4564, *Information Document Request*. If the taxpayer does not call in response to Letter 3851, the ET examiner will issue Letter 3850 to schedule the appointment.

Note: See IRM 4.10.2.8.1, *Making Initial Contact*, for additional information regarding scheduling the initial appointment.

- (3) The following documents must be mail to the taxpayer with the initial contact letter:
 - a. Pub 1,
 - b. Notice 609, and
 - c. Pub 5146.

Note: These documents should not be sent to the representative.

Note: Workpapers and the activity record must include when and how these documents were provided to the taxpayer.

- (4) The ET examiner has the right to determine the time and place of the examination under IRC 7605 as long as the ET examiner does not abuse this right. The time and place of the examination must be reasonable and the ET examiner will attempt to accommodate reasonable requests. Schedule the initial appointment at a time and/or place convenient to the taxpayer and consistent with 26 CFR 301.7605-1. See IRM 4.10.2.9.2, *Place and Time of Examination*, and IRM 4.10.2.8.1, *Making Initial Contact*, for additional information regarding scheduling the initial appointment.
- (5) Examinations will generally be conducted at the location where the taxpayer maintains the books and records of the business operations. However, the examination may be conducted at a place other than the location of the business operation if agreed to by the ET examiner and the taxpayer or the authorized representative. Field examinations (examinations not following the remote examination process) are normally conducted at the taxpayer's place of business. Enter a taxpayer's private premises only when invited in by the rightful occupant. If fraud is a feature or if the interests of the government may be jeopardized, the convenience of the taxpayer will be considered but need not be regarded as paramount.
- (6) Examiners are not authorized to assure taxpayers that their books and records will be used solely for civil purposes. If a taxpayer insists upon such assurances or gives the ET examiner a statement that the books and records are only being made available for limited purposes, the ET examiner will ask for

and document the taxpayer's reason(s) for refusing to furnish the records without restriction, discontinue the examination, and report this information to the group manager. The group manager and the ET examiner will then discuss the matter, addressing the use of summons, third-party contacts, and other potential avenues to secure cooperation and the necessary information to finalize the examination.

- (7) Form 4564 is a written record of the documents and information requested from the taxpayer during the examination. Form 4564 will be used to document all requested information and documents needed to support items being examined. Examiners should request relevant and needed information. A Form 4564 must be clear, concise, specific, and not be unduly burdensome. For more information refer to:

- IRM 4.10.2.10.1, *Requesting Information or Documents from the Taxpayer*,
- IRM 4.23.4.5.3, *Mandatory Requirements for Information Document Requests (IDRs)*, and
- IRM 4.23.4.6.4, *Information Document Requests (IDRs)*.

Reminder: Information requested should be only those items necessary to resolve the examination issues and pertinent to the taxpayer's business. Examiners should not request information or documents that are readily available, either on the return or through IDRS or another internal information source, since the IRS cannot summons this information. See IRM 25.5.4.5, *Limitations on Authority to Summon*.

- (8) If, during the examination, the scope is expanded to include another tax period(s), the taxpayer must be notified orally or in writing of the expansion. If notified in writing the ET examiner should use Letter 5968, *Prior or Subsequent Year Pickup*. See IRM 4.10.2.7.1.2, *Determining the Scope of an Examination - Current, Prior and Subsequent Years*.

Reminder: Pub 1 and Notice 609 are only required with an initial contact letter. It is not required to be sent again when an examination is expanded to a prior or subsequent year.

4.23.3.8.4
(08-26-2025)
Initial Interview With Taxpayers

- (1) To avoid unauthorized disclosures of return information, immediately identify the taxpayer or their authorized representative before disclosing tax information. For such purposes ET examiners must know and document with whom they are speaking, including the complete name, title, and the purpose of the call or contact. See IRM 21.1.3.2.3, *Required Taxpayer Authentication*.
- (2) Restructuring and Reform Act of 1998 (RRA) section 3705 requires that during personal and telephone contacts and on all manually generated correspondence by an employee working tax related issues, the employee's title (e.g., Mr., Mrs., Miss), first name, last name, and unique identification number must be provided. This requirement ensures that taxpayers are able to contact the appropriate employee to address any further questions they may have about their tax matter. For additional information, see IRM 4.10.1.2.2.2, *Employee Contact Information*.
- (3) If the examination will address worker classification or IRC 7436 wage issues, Pub 1976, *Do you Qualify for Relief under Section 530?*, must be provided to the taxpayer before initiating examination of these issues. See IRM 4.23.5.3.1, *Section 530 Relief*.

- (4) The initial interview is an important part of the examination and/or compliance process. An initial interview must be conducted except in special circumstances, such as:
- Undeliverable appointment letters, see IRM 4.10.2.8.4, *Undeliverable Initial Contact Letters*, or
 - Unlocatable taxpayers, see IRM 4.10.2.8.5, *Using Credit Bureau Information to Locate Taxpayers*, and IRM 4.10.2.8.6, *Case Closing Procedures if the Taxpayer Cannot be Located*.
- (5) When an interview cannot be conducted, document the reasons in the case file. In LB&I Team Audit examinations where it is not practical to hold an initial interview, the ET examiner will follow and document in the case file the direction of the LB&I Income Tax Team Lead on obtaining the necessary information to conduct the ET examination.
- (6) In situations where the taxpayer is being uncooperative, ET examiner must discuss the use of a summons or third party contacts with their manager before making the decision to issue a report based on the available information. For more information on third party contacts see IRM 4.23.3.8.5.2, *Third-Party Contacts*. For more information on summons, see:
- IRM 4.10.4.6.1.3.1, *When to Use Statistical Data*,
 - IRM 4.10.7.5.1, *Closing Phase of the Examination*,
 - IRM 4.10.20.4.1, *Issuance of Summonses*,
 - IRM 4.10.20.4.2, *Enforcement of Summonses*,
 - IRM 4.23.21.5.3, *Developing the Issue(s)*,
 - IRM 4.23.21.6.3, *Report Writing Procedures for No-Response Cases (No Show) or Unlocatable Taxpayers*, and
 - IRM 4.46.4.7.3, *IDR Enforcement Process*.
- (7) ET examiners will ensure a full interview is conducted to establish that the taxpayer is in substantial compliance with all employment tax laws and filing requirements. Do not limit the interview to the classified items if facts developed during pre-contact or initial contact indicate other issues may be present.
- Note:** Interviews are used to develop information and establish evidence. The testimony of witnesses and statements made by taxpayers or their representatives are major factors in resolving tax cases. See IRM 4.10.3.4, *Interviews: Authority and Purpose*.
- (8) If not previously addressed, the ET examiner must document that they took the following actions before or at an initial interview or opening conference:
- a. Confirm and document the receipt of Pub 1, Notice 609, and Pub 5146. If the taxpayer has not received these documents, furnish the documents before proceeding with the initial interview.
 - b. Briefly describe the rights discussed in Pub 1 and Notice 609.
Note: Pub 1 fulfills the requirement in IRC 7521(b) that taxpayers be informed of the process and their rights under such process at or before the initial interview.
 - c. Briefly describe the examination process and the resolution options available for agreed and unagreed cases described in Pub 5146.

- d. Ensure that other provisions of IRC 7521, which affect taxpayer interviews are addressed. See IRM 4.23.3.8.5.

- (9) The ET examiner should inform the taxpayer that Appeals will only accept employment tax cases with 365 days remaining on the statute of limitations. See IRM 4.23.22.11.10, *Precautions Against Expiration of Period of Limitations for Assessment*.

4.23.3.8.5
(08-26-2025)
Taxpayer Rights

- (1) A discussion of the taxpayer's rights must be conducted before or at the initial interview. See IRC 7521(b)(1) and IRM 4.23.3.8.4 (8).
- (2) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the IRC, putting them in simple language, and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accordance with taxpayer rights. See IRC 7803(a)(3). For additional information about the TBOR, see Pub 5170 or *Taxpayer Bill of Rights*.
- (3) Under IRC 7521, the taxpayer has a right to:
 - a. Receive, in non-technical language, an explanation of the rights available at each step of the examination process. This explanation must be furnished before or at an initial interview. Pub 1 was developed to meet this requirement. Pub 1 explains the procedures covering examination of tax returns and appeal rights and should be furnished to all taxpayers. Examiners must ensure the taxpayer has a full understanding of the examination process. First, before or at the start of the initial interview, ask the taxpayer whether they have any questions regarding the examination process, regular selection procedures, or appeal rights. Second, if the taxpayer does have questions, give clear and concise explanations. Third, advise the taxpayer of various court remedies available for employment tax issues: All post-assessment employment tax cases can be heard in a U.S. District Court or the U.S. Court of Federal Claims. Some employment tax cases can be heard by the U.S. Tax Court before assessment is made if they involve IRC 7436 issues.

Reminder: An initial contact telephone call initiated by the taxpayer is not considered initial interview. An explanation of the taxpayer's rights may be done during this initial contact with the taxpayer.

- b. Consult with a representative who is currently authorized to represent taxpayers under rules provided in Treasury Department Circular 230, *Regulations Governing the Practice of Attorneys, Certified Public Accountants, Enrolled Agents, Enrolled Actuaries, Enrolled Retirement Plan Agents and Appraisers before the Internal Revenue Service*. At anytime during the examination, a taxpayer may request to consult with a representative, suspend the examination until the representative is involved. In cases where this process is abused (e.g., repeated suspension of interviews to contact a representative) an administrative summons may be issued. A taxpayer cannot be required to accompany an authorized representative to an examination interview in the absence of an administrative summons. However, the taxpayer's voluntary presence at the interview can be requested through the representative as a means to expedite the process.
- c. Notice 89-51, 1989-1 C.B. 691, contains guidance for allowing the taxpayer to audio record any in-person interview relating to the determination or collection of any tax as long as there is a 10-day advance

notification. For information on taping interviews by either the taxpayer or the IRS, see IRM 4.10.3.4.7, *Requests to Audio Record Interviews*.

Note: Taxpayers may not videotape or film the examination interview.

4.23.3.8.5.1
(08-26-2025)
Taxpayer Advocate Service

- (1) A taxpayer request for TAS assistance will be forwarded by ET examiners to their manager. For more information on referrals to TAS see IRM 4.23.2.2.5, *Taxpayer Advocate Service*.
- (2) Group managers will document all inquiries being referred to TAS on Form 911, *Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order)*, or Form e-911, and forwarded to TAS immediately.

4.23.3.8.5.2
(08-26-2025)
Third-Party Contacts

- (1) A third-party contact (TPC) is made when the taxpayer is unable or unwilling to provide information requested by the ET examiner, generally on a Form 4564, or when the ET examiner needs to verify information the taxpayer provided. Examiners must document the case file to support the need to verify information already provided by the taxpayer. IRC 7602(c)(1) requires IRS employees to:
 - Issue advance notice of third-party contacts by using Letter 3164-E, *Third Party Contact*.
 - Intend, at the time such notice is issued, to contact persons other than the taxpayer (the notice must state such intent),
 - Specify in the notice the time period, not to exceed one year, within which IRS intends to make the third-party contact(s), and
 - Send the notice at least 45 days before contacting a third party.

Note: No contact with a third party can be made until the 46th day following the date of the notice. The notice may be re-issued for an additional one-year time period if there remains a need to contact third-parties.

Reminder: Pub 1 does not satisfy the advance notice requirement of IRC 7602(c)(1).

- (2) The purpose of the notice is to allow the taxpayer an opportunity to provide the requested information, before disclosing to a third party that the taxpayer is the subject of an IRS action.
- (3) Additional information is available at:
 - IRM 25.27.1, *Third-Party Contact Program*
 - IRM 4.11.57, *Examining Officers Guide - Third Party Contacts*
 - IRM 4.10.1, *Overview of Examiner Responsibilities*
 - IRM 4.10.2, *Pre-Contact Responsibilities*
- (4) Examiners must document the case activity record with the date of mailing or the personal delivery of Letter 3164-E to the taxpayer, and the date Form 12175, *Third Party Contact Report Form*, was prepared and forwarded to the Third Party Contact Coordinator. See IRM 4.11.57.4.2, *Recording a TPC*.

4.23.3.8.6
(08-26-2025)
**Power of Attorney and
Tax Information
Authorization**

- (1) When working with someone other than the taxpayer, IRS employees must remember unauthorized disclosure of taxpayer and return information is strictly prohibited. A valid power of attorney provides authorization and avoids unauthorized disclosure.
- (2) Form 2848, *Power of Attorney and Declaration of Representative*, specifically authorizes the representative to receive and inspect confidential tax information. Therefore, IRS employees are not prohibited from providing a copy of a notice or communication to a representative if the box on Form 2848 indicating copies are to be sent to the representative is not checked. However, representatives cannot expect courtesy copies of notices and communications when the box is not checked. For more information see IRM 4.11.55.2.9, *Notices and Communications*. The representative is authorized to:
 - Correspond and communicate with the IRS,
 - Represent the taxpayer at conferences, hearings, and meeting with IRS, and
 - Prepare and file documents with the IRS for the taxpayer.

Note: For more information on Power of Attorney and Tax Information Authorizations see the Disclosure and Privacy Knowledge Base page *POA and TIA Table of Contents*.

- (3) Form 8821, *Tax Information Authorization*, specifically authorizes the designee to receive and inspect confidential tax information. It does not permit the third party to represent the taxpayer before the IRS. Therefore, IRS employees are not prohibited from providing a copy of a notice or communication to an appointee unless the box on Form 8821 stating the taxpayer does not want copies of notices or communications sent to the appointee is checked. Appointees cannot expect courtesy copies of notices and communications when the box indicating copies will be sent is not checked. For more information see IRM 4.11.55.2.9, *Notices and Communications*. Form 8821 **does not** permit the third party to:
 - Represent the taxpayer before the IRS, including Appeals, or
 - Authorize a representative to sign documents on behalf of the taxpayer.

Note: For more information on Power of Attorney and Tax Information Authorizations see the Disclosure and Privacy Knowledge Base page *POA and TIA Table of Contents*.

- (4) Review BMFOLT or TXMODA to determine if the Form 2848 or Form 8821 is on file for the tax periods and type of tax under examination. If a TC 960 is posted the ET examiner must secure a CFINK and retain a copy in the file. For more information on IDRS CC CFINK see IRM 4.11.55.6.2, *CFINK*.
- (5) If Form 2848 or Form 8821 is not on file, the ET examiner must secure a copy. The Form 2848 or Form 8821 must be reviewed to determine if an essential element is missing or incomplete. If an essential element is missing or incomplete the authorization is unprocessable. See IRM 21.3.7.5.1, *Essential Elements for Form 2848 and Form 8821*.
- (6) An ET examiner must submit a copy of the Form 2848 or Form 8821 to the CAF function within five workdays of receipt. The ET examiner is to fax Form 2848 or Form 8821 to the CAF function at 855-214-7522. For more information

see IRM 21.3.7.1.6, *Audience-Processing Sites (CAF Function)*. Note across the top of page 1 of the Form 2848 or Form 8821 "Faxed to (Appropriate Campus) on (Date)."

Reminder: The original Form 2848 or 8821 should be retained with the case file.

Note: Form 2848 or Form 8821 that are received by facsimile are acceptable for processing.

- (7) Forwarding the Form 2848 or Form 8821 to the CAF Unit will trigger required actions to ensure input of a POA code to the entity on the appropriate master file or non-master file and will result in subsequent mailings of copies of computer-generated communications to the authorized representative.
- (8) Form 2848 or Form 8821 filed for specific issues are not detached from the related document and are not sent to the CAF Unit unless the document authorizes specific return(s) and specific return periods in addition to the specific issue. In this case, a copy of the Form 2848 or Form 8821 must be sent to the CAF Unit to input the return portion. Examples of specific issues include, but are not limited to, the following:
 - Form 843, *Claim for Refund and Request for Abatement*,
 - Form 966, *Corporate Dissolution or Liquidation*,
 - Form W-4, *Employee's Withholding Certificate*,
 - Form 4361, *Application for Exemption from Self-Employment Tax for Use by Ministers, Members of Religious Orders and Christian Science Practitioners*,
 - Form SS-4, *Application for Employer Identification Number*, and
 - General Power of Attorney or Durable Power of Attorney. These powers of attorney usually do not contain sufficient information to process on CAF. If a general or durable power of attorney is submitted, attach a completed Form 2848, and send **both** forms to the CAF Unit for processing.
- (9) A taxpayer, POA, or designee may revoke or withdraw an existing Form 2848 or Form 8821, see the *Instructions for Form 2848, Power of Attorney and Declaration of Representative* or *Instructions Form 8821, Tax Information Authorization* for the procedures. In general, all revocations or withdrawals must be in writing. The taxpayer's signature and date are required to process a revocation. The representative's signature and date are required to process a withdrawal. The signed revocation or withdrawal statement is sent to the CAF Unit to delete the existing POA or designee.

Note: If the power of attorney is for a specific matter, the revocation or withdrawal is sent to the IRS office handling that matter.

4.23.3.8.6.1
(08-26-2025)
**Enclosures with
Correspondence to
Representatives and
Designees**

- (1) Blank forms, instructions, and publications available on the [irs.gov Forms, Instructions & Publication](https://www.irs.gov/forms-instructions-publications) page will not be sent to the taxpayer's representative or designee, including, but not limited to:
 - Pub 1, *Your Rights as a Taxpayer*
 - Notice 609, *Privacy Act Notice*
 - Pub 1035, *Extending the Tax Assessment Period*
 - Pub 5146, *Employment Tax Returns: Examinations and Appeal Rights*

- Form 9465, *Installment Agreement Request*
- Form 12203, *Request for Appeals Review*

Note: This guidance is consistent with the instructions for Form 2848 and Form 8821, which provides that representatives and designees will **not** receive forms, publications, and other related materials with correspondence.

- (2) Only copies of letters and other forms and documents addressed or specific to the taxpayer will be enclosed with Letter 937. Examples of other forms and documents addressed or specific to the taxpayer include, but are not limited to:
 - Form SS-10, *Consent to Extend the Time to Assess Employment Taxes*,
 - Form 872, *Consent to Extend the Time to Assess Tax*,
 - Form 2504, *Agreement to Assessment and Collection of Additional Tax and Acceptance of Overassessment (Employment Tax Adjustments Not Subject to IRC 7436)*,
 - Form 4549, *Income Tax Examination Changes*, and
 - Form 4564, *Information Document Request*.
- (3) The enclosure section of Letter 937 will indicate the specific enclosures included. For example, if Letter 3850 is enclosed with Letter 937, the ET examiner will check the “Letter(s)” box and type “3850” in the fillable field.

4.23.3.8.6.2
(08-26-2025)

Bypassing a Taxpayer’s Representative

- (1) If the taxpayer’s representative impedes or delays the examination, it may become necessary to bypass the taxpayer’s representative and communicate directly with the taxpayer. IRM 4.11.55.4, *By-Pass of a Representative*, provides detailed examination information on bypass criteria and procedures.

4.23.3.8.6.3
(08-26-2025)

Compromised or Potentially Compromised CAF Number

- (1) Examiners may be made aware of potentially fraudulent CAF activity through taxpayer contact or become aware during their normal duties and/or case handling.
Example: An individual is attempting to gain access to taxpayer account information by filing fraudulent Form 2848 or Form 8821. A CAF number that is used in such a manner must be considered compromised or potentially compromised.
- (2) Examiners must report compromised or potential compromised CAF numbers to the CAF Unit for action or further review.
- (3) For further information, see IRM 21.3.7.5.5.3, *How To Report a Compromised or Potentially Compromised CAF Number*.

4.23.3.8.7
(08-26-2025)

Examination Control Updates

- (1) Form 5348, *AIMS/ERCS Update*, (or Form 5595, *TE/GE Update*, in RCCMS) is used with examination labels to make changes to Audit Information Management System (AIMS) and ERCS.
- (2) The following updates are input on ERCS by the Shared Administrative Assistant or clerk:
 - Amount of claim,
 - Project code,
 - Status code, and
 - Statute date.

- (3) The following updates must be sent to the local AIMS/ERCS Analyst for input:
- Re-establish closed returns,
 - Update the AIMS Assignee Code (AAC) (this would only be completed if the AAC is correct on ERCS and the AAC on AIMS is incorrect),
 - Correct tracking codes,
 - Generate a follow-up request for a missing return, and
 - Request additional audit or address labels.
- (4) Instructions on the use of Form 5348 can be found in IRM 4.4.34.4, *Items that can be Updated/Corrected/Deleted and Form to Use*.

4.23.3.8.8
(11-19-2018)
**Request For Terminal
Action, Form 4844**

- (1) Form 4844, *Request for Terminal Action*, will be completed where the results of a compliance check or examination reveal that the taxpayer has filing requirements that are not currently on IDRS. Document 6209, *IRS Processing Codes and Information*, lists the correct codes for BMF Filing Requirements.

4.23.3.8.9
(11-19-2018)
Time Reporting

- (1) Accurate time and activity reporting is essential to effective Employment Tax Program planning, budgeting, and evaluation.
- (2) For information on time reporting in IMS, see IRM 4.23.4.5.4, *Charging Time on Cases>Returns and Issues*.
- (3) For those employees working mixed inventories, time will be charged to the appropriate activity codes. Activity codes can be found in Chapter 12, "Examination," of Document 6209. Also, see IRM 4.9.1, *Examination Technical Time Reporting System, Outline of System*, and its exhibits for complete explanations.

This Page Intentionally Left Blank

Exhibit 4.23.3-1 (11-19-2018)

Guidelines for Evaluation of Referrals and Income Tax Returns

Guidelines for Evaluation of Referrals and Income Tax Returns
(1) Information from an income tax return can reveal employment tax issues in a number of areas:
a) Compensation of corporate officers can be shown as "0" but a review of the Form 1120 may reveal that the officers have taken draws, dividends, professional fees, administrative fees, etc., to avoid reporting taxable wages.
b) Compensation of corporate officers can be shown as "0" but a review of the Form 1120 may reveal that the officers have spent 100 percent of their time in the operation of the business.
c) Schedules for "other deductions" often disclose bonuses to officers and employees. Payments to consultants are often listed on these schedules.
d) The reconciliation of accounts often shows loans and advances to corporate officers which may be salary in disguise.
e) Cost of Goods Sold often reveals labor and wage costs which may not appear on Forms W-2 and/or Forms 1099.
f) A service organization reporting cost of labor in cost of goods sold is suspect.
(2) Reconciliation of the Forms 941/940/W-2 and the income tax return often highlights a discrepancy.
(3) Taxpayers may file Form 940 but no Forms 941. Tying this information into the tax return may show a discrepancy.
(4) Reconcile labor deducted on the income tax return with Forms W-2 and Forms 1099 issued. Any discrepancy may mean an excessive deduction for wages and an adjustment. If the accrual method of accounting is used, a reconciliation will need to be made to make the income tax return information comparable to the Forms 941 and 1099.
(5) Large changes in the gross profit percentage [(Sales - Cost of Good Sold) divided by Sales] from one year to another may warrant further explanation by the taxpayer.
<p>(6) The PMFOL provides a summary of transcript information concerning the number of Forms 1099 filed and the dollar amount of these forms. This figure can be compared to the various wage figures reported on the tax return for possible under-reporting.</p> <p>Note: No Record of filing or filing late can eliminate the safe haven provided by section 530 if this becomes an issue.</p>
(7) Researching the particular industry will indicate the pros and cons of worker classification issues and provide a basis for evaluating the likelihood of successfully challenging an issue.
(8) Interviews of third party contacts (particularly the individual supplying the lead information) can provide additional information to ensure the correct entity has been identified, provide the number and types of workers, the possible amount of labor payments mis-classified, and other information that will assist in assigning a priority to the lead. However, before contacting third parties, ensure the provisions of IRC 7602(c), "Notice of Contact with Third Parties," are followed.

Exhibit 4.23.3-1 (Cont. 1) (11-19-2018)**Guidelines for Evaluation of Referrals and Income Tax Returns****Guidelines for Evaluation of Referrals and Income Tax Returns**

(9) If no internal information can be obtained, the initial lead evaluation process is restricted to the information contained on the lead, interviews of third parties, general industry research, and past experience in the industry. If the lead warrants additional consideration after the above steps have been taken, the lead may, at the manager's discretion, be assigned to an examiner for personal contact with the taxpayer.