



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.26.11

AUGUST 4, 2021

EFFECTIVE DATE

(08-04-2021)

PURPOSE

- (1) This transmits revised text for IRM 4.26.11, Bank Secrecy Act, BSA Examiner Responsibilities for Form 8300 Examinations.

MATERIAL CHANGES

- (1) 4.26.11.7.3, Pre-Plan, has been rewritten.
- (2) 4.26.11.8.2, Making Initial Contact - Added language to the section and included Pub 1544 as one of the documents to be included with the Appointment letter.
- (3) 4.26.11.9.8.1, Multiple Forms 8300 Historical Filing Request - Added subsection - request from counsel to incorporate Program Manager Technical Advice (PMTA) # 2018-011 issued April 12, 2018 into the IRM.
- (4) Added 4.26.11.9.11, Lead Sheet #415, Reasonable Cause Check Sheet-Form 8300, providing instruction for the consideration of a reasonable cause claim.
- (5) 4.26.11.11.3, Protest Adequacy-Intentional Disregard Cases - Edited to align IRM to guidance provided in IRM 4.10.8.12.9.3, Request for Appeals Conference; and IRM 4.10.8.12.9.3.1 Timely Actions - Request for Appeals Conference.
- (6) 4.26.11.11.4 (3), Forms for Closing 8300 Cases, edited to clarify the processing of Form 8278.
- (7) 4.26.11.11.5, BSA Information Reports – Prime Lead Memo, edited to incorporate IGM SBSE 04-0720-0061 that was issued July 24, 2020.
- (8) 4.26.11.11.6, Forwarding Closed Cases – Naming convention for Form 8300 Follow up cases.
- (9) 4.26.11.12.3, Third Party Contact - Edited to Incorporate IGM (SBSE 04-0719-0034) issued on 7/26/19 to update 3rd party contact notification procedures.
- (10) 4.26.11.12.9, Entities Subject to both Title 26 and Title 31 – Added Language to clarify that Form 8300 cases be started under Title 31.

EFFECT ON OTHER DOCUMENTS

This supersedes IRM 4.26.11 dated May 29, 2019. This IRM incorporates Interim Guidance Memorandum SBSE 04-0720-0061, Prime Lead Memorandum, dated July 24, 2020, and Interim Guidance SBSE 04-0719-0034, Third-Party Contact Notification Procedures, dated July 26, 2019 and the PMTA (Program Manager Technical Advice) issued on April 12, 2018.

AUDIENCE

Intended audience is employees of the Bank Secrecy Act Program in the Small Business/Self Employed (SB/SE) division and can be referenced by all field compliance personnel.

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Small Business/Self-Employed

4.26.11

BSA Examiner Responsibilities for Form 8300 Examinations

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4.26.11.1
(05-29-2019)
Program Scope and Objectives

- (1) **General Overview.** This IRM provides general examiner responsibilities, BSA IRM sections, and forms used in the examination of an entity for Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, filing and reporting compliance.
- (2) **Purpose.** This IRM explains basic BSA examiner responsibilities so that managers, senior-level officials and BSA examiners who familiarize themselves with the information in this IRM will be better equipped to conduct Form 8300 examinations under Title 26 and Title 31.
- (3) **Audience.** This IRM is for BSA managers and examiners.
- (4) **Policy Owner.** Director, Specialty Examination Policy – Small Business/Self Employed.
- (5) **Program Owner.** Director, Examination - Specialty Examination owns Bank Secrecy Act.
- (6) **Primary Stakeholders.** BSA Exam Case Selection, Specialty Examination and SB/SE Examination Quality & Technical Support, Field and Specialty Exam Quality are the primary stakeholders for this IRM.
- (7) **Contact Information.** To recommend changes or make any other suggestions related to this IRM section, see IRM 1.11.6.6, Providing Feedback About an IRM Section - Outside of Clearance.

4.26.11.1.1
(05-29-2019)
Background

- (1) This subsection provides information on responsibilities of the BSA examiner when conducting Form 8300 examinations.

4.26.11.1.2
(05-29-2019)
Authority

- (1) Refer to IRM 4.26.1, Bank Secrecy Act, Introduction and Program Structure, for the authority for the Bank Secrecy Act.
- (2) IRC 6050I, Returns Relating to Cash Received in Trade or Business, etc., requires the filing of Form 8300 when a trade or business receives cash, or cash equivalents, in excess of \$10,000.
- (3) IRC 6721, Failure to File Correct Information Returns, provides a penalty for failure to file correct information returns.
- (4) IRC 6722, Failure to Furnish Correct Payee Statements, provides a penalty for failure to furnish correct payee statements.
- (5) IRC 6724, Waiver; definitions and special rules, provides reasonable cause waiver, definitions of information returns, and special rules.
- (6) The term information return means any statement, form, or return as described in IRC 6724(d), Definitions, or 26 CFR 301.6721-1(g), Definitions, and 26 CFR 301.6722-1(d), Definitions.

4.26.11.1.3
(05-29-2019)
Responsibilities

- (1) Director, Examination – Specialty Policy is the executive responsible for BSA Examination policy and procedures.
- (2) Director, Examination – Specialty Examination is the executive responsible for BSA examination operational compliance.

