



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.24.17

JUNE 5, 2023

EFFECTIVE DATE

(06-05-2023)

PURPOSE

- (1) This revises IRM 4.24.17, Excise Tax, Excise Summary Terminal Activity Reporting System (ExSTARS) Compliance Examination Procedures.

MATERIAL CHANGES

- (1) The table below identifies the significant changes in content revisions of this IRM.

Number	Subsection	Nature of Change
1	IRM 4.24.17.1, Introduction to Excise Summary Terminal Activity Reporting System (ExSTARS) Compliance Examinations	Changed title to Program Scope and Objectives. Added content to include information that addresses the purpose, audience, policy owner, program owner and primary stakeholders of this IRM. Moved prior content to IRM 4.24.17.2.
2	IRM 4.24.17.1.1, Form 720-TO/CS Third Party Contact Requirements	Changed title to Background. Provided information pertinent to the program, including informational sources on the program's existence and content in the IRM. Moved prior content to IRM 4.24.17.2.1.
3	IRM 4.24.17.1.2, Procedural Guidance Relating to Facility Control Number (FCN)	Changed title to Authority. Provided the underlying source authorities for this IRM. Moved prior content to IRM 4.24.17.2.2.
4	IRM 4.24.17.1.3, Procedural Guidance for Change of Facility Status	Changed title to Roles and Responsibilities. Specified the executives, officials, or groups responsible for program oversight. Moved prior content to IRM 4.24.17.2.3.
5	New IRM 4.24.17.1.4	Added title Program Management and Review. Provided a general description on how the program is managed and how effectiveness and objectives are measured.
6	New IRM 4.24.17.1.5	Added title Terms/Definitions. Defined the key terms included in the IRM content pertinent to the program, objectives, and goals.
7	New IRM 4.24.17.1.6	Added title Acronyms. Listed frequently used acronyms and their definitions.

Number	Subsection	Nature of Change
8	New IRM 4.24.17.1.7	Added title Related Resources. Listed resources employees use to conduct work.
9	IRM 4.24.17.2, ExSTARS Workload Selection, and Assignment	Changed title to Introduction to Excise Summary Terminal Activity Reporting System (ExSTARS) Compliance Examinations. Moved selected guidance from IRM 4.24.17.1. Added link to IRM for guidance on IRC 6719 penalties. Added guidance how to submit a referral using Form 5346. Moved prior guidance to IRM 4.24.17.3.
10	New IRM 4.24.17.2.1	Added title Third Party Contact Requirements. Moved selected guidance from IRM 4.24.17.1.1. Added guidance about IRC 7602(c), Notice of Contact of Third Parties.
11	New IRM 4.24.17.2.2	Added title Procedural Guidance Relating to Facility Control Number (FCN) Requests. Moved selected guidance from IRM 4.24.17.1.2. Added guidance for when FCN requests are received by an examiner.
12	New IRM 4.24.17.2.3	Added title Procedural Guidance for Change of Facility Status. Moved selected guidance from IRM 4.24.17.1.3. Added guidance for when change of facility status requests are received by an examiner.
13	IRM 4.24.17.3, ExSTARS Report Filings	Changed title to ExSTARS Workload Selection, and Assignment. Moved selected guidance from IRM 4.24.17.2. Removed (1) and (8) because they were obsolete. Moved prior guidance to 4.24.17.4.
14	IRM 4.24.17.4, ExSTARS Statute Control and Extensions	Changed title to ExSTARS Report Filings. Moved selected guidance from IRM 4.24.17.3. Moved prior guidance to IRM 4.24.17.5.
15	IRM 4.24.17.5, ExSTARS Examination Return Control System (ERCS) Procedures	Changed title to ExSTARS Statute Control and Extensions. Moved selected guidance from IRM 4.24.17.4. Added guidance on how to obtain a JOC RFI form. Added detailed guidance for the Form 872-EX. Moved selected prior guidance to IRM 4.24.17.6.

Number	Subsection	Nature of Change
16	IRM 4.24.17.5.1, Case Coordination Guidance for Examinations and Related Forms 720-TO/CS Reviews	Removed subsection. Moved prior guidance to IRM 4.24.17.6.1.
17	IRM 4.24.17.6, ExSTARS Information Provider Initial Contact	Changed title to ExSTARS Examination Return Control System (ERCS) Procedures. Moved selected guidance from IRM 4.24.17.5. Added guidance about a substitute TIN and submitting a Form 5345-D to establish ERCS controls. Moved prior guidance to IRM 4.24.17.7 and moved paragraphs (7), (8) and (10) on how to complete a Form 5345-D to IRM 4.24.17.11.2.
18	New IRM 4.24.17.6.1	Added title Case Coordination Guidance for Form 720 Examinations and Related ExSTARS Compliance Examinations. Moved selected guidance from IRM 4.24.17.5.1. Updated and reorganized guidance in paragraph (1) and (2). Removed paragraph (3) - Case Coordination Procedures When No MFT 03 Case is Selected for Examination, it was not applicable.
19	IRM 4.24.17.7, ExSTARS Information Report Filing Issues	Changed title to ExSTARS Information Provider Initial Contact. Moved selected guidance from IRM 4.24.17.6. Updated Initial Contact Letter to be 2205-E. Updated procedures on how to secure contact person's name if missing from case file. Removed paragraph (6), it was obsolete. Moved prior guidance to IRM 4.24.17.8.
20	IRM 4.24.17.8, ExSTARS Information Report Accuracy Issues	Changed title to ExSTARS Information Report Filing Issues. Moved selected guidance from IRM 4.24.17.7. Updated procedures on how to secure ExSTARS extension information. Moved prior guidance to IRM 4.24.17.9.
21	IRM 4.24.17.9, Overview of ExSTARS Compliance Examination, Penalty Case Closing and Appeals Procedures	Changed title to ExSTARS Information Report Accuracy Issues. Moved selected guidance from IRM 4.24.17.8. Updated types of accuracy issues that examiners may encounter. Moved prior guidance to IRM 4.24.17.10.
22	IRM 4.24.17.9.1, ExSTARS Compliance Examination Case Closing Result Letters	Removed subsection. Moved prior guidance to IRM 4.24.17.10.1 and IRM 4.24.17.10.2.

Number	Subsection	Nature of Change
23	IRM 4.24.17.9.2, ExSTARS Compliance Examination – No Penalty Case File Documentation	Removed subsection. Moved prior guidance to IRM 4.24.17.10.1.
24	IRM 4.24.17.9.3, ExSTARS Penalty Case File- Agreed Case Closing Documents	Removed subsection. Moved prior guidance to IRM 4.24.17.10.2.
25	IRM 4.24.17.9.4, ExSTARS Penalty Case File-Information Provider Agrees with Penalty Proposal	Removed subsection. Moved prior guidance to IRM 4.24.17.10.2.
26	IRM 4.24.17.9.5, ExSTARS Penalty Case File- Unagreed Case Closing Information	Removed subsection. Moved prior guidance to IRM 4.24.17.10.2.
27	IRM 4.24.17.9.6, ExSTARS Penalty Case File- Unagreed Case Closing Documents	Removed subsection. Moved prior guidance to IRM 4.24.17.10.2.
28	IRM 4.24.17.9.7, ExSTARS Penalty Case File- No Response from ExSTARS Information Provider	Removed subsection. Moved prior guidance to IRM 4.24.17.10.2.
29	IRM 4.24.17.10, Instructions for Completing Form 8278, Computation and Assessment of Miscellaneous Penalties, Non-Return Related Civil Penalties	Changed title to Overview of ExSTARS Compliance Examinations. Moved selected guidance from IRM 4.24.17.9. Moved prior guidance to IRM 4.24.17.12.
30	New IRM 4.24.17.10.1	Added title ExSTARS Compliance Examination – No Penalty Procedures. Moved selected guidance from IRM 4.24.17.9.1. Added guidance on how to issue Letter 4574-A and submit it to the Form 637 Registration LT. Removed paragraph (1) and (5), they were obsolete.
31	New IRM 4.24.17.10.1.1	Added title ExSTARS Compliance Examination – No Penalty Case File Documentation. Moved selected guidance from IRM 4.24.17.9.2. Added guidance on the IMS Case File documentation.
32	New IRM 4.24.17.10.1.2	Added title ExSTARS Compliance Examination – No Penalty Case File Closing. Moved selected guidance from IRM 4.24.17.9.1. Added guidance on how to prepare Form 3198 and submitting case file to group manager.
33	New IRM 4.24.17.10.2	Added title ExSTARS Compliance Examination – IRC 6725 Penalty Case File Procedures. Moved selected guidance from IRM 4.24.17.9.

