



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

4.23.19

MARCH 22, 2021

## EFFECTIVE DATE

(03-22-2021)

## PURPOSE

- (1) This transmits revised IRM 4.23.19, Employment Tax, Employment Tax Case Assignment and Grading Criteria.

## MATERIAL CHANGES

- (1) IRM 4.23.19.1.5. Added additional acronyms.
- (2) IRM 4.23.19.1.6(3). TBOR content updated based on guidance from the Division Counsel/Associate Chief Counsel (National Taxpayer Advocate Program) and Branch 3 of the Associate Chief Counsel (Procedure and Administration).
- (3) IRM 4.23.19.1.6(4). Additional information on TAS.
- (4) IRM 4.23.19.1.6(5). Added information on Disclosure.
- (5) Exhibit 4.23.19-1. Created six tables for each case grading factor.
- (6) Editorial and technical changes have been made throughout this section.

## EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 4.23.19, dated January 12, 2018.

## AUDIENCE

This section contains instructions and guidelines for SB/SE employees when identifying, selecting, and assigning employment tax cases.

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4.23.19  
Employment Tax Case Assignment and Grading Criteria

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4.23.19.1  
(01-12-2018)  
**Program Scope**

- (1) **Purpose:** This IRM provides guidance regarding case assignment by the group manager when assigning cases to an examiner. The section also provides factors managers should consider when making a final determination as to the grade of case for all employment tax examinations.
- (2) **Audience:** This section contains instructions and guidelines for Small Business/Self-Employed (SB/SE) managers.
- (3) **Policy Owner:** Director, Examination - Specialty Policy of the Small Business/Self-Employed Division.
- (4) **Program Owner:** Program Manager - Employment Tax Policy. The mission of the Employment Tax Policy is to establish effective policies and procedures, to support compliance with employment tax laws.
- (5) **Primary Stakeholders:**
  - Employment Tax – Workload Selection and Delivery (SE:S:D-CE:E:HQ:ECS:S:ETEGCS:EWSD)
  - Specialty Examination - Employment Tax (SE:S:DCE:E:SE:ET)
  - Specialty Examination Policy, Employment Tax Policy (SE:S:DCE:HQ SP:ETP)
- (6) **Program Scope:** The mission of the Employment Tax Policy is to establish effective policies and procedures, and to support compliance with employment tax laws.

4.23.19.1.1  
(01-12-2018)  
**Background**

- (1) Significant revenue to the government is reported on the various employment tax returns and compliance with employment tax law is critical to the funding of the government, including the social security trust fund.
- (2) The identification, selection, and assignment of employment tax returns involves an approach that considers a variety of factors and analysis that identifies returns most worthy of examination. Many factors influence whether a case will be selected and subsequently assigned for examination. Principal among these factors is the appearance of non-compliance with employment tax filing and/or reporting. In addition:
  - Program priorities as stated in the annual Employment Tax Program Letter and Workplan,
  - Status of un-started and in-process work at the group level,
  - Complexity and industry (specialization) involved,
  - Experience and training level of examiners that may be assigned the case, and
  - Geographic location of examiners.

**Note:** When compliance impact warrants, cases not meeting the above factors may still be selected and assigned.

4.23.19.1.2  
(01-12-2018)

**Authority**

- (1) Employment tax provisions are found at Internal Revenue Code Subtitle C:
  - Chapter 21, Federal Insurance Contributions Act (FICA),
  - Chapter 22, Railroad Retirement Tax Act (RRTA),
  - Chapter 23, Federal Unemployment Tax Act (FUTA),
  - Chapter 23A, Railroad Unemployment Repayment Tax
  - Chapter 24, Federal Income Tax Withholding (FITW), and
  - Chapter 25, General Provisions relating to employment taxes and collection of income taxes at source.
- (2) The Employment Tax Program is governed by Policy Statements and other internal guidance that apply to all Service personnel regardless of operating division. The Policy Statements found in IRM 1.2, Servicewide Policies and Authorities, Policies of the Internal Revenue Service apply to all employment tax issues and examinations. Examiners should review these Policy Statements to properly perform their examination duties.
- (3) A website, "Delegation Orders and Policy Statements by Process", located at <https://www.irs.gov/privacy-disclosure/delegation-orders-and-policy-statements-by-process> summarizes data contained in the applicable IRM sections under IRM 1.2, relating to Delegation Orders, in a single, electronic source.
- (4) IRM 4.23 provides Servicewide instructions for all operating divisions with employees 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. By providing one source of authority for all operating divisions, the Service greatly reduces philosophical and procedural inconsistencies.