- (3) Chief, BSA Policy is responsible for ensuring general information about basic BSA examiner responsibilities and IRM sections is communicated to and carried out by BSA examiners.

4.26.11.1.4
(05-29-2019)
Acronyms

- (1) The following table contains acronyms, and their definitions, used throughout this IRM:

Acronym	Definition
AML	Anti-Money Laundering
ATAT	Abusive Tax Avoidance Transactions
BOD	Business Operating Division
BSA	Bank Secrecy Act
CAS	Computer Audit Specialist
CAU	Caution Upon Contact
CD	Compact Disc
CI	Criminal Investigation
CSO	Communications and Stakeholder Outreach
CTR	Currency Transaction Report
ECS	Exam Case Selection
ERCS	Examination Returns Control System
FATF	Financial Action Task Force
FBAR	Report of Foreign Bank and Financial Reports
FCQ	FinCEN Query
FinCEN	Financial Crimes Enforcement Network
FEA	Fraud Enforcement Advisor
GAO	Government Accountability Office
GMCM	Group Manager Concurrence Meeting
IDRS	Integrated Data Retrieval System
ITG	Indian Tribal Government
LB&I	Large Business & International
LDC	Lead Development Center
MCD	Mutual Commitment Date
MFT	Master File Tax (Code)
MSB	Money Service Business
NBFI	Non-Bank Financial Institution

Acronym	Definition
OFAC	Office of Foreign Asset Control
OEP	Office of Employee Protection
OFE	Office of Fraud Enforcement
PDT	Potentially Dangerous Taxpayer
PMSJ	Precious Metals, Precious Stones, or Jewels
RSM	Report of Foreign Bank and Financial Accounts Report Related Statute Memorandum
SAC	Special Agent in Charge
SAR	Suspicious Activity Report
TEGE	Tax Exempt/Government Entities
TIGTA	Treasury Inspector General for Tax Administration
TIGTA-OI	Treasury Inspector General for Tax Administration - Office of Investigations
TIN	Taxpayer Identification Number
TM	Territory Manager
USC	U.S. Code
W&I	Wage & Investment

4.26.11.1.5
(05-29-2019)
Terms

- (1) The following table contains terms, and their definitions, used throughout this IRM:

Term	Definition
AML Program	A written, risk-based plan, reasonably designed to prevent the business from being used to facilitate money laundering and the financing of terrorism.
BSA Compliance Department	A part of CTR Operations that processes 8300 penalties.
Dummy TIN	TIN used when actual TIN is unknown, unavailable, or will not allow for a proper assessment when multiple locations for a single entity are involved.

Term	Definition
Educational outreach	Contact with a group or entity for the primary purpose of providing information regarding a law and or regulation.

4.26.11.1.6
(05-29-2019)

Related Resources

- (1) The BSA program is required to follow all Servicewide examination procedures and those set forth in SBSE examining process IRMs. However, the following material provides additional information relating to the processing and examination of Form 8300 information returns:

Resource	Title
BSA Exam SharePoint	https://organization.ds.irsnet.gov/sites/SbseSpec/BSA/SitePages/Home.aspx
BSA Policy SharePoint	https://organization.ds.irsnet.gov/sites/SbseFraudBSA/BkSecAct/SitePages/Home.aspx
IRC 7803(a)(3)	Execution of Duties in Accord with Taxpayer Rights
IRM 4.26.10	Form 8300 History and Law
IRM 4.26.12	Examination Techniques for Form 8300 Industries
IRM 4.26.14	Disclosure
IRM 4.26.15	General Program
IRM 20.1.7	Penalty Handbook, Information Return Penalties
Form 8300	Report of Cash Payments Over \$10,000 Received in a Trade or Business
Pub 1	Your Rights as a Taxpayer
Pub 1544	Reporting Cash Payment of Over \$10,000 (Received in a Trade or Business)
Pub 5264	Your Exam Rights - The IRS 8300 Examination Process

4.26.11.2
(05-29-2019)

Form 8300 Authorities

- (1) The IRS has responsibility for implementing and enforcing the civil and criminal provisions of IRC 6050I, Returns Relating to Cash Received in Trade or Business, etc. CI is responsible for investigating criminal violations of the statute. Civil responsibilities include:

- a. Identifying transactions subject to the reporting requirements.
 - b. Determining if Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, was fully and correctly prepared and timely filed, if such a transaction occurred.
 - c. Determining if the required annual statement was furnished to persons required to be named in the Form 8300, if a Form 8300 was required.
 - d. Asserting civil penalties, as appropriate.
- (2) Unless a related statute determination is first made an examination for compliance with IRC 6050I cannot be changed to its Title 31 counterpart, a BSA examination for compliance with 31 USC 5331, Reports Relating to Coins and Currency Received in Nonfinancial Trade or Business. Furthermore, Title 26 information cannot be used to initiate a BSA exam of an entity due to IRC 6103, Confidentiality and Disclosure of Returns and Return Information. See IRM 4.26.14, Disclosure, for related statute determinations.
- (3) Conversely, the information obtained in a Form 8300 examination conducted under Title 31 can be used to determine compliance with IRC 6050I. If a Form 8300 examination is initiated under 31 USC 5331 and other BSA violations are noted, no related statute determination is necessary to examine those other BSA violations.

4.26.11.3
(08-04-2021)
**Overview of Form 8300
Examiner
Responsibilities**

- (1) This section discusses the responsibilities of the BSA examiner when examining Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business. This section applies to examinations for compliance with IRC 6050I, Returns Relating to Cash Received in Trade or Business, etc., and 31 USC 5331, Reports Relating to Coins and Currency Received in Nonfinancial Trade or Business. This IRM section describes the BSA examiner's responsibilities under both Title 26 and Title 31, not the responsibilities of IRS income tax examiners.
- (2) All IRS examiners should be familiar with Form 8300 law which is found in IRM 4.26.10, Form 8300 History and Law. IRS examiners conducting an income tax examination are required to ask about filings of Form 8300 as part of the required filing checks for an examiner. See IRM 4.10.5.8, Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business. If the trade or business regularly engages in cash transactions over \$10,000, and the income tax examiner finds significant violations, the examiner will prepare and send Form 5346, Examination Information Report, to BSA ECS for consideration of a Form 8300 examination. The examiner should notate in the subject line of Form 5346 "Form 5346 general program". Form 5346 should be sent electronically to: **SBSE BSA Info Reports/Referrals*.
- (3) The BSA examiner is responsible for:
- a. Identifying trades or businesses that conduct cash transactions in excess of \$10,000 and forwarding information on newly identified businesses to BSA ECS. Reference the New Entity and SAR Referral Forms User Guide located on the BSA Policy SharePoint at: <https://organization.ds.irsnet.gov/sites/SbseFraudBSA/BkSecAct/SitePages/Home.aspx>.
 - b. Educating trades and businesses about Form 8300 requirements.
 - c. Enforcing compliance with IRC 6050I and 31 USC 5331 by conducting Form 8300 examinations.
 - d. Determining if civil penalties or a criminal referral is appropriate.

- (4) On April 21, 2015, FinCEN delegated authority to examine nonfinancial trades or businesses to the IRS. The delegation of this authority ensures that IRS SB/SE is legally authorized to examine nonfinancial trades or businesses for compliance with the BSA, including Form 8300 requirements (31 USC 5331). Additionally, the delegation enhances IRS's ability to share examination information with FinCEN and other agencies to assist them in detecting and preventing money laundering, terrorist financing, and other financial crimes.
- (5) Form 8300 is a dual-purpose form used for meeting the reporting requirements under both IRC 6050I and 31 USC 5331. For this reason, IRS can conduct a Form 8300 examination under the authority in the IRC, for compliance with IRC 6050I, or a Form 8300 examination under delegated authority from FinCEN, for compliance with 31 USC 5331.
- (6) When a case is identified by BSA ECS for a potential Form 8300 examination, a determination must be made whether to conduct the examination under Title 26 or Title 31 before any IDRS research is performed. There must not be any IDRS research performed on a case that will be examined under Title 31. At the end of the Form 8300 case, the procedures may be different for the two different titles. The procedures for closure when the case is examined under Title 31 generally are covered in IRM 4.26.6, Bank Secrecy Act Examiner Responsibilities, IRM 4.26.7, Bank Secrecy Act Penalties, and IRM 4.26.8, Bank Secrecy Act Special Procedures.
- (7) When a financial institution within the Service's Title 31 examination authority is subject to both Title 26 and Title 31 requirements (as when a Form 8300 filer also has an Anti-Money Laundering program requirement under Title 31), the examination must be started under Title 31 for compliance with 31 USC 5331 and the Title 31 regulation requiring the filing of Form 8300, 31 CFR 1010.330, Reports relating to currency in excess of \$10,000 received in a trade or business. The Form 8300 lead sheets are designed to work under either title. Additional information is available in IRM 4.26.11.12.9.
- (8) Examiners should check the BSA Policy SharePoint at <https://organization.ds.irsnet.gov/sites/SbseFraudBSA/BkSecAct/SitePages/Home.aspx> for updates to procedures, and the IRS Forms/Pubs/Products Repository for changes to forms or letters.
- (9) Field and Specialty Exam Quality supports the Embedded Quality (EQ) program for the BSA Form 8300 examination program in SB/SE. EQ is designed to create a connection between individual performance and organizational goals. This connection is achieved through a common set of attributes that both national quality reviewers and BSA managers use to rate the quality of case work. Policies and procedures relating to the national embedded quality review process are in IRM 4.2.8, Guidelines for SB/SE National Quality Review.
- (1) Any business, other than financial institutions and certain casinos, that is required to file CTRs under Title 31, may be subject to the Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, reporting requirement when it receives over \$10,000 in cash. See IRM 4.26.10, Form 8300 History and Law, for the Form 8300 requirements in detail.