Number	Subsection	Nature of Change
34	New IRM 4.24.17.10.2.1	Added title IRC 6725 Penalty Reports. Moved selected guidance from IRM 4.24.17.9.2.
35	New IRM 4.24.17.10.2.2	Added title IRC 6725 Penalty Case Documentation. Moved selected guidance from IRM 4.24.17.9.3.
36	New IRM 4.24.17.10.2.3	Added title IRC 6725 Penalty Case Closing. Moved selected guidance from IRM 4.24.17.9.3 and IRM 4.24.17.9.5.
37	New IRM 4.14.17.10.3	Added title IRC 6725 Unagreed Penalty Case File Forwarded to Appeals. Moved selected guidance from IRM 4.24.17.9.3 through IRM 4.24.17.9.7.
38	New IRM 4.24.17.11	Added title Instructions for Completing Form 5345-D, Examination Request-ERCS (Examination Returns Control System) Users. Moved selected guidance from IRM 4.24.17.5. Updated guidance for the completion of Form 5345-D.
39	New IRM 4.24.17.11.1	Added title Completing Form 5345-D for ExSTARS Compliance Examinations. Moved selected guidance from IRM 4.24.17.5. Updated guidance for the completion of Form 5345-D for a ExSTARS compliance examination.
40	New IRM 4.24.17.11.2	Added title Completing Form 5345-D for IRC 6725 Penalty Case Files. Moved selected guidance from IRM 4.24.17.5. Updated guidance for the completion of Form 5345-D for an IRC 6725 Penalty case file.
41	New IRM 4.24.17.12	Added title Instructions for Completing Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties. Moved selected guidance from IRM 4.24.17.10.

- (2) Editorial changes have been made throughout this section to update electronic links and organizational name changes, correct grammar and punctuation errors, and remove excessive links to laws, forms, and letters.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 4.24.17, dated 12/20/2016. This IRM Section (section) incorporates Interim Guidance Memorandum (IGM) SBSE 04-0620-0013, Determining the Adequacy of an Appeal in an Excise Tax Exam Case, dated June 30, 2020 and IGM SBSE 04-0922-0076, Extend and Update Guidance on Determining the Adequacy of an Appeal in an Excise Tax Exam Case, dated September 29, 2022.

AUDIENCE

This section provides guidance to SB/SE Specialty Examination, Excise Tax Examination employees, and National Quality Reviewers.

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Small Business/Self Employed

4.24.17

Excise Summary Terminal Activity Reporting System (ExSTARS) Compliance Examination Procedures

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4.24.17.1
(06-05-2023)
**Program Scope and
Objectives**

- (1) **Purpose** - This section provides guidance pertaining to Form 720-TO, Terminal Operator Report, and Form 720-CS, Carrier Summary Report, compliance examinations (hereinafter referred to as "ExSTARS compliance examinations") procedures.
- (2) **Audience** - The audience for this section includes the SB/SE Director, Examination - Specialty, Chief, Estate & Gift/Excise Tax, Excise Territory Managers, Excise Group Managers (hereinafter referred to as "group managers" throughout this section), Excise Tax Revenue Agents (RAs) and Fuel Compliance Agents (FCAs) (collectively and hereinafter referred to as "examiners" throughout this section).
- (3) **Policy Owner** - Director, Examination - Specialty Policy is responsible for the administration, procedures, and updates related to ExSTARS compliance examinations.
- (4) **Program Owner** - Director, Examination - Specialty Tax owns Excise Tax Examination.
- (5) **Primary Stakeholders** - Primary stakeholders include the Chief, Estate & Gift/Excise Tax, Excise Tax Territory Managers, group managers, and Excise Case Selection.
- (6) **Other Stakeholders** - Other areas that follow these policies and procedures include Independent Office of Appeals (Appeals), Agency Wide Shared Services, Counsel, SB/SE Examination, Large Business and International, and Tax Exempt and Government Entities.
- (7) **Program Goals** - The processes and procedures provided in this section are consistent with the objectives or goals for Excise Tax - Examination that are addressed in IRM 1.1.16.5.3.1, Excise Tax Examination.

4.24.17.1.1
(06-05-2023)
Background

- (1) The need for a system to monitor the movement of motor fuel was made evident by well-publicized reports detailing extensive evasion of federal and state excise taxes on motor fuel during the 1980s and 1990s. Representatives of the motor fuel industry cooperated with state and federal governments to analyze and find a solution to the problem of motor fuel tax evasion. What emerged from that cooperation is a system termed the Excise Summary Terminal Activity Reporting System (ExSTARS), which is designed to attempt to prevent and detect the existence of illegal tax evasion schemes involving the federal and state excise taxes on motor fuel.
- (2) ExSTARS is a key component (subsystem) of the Excise Files Information Retrieval System (ExFIRS) project. The ExSTARS system processes data provided by information providers, which is forwarded to the ExFIRS data warehouse for review by the IRS. The ExSTARS Gateway application provides access to the ExSTARS system for approved industry users, who have a need to upload data into the ExSTARS system.
- (3) ExSTARS is used to track the movement of fuel to and from approved terminals by electronically filed monthly Form 720-TO, Terminal Operator Report, and Form 720-CS, Carrier Summary Report, (collectively known as "information returns") reflecting fuel quantity and type as it moves through the bulk fuel distribution system. This information is used to analyze quarterly fuel

volumes and is compared to the fuel tax information entered on Form 720, Quarterly Federal Excise Tax Return. All significant discrepancies are referred to the Excise Tax Program for further analysis. The Excise Tax Program will use the results of the analyses to identify entities that appear to be in noncompliance and to direct compliance resources to those entities.

- (4) ExSTARS is also used by approved State users, who have a need to download state reports prepared for them. Primarily, an approved State will use the data to compare a terminal's tax payments and filings to the gallons that are removed from the bulk transfer/terminal system. They also use it to track shipments into neighboring states and imports of product into their state.

4.24.17.1.2
(06-05-2023)
Authority

- (1) Internal Revenue Code (IRC) 4101(d) authorizes the IRS to require information reporting from any person who is registered under IRC 4101 and from any other person who the IRS deems necessary to administer fuel tax rules.
- (2) Under *Treas. Reg. 48.4101-2*, each information report under IRC 4101(d) must be made in the form required by the Commissioner, made for a period of one calendar month, and filed by the last day of the first month following the month for which the report is made.

4.24.17.1.3
(06-05-2023)
Roles and Responsibilities

- (1) Director, Examination - Specialty Policy, is responsible for the procedures and policies addressed in this section.
- (2) Program Manager, Excise Tax Policy, is responsible for ensuring the procedures are accurate and updated regularly as needed.
- (3) The Chief, Estate & Gift/Excise Tax, is responsible for ensuring the procedures within this section are adhered to by employees in Excise Tax Examination.
- (4) Territory managers are responsible for ensuring group managers are aware and adhere to the procedures in this section.
- (5) The group managers are responsible for ensuring their employees have current copies of this section and are adhering to the procedures in this section.
- (6) Examiners are responsible for following the procedures and policies addressed in this section.

4.24.17.1.4
(06-05-2023)
Program Management and Review

- (1) **Program Reports** - Information regarding the reporting of program objectives are included on, but not limited to:
 - Examination Headquarters Monthly Briefing
 - Program Manager Monthly Briefing
 - SB/SE and Examination Operational Reviews and Business Performance Review
- (2) **Program Effectiveness** - Program effectiveness may be measured by the Exam Quality Review Staff, located in Field and Specialty Exam Quality (FSEQ). FSEQ supports the SB/SE Quality Improvement Program utilizing National Quality Review System (NQRS) to conduct independent case reviews from statistically valid samples of examination case work. National, area, and territory trend analysis on the quality attributes are used to establish baselines

to assess program performance, identify opportunities to improve work processes, analyze causes for failure, assess the feasibility of possible solutions, and measure the success of quality improvement efforts.

- (3) **Annual Review** - Program Manager, Excise Tax Policy is responsible for reviewing annually the information in this section to ensure accuracy and promote consistent tax administration.

4.24.17.1.5
(06-05-2023)

Terms/Definitions

- (1) Below are definitions for terms frequently used throughout this section:

Term	Definition
Bulk Transfer/Terminal System	The taxable fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Thus, taxable fuel in a refinery, pipeline, vessel, or terminal is in the bulk transfer/terminal system. Taxable fuel in the fuel supply tank of any engine, or in any tank car, rail car, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer/terminal system.
Carrier	Any person who owns, operates or otherwise controls a pipeline, barge, ship, vessel, railcar, truck, or other vehicle to transport liquid product to or from a terminal.
Examiners	Revenue Agents and Fuel Compliance Agents
Form 637	Form 637, Application for Registration (For Certain Excise Tax Activities), is used to apply for excise tax registration for activities under IRC 4101, IRC 4222, IRC 4662 and IRC 4682.
Information Reports	Form 720-TO, Terminal Operator Report, and Form 720-CS, Carrier Summary Report.
Pipeline	A distribution system that moves liquid product, in bulk, through a pipe, either from a refinery to a terminal, or from a terminal to another terminal.
Pipeline Operator	Any person who operates a pipeline within the bulk transfer/terminal system.

Term	Definition
Position Holder	With respect to taxable fuel in a terminal, the person that holds the inventory position in the taxable fuel, as reflected on the records of the terminal operator. A person holds the inventory position in taxable fuel when that person has a contractual agreement with the terminal operator for the use of storage facilities and terminaling services at a terminal with respect to the taxable fuel. The term also includes a terminal operator that owns taxable fuel in its terminal.
Rack	A mechanism capable of delivering taxable fuel into a means of transport other than a pipeline or vessel.
Registrant	A person that has been issued a Form 637 letter of registration (Letter 3689, Approval of Excise Tax Registration).
Taxable Fuel	Gasoline, diesel fuel, and kerosene.
Terminal	A taxable fuel storage and distribution facility that is supplied by pipeline or vessel and from which taxable fuel may be removed at a rack. However, the term does not include any facility at which gasoline blendstocks are used in the manufacture of products other than finished gasoline and from which no gasoline is removed. Also, the term does not include any facility where finished gasoline, undyed diesel fuel, or undyed kerosene is stored if the facility is operated by a taxable fuel registrant and all such taxable fuel stored at the facility has been previously taxed under IRC 4081 upon removal from a refinery or terminal.
Terminal Operator	Any person that owns, operates, or otherwise controls a terminal.

Term	Definition
Vessel	A waterborne taxable fuel transporting vessel.
Vessel Operator	Any person who operates a vessel within the bulk transfer/terminal system.

4.24.17.1.6
(06-05-2023)
Acronyms

(1) Below are the acronyms and their definitions used throughout this section.

Acronym	Definition
AIMS	Audit Inventory Management System
CCP	Centralized Case Processing
ECS	Examination Case Selection
EDI	Electronic Data Interchange
EIN	Employer Identification Number
ERCS	Examination Returns Control System
ExFIRS	Excise Files Information Retrieval System
ExSTARS	Excise Summary Terminal Activity Reporting System
FCA	Fuel Compliance Agent
FCN	Facility Control Number
FCO	Fuel Compliance Officer
GRM	Guidance Request Memorandum
IDR	Information Document Request
IDRS	Integrated Data Retrieval System
IMS	Issue Management System
IRC	Internal Revenue Code
LOA	Letter of Application
LT	Lead Technician
LUQ	Large, Unusual, and Questionable
RA	Revenue Agent

Acronym	Definition
RCN	Refinery Control Number
SBSE	Small Business Self Employed
TBOR	Taxpayer Bill of Rights
TCN	Terminal Control Number
TIN	Taxpayer Identification Number
WSD	Workload Selection Delivery

4.24.17.1.7
(06-05-2023)

Related Resources

- (1) Refer to IRM 4.24.1, Introduction to Excise Taxes, for general information about basic examiner responsibilities, excise IRM sections, primary returns and claim forms.
- (2) Refer to IRM 4.24.2, Form 637 Excise Tax Registrations, for an overview of Form 637, Application for Registration (For Certain Excise Tax Activities), and penalty procedures for Failure to Register or Reregister under IRC 6719.
- (3) Refer to IRM 4.24.10, Appeals Referral Procedures, for additional guidance and procedures under the Appeals referral process for unagreed cases.
- (4) Refer to IRM 4.24.24, Form 637 Registration Files: Administrative Procedures for Initial Applications and Case Reviews, for administrative procedures for Form 637 reviews.
- (5) Refer to IRM 4.24.25.5.2, Form 9984, Examining Officer's Activity Record, for examiner responsibilities for documenting case activity record.
- (6) For general guidance, procedures, tax law, and regulations on a wide variety of excise issues, refer to the Excise Tax Knowledge Base Homepage.
- (7) Form 637, Application for Registration (For Certain Excise Tax Activities), status can be confirmed online at *Confirm On-line Form 637 Registration Status*.
- (8) 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 accordance with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see *Taxpayer Bill of Rights*.
- (9) For information relating to identity theft, see IRM 25.23, Identity Protection and Victim Assistance.

4.24.17.2
(06-05-2023)
**Introduction to Excise
Summary Terminal
Activity Reporting
System (ExSTARS)
Compliance
Examinations**

- (1) IRC 4101(d) authorizes the IRS to require information reporting from any person who is registered under IRC 4101 and from any other person who the IRS deems necessary to administer fuel tax rules. These information reports must be filed for each calendar month period and must be filed by the end of the following month per *Treas. Reg. 48.4101-2*.
- (2) The IRS requires terminal operators to file Form 720-TO, Terminal Operator Report, to report the receipt and disbursement of all liquid products. The IRS also requires bulk carriers to file Form 720-CS, Carrier Summary Report. Vessel operators report all liquid product receipts and disbursements to and from approved terminals and refineries designated with a Terminal Control Number (TCN) and Refinery Control Number (RCN), respectively. A pipeline operator only reports receipts and disbursements to and from an approved terminal designated with a TCN.
- (3) IRC 4101(d) requires any person with 25 or more reportable transactions (i.e., those transactions required to be reported on Form 720-TO and 720-CS) in a month to file in an electronic format.
- (4) ExSTARS is an electronic data interchange system that was developed by federal, state, and industry stakeholders to facilitate compliance with the electronic filing requirement of IRC 4101(d). The IRS uses the information gathered through ExSTARS to plan fuel tax compliance and taxpayer service activities. Therefore, it is important that the IRS ensures that the information gathered through ExSTARS is accurate. ExSTARS compliance examinations are an integral part of the IRS's overall fuel tax compliance strategy.
- (5) The IRS issues a Facility Control Number (FCN) to designate a storage location within the motor fuel bulk transfer/terminal system. A TCN is used to identify individual terminals and an RCN is used to identify individual refineries.

Note: Facilities may have more than one FCN. For example, a refinery with an RCN may also meet the definition of an approved terminal, which would require the facility to also have a TCN.

- (6) Operators of an approved terminal or refinery apply to register with the IRS for an TCN or RCN, through the IRS ExSTARS Coordinator. Currently, a terminal with a TCN is the only FCN required to file ExSTARS Form 720-TO reports.

Note: Vessel and pipeline operators are not issued an FCN but must file ExSTARS Form 720-CS reports.

- (7) ExSTARS compliance examinations are conducted by “examiners” in this section.
- (8) The examiner is required to utilize management-specified examination software for all ExSTARS compliance examinations. The Issue Management System (IMS) with affiliated Notebook, which provides lead sheet templates, reports, letters, and closing forms, is the current excise tax examination case software system.
- (9) The scope of an ExSTARS compliance examination is limited to ExSTARS filing requirement issues concerning:
 - Failure to make a report on or before the date prescribed.

- Failure to include required information.
 - Failure to include correct information.
 - Failure to report electronically (25 or more monthly transactions).
- (10) ExSTARS compliance examination primary objectives are to:
- Identify Large, Unusual, and Questionable (LUQ) items.
 - Ensure reported data is accurate and timely.
 - Identify and develop fraud issues (if applicable).
 - Improve the likelihood of future reporting compliance.
 - Apply IRC 6725 penalties impartially and consistently when warranted.
- (11) IRC 6725 imposes a penalty on any person required to file reports under IRC 4101(d) for failing to file the report or for failing to include all required information on the report. Absent reasonable cause, the penalty is \$10,000 per failure for each carrier or facility (e.g., a terminal or refinery) for which information is required to be furnished.
- (12) During an ExSTARS compliance examination, the examiner will also determine whether the person under examination is required to register with the IRS under IRC 4101(a) and if so, confirm their Form 637 Registration status. See IRM 4.24.17.1.7(3), for link to check a Form 637 Registration status.
- (13) While the requirement to register and the information reporting requirements under IRC 4101(d) are independent of each other, most persons with an IRC 4101(d) information reporting obligation are also required to be registered under IRC 4101(a). Absent reasonable cause, IRC 6719 imposes a penalty of \$10,000 for each initial failure and \$1,000 for each day that the failure to register or reregister continues.
- Note:** This section does not cover IRC 6719 penalty case procedures. For additional guidance on IRC 6719 penalties, see IRM 20.1.11.8.5, IRC 6719 Penalty for Failure to Register or Reregister, and IRM 4.24.2.6, Penalty for Failure to Register or Reregister Under IRC 6719.
- Note:** An example of a person that has an information reporting obligation, but is not required to register under IRC 4101(a), is a vessel operator that only transports nontaxable liquids to or from a terminal.
- (14) Tax liability matters or issues identified during an ExSTARS compliance examination for unrelated entities are referred to Excise Case Selection (ECS), Workload Selection and Delivery (WSD). The examiner must prepare Form 5346, Examination Information Report, with supporting documentation, and submit to their group manager for approval. Upon approval, the group manager will submit Form 5346 via secure e-mail to WSD at **SBSE Excise WSD*.
- (15) Tax liability matters or issues identified during an ExSTARS compliance examination for the entity under examination or related entities are expanded to Form 720 examinations by the examiner. The examiner must prepare Form 5345-D, Examination Request-ERCS (Examination Returns Control System) Users, and submit to their group manager for approval, with supporting documentation.
- (16) If deficiencies are identified during the ExSTARS compliance examination that impact a Form 637 Registration, then a discretionary review must be

conducted with group manager approval. Refer to IRM 4.24.2, Form 637 Excise Tax Registrations, for more information about the registration process.

- (17) An FCN Questionnaire is used to request issuance, suspension, continuance, and change in operator or business operation of an approved FCN. The FCN Questionnaire can be found on the Excise Tax Knowledge Base Homepage, under ExSTARS, see ExSTARS Compliance Examinations, refer to **Other Related Resources** on the right side of the web page. See IRM 4.24.17.2.2 and IRM 4.24.17.2.3 for procedural guidance relating to FCN requests and change of facility status, respectively.
- (18) If ExSTARS compliance examination technical support is needed, submit a Guidance Request Memorandum (GRM) to Excise Tax Policy. See IRM 4.24.6.13, Requesting Excise Subject Matter Expert (SME) Assistance, procedures.

4.24.17.2.1 (06-05-2023) Third Party Contact Requirements

- (1) If LUQs are identified, then the examiner may make a third party contact. For example, an examiner is unable to locate a corresponding bulk carrier disbursement report for a terminal receipt under examination, or a bulk carrier registration status is in question. The examiner will make a third party contact with the carrier reported to resolve the potential reporting issue or check the registration status of the carrier. The examiner must follow the notification requirements of IRC 7602(c), Notice of Contact of Third Parties. See IRM 4.11.57, Third Party Contacts.
- (2) Taxpayer privacy rights must be protected when making third party contacts. The examiner must not discuss information that is subject to the third party notification requirements under IRM 4.11.57 until after the third party contact procedures have been followed.
- (3) Examiners must not request third party information that would rise to the level of an examination of the third party.

4.24.17.2.2 (06-05-2023) Procedural Guidance Relating to Facility Control Number (FCN) Requests

- (1) The IRS ExSTARS Coordinator receives FCN requests from facility operators, examiners, and FCOs.
- (2) For FCN requests received by an examiner, the examiner will:
 - a. Verify whether the terminal operator or refinery operator is a taxable fuel registrant with a Form 637 Registration activity letter S. Form 637 Registration status can be confirmed online at *Confirm On-line Form 637 Registration Status*.

Note: If the terminal operator or refinery operator does not have an activity letter S, then secure an initial Form 637 Registration application and forward the new application to the 637 Registration Group via secure e-mail. Refer to IRM 4.24.24.2(3), Creating, Maintaining and Monitoring Form 637 Registration Files, for additional guidance.
 - Note:** The Form 637 Registration activity letter S must be approved prior to issuance of the FCN.
 - b. Forward the request to the IRS ExSTARS Coordinator via secure e-mail at **SBSE Excise EXSTARS*.

- (3) The IRS ExSTARS Coordinator will:
 - a. Complete Form 5346, Examination Information Report, to make a referral for an FCO or FCA to complete a facility inspection.
 - b. Submit Form 5346 and a blank FCN Questionnaire to WSD. WSD forwards Form 5346 to the appropriate group manager to assign to an FCO or FCA. No controls are established on ERCS.
- (4) The assigned FCO or FCA will:
 - a. Determine if the facility meets the definition of a terminal or refinery.
 - b. Conduct an on-site inspection to verify initial request.
 - c. Submit a completed FCN Questionnaire with their comments/recommendation to their group manager.

Note: The FCN Questionnaire can be found on the Excise Tax Knowledge Base Homepage, under ExSTARS, see ExSTARS Compliance Examinations, refer to "Other Related Resources" on the right side of the web page.
- (5) The group manager will:
 - a. Complete the FCN Questionnaire by entering their final comments in the group manager comment section.
 - b. Submit the FCN Questionnaire and all documents used in the determination to the IRS ExSTARS Coordinator via secure e-mail at **SBSE Excise EXSTARS*.
- (6) The IRS ExSTARS Coordinator communicates the final determination to the facility.
- (7) The IRS ExSTARS Coordinator updates the applicable FCN locations found on the IRS.gov web page. For a current list of TCN locations see the *TCN Location Directory*, and for a current list of RCN locations see the *RCN Location Directory*.

4.24.17.2.3
(06-05-2023)
**Procedural Guidance for
Change of Facility
Status**

- (1) The IRS ExSTARS Coordinator receives FCN change of facility status requests from facility operators, examiners, and FCOs. Facilities are required to notify the IRS if there is a change in operator or business operations. Notification may be via fax, phone, or e-mail. Verification is required for any FCN status update.
- (2) For FCN change of facility status requests received by an examiner, the examiner will:
 - a. Verify whether the change of facility status impacts the facility's Form 637 Registration.

Note: If the change impacts the facility's Form 637 Registration, then secure an updated Form 637 Registration application and forward the new application to the 637 Registration Group via secure e-mail. Refer to IRM 4.24.24.2(3), Creating, Maintaining and Monitoring Form 637 Registration Files, for additional guidance.

 - b. Forward the change of facility request to the IRS ExSTARS Coordinator via secure e-mail at **SBSE Excise EXSTARS*.

- (3) The IRS ExSTARS Coordinator will:
 - a. Complete Form 5346, Examination Information Report, to make a referral for an FCO or FCA to complete a facility inspection.
 - b. Submit Form 5346 and a blank FCN Questionnaire to WSD. WSD forwards Form 5346 to the appropriate group manager to assign to an FCO or FCA. No controls are established on ERCS.
- (4) The assigned FCO or FCA will:
 - a. Determine if the facility still meets the definition of a terminal or refinery.
 - b. Conduct an on-site inspection to verify change of facility request.
 - c. Submit a completed FCN Questionnaire with their comments/recommendation to their group manager to update the facility status. This includes but is not limited to a change in ownership, change in operator, or a request for a change in status of an FCN, (e.g., active, inactive, delete).
- (5) The group manager will:
 - a. Complete the FCN Questionnaire by entering their final comments in the group manager comment section.
 - b. Submit the FCN Questionnaire and all documents used in the determination to the IRS ExSTARS Coordinator via secure e-mail at **SBSE Excise EXSTARS*.

Note: For an FCN suspension, the agent only needs to complete the “Facility” information section and describe the dismantling actions taken, by the operator, under the “Agent Additional Comments” section.
- (6) The IRS ExSTARS Coordinator makes the final determination for all FCN status change requests and will communicate the final determination to the facility.
- (7) The IRS ExSTARS Coordinator’s determination will be communicated to the group manager and examiner via e-mail.
- (8) FCN numbers are not removed from the ExSTARS database; however, the IRS.gov web page only displays approved FCN location directories.

4.24.17.3
(06-05-2023)
**ExSTARS Workload
Selection and
Assignment**

- (1) IRC 4101 compliance case work, includes the following:
 - Form 720-TO and Form 720-CS, ExSTARS compliance examinations
 - Form 637, Application for Registration (For Certain Excise Tax Activities), initial applications and compliance reviews
 - IRC 6719 and IRC 6725 penalty cases
- (2) An IRC 4101 compliance examination is assigned at journey level or below grade.
- (3) Grade level assignments may differ between IRC 4101 compliance case work and Form 720, Quarterly Federal Excise Tax Return, examinations. The group manager’s assignment of a related Form 720 examination, as a part of the IRC

4101 compliance examination, will require an adjustment from the journey level or below status to match that of the Form 720 case grade.

- (4) The primary IRC 4101 compliance case plus any prior and/or subsequent periods, or any related IRC 4101 compliance case work, controlled by an examiner, will carry the same grade level.
- (5) A related entity that is examined by other examiners will be graded separately.

4.24.17.4
(06-05-2023)

ExSTARS Report Filings

- (1) When information reports are submitted through ExSTARS, the system validates specific data fields, syntax, and string structure, as described in Publication 3536, Motor Fuel Excise Tax EDI (Electronic Data Interchange) Guide. The validation process does not verify accuracy of the information or identify omitted transactions. ExSTARS generates an error report if issues are detected during the validation process.
- (2) Examples of situations that would generate error reports are entering:
 - An invalid Employer Identification Number (EIN) or a social security number
 - 777777777, 888888888, or 999999999 as the EIN for a terminal operator, position holder or bulk carrier
 - 777777777 as the EIN for a Department of Defense (DOD) carrier or consignor
 - 888888888 as the EIN for a carrier that operates a foreign-flagged vessel
 - 999999999 as the EIN for any situation other than to report rail or truck carriers when EIN is unknown
- (3) Upon submitting monthly data, information providers receive the following acknowledgments:
 - Transmission acknowledgement (ACK) (997) file
 - Validation (151) ACK file
- (4) The ACK files are placed in the participant's electronic mailbox, set up as part of the EDI testing.
- (5) Filing date evidence is the receipt date of a 997-A (accepted) ACK and a 151 ACK. A TS-997 ACK file is created every time an ExSTARS Information Provider or Approved Excise Third Party Transmitter submission is successfully transmitted.
- (6) If the information provider receives a TS-997 ACK with an **A** in the AK501 segment, followed by a TS-151 ACK Level 1 error, then the transaction set has been rejected in its entirety. The information provider is required to correct the problem and resubmit the transaction set as an original file. TS-151 ACK errors are considered "must fix errors" requiring correction within 15 calendar days to be deemed timely filed.

4.24.17.5
(06-05-2023)

**ExSTARS Statute
Control and Extensions**

- (1) The statute of limitations (SOL) is the allowable time in which the IRS may make an assessment with respect to a return. Under IRC 6501(a), the SOL generally starts to run on the date the return is filed and expires three years from the date of the filing. If no return is filed, the SOL will remain open indefinitely. In the case of a filed Form 720-TO or Form 720-CS, IRC 6725 imposes

a penalty for failing to include all of the information required to be shown on the report or for including incorrect information on the report. The penalty must be assessed within the three-year SOL under IRC 6501(a).

Note: A filed paper or electronic report starts the statute of limitation running, regardless of the electronic filing requirement.

- (2) ExSTARS information reports do not post to the Integrated Document Retrieval System (IDRS), thus, there will not be a module on the Master File with the SOL. The ExSTARS report filing date may be found in the case file building materials.
- (3) If the SOL cannot be determined, the examiner must use the Request For Information (RFI) Form to obtain filing data from the Joint Operations Center (JOC). The JOC RFI Form is completed by the examiner and forwarded to the group manager for approval. Once approved, the group manager will forward the RFI directly to the JOC mailbox at *SBSE Excise JOC. The JOC RFI Form can be found on the Excise Tax Knowledge Base Homepage, under Excise Examination, see Initiating an Examination, refer to the **Related Forms & Documents** on the right side of the web page.
- (4) An examination of an ExSTARS information report and assessment of penalties must be completed timely and within the statute of limitation period. In cases where the SOL period will expire within 180 days, Form 872-EX, Consent to Extend the Time on Assessment of Information Report Penalty, may be solicited.
- (5) The examiner must secure the group manager concurrence prior to a statute extension solicitation.
- (6) Letter 907-C, Request to Extend the Time on Assessment of Information Report Penalty, along with Form 872-EX are mailed to the information provider to request extension of the statute. If the information provider:
 - a. Agrees to the extension, the information provider will sign and return the Form 872-EX. The group manager will sign the Form 872-EX on behalf of the SB/SE Director, Examination - Specialty. The examiner will send a copy of the executed Form 872-EX to the information provider along with Letter 929-D, Transmittal to Taxpayer of Copy of Signed Consent.

Note: When consent agreements are executed by the group manager, the name of the SB/SE Director, Examination - Specialty will be written, typed, or stamped on the signature line of the form. The group manager will sign their name and indicate their title and date on the line immediately below.
 - b. Fails to return a signed Form 872-EX when requested, the examiner will mail the information provider follow up Letter 928-D, Excise Request Return of Consent - Follow-Up.
- (7) The examiner must submit through their manager Form 5348, AIMS/ERCS Update (Examination Update), upon securing Form 872-EX to reflect the new statute date.

4.24.17.6
(06-05-2023)

**ExSTARS Examination
Return Control System
(ERCS) Procedures**

- (1) ExSTARS information reports are not established on the Audit Inventory Management System (AIMS) and therefore do not post to the IDRS.
- (2) ExSTARS compliance examinations and associated penalties are controlled on ERCS.
- (3) Terminal operators may operate multiple approved terminal facilities under a single Taxpayer Identification Number (TIN). The use of a substitute "TIN," reflecting a facility's specific terminal control number is used for ERCS purposes.

Note: The substitute TIN format for ERCS control is 00-0 plus the 6 digits from the entity's TCN. Example: The TCN for ABC Terminal is 61-KY-1234; therefore, the substitute TIN is 00-0611234.

- (4) Bulk carriers, who report information on Form 720-CS, use actual TINs for ERCS purposes.
- (5) ExSTARS compliance examination case files are generally established on ERCS by WSD.
- (6) The examiner must complete and submit Form 5345-D, Examination Request-ERCS (Examination Returns Control System) Users, to the group manager to:
 - a. Expand to prior or subsequent periods.
 - b. Expand a Form 637 Registration review to an ExSTARS compliance examination.
 - c. Expand a Form 720 examination to an ExSTARS compliance examination.

See IRM 4.24.17.11.1 for additional guidance.

- (7) Penalty assessments under IRC 6725 resulting from IRC 4101 compliance case work require a separate IMS case file. The examiner must complete and submit Form 5345-D to the group manager to establish penalty case on ERCS. See IRM 4.24.17.11.2 for additional guidance.

4.24.17.6.1
(06-05-2023)

**Case Coordination
Guidance for Form 720
Examinations and
Related ExSTARS
Compliance
Examinations**

- (1) Procedures for when the Form 720 (MFT 03) examination is in status 12 and related ExSTARS compliance examinations are identified for classification:
 - a. WSD Classification Check Sheets for the selected ExSTARS compliance examinations will be noted that, "Case coordination is required with the examiner assigned to the MFT 03 examination case."
 - b. The examiner conducting the Form ExSTARS compliance examination must inform the controlling case examiner of their intent to contact the information provider and will forward to the controlling examiner a copy of the Form 4564, Information Document Request (IDR), issued to the facility.
 - c. The examiner assigned to the MFT 03 case will schedule a conference call with the examiner assigned to the related ExSTARS compliance examination to share any pertinent information.
 - d. The examiner assigned to the ExSTARS compliance examination will arrange a conference call with their group manager and the examiner assigned to the Form 720 to discuss findings prior to issuance of any reports.

- e. The examiner will provide a copy of the ExSTARS compliance examination results via secure e-mail to the examiner assigned to the MFT 03 examination case for possible use/inclusion in the audit file.
 - f. The examiner assigned to the MFT 03 case will ensure consistency is achieved across all entities. Concerns will be addressed by the field group managers.
- (2) Procedures for when the MFT 03 examination case is in status 10 and related ExSTARS compliance examinations are identified for classification:
- a. WSD Classification Check Sheets for the selected ExSTARS compliance examinations will be noted that, **Case coordination is required with the field manager of the group in which the MFT 03 examination case resides.**
 - b. The examiner conducting the ExSTARS compliance examination will notify the assigned field examination group manager of their intent to contact the information provider and will forward to the manager a copy of the IDR being issued to the facility.
 - c. The examiner assigned to the ExSTARS compliance examination will arrange a conference call with their group manager and the assigned Form 720 field group manager to discuss findings prior to issuance of any reports.
 - d. The examiner will provide a copy of the ExSTARS compliance Examination results via secure e-mail to the assigned field examination group manager for possible use/inclusion in the audit file.
 - e. The field examination group manager will ensure consistency is achieved across all entities. Concerns will be addressed by the field group managers.

4.24.17.7
(06-05-2023)
**ExSTARS Information
Provider Initial Contact**

- (1) Before starting an ExSTARS compliance examination, the examiner must ask the group manager to perform an ERCS/AIMS review to identify other examiners auditing related entities, subsidiaries, and facilities.
- (2) IRM 4.24.5, Large Business and International (LB&I) Examination Program Procedures for Excise Employees, requires examiners working Large Corporate Compliance (LCC) or Industry Case (IC) examinations using an LB&I team approach, to contact the LB&I team coordinator prior to contacting an entity. Similarly, communication must first be made with other examiners auditing related entities, subsidiaries, and facilities to discuss and coordinate the examination process. Refer to IRM 4.24.5.2 , Excise Examinations of LB&I Taxpayers, for additional guidance about LCC/IC examination controls.
- (3) Initial notification of an ExSTARS compliance examination communication must be made to the excise tax information contact person listed on the entity's Motor Fuel Excise Tax EDI Letter of Application (LOA), utilizing Letter 2205-E, Excise Initial Contact, as described below. This information should be part of the case building material. If the contact person is not included, then the examiner must send secure e-mail to request the LOA from the IRS ExSTARS Coordinator at sbse.excise.exstars@irs.gov.
- (4) The examiner will issue Letter 2205-E to the LOA contact person. Identify the TCN, if applicable, under the header subsection titled **Form**.

- (5) The examiner must follow authentication requirements found in IRM 11.3.2.3.2, Requirements for Verbal or Electronic Requests, to avoid unauthorized disclosure.
- (6) Upon scheduling an initial visit, the examiner must issue the following:
 - Letter 4591, Appointment Letter
 - Form 4564, Information Document Request
 - Publication 1, Your Rights as a Taxpayer
 - Notice 609, Privacy Act Notice
- (7) When a valid Form 2848, Power of Attorney and Declaration of Representative, or Form 8821, Tax Information Authorization, is on file for the information provider, the appropriate initial contact letter will be mailed to the information provider and a copy of that letter will be mailed to the representative with Letter 937, Transmittal for Power of Attorney.
- (8) If the information provider does not respond to the initial contact letter and it is not returned as undeliverable, follow the guidance in IRM 4.10.2.8.3, No Response/No Show Procedures.
- (9) If the letter is returned undeliverable, follow the procedures in IRM 4.10.2.8.4, Undeliverable Initial Contact Letters.

4.24.17.8
(06-05-2023)
**ExSTARS Information
Report Filing Issues**

- (1) The examination issues described in this section emphasize due dates and extensions of ExSTARS information report filings. The examiner is reminded to always consider and document reasonable cause.
- (2) ExSTARS information reports must be filed monthly and are due on the last day of the following month.
- (3) A 30-day automatic extension is granted to requests received in writing on or before the due date of a report. Additional 30 to 120-day extensions may be granted, if requested and received timely with a valid explanation.
- (4) The examiner may request ExSTARS extension information by sending a secure e-mail to the IRS ExSTARS Coordinator at **SBSE Excise EXSTARS*.
- (5) The examiner will consider all facts and circumstances that lead to a late filed report. The group manager concurrence must be obtained for all late filed penalty determinations.

4.24.17.9
(06-05-2023)
**ExSTARS Information
Report Accuracy Issues**

- (1) The accuracy of ExSTARS information is crucial to the Service's ability to effectively measure compliance. Timely, complete, and accurate filing is essential. The examination issues described in this section emphasize potential errors that may result from noncompliant reporting. The examiners are reminded to always consider and document reasonable cause.
- (2) Listed below are some of the ExSTARS information report terminal operator accuracy issues that the examiner may encounter during a compliance examination:
 - Volume discrepancies
 - Erroneous position holder EIN
 - Erroneous position holder name
 - Erroneous carrier EIN

- Erroneous carrier name
- Incorrect product code
- Incorrect mode code
- Incorrect reporting of two-party exchanges
- Incorrect reporting of gains/losses
- Incorrect summary reporting
- Omitting information

(3) Listed below are some of the ExSTARS information report carrier summary accuracy issues that the examiner may encounter during a compliance examination:

- Volume discrepancies
- Erroneous facility control number
- Erroneous consignor (e.g., position holder) EIN
- Erroneous consignor (e.g., position holder) name
- Erroneous vessel official number
- Erroneous product code
- Erroneous transaction dates
- Omitted information

Note: The lists in (2) and (3) do not include all issues an examiner may encounter.

4.24.17.10
(06-05-2023)
**Overview of ExSTARS
Compliance
Examinations**

- (1) Results of an ExSTARS compliance examination may conclude as follows:
- Substantially correct – no penalty
 - Immaterial error(s) – no penalty
 - Material error(s) – penalty imposition
- (2) ExSTARS compliance examinations that result in no penalty are closed from ERCS at the group level.
- (3) ExSTARS compliance examinations that result in a penalty assessment require separate ERCS controls and a separate case file. See IRM 4.24.17.11, for additional guidance.
- (4) The ExSTARS compliance examination case file must contain all the information necessary to ensure a clear understanding of the audit steps taken by the examiner.
- (5) The procedural guidance found in the following IRM sections generally apply to ExSTARS compliance examinations, except where noted in this section:
- IRM 4.10.1, Overview of Examiner Responsibilities
 - IRM 4.24.6.2, Procedural Guidance for Certain Types of Excise Examinations
 - IRM 4.24.20, Excise Tax Report Writing Guide
 - IRM 4.24.21, Case Closings

4.24.17.10.1
(06-05-2023)
**ExSTARS Compliance
Examination - No
Penalty Procedures**

- (1) In cases where the ExSTARS information reports were substantially correct and no penalty is applicable, the examiner will issue Letter 4574-A, No Deficiency Letter for ExSTARS Information Report, to inform the information provider that an examination has been completed and no further action is required.
- (2) In cases where the ExSTARS information reports were substantially correct, immaterial error(s) were found, and no penalty is applicable, the examiner will issue Letter 4574, Deficiency Warning Letter for ExSTARS Information Report, along with supporting documentation as warranted. Letter 4574 is used to inform the information provider that an examination has been completed, but a deficiency requires corrective action by the information provider.
 - a. In most cases, a deficiency may be summarized on the letter, but in cases where more space is needed, Form 886-A, Explanation of Items, or an attachment is appropriate.
 - b. Letter 4574 must be sent via secure e-mail to the Form 637 Registration Lead Technician (LT) to be associated with the IMS Form 637 Registration case file. There is a current list of Form 637 Registration LTs, on the Excise Tax Knowledge Base Homepage, under Form 637 Registrations, see Registration Information. Refer to the **Form 637 Registration Group Contact Information** under **Other Related Resources** on the right side of the web page.
 - c. In addition, the examiner will send a copy of Letter 4574 and the supporting documents to the IRS ExSTARS Coordinator by sending a secure e-mail to **SBSE Excise EXSTARS*.
- (3) In cases where no penalty is applicable, no examination report is issued, similar to no liability case procedures. Examiners should follow the procedures for closing no penalty case files using the procedures below.

4.24.17.10.1.1
(06-05-2023)
**ExSTARS Compliance
Examination – No
Penalty Case File
Documentation**

- (1) The IMS Case file must contain the following documentation:
 - a. Form 3198, Special Handling Notice for Examination Case Processing
 - b. Form 4318, Form 720-TO/CS Compliance Examination Workpaper Index
 - c. Form 9984, Examining Officer's Activity Record
 - d. Mandatory Admin Forms 105.1 and 105.2, Administrative Plan to Close Lead Sheets
 - e. Mandatory Admin Form 110, Pre-Plan Analysis Work Paper
 - f. Mandatory Admin Form 120, Risk Analysis Work Paper
 - g. Mandatory Admin Form 125, Concurrence Meeting Check Sheet
 - h. Mandatory Admin Form 130, Initial Contact Check Sheet
 - i. Mandatory Admin Form 135, Initial Appointment Agenda
 - j. Mandatory Admin Form 200, Internal Controls Lead Sheet
 - k. Mandatory Admin Form 205, Initial Interview Questions and Notes
 - l. Mandatory Admin Form 300, Compliance Examination Lead Sheet
 - m. Mandatory Admin Form 400, Penalty Approval Form – Form 720-TO/CS Compliance Examination
 - n. Index ZZ Supporting Workpapers
 - o. A copy of Letter 4574 or Letter 4574-A

Note: Form 4318 and the Mandatory Admin Forms are deployed only in Notebook and are not on the Forms/Pubs Repository.

- (2) When deficiencies are found, Letter 4574 must be sent via secure e-mail to the Form 637 Registration LTs to be associated with the IMS Form 637 Registration case file. Refer to IRM 4.24.17.10.1(2)(b) for a link to a current list of Form 637 Registration LTs.

4.24.17.10.1.2

(06-05-2023)

ExSTARS Compliance Examination – No Penalty Case File Closing

- (1) Prepare Form 3198, include the following information:
 - a. ExSTARS information provider name
 - b. ExSTARS information provider address
 - c. ExSTARS information provider substitute TIN
 - d. Examiner's contact information
 - e. Period(s)
 - f. Time Applied
 - g. MFT - B1
 - h. Disposal Code 02
 - i. "Other Instructions" section of "Special Features" insert one of the following statement, "ExSTARS no change penalty examination," or "ExSTARS no change penalty examination, deficiency warning issued."
- (2) Attach Form 3198 to the top outside cover of the case file.
- (3) A completed case file is submitted for group manager review. Upon approval, the case is closed, and the group clerk updates ERCS to status 90. The group manager retains custody of the paper compliance examination file.
- (4) The examiner will update the case to closed status in IMS when the case is closed to the group manager.

4.24.17.10.2

(06-05-2023)

ExSTARS Compliance Examination – IRC 6725 Penalty Case File Procedures

- (1) In general, no penalty will be imposed if reasonable cause is established. If reasonable cause is established, then follow the no penalty procedures in IRM 4.24.17.10.1. Penalty assertion requires careful consideration of the facts and circumstances of each case. The examiner will consider and document the examination issue and any reason, related to the penalty issue, furnished by the information provider.
- (2) In the event a penalty proposal is warranted, the examiner will prepare and submit the following documents to the group manager:
 - a. Mandatory Admin Form 400, Penalty Approval Form – Form 720-TO/CS Compliance Examination.
Note: Additionally, the examiner will provide the group manager with information regarding any other penalty proposals under consideration from other examiners, pertaining to the controlled TIN and any related TINs. Efforts must be made to coordinate the issuance of penalty reports.
 - b. Form 886-A, Explanation of Items.
- (3) Once the Form 400 is approved and signed by group manager, the examiner will complete Form 5345-D, Examination Request-ERCS (Examination Returns Control System) Users, to request control of the penalty period(s). For additional guidance see IRM 4.24.17.11.2.

Note: The Form 9984, Examining Officer's Activity Record, or the Case Level Activities in IMS must be documented to record the approval of Mandatory Admin Form 400 and Form 5345-D.

- (4) The group manager will establish the ERCS penalty period(s) and return the executed forms to the examiner. The completed documents are placed in the original ExSTARS compliance examination IMS case file. A copy of each document is also included in a newly established IMS penalty case file.
- (5) Only after completion of the steps listed above (Mandatory Admin Form 400 and Form 5345-D), the examiner will discuss the proposed penalty with the ExSTARS information provider. If the contact person is unavailable, address the penalty proposal(s) with the entity's principal or officer.

Note: If the LOA contact person has changed, the examiner will secure a new LOA. The examiner must send a secure e-mail to the IRS ExSTARS Coordinator at **SBSE Excise EXSTARS* with the new LOA.

4.24.17.10.2.1
(06-05-2023)
**IRC 6725 Penalty
Reports**

- (1) In an IRC 6725 penalty case, the Form 5384, Excise Tax Examination Changes and Consent to Assessment & Collection, is used for both agreed and unagreed cases.
- (2) The information provider signs Form 5384 to establish agreement. No signature is needed for unagreed cases.
- (3) The examiner will prepare Form 5384, Excise Tax Examination Changes and Consent to Assessment & Collection, as follows:

- a. Form Number: Enter Form 720-TO or Form 720-CS
- b. Taxpayer's name and address
- c. EIN
- d. Person with whom changes were discussed (and title)
- e. Period Ended: mm/dd/yyyy

Note: Period ended is the end of each month the penalty is being assessed.

- f. IRS Number or CRN: Leave blank
- g. Kind of Tax: Leave blank
- h. Corrected Tax Liability or Credit per Exam: Leave blank
- i. Tax or Credit per Return or Previous Assessment: Leave blank
- j. Tax or Credit Increase or (Decrease): Leave blank
- k. Penalties: Complete with penalty amount
- l. Total Tax and Penalties Due or (Refund): Complete with penalty amount
- m. Other information: Complete with the following statements, "IRC 6725 penalty for failure to report (accurate) information under IRC 4101. Penalty of \$10,000 per month from MM/YY to MM/YY (XX months). (Total \$10,000 x XX = \$XX,XXX)," and "See Form 886-A, Explanation of Adjustments, attached."

- (4) In cases where the ExSTARS information reports were incorrect or material error(s) were found and a penalty is imposed, the examiner will issue Letter 4599, IRC 6725 Penalty for ExSTARS Information Report, to inform the information provider that an examination has been completed and penalties are being imposed. Letter 4599, which gives the information provider 30 days to respond, is used to transmit Form 5384 in both agreed and unagreed cases.

- (5) The examiner will prepare Letter 4599, have the group manager sign the letter, and then mail it to the information provider along with the following:
- Form 5384
 - Form 886-A
 - Form 13683, Statement of Disputed Items
 - Publication 3498, The Examination Process
- (6) If the information provider does not agree with the penalty assessment, then they may:
- a. Request a managerial conference.
 - b. Request Appeals consideration.
- Note:** Appeals considers these penalties after assessment.
- c. Pay the penalty, file a claim for refund, and bring suit in the United States District Court or in the United States Court of Claims.
- (7) Penalty case files will be closed unagreed and forwarded to CCP for assessment when the information provider does any of the following:
- a. Fails to respond timely to Letter 4599.
 - b. Wishes to pay the penalty, file a claim for refund, and bring suit in the United States District Court or in the United States Court of Claims.
 - c. Wishes to pay the penalty and file a claim for refund.

4.24.17.10.2.2
(06-05-2023)

IRC 6725 Penalty Case Documentation

- (1) An IRC 6725 Penalty Case File must include the following completed documents:
- Form 3198, Special Handling Notice for Examination Case Processing
 - Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties
 - Form 4665, Report Transmittal (if unagreed)
 - Form 5384, Excise Tax Examination Changes and Consent to Assessment and Collection, using Activity Code 555
 - Form 886-A, Explanation of Items
 - Form 400, Penalty Approval Form – Form 720-TO/CS Compliance Examination, with manager's signature and supporting workpapers
 - Copy of Letter 4599
 - Information providers written response (if applicable)
 - Examiner's rebuttal (if applicable)
 - Letter 2280-X, Transfer to Appeals (if applicable)
 - Form 3244-A, Payment Posting Voucher (if applicable)
- (2) When penalties are assessed, Letter 4599, Form 5384, Form 886-A, information provider's written response, and the examiner's rebuttal, must be sent via secure e-mail to the Form 637 Registration LT to be associated with the IMS Form 637 Registration case file.

4.24.17.10.2.3
(06-05-2023)

IRC 6725 Penalty Case Closing

- (1) Prepare Form 3198, include the following information:
- a. ExSTARS information provider name
 - b. ExSTARS information provider address
 - c. ExSTARS information provider substitute TIN
 - d. Examiner's contact information

- e. Period(s)
- f. Time applied
- g. MFT - PH
- h. Disposal Code 03 or 07
- i. "Other Instructions" section of "Special Features" insert the following statement: "6725 Penalty Case File – Assess using Reference Code 667"

- (2) A separate Form 8278 is required for each tax period and penalty code section. See IRM 4.24.17.12 for additional guidance.

4.24.17.10.3
(06-05-2023)
**IRC 6725 Unagreed
Penalty Case File
Forwarded to Appeals**

- (1) Appeals has jurisdiction over unagreed penalties provided by Chapter 68, Subchapter B (Additions to the Tax, Additional Amounts, and Assessable Penalties). Unless specifically excluded from Appeals consideration, all cases are eligible for an Appeals conference if the ExSTARS information provider has requested Appeals Office consideration and, if required, has either made a small case request (total amount of penalties for each tax period is \$25,000 or less) or submits an adequate formal written protest.
- (2) To be considered "adequate," a formal written protest and a small case request must contain all information required by Publication 5, Your Appeal Rights and How to Prepare a Protest if You Disagree. Adequacy of a protest is generally not determined based on its substantive content, such as whether the protest contains sufficient factual or legal support. Determine if a rebuttal is needed prior to forwarding the case for Appeals consideration. The examiner must follow the applicable procedures found in IRM 4.10.8.12.9.3, Request for Appeals Conference.

Note: In order to adhere to the general time frame for closing an unagreed case from the group, all actions (e.g., securing a consent, perfecting or rebutting a protest, holding a group manager conference, etc.) must be completed within 20 days of receipt of a formal written protest or small case request, unless the case requires additional development.

- (3) The examiner will close appeal protest cases using disposal code 07.
- (4) Appeal of an IRC 6725 penalty may be made before or after payment, but it must be made before a claim for refund is filed.
- (5) Letter 2280-X, Transfer to Appeals, must be prepared, signed and dated by the group manager. Letter 2280-X notifies the information provider of the case transfer to Appeals for consideration. If a rebuttal is prepared by the examiner, it must be sent to the information provider with Letter 2280-X.
- (6) Appeals case routing procedures found in IRM 4.24.10.7, Case Routing Procedures for Unagreed Excise Tax Examination Cases to Appeals, apply to ExSTARS penalty cases.
- (7) Unagreed penalty cases are routed to Appeals via Tech Services. The group clerk updates the case to Status 21 and forwards the case to Technical Services.
- (8) As prescribed by IRM 25.6.23.7.1, Minimum Time Remaining on ASER, unagreed cases received in Appeals must have 365 days, minimum, remaining on the assessment statute. However, cases must have 395 days remaining on the statute at the time the case is received in Technical Services to allow sufficient processing time.

4.24.17.11
(06-05-2023)
**Instructions for
Completing Form
5345-D, Examination
Request-ERCS
(Examination Returns
Control System) Users**

- (1) The ExSTARS compliance examination must be established on ERCS when received by an examiner. However, if prior or subsequent ExSTARS compliance examination periods are expanded, the examiner must complete and submit Form 5345-D, Examination Request-ERCS (Examination Returns Control System) Users, to the group manager.
- (2) If an examiner determines an ExSTARS compliance examination is warranted from a Form 637 Registration review or a Form 720 examination, they must complete a Form 5345-D to establish on ERCS.
- (3) In addition, the penalty assessments under IRC 6725 resulting from IRC 4101 compliance case work require a separate Form 5345-D and IMS case file from the ExSTARS compliance examination.

4.24.17.11.1
(06-05-2023)
**Completing Form 5345-D
for ExSTARS
Compliance
Examinations**

- (1) The examiner must complete a Form 5345-D to establish ERCS controls for an ExSTARS compliance examination file if it is expanded from a Form 637 Registration review, a Form 720 examination or to pick-up prior or subsequent periods.
- (2) In addition to the taxpayer's name, name control, street, city, state and ZIP code, the examiner must include the following information on Form 5345-D:
 - a. Check appropriate box for Transcripts Reviewed
 - b. Check the "Control Non-AIMS Direct Examination Time (DET) Items" box
 - c. Enter 214 in the PBC field
 - d. Enter the examiner's territory Business Code in the SBC field
 - e. Enter the examiner's group code in the EGC field
 - f. Enter the examiner's ERCS Employee ID and Name
 - g. Enter the Carrier Summary TIN or Terminal Operator TIN for the entity under examination

Note: If the entity has only one TCN, use the TIN. If an entity has multiple TCNs use a substitute TIN to identify the specific facility. See 4.24.17.6(2).

- h. MFT – B1
- i. Form Type – Form 720-TO or Form 720-CS
- j. Tax Period – YYYYMM (for each monthly period)
- k. Activity Code – 547 Form 720-TO/CS
- l. Source Code – 99 Non-AIMS Miscellaneous Penalty
- m. Status Code – 10 Assigned - No Time Applied, (once time is applied, status will update to 12)
- n. Statute Date – Contact the IRS ExSTARS Coordinator at **SBSE Excise EXSTARS* for ExSTARS filing information to calculate the statute date
- o. Tracking Code – Enter the Tracking Code identified on the classification sheet for the primary period

Note: If expanded from a Form 637 Registration review, use Tracking Code 0637. If expanded from a Form 720 examination use the Tracking Code from the classification sheet from the Form 720 primary case.

- p. Project Code – 0063 Fuel Terminal (TO's only)
- q. POD
- r. Related Return Indicator (if applicable)

- s. Aging Reason Code (if applicable)

Note: FCA use 062.

- t. Enter "N" for TEFRA Indicator, original return, labels, Joint committee, foreign control and LB&I/CIC
- u. Related Return Information - Enter the primary period information

Note: If expanded from a Form 637 Registration review or a Form 720 – Leave blank. The examiner must note the reason for request.

- v. Examiner's name, signature and date

4.24.17.11.2
(06-05-2023)

**Completing Form 5345-D
for IRC 6725 Penalty
Case Files**

- (1) The examiner must complete a Form 5345-D to establish ERCS controls for a penalty case file.

- (2) In addition to the taxpayer's name, name control, street, city, state and ZIP code, the examiner must include the following information on Form 5345-D:

- a. Check the "Control Penalty Investigation" box
- b. Tax Identification Number (TIN)

Note: Penalty cases require an actual TIN. Form 5345-D must reflect the actual TIN of an approved location and not the substitute TIN used for controlling the ExSTARS compliance examination.

- c. MFT– PH (when the penalty is assessed it will post to MFT 13)
- d. Form Type - 8278
- e. Tax Period - YYYYMM, for each applicable monthly period
- f. Activity Code - 555 - Other Penalties - Form 8278
- g. Source Code - 99 Non-AIMS Miscellaneous Penalty
- h. Status Code - 10 Assigned - No Time Applied, (once time is applied, status will update to 12)
- i. Statute Date - Enter the statute date provided by the Workload Selection and Delivery (WSD) as reflected in the B1 case
- j. Tracking Code - For a Form 720-TO case use 7664 (Form 720-TO Penalty Case); for a Form 720-CS case use 7770 (Form 720-CS Penalty Cases)
- k. Project Code - Leave blank
- l. POD
- m. Related Return Indicator (if applicable)
- n. Aging Reason Code (if applicable)

Note: FCA use 062.

- o. Enter "N" for TEFRA Indicator, original return, labels, Joint committee, foreign control and LB&I/CIC
- p. Related Return Information - Leave blank

Note: The examiner must note the reason for request.

- q. Examiner's name, signature and date

4.24.17.12
(06-05-2023)

**Instructions for
Completing Form 8278,
Assessment and
Abatement of
Miscellaneous Civil
Penalties**

- (1) Form 8278 is an adjustment document used by CCP to make a manual assessment or abatement of miscellaneous civil penalties not subject to deficiency procedures.
- (2) A separate Form 8278 is required for each tax period and penalty code section.
- (3) Multiple facilities, controlled by the same TIN, are combined by period on the Form 8278 whenever possible.
- (4) In block "3. MFT," check box for BMF 13.
- (5) In block "9. C. Excise (IRM 20.1.11)," enter the number of violations and amount assessed under Penalty Code Section 6725, Failure to report a vessel/facility - IRC sec. 4101(d).

Note: Form 8278 takes the place of Form 5344.

- (6) Refer to the instructions to Form 8278 which provides specific excise-related penalty fields.
- (7) The IMS case file should only include the relevant penalty assessment page, not all pages of Form 8278.
- (8) If necessary, the examiner must complete Form 5348, AIMS/ERCS Update (Examination Update), to update the statute date on ERCS.
- (9) Both the examiner and the manager are required to sign the Form 8278. Failure to have both signatures will cause CCP to return the case to the field, causing input delay.