4.23.19.1.3  
(01-12-2018)

**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 Specialty examination operational compliance.

4.23.19.1.4  
(01-12-2018)

**Program Objectives and Review**

- (1) Program Goals: The processes and procedures provided in this IRM are consistent with the objectives or goals for Employment Tax - Examination that are addressed in IRM 1.1.16.3.3.3, Employment Tax Examination and for Employment Tax Policy, found in IRM 1.1.16.3.5.2.2, 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.

4.23.19.1.4.1  
(01-12-2018)

**Program Reports**

- (1) Program Reports: Information regarding the reporting of program objectives are included on, but not limited to, the following reports submitted to the Director, Examination - Specialty:
  - Headquarters Examination Monthly Briefing,
  - Program Manager Monthly Briefing,
  - Examination Operational Review, and

- Business Performance Reviews.

4.23.19.1.5  
(03-22-2021)

**Acronyms**

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

<b>Acronym</b>	<b>Definition</b>
CAWR	Combined Annual Wage Reporting
CI	Criminal Investigation
DET	Direct Examination Time
ET-WSD	Employment Tax - Workload Selection and Delivery
FUTA	Federal Unemployment Tax Act
LB&I	Large Business & International
NTEU	National Treasury Employee Union
RA	Revenue Agent
ROE	Revenue Officer Examiner
RRTA	Railroad Retirement Tax Act
SB/SE	Small Business/Self-Employed
TAS	Taxpayer Advocate Service
TBOR	Taxpayer Bill of Rights
TCO	Tax Compliance Officers
TE	Tax Examiner
TE/GE	Tax Exempt/Government Entities
WSD	Workload Selection and Delivery

4.23.19.1.6  
(03-22-2021)

**Related Resources**

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

Source	Title	Description of Guidance
IRM 4.23	Employment Tax IRM	IRM sections, the majority 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.

- (2) Other helpful information sources include:

- The SB/SE Knowledge Management home page for Employment Taxes <https://portal.ds.irsnet.gov/sites/vl014/pages/default.aspx>.
- The Specialist Referral System home page: <https://srs.web.irs.gov/>.
- A list of SB/SE Employment Tax Policy Analysts, their contact information and program assignments, are found at: *Policy Analyst Listing*.
- The web site "Examining an Employment Tax Case" at: <https://portal.ds.irsnet.gov/sites/vl014/pages/home.aspx?bookshelf=examining%20an%20employment%20tax%20case>.

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

- (4) The Taxpayer Advocate Service (TAS) is an independent organization within the IRS whose employees assist taxpayers experiencing economic harm, who are seeking help in resolving tax problems that have not been resolved through normal procedures, or who believe that an IRS system or procedure is not working as it should. Pub 1546, Taxpayer Advocate Service - We Are Here to Help You, provides contact and additional information. The program is designed to alleviate taxpayer hardships that arise from systemic problems or the application of the Internal Revenue Code. In addition, see IRM 13.1.7, Taxpayer Advocate Service (TAS) Case Criteria, and IRM 13.1.19, TAS Operations Assistance Request (OAR) Process, for additional information.

- (5) Employment tax examiners should consider the disclosure provisions when preparing agreed and unagreed case reports. See the Disclosure and Privacy Knowledge Management web site at: <https://portal.ds.irsnet.gov/sites/VL003/Pages/default.aspx> for additional information.

4.23.19.2  
(01-12-2018)  
**Assignment of  
Employment Tax Cases -  
Overview**

- (1) The SB/SE Employment Tax field organization consists of employment tax specialists:

- Revenue Agents (RA),
- Revenue Officer Examiners (ROE),
- Tax Compliance Officers (TCO), and
- Tax Examiners (TE).

These employees report to a Group Manager, who in turn, reports to a Territory or Program Manager who reports to the Chief, Employment Tax.