4.26.11.4
(05-29-2019)
Identification

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- (3) All newly identified entities must be forwarded to both BSA ECS group managers.
- (4) Before assignment to the field, BSA ECS builds the case and establishes a Title 26 case on ERCS. All Title 26 records on ERCS will have an MFT of PX and all time is applied to the PX record. The field groups will receive a case file from BSA ECS.
- (5) If the examiner needs to expand the scope of an examination and add another tax period, the group manager will contact the BSA ECS Form 8300 Coordinator to establish the new record on ERCS. The group manager will provide case information to the coordinator along with a reason for the expansion.
- (6) If the examiner determines the controlling entity has multiple locations which need to be examined but all entities use the same TIN for reporting purposes, the group manager needs to request a Dummy TIN for the added locations.
 - a. The request for the Dummy TIN must be forwarded through the Group Manager to the BSA ECS Form 8300 Coordinator.
 - b. The group manager must provide the information for the original TIN and all pertinent information for the Dummy TIN, including address.
 - c. If the request is approved, the BSA ECS Form 8300 Coordinator will add the related locations to ERCS and assign the Dummy TIN to the group.
 - d. The group is responsible for preparing the physical case file for the Dummy TIN.
 - e. When closing these Dummy TIN cases, the Forms 8278, Assessment and Abatement of Miscellaneous Civil Penalties, and Forms 3198, Special Handling Notice for Examination Case Processing, need to clearly reference both the Dummy TIN for ERCS purposes only and the correct TIN for assessment. The correct TIN will be annotated on the top of each form to identify the actual taxpayer and the Dummy TIN will be referenced in the "Remarks" or "Other" section.

4.26.11.5
(05-29-2019)
Education

- (1) Education is an integral part of each Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, examination.
- (2) The examiner is responsible for educating trades or businesses about the preparation of Form 8300 and the reporting and notification requirements of IRC 6050I, Returns Relating to Cash Received in Trade or Business, etc. The prohibition of structuring should also be explained.
- (3) All requests for educational outreach to industry groups or large audiences (and for entities not under examination) must first be forwarded through the BSA group manager to the CSO.

4.26.11.5.1
(05-29-2019)

Education Topics

- (1) Education is an ongoing process and a critical part of a Form 8300. Based on responses received from the business during the initial interview, the examiner should discuss:
 - a. Requirements to file Form 8300 and to furnish an annual statement to persons required to be named on Form 8300. See IRM 4.26.10, Form 8300 History and Law.
 - b. AML program requirements, where applicable. See IRM 4.26.5, Bank Secrecy Act History and Law. This is typically the case where the entity has an AML program requirement under Title 31.
 - c. Records required to be maintained. See IRM 4.26.10.
 - d. Civil and criminal penalties. See IRM 4.26.10.
 - e. Prohibited structuring transactions. See IRM 4.26.13, Structuring.
- (2) The examiner should offer the trade or business:
 - a. Form 8300.
 - b. Pub 1544, Reporting Cash Payments of Over \$10,000 (Received in a Trade or Business). Pub 1544 is available in English and Spanish.
 - c. Pub 1, Your Rights as a Taxpayer, if the examination is conducted under Title 26.
 - d. Pub 5264, Your Exam Rights – The IRS 8300 Examination Process.
 - e. Advise that additional information can be obtained at <https://www.irs.gov/>.

4.26.11.5.2
(05-29-2019)

Education Documentation

- (1) All educational outreach activities must be documented in the workpapers. This information should include:
 - a. The name of the person(s) interviewed and informed of Form 8300.
 - b. The date the trade or business was informed of the reporting requirements of IRC 6050I and 31 USC 5331, Reports Relating to Coins and Currency Received in Nonfinancial Trade or Business.
 - c. A statement that the person(s) was informed about any potential civil and criminal penalties which may be asserted.
 - d. What requirements were explained and the title of any publications which were given to the entity.
- (2) During this time, the following information should also be obtained:
 - a. The TIN of the business
 - b. Name and titles of the officers/employees responsible for filing the Form 8300
 - c. Information on internal controls

4.26.11.6
(05-29-2019)

Lead Sheets and Workpapers

- (1) This section provides guidelines for the development of lead sheet and workpaper content and for workpaper and case file organization. These guidelines are provided to promote quality and consistency in the preparation and completion of lead sheets, workpapers, and case files.
- (2) The examiner should electronically prepare lead sheets and workpapers using the current Form 8300 Lead Sheet Package available on the BSA Policy SharePoint.
- (3) Lead sheets and workpapers serve four basic purposes:

- a. Provide a framework to plan the examination, including the analysis of internal documents, and set the scope of the exam.
 - b. Document the evidence gathered, audit steps and techniques applied, tests performed, and analyses conducted during the audit process.
 - c. Support the factual and technical conclusions.
 - d. Provide a basis for review by management and other stakeholders (such as, TIGTA reviewers and Counsel). Well prepared workpapers facilitate review by numerous customers.
- (4) Lead sheets and supporting workpapers constitute official government documents. They must be professional and objective in tone and language as well as free of unwarranted opinion and bias.
- (5) Examiners must contemporaneously update the lead sheets and supporting workpapers during the audit. As issues are resolved, lead sheets and workpapers should be finalized.
- (6) Anyone reviewing the case file must be able to follow the audit steps in the workpapers to arrive at the same conclusions reflected on the lead sheet. Conclusions not supported by the workpapers will not be sustained in Appeals or in court.
- (7) Lead sheets and supporting workpapers:
 - a. Reflect the evidence gathered, explanations, analyses and conclusions reached.
 - b. Effectively explain the issues addressed during the audit.
 - c. Provide the evidence to reflect the scope and depth of the audit.
 - d. Support the determinations reached.
 - e. Reflect the audit trail, allowing a subsequent reviewer to trace a transaction or event and related information from beginning to end.

4.26.11.6.1
(05-29-2019)
Lead Sheets

- (1) Lead sheets are a summary and index of the workpapers. They should be as brief as possible. Detailed calculations and descriptions should be contained in the workpapers.
- (2) Lead sheets contain the general audit steps required by the IRM. Specific audit steps are left to the professional judgment of the examiner and must be documented in the workpapers. Each lead sheet is self-contained; it includes all facts, law, conclusions, and entity position for that issue.
- (3) Lead sheets for the review of AML compliance programs are in the Title 31 Lead Sheets Folder. Reviews of AML programs are done during Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, examinations conducted under 31 USC 5331, Reports Relating to Coins and Currency Received in Nonfinancial Trade or Business, not during Form 8300 examinations that are conducted under Title 26 (that is, not during examinations to check for compliance with IRC 6050I, Returns Relating to Cash Received in Trade or Business, etc.
- (4) Administrative and issue lead sheets serve as an index and summary for supporting workpapers and provide the following benefits:
 - a. Consistent format, making the case file easier to review.
 - b. Streamline the audit process.

- c. Include audit steps that assist the examiner through issues with which they are unfamiliar.
- d. Allow audit steps to be added, modified, or eliminated.

- (5) IRM 4.10.9.6, Lead Sheets, has information that applies to all SB/SE examiners.

4.26.11.6.1.1
(05-29-2019)

Administrative Lead Sheets

- (1) Administrative lead sheets address the administrative items requiring comment by the examiner. They are also used as guides to assist the examiner with properly completing the audit steps.

Caution: If a lead sheet contains check boxes, they should be used to notate the applicability of an action taken. Supporting documentation to explain the action taken should be included.

- (2) The administrative lead sheets listed below are mandatory for BSA examinations:

- a. 4318 - Form 4318, Exam Workpaper Index
- b. 100 - Form 9984, Examining Officer's Activity Record
- c. 105 - Administrative Plan to Close Lead Sheet
- d. 110 - Pre-plan analysis
- e. 120 - Request to Expand Scope/Depth (mandatory if scope/depth is expanded)
- f. 125 - Group Manager Concurrence Meeting (if GMCM criteria met, then mandatory for GS-12 and below)
- g. 130 - Initial Entity Contact Check Sheet
- h. 135 - Initial Appointment Agenda
- i. 140 - Policies, Procedures, and Internal Controls
- j. 400 - Penalty Approval Form - (mandatory if the examiner considers penalties)
- k. 405 - Fraud Awareness Lead Sheet - (mandatory if penalties are assessed)
- l. 415 - Reasonable Cause Check Sheet - Form 8300

- (3) Lead sheets identified on the Form 4318 where a "check box" is provided, do not need to be printed in specific situations.

- a. 120 - Request to Expand Scope/Depth – If the scope/depth of the examination was not expanded, examiners need to "X" the box on Form 4318 and initial.
- b. 125 - Group Manager Concurrence Meeting – if the examination was closed prior to the time a group manager concurrence meeting was required, examiners need to "X" the box on Form 4318 and initial.
- c. 400 – Penalty Approval Form – when no violations were identified and a "No Issue" letter is appropriate, examiners need to "X" the box and initial.
- d. 405 – Fraud Awareness Lead Sheet – if fraud is not indicated, examiners need to "X" the box and initial.

4.26.11.6.1.2
(05-29-2019)

Issue Lead Sheets

- (1) Issue lead sheets are used to:

- a. Document the adjustments, conclusion, audit steps, facts, law, and taxpayer's position for examined issues, and
- b. Index and reference supporting workpapers.

- (2) Issue-specific lead sheets are designed with suggested audit steps that are applicable to the issue. They are not intended to be all-inclusive nor are they mandatory steps to be followed. Judgment should be used in selecting the techniques that apply to each business. Examiners should customize the audit steps for their specific case.
- (3) An issue lead sheet is required for all issues. If an issue does not have a specific lead sheet, a generic lead sheet must be used.
- (4) Issue lead sheets must reflect the issue name, adjustments (when applicable), conclusion, audit steps, facts, law, and taxpayer's position in the body. This information should be presented in a logical order, so reviewers can easily determine what audit steps and actions were taken to support the conclusion.
 - a. Adjustments -- Document the adjustments resulting from the audit. The lead sheet will detail the "8300's required", "8300's filed", and "8300's delinquent".
 - b. Conclusion -- Document a conclusion summarizing the disposition of each issue.
 - c. Audit Steps -- Document references to the supporting workpapers that contain the procedures and the audit techniques performed during the audit.
 - d. Facts -- Document the facts upon which the adjustment is based. The statement should be in narrative form. The facts must be relevant to the issue and should be stated accurately and objectively.
 - e. Law -- Document the applicable law relied upon to resolve the issue (both no change and adjusted issues).
 - f. Entity's Position -- Document the entity's position, if applicable.

4.26.11.6.2
(05-29-2019)
Workpapers

- (1) Workpapers are required in every examination case. Workpapers should include all evidence gathered by the examiner to show the work performed, audit techniques followed, law relied on, and conclusions reached. Supporting workpapers must be prepared when necessary to fully document all issues and conclusions. These supporting workpapers must be attached to the appropriate lead sheet.
- (2) Workpapers support the information included on the lead sheets and, when applicable, should reflect:
 - a. What the examiner requested, reviewed, and inspected.
 - b. Specific items examined, verified and the conclusions reached.
 - c. Questions or items raised during the audit and the conclusions reached.
 - d. Photocopies of relevant documents secured from the taxpayer and/or representative.
 - e. Internal source documents.
 - f. Issue-specific correspondence from the taxpayer and/or representative.
 - g. Ensure photocopied and scanned workpapers and other documentation are legible.
- (3) At a minimum, the workpapers should explain why the issue was examined, how a sample size was determined (when applicable), and what documents were requested and inspected.

- (4) Many customers will use the case file; therefore, the quality and legibility of the workpapers is very important. They should provide subsequent examiners a clear audit trail and scope of the prior examination.
 - a. The workpapers must be neat, concise, well organized, and provide an adequate audit trail.
 - b. The workpapers must fully disclose the scope, depth, time-period covered, audit steps and techniques used, the tests performed, and information obtained. They must contain the evidence to support the technical and factual conclusions.
 - c. Form 9984, Examiner's Activity Record, must briefly summarize each action taken on the case.
 - d. Workpapers must be properly numbered in the footer and indexed to the correct lead sheet.
 - (5) Workpapers are the link between examination work and the examination report.
 - (6) IRM 4.10.9.7, Workpapers, has information that applies to all SB/SE examiners.
 - (7) Anyone reviewing the case file must be able to follow the audit steps in the workpapers to arrive at the same conclusion reflected on the lead sheet. Conclusions not supported by the workpapers will not be sustained in Appeals or in court.
 - (8) The workpaper tools numbering system is:
 - a. 100s - Administrative and Planning
 - b. 200s - Memoranda
 - c. 300s - Form 8300 Issues
 - d. 400s - Form 8300 Penalties
 - e. 500s - Miscellaneous
 - (9) A summary memorandum must be prepared and labeled #215 for the case file detailing the results of the Form 8300 examination. The summary memorandum must briefly summarize the facts and circumstances concerning violations identified and the steps the trade or business has agreed to take to correct the violations.
 - (10) A workpaper reference number is required when comments or calculations are made on a separate lead sheet or workpaper.
-
- (1) The first step when completing the pre-plan is to create the Form 4318, Exam Workpaper Index, found in the Lead Sheet Package.
 - (2) The primary purpose of Form 4318 is to serve as a table of contents for all documentation connected with the case file.
 - (3) Lead sheets identified on the Form 4318 where a "check box" is provided, do not need to be printed in specific situations.

4.26.11.6.2.1
(05-29-2019)
**Form 4318 Exam
Workpaper Index Form
8300**

4.26.11.6.2.2
(05-29-2019)

**Form 9984 Activity
Record and ERCS Time
Codes**

- (1) Form 9984, Examining Officer Activity Record, is used to record all case activity as well as the details of contacts with the business.
- (2) It is extremely important for the examiner to document what was discussed, noting the names of the specific persons contacted and the date(s) of those discussions.
- (3) The activity record must correlate with recorded ERCS time. IRM 4.9.1, Examination Technical Time Reporting System, Outline of System, has the complete list of time codes and explanations. ERCS leave codes are also available in the "Codes Chapter" of the ERCS Group Handbook.

4.26.11.7
(05-29-2019)

**Planning the
Examination**

- (1) In developing the examination plan, the examiner will prepare and complete, to the extent possible, the mandatory lead sheets. Mandatory lead sheets are identified in the Quick Reference Guide to Tools found on the BSA Policy SharePoint and are indicated on the Form 4318, Examination Workpapers Index.
- (2) Lead sheets for planning the examination must be used. They include:
 - a. Workpaper 105, Administrative Plan to Close
 - b. Workpaper 110, Pre-Plan Analysis
- (3) The examiner may create other lead sheets as necessary. Examination steps must be tailored for the business and the depth of the issue. Examination steps can be adjusted after the initial appointment.

4.26.11.7.1
(05-29-2019)

**Administrative Plan to
Close Lead Sheet #105**

- (1) When planning the examination, use Lead Sheet # 105, Administrative Plan to Close Lead Sheet, which outlines the steps in the Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, examination. Those steps are:
 - a. Pre-plan
 - b. Securing Power of Attorney
 - c. Initial Contact
 - d. Examination Process
 - e. Referrals/Notification
 - f. Case Closing
 - g. Additional Items
- (2) These steps on the Administrative Plan to Close Lead Sheet are designed to:
 - a. Keep the examiner focused on a plan to close.
 - b. Keep the examiner organized.
 - c. Let the examiner know what the next steps are.
 - d. List all the steps that need to be completed.
 - e. Make sure the examiner has completed the steps in each section before proceeding to the next one.
 - f. Ensure that the examiner is prepared to go to the next step.
- (3) The first section on the Administrative Plan to Close Lead Sheet is pre-plan.

4.26.11.7.2
(05-29-2019)
Pre-Plan Analysis Lead Sheet #110

- (1) A quality Form 8300 examination begins with a thorough pre-plan. The examiner should follow the steps outlined in Lead Sheet #110, Pre-Plan Analysis, which can be found in the Lead Sheet Package. The techniques presented in lead sheet #110 are intended to be used as a guide and are not all-inclusive.
- (2) Lead Sheet #110 guides the examiner through the exam pre-plan. In conducting the exam pre-plan, the examiner will:
 - a. Set up the file with the required workpapers, including the Form 9984 and the Form 4318.
 - b. Review and analyze case-built materials, FinCEN Query (FCQ), and IDRS. Ensure that SARs are properly protected. See IRM 4.26.11.7.3.5.
 - c. Review the historical material provided. See IRM 4.26.11.7.3.4.
 - d. Read IRM 4.26.12, Examination Techniques for Form 8300 Industries, to review the exam techniques for the entity under examination.
 - e. Determine the initial scope and depth of the exam. See IRM 4.26.11.7.3.1. The scope and depth may be adjusted based on a preliminary risk assessment using the information in the pre-plan.
 - f. Prepare initial interview notes tailored for the entity and the services provided.
 - g. Develop the examination plan.

4.26.11.7.3
(08-04-2021)
Pre-Plan Activities

- (1) Review of income tax return data, via IDRS, should be conducted if the Form 8300 examination is conducted under Title 26. The review should include the following steps:
 - a. Review IDRS case file information prior to any other examination steps. The BSA ECS Form 8300 Coordinator checks IDRS when building every Title 26 Form 8300 case to determine if whether there is a CI freeze code or if case is controlled by LB&I, SB/SE Examination, W&I or TE/GE.
 - b. Examiners must review IDRS printouts, included in the case file, prior to starting the examination. Examiner needs to ensure that there are no assignments controlled by any of the Business Operating Divisions (BOD) and that there is no CI freeze code.
- (2) IDRS identifies control by BOD code and Client code in the INOLES printout. Freeze codes can be identified in the BMFOLI printout. Freeze codes may prevent the initiation of an examination.
- (3) Criminal Investigations (CI) - If CI freeze code "Z" is identified in the IDRS printout (BMFOLI), examiner must inform their group manager before continuing the examination. Normally, cases with the "Z" freeze are not built by ECS and sent to the group. The status of the case may change. To confirm if the status has changed on Title 26 exams, a new BMFOLI can be pulled to determine if a "Z" freeze is present.

Reminder: If the case remains in status 10 for six months or longer, a new IDRS printout should be requested to ensure there is no "Z" freeze code present.

- (4) Large Business & International (LB&I) If IDRS (BMFOLI) shows an (-L) Freeze code, examiner needs to also look at the IDRS (AMDISA) printout to determine current status of the case. Examiner may see one of the following codes:

- 06 – Awaiting Classification
- 08 – Selected
- 10 – Assigned
- 12 – Active
- 90 – Closed

- (5) If (-L) freeze code is identified and the case is in status 10 or 12, the examiner must notify their manager. BSA group manager will then notify the applicable LB&I team manager five days prior to initiating the BSA Form 8300 examination. If BSA group manager does not hear back from LB&I within 5 days, the BSA manager will notify examiner and examiner will notate in the activity record the attempt to contact. BSA making contact to LB&I is made as a courtesy. LB&I likely will not be working the same examination period as BSA. The examiner may continue with their BSA examination.
- (6) If contact is made, LB&I Analyst and SBSE Specialty Exam BSA Policy 8300 Analyst will be the designated contacts regarding general questions about Form 8300 examinations conducted on LB&I controlled entities.

Note: Expanded Audit Package training was provided to examiners' outside of BSA providing the necessary training to work simple Form 8300 compliance issues. Complex Form 8300 issues are brought to the examiner's manager attention for a determination to be made whether Form 8300 issues will be worked by group or referred to BSA.

- (7) If there is a conflict between LB&I and BSA IRM sections, the BSA IRM section will supersede the LB&I IRM. If the LB&I Case Manager and SBSE Specialty Exam BSA Group Manager are unable to reach a mutually agreeable solution to any issues concerning IRC 6050I activities, the disputed issue will be submitted to the next higher level of management in each function for resolution.
- (8) Indian Tribal Government (ITG): Review IDRS to determine if the entity is an ITG entity. ITG entities can be identified on IDRS by BOD code "TE" and client code "I". Examiners must notify their manager prior to initiating any Form 8300 examination on an ITG entity or any other entity if known to be operating on tribal reservations or tribal lands. Managers are required to utilize the Specialist Referral System (SRS) prior to initiating any BSA examination activity for entities owned by Indian Tribal Governments. The ITG manager will assist examiners in addressing proper protocol for contacting (appointment letter addressee), interacting and executing agreements with tribal government officials and representatives. ITG field personnel, with BSA staff agreement, may assist examiners. The type of assistance may include contacting the appropriate tribal representative regarding any pending actions and accompanying the examiner on visits to the tribe. ITG field personnel will not participate in the actual examination unless requested to do so by the examiner.

Note: The Office of Indian Tribal Governments has jurisdiction over tribal owned entities only. All potential BSA matters relating to individuals on or near Indian lands, or business not wholly owned by tribal governments, remain within the sole jurisdiction of the Chief, BSA Filed Examination. However, BSA managers will notify the applicable ITG manager in advance of any contact involving a non-tribal entity known to be located on an Indian reser-

vation or on tribal lands. ITG will provide input regarding any potential political or security issues. ITG may assist in facilitating any resolution of issues upon request of the BSA manager. Refer to IRM 4.86.1.6, Coordinating with Other Operating Divisions and Business Units, for additional information.

- (9) A case being worked under Title 31 may have dual requirements under Title 31 and Title 26. If a Title 26 issue is identified during the Title 31 exam (8300 filing requirements), the examiner would cite the Form 8300 violation on the Letter 1112 and close out the case. The group manager would then request ECS to build the same case under Title 26 to capture the violations and associated penalties for non-compliance of IRC 6050I. In these type of cases, the IRS has compliance obligations for both Title 31 and Title 26.

Caution: IDRS must not be reviewed as a part of a Title 31 Form 8300 exam.

- (10) The examiner will review the historical material contained in the case file noting names of relevant individuals and related entities, prior examination findings, and the date of the last IRS contact.
- (11) The examiner will review and analyze data from the FinCEN Query (FCQ) system to determine the following:
- a. The Form 8300 filing history of the business.
 - b. If any Forms 8300 were filed on the business or its owner(s). Check if the suspicious box was checked on the Forms 8300 filed. Some filers may file the Form 8300 even if the cash received was not greater than \$10,000 to advise that the transaction appeared to be suspicious.
 - c. CTRs filed on the business or its owners may reveal substantial cash deposits by the business. This indicates that the business might be receiving more than \$10,000 in cash and may have Form 8300 filing requirements.
 - d. SARs filed on or by the business may indicate that a Form 8300 should have been filed and/or describe nefarious activities related to the business, or its owners. SARs can be used in a Form 8300 examination. SARs are treated as confidential information related to a case and must be protected from unauthorized disclosure. Also check for SARs filed on the owners and employees.

Note: SARs filed on the entity, including any SAR information, cannot be revealed to, or discussed with the entity under examination. Refer to IRM 4.26.11.7.3.5, Suspicious Activity Reports (SARs).

- (12) The examiner will review IRC 4.26.10, Form 8300 History and Law, and IRM 4.26.12, Examination Techniques for Form 8300 Industries, for additional Form 8300 examination methods and techniques.
- (13) The examiner will conduct additional research as needed, such as the internet and contracted research sites. The examiner should become familiar with the common industry practices of the trade or business prior to the start of a Form 8300 examination. Reviewing the business website and electronic trade publications is recommended.
- (14) The examiner will utilize the information found in IRM 4.26.11.7.3.1 to determine the scope and depth of the examination. The examiner will, as part

of the pre-contact analysis, prepare a preliminary risk analysis following the steps detailed in IRM 4.26.11.7.3.3.

- (15) The examiner will develop and document an examination plan tailored to the entity to be examined. The mandatory lead sheets will be utilized by the examiner to develop the examination. The examination plan may change as the examination is conducted. Adjustments to the initial plan may be made after the initial appointment as additional information is secured.
- (16) During the pre-plan development, the examiner will request that Form 8300 correspondence from BSA Compliance Department, Detroit be stopped for the entity to be examined. This is to ensure CTR Ops does not send out any notices while a field examination is in process. The form used to stop correspondence is located on the BSA Policy SharePoint located at: <https://organization.ds.irsnet.gov/sites/SbseFraudBSA/BkSecAct/8300/Forms%20Documents/Forms/AllItems.aspx>
- (17) Determine the scope and depth of the examination. See IRM 4.26.11.7.3.1. Prepare a preliminary risk analysis using the information available in the pre-plan. See IRM 4.26.11.7.3.3.
- (18) Develop an initial examination plan. This involves:
 - a. Preparation and completion, to the extent possible, of the mandatory lead sheets.
 - b. The examiner should tailor the examination steps to the entity under examination. The examination plan will change as the case develops. Adjustments to the initial plan can be made after the initial appointment.

4.26.11.7.3.1 (08-04-2021) Scope and Depth

- (1) The scope and depth of each Form 8300 examination will depend upon the facts and circumstances of each case. A top-down examination should be used by evaluating the entity's adequacy and effectiveness of established internal controls. It should be sufficient