- (2) This section provides criteria to be used by a manager when assigning cases to an examiner. The section also provides factors managers should consider when making a final determination as to the grade of case for all employment tax examinations.
- (3) This guide establishes a uniform system to:
- Identify the correct initial case assignment,
  - Identify the correct initial grade of case,
  - Identify the correct final grade of case,
  - Provide information that should be considered in making position classification determinations, and
  - Improve the utilization of an employment tax specialist's time and talents.
- (4) This guide will also aid in reviewing employment tax specialist positions for grade structure purposes. It is not intended to, nor does it evaluate, a specialist's performance and cannot be considered the sole predictor of the appropriate overall grade level for individual positions. Variables such as the extent of supervision or the impact of other duties are not given consideration in this guide.
- (5) It is emphasized that this is primarily a guide and is not intended as a substitute for the exercise of supervisory judgment.

4.23.19.3  
(01-12-2018)  
**Procedures for Initial  
Case Assignment**

- (1) Employment Tax - Workload Selection and Delivery Unit (ET-WSD) staff is responsible for the initial case assignment for most employment tax cases. Managers who receive referrals through the Specialist Referral System (SRS) should use the criteria found in the following table when determining initial case assignments. A referral may be transferred to another group if assignment to a certain type examiner is warranted (e.g., a referral is assigned to a field group but the issue is more conducive for a TCO).

**Note:** See IRM 4.11.29, Transfer of Returns Open for Examination, for additional guidance.

- (2) The following table provides a basis for the proper case assignment by managers. This criteria will be used to ensure inventory received from ET-WSD or the SRS is appropriate for an examiner:

<b>Correspondence (TE)</b>	<b>Remote (TCO)</b>	<b>Field (RA/ROE/Tax Specialists)</b>
Initial interviews will be limited but not be required, although verbal contact may be necessary to follow up on requests for information	Initial Interviews will be required with additional verbal contact necessary to follow up on requests for information	Initial interviews will be required with extensive verbal contact anticipated to follow up on additional requests for information
Records can be verified to source documents that can be easily submitted via mail/ correspondence	Analysis of original source documents may require follow-up to verify their appropriateness and tax law interpretation required	Tour of business is required to establish the initial scope of examination
Limited review of journals, ledgers, or other books and records will be necessary to arrive at the correct determination	Multiple non-filed returns may be involved generally involving only one entity	Analysis of complex areas of tax law interpretation may be required
Limited analysis of information/data required	Limited 3rd Party Contacts may be required to corroborate testimony	Multiple related entity transactions may be identified and developed
Verification-type issues only conducive to substantiation	Simple to complex issues may be involved requiring verification and/or development that can be submitted by mail for review	Expanded 3rd Party Contacts may be required
Badges of fraud are not apparent	Fraud may be identified and developed or referred to the field, if appropriate	Fraud may be identified based on FinCEN Query System, referrals, and other external sources
Limited scope examinations will require the use of re-engineering workpaper Lead Sheet #130	Review of financial records may be required to develop issues	Complex and multiple issues requiring verification and/or development are identified

Correspondence (TE)	Remote (TCO)	Field (RA/ROE/Tax Specialists)
Referrals to other examiners required if scope and depth change during case development	Audits are conducive to remote audit procedures due to the frequency of contact and amount of information anticipated	Complex books and records are likely
N/A	N/A	Issues may require on-site inspection of books and records and the business as a whole
N/A	N/A	Financial records available as a source of information

4.23.19.3.1  
(01-12-2018)  
**Additional Criteria for Tax Examiner (TE) Assignments**

- (1) The following provides additional criteria when determining if a case is appropriate for assignment to a Tax Examiner (TE). Cases not meeting the criteria will be deemed appropriate for TCOs or field examiners (RAs, ROEs, or Tax Specialists).
- (2) **General Assignment Criteria for TE Assignments:**
  - Involves non-filed tax periods
  - May involve a full year Combined Annual Wage Reporting (CAWR) assessment if there are no other issues identified during classification
  - Requires only administrative processing to resolve the taxpayer's module (e.g., unposted employment tax returns due to filing requirement issues)
  - Examination can be conducted via correspondence and requires limited review of books and records and taxpayer contact
  - Fraud is not identified or developed
- (3) **Work sources and issues that can meet the criteria for TE assignment:**
  - Credit Balance cases
  - Small CAWR cases
  - Form 944 filing requirement cases where the quarters of the unposted Form 941 match the wages reported for the year
  - TC976 freeze cases where the return causing the TC976 is available and there are no other issues

**Note:** If issues outside the scope for TEs are found during development, the case should be transferred to the appropriate examiner (TCO or Field Examiner) to complete the examination. See IRM 4.11.29, Transfer of Returns Open for Examination, for additional guidance.

4.23.19.3.2  
(01-12-2018)  
**General Assignment  
Criteria for Tax  
Compliance Officer  
(TCO) Assignments**

- (1) The following provides additional criteria to use when determining if the case is appropriate for assignment to a Tax Compliance Officer (TCO). Cases not meeting the criteria will be deemed appropriate for field examiners (RAs, ROEs, or Tax Specialists).
- (2) **General Assignment Criteria for TCO Assignments:**
  - Involves limited issues, such as CAWR and/or Form 1120-S officer compensation cases identified during classification
  - No related entities are identified during classification
  - Examination can be conducted using remote audit procedures
  - Adjustments are generally limited to pre-classified issues
  - Worker classification and potential section 530 issues are not identified during initial classification
  - Issues are well-established, such as Form 1120-S officer compensation cases
- (3) **Work sources and issues that can meet the criteria for TCO assignment:**
  - Form 1120-S officer compensation and related fringe benefits where distributions are evident on the face of the return,
  - Claims meeting other selection criteria for TCOs,
  - CAWR,
  - Backup Withholding not involving a worker classification determination,
  - Fringe Benefit issues such as Bonus Payments not properly treated, and
  - Referrals where issues identified otherwise meet TCO assignment criteria.

**Note:** If issues outside the scope for TCOs are found during development, the case should be transferred to the appropriate field examiner to complete the examination. See IRM 4.11.29, Transfer of Returns Open for Examination, for additional guidance.

4.23.19.3.3  
(03-25-2014)  
**Training Returns**

- (1) The criteria in IRM 4.23.19.3.1 and IRM 4.23.19.3.2 are also used when identifying training returns for new employment tax examiners. Generally, new hires will be assigned cases originally identified for TCOs; however, the cases will be worked based on the position of the trainee, not the classification of the case. Managers must work with the new hire and the on-the-job-instructor to determine when or whether to assign work having more complex issues.

4.23.19.4  
(03-25-2014)  
**Manager  
Responsibilities for  
Initial and Final  
Case-Grading and  
Assignment**

- (1) Every employee should perform work consistent with the needs of the organization, the grade level of the case, and the examiner's grade.
- (2) IRM 4.23.19.6, Characteristics of ALL Employment Tax Examination Cases, provides guidelines for the grading of all employment tax returns.
- (3) When assigning cases, the group manager will review the case and, based on the grading criteria, determine the appropriate initial grade level for assignment. A final grade level is determined at case closing and entered on the Form 5344, Examination Closing Record, based on the issues developed in the case. Note that the final grade of case may be different from the initial grade based on the issues identified and subsequently developed by the examiner. See IRM 4.23.19.5 below for specific instructions on determining the Form 5344 entry.

- (4) In addition to determining the grade level of the case, the manager will review the criteria in IRM 4.23.19.3, Procedures for Initial Case Assignment, to determine if the case is properly assigned.

**Example:** When managers receive a case for assignment to a TCO or RA trainee, they will review the factors below in Exhibit 4.23.19-1, Employment Tax Case-Grading Factors, to ensure the case does not qualify for a Grade 12 or 13. If it does not, they will use the criteria in IRM 4.23.19.3 to ensure the issues are appropriate for a TCO/RA trainee. If the case is determined to be inappropriate for a TCO or RA trainee, the case will be reassigned to an examiner with the appropriate grade within the group for examination (or transferred to another group if necessary).

- (5) A group manager may provide an employee with the opportunity to perform a limited quantity of higher graded work to enhance their career development subject to the National Treasury Employees Union (NTEU) contract.

**Caution:** A group manager must ensure, prior to the assignment of higher-graded work, that such work will not require more than 25 percent of the examiner's direct examination time (DET). Review Document 11678, National Agreement - Internal Revenue Service (IRS) and National Treasury Employees Union (NTEU), Article 16, "Details and Non-Competitive Temporary Promotions," for details. Retroactive pay is required when it is determined that the time spent on higher-graded work exceeds 25 percent in any four-month period. A group manager should either assign the work at the appropriate grade level or secure advance permission for a temporary promotion. Managerial involvement is critical to ensure the examiner does not work more than 25 percent on higher graded cases.

## 4.23.19.5 (01-12-2018) **Recording Grade of Case on Form 5344, Examination Closing Record, for Field Examination Cases**

- (1) A group manager determines the grade of case for all field examination employment tax cases and enters a three digit number in item 32 of Form 5344.
- (2) The first digit will represent the class number for the industry, occupation, or type of case that most closely resembles the activity on the examined return.
- "1": Class 1 – Manufacturing, Construction, Mining
  - "2": Class 2 – Retail, Wholesale, Transportation
  - "3": Class 3 – Services, Farming
  - "4": Class 4 – Financial and Utilities
  - "5": Class 5 – Non-Business Individual, Fiduciary
- (3) The second digit is the second digit of the closing examiner's grade:
- "1": GS-11 and below
  - "2": GS-12
  - "3": GS-13

**Note:** For cases closed by ROEs, the second digit can never be greater than a "2".

- (4) The third digit is a "1" for all cases.

- (5) When related returns are being closed by the same examiner who worked the primary return, enter the same three digit code as for the primary return, followed by an "R" (for related). If related returns are examined by a different examiner, each will be graded as a separate case and the "R" will not be recorded.

**Example:** A manager has determined that an employment tax examination involving a manufacturing company has been graded as a GS-12 examination. The final case grade in Item 32 on Form 5344 would be "121".  
 1st digit = "1" for Class 1 (Manufacturing, Construction, Mining)  
 2nd digit = "2" for a GS-12 grade  
 3rd digit = "1"  
 Related returns examined by the same revenue agent who examined the primary return would be coded "121R". Related returns examined by other revenue agents would be coded without the "R" and graded as a separate case.

4.23.19.6  
 (01-12-2018)  
**Characteristics of ALL  
 Employment Tax  
 Examination Cases**

- (1) A case is defined as the primary return for one period plus other related returns. The primary return is the return that has been classified for examination. Related returns include returns filed subsequent and/or prior to the primary return of the taxpayer as well as returns for related taxpayers. For Management Information System purposes, when the primary return and related returns are examined by the same examiner, the related returns will carry the same grade as the primary return. If related entities are examined by other agents, entities examined by a separate agent will be graded as a separate case.

**Example:** The 2020/12 Form 941 for ABC Company is assigned to an examiner. After pre-analysis, the examiner determines an examination is warranted and expands the audit to include the 2020/03, 2020/06, and 2020/09 quarters. After the initial interview, the examiner expands the audit to include all four quarters of 2020 of both ABC Company and a related entity, XYZ Company. The 2020/12 Form 941 would be the primary (key) case and all other returns opened as a result of the examination would be related. Since the same examiner is working the entire case, the grade of case will be the same for all returns involved.

- (2) The case-grading guidelines discussed in this IRM are not intended to cover all possible factors that may influence a final case grade. New projects, new programs, or other unusual situations may require a group manager to use their judgment in grading a case. Reliance must be placed on the case-grading factors for these situations.

4.23.19.7  
 (03-25-2014)  
**Employment Tax  
 Case-Grading Factors**

- (1) The case-grading factors listed in Exhibit 4.23.19-1, Employment Tax Case-Grading Factors, should be used for the initial and final grading of cases. In arriving at a grade, all factors do not have to be met; however, normally more than one of the most important factors is necessary. The factors involve:
- Accounting Systems / Methods,
  - Issues / Knowledge,
  - Guidance / Tax Laws,
  - Scope and Effect,

- Contacts, and
- Other Characteristics.

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**Exhibit 4.23.19-1 (03-22-2021)  
Employment Tax Case-Grading Factors**

The following provides managers with issues and/or characteristics that MAY result in an upgrade:

***I. ACCOUNTING SYSTEMS / METHODS***

<b>GS-12 Case Characteristics:</b>	<b>GS-13 Case Characteristics: In addition to GS-12 characteristics, the case should have the following traits:</b>
<ul style="list-style-type: none"> <li>- Sizeable business organizations with several subdivisions involving varied systems of accounting present</li> <li>- Data derived from multiple systems and maintained in different internal accounting organizations</li> <li>- Extensive system of computer records present which require sampling to project the degree of compliance and scope of examination</li> <li>- Businesses where direct verification is not be practical, such as situations in which books and records are incomplete, inadequate, or require interpretation of vague and unclear/conflicting documents</li> <li>- Adaptation of standard investigative methods in the development of information</li> <li>- Use of third party data and contacts to trace and/or reconstruct books and records</li> <li>- Detailed and extensive analysis of books and records and analysis of contractual agreements is required</li> <li>- Related examinations of other taxpayers required even if limited in scope</li> </ul>	<ul style="list-style-type: none"> <li>- Reorganizations, mergers, or similar transactions of large corporations having significant employment tax implications</li> <li>- Organizations generating large amounts of data so that consolidation and reconciliation of data from numerous entities, divisions, related companies or profit centers is required</li> <li>- Extensive system of computer records requiring sampling and adjustment in the initial scope of examination</li> <li>- Required review of SEC and other compliance and regulatory filings</li> <li>- Assistance of a Computer Audit Specialist required as it involves large complex firms normally with national and/or international operations</li> <li>- Development of new and innovative examination approaches required</li> <li>- Information is derived from a wide range of third parties</li> <li>- Significant international transactions are apparent</li> <li>- Taxpayers file consolidated employment tax returns</li> </ul>

**Exhibit 4.23.19-1 (Cont. 1) (03-22-2021)**  
**Employment Tax Case-Grading Factors**

**II. ISSUES / KNOWLEDGE**

<b>GS-12 Case Characteristics:</b>	<b>GS-13 Case Characteristics: In addition to GS-12 characteristics, the case should have the following traits:</b>
<ul style="list-style-type: none"> <li>- Issues encompassing medium to large business operations, related affiliates, liquidations, mitigation of statute of limitations, transferee problems, negotiations, businesses with several subdivisions or with employment taxes from many sources</li> <li>- Issues having regional, national, or industry wide impact</li> <li>- Issues not restricted to the taxpayer entity</li> <li>- Knowledge of business conditions and trade practices is necessary to develop issues for which research is required, but precedent has been established by case law, rulings, or prior examination</li> <li>- Tip examinations involving multiple establishments in which extensive analysis and sampling techniques are required</li> <li>- Complex cases involving section 530 – industry practice involving extensive analysis or documentation, law and regulations to establish proper classification of a worker</li> <li>- Unusual determination of type of services required to establish proper classification of a worker</li> <li>- Development of advanced fringe benefit issues, e.g., accountable/non-accountable plans, relocation pay, etc. required</li> <li>- Wage compensation reportable on Form W-2 is improperly characterized</li> <li>- Review and consideration of FinCEN Query System derived transactions</li> <li>- Complex officer compensation cases</li> <li>- Cases involving abusive tax avoidance schemes, including offshore leasing, pyramiding schemes, and trusts</li> </ul>	<ul style="list-style-type: none"> <li>- Expert judgments required to be applied to business transactions requiring specialized knowledge of major industries</li> <li>- Specialized knowledge of international employment tax issues including application of tax treaties</li> <li>- Business transactions include reorganization, consolidation, intercompany transfers on a national or international level in which there are complex employment tax implications</li> <li>- Development of Issues which could affect legislation or precedent</li> <li>- Knowledge must be such that decisions are made based on lack of precedents, law, or non-definitive authority, i.e. new law or change in law</li> <li>- Extensive analysis and sampling techniques required in tip examinations involving a multitude of establishments with nationwide impact</li> <li>- Complex cases involving section 530 with regional or national industry practice</li> <li>- Development of fringe benefit issues involving larger taxpayers required</li> <li>- Complex issues, such as stock options, involving regional or national implications</li> <li>- Complex situations involving interpretation/use of non-Title 26 federal statutes, e.g., FinCEN Query System</li> <li>- International features regarding employees out of the country and employees working in the US</li> <li>- Executive compensation issues involving stock and other forms of compensation which may be deferred</li> <li>- Significant withholding issues</li> <li>- Coordination with other areas of IRS is required (LB&amp;I, TE/GE)</li> </ul>

**Exhibit 4.23.19-1 (Cont. 2) (03-22-2021)  
Employment Tax Case-Grading Factors**

**III. GUIDANCE / TAX LAWS**

<b>GS-12 Case Characteristics:</b>	<b>GS-13 Case Characteristics: In addition to GS-12 characteristics, the case should have the following traits:</b>
<ul style="list-style-type: none"> <li>- Research and analysis required to establish proper interpretation of tax laws which are similar to, but may not be identical to precedent cases</li> <li>- Interpretation and application of tax law with limited guidelines, although some precedents may exist</li> <li>- Research of committee reports to determine the intent of Congress, particularly where the law and/or regulations are vague or non-existent</li> <li>- Technical advice</li> <li>- Interpretation and/or application of tax treaties</li> <li>- A limited number of foreign corporations, subsidiaries, or partnerships situations exist</li> </ul>	<ul style="list-style-type: none"> <li>- Cases with tax/legal issues involving nonexistent or conflicting precedent(s)</li> <li>- Cases with unusual, complex issues which are considered to be in “gray areas” of the law, with little precedent to make a determination</li> <li>- Issues that have regional, national, or industry-wide impact and may set a precedent</li> <li>- Extensive research is necessary to locate similar cases or evaluate the impact of the case</li> <li>- Comprehensive analysis is required to ensure proper evaluation of all points involved in application of law</li> <li>- Significant potential tax change involve unclear provisions of law.</li> <li>- Issues may set precedent</li> <li>- Complex separation of foreign and domestic operations to determine any employer/employee relationships and intercompany charges and/or payments relating to compensation</li> <li>- Development of alternative resolution solutions to the issues raised in examination</li> <li>- Complex interpretation and application of IRS employment tax laws, such as classification of employees, section 530, and executive compensation</li> </ul>

**IV. SCOPE AND EFFECT**

<b>GS-12 Case Characteristics:</b>	<b>GS-13 Case Characteristics: In addition to GS-12 characteristics, the case should have the following traits:</b>
<ul style="list-style-type: none"> <li>- Examination potential is beyond immediate taxpayer and extends throughout the particular industry or significant section of the nation</li> <li>- Extensive consequences due to recurring effects in prior and subsequent years</li> <li>- Consequences have deterrent effects on other taxpayers in the community</li> <li>- Development of evidence to support fraud</li> </ul>	<ul style="list-style-type: none"> <li>- Tax results are of major significance even for “no change” cases because the tax liability is large, or cumulative amounts over the years are large</li> <li>- Indirect regional or nationwide deterrent effects</li> <li>- Important principles are developed resulting in new precedents</li> <li>- Large information gathering projects covering a large volume of taxpayers</li> <li>- Highly complex cases involving development of evidence to support fraud</li> </ul>

**Exhibit 4.23.19-1 (Cont. 3) (03-22-2021)**  
**Employment Tax Case-Grading Factors**

**V. CONTACTS**

<b>GS-12 Case Characteristics:</b>	<b>GS-13 Case Characteristics: In addition to GS-12 characteristics, the case should have the following traits:</b>
<ul style="list-style-type: none"> <li>- Contact with employees and representatives of medium to large size corporations</li> <li>- Related or third parties placed under examination due to the audit of the primary taxpayer</li> <li>- Interaction and involvement with members of Headquarters and/or National Office staff</li> <li>- Interaction and involvement with Counsel to ensure consistency of treatment of a given issue</li> </ul>	<ul style="list-style-type: none"> <li>- Contacts with persons who are prominent because of their reputations in their fields, especially the accounting and employment tax fields, or officials of large businesses with national reputations</li> <li>- Interaction and involvement with National Office and/or Counsel to ensure consistency of treatment of a given issue that involves more complex issues</li> <li>- Advanced negotiation and communication skills due to political sensitivity issues and concerns.</li> </ul>

**VI. OTHER CHARACTERISTICS**

<b>GS-12 Case Characteristics:</b>	<b>GS-13 Case Characteristics: In addition to GS-12 characteristics, the case should have the following traits:</b>
<ul style="list-style-type: none"> <li>- Grand Jury information from a concluded investigation</li> <li>- Contract interpretation to support the legal position, such as who is an employee versus independent contractor</li> <li>- Closing agreements (including voluntary closing agreements) requiring coordination with both local counsel and national office counsel, as necessary</li> <li>- Analysis of substance versus form, such as employee leasing, per diem payments, etc.</li> <li>- Local or regional issues advanced by promoters, such as tool rental cases</li> <li>- Extensive information gathering or enforcement coordination from:               <ol style="list-style-type: none"> <li>a. Criminal Investigation/Grand Jury involvement</li> <li>b. Third party witnesses who may be reluctant to produce records</li> <li>c. Extensive summons enforcement procedures</li> <li>d. Jeopardy/terminations</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>- Interpretation of contracts with national implications</li> <li>- Complex issues with closing agreements requiring coordination with local and headquarters counsel</li> <li>- Promotions with nationwide ramifications, e.g., promoters of tool rental schemes or use of unique, unusual, and/or precedent-setting schemes</li> <li>- Referrals from LB&amp;I,</li> <li>- Media involvement</li> </ul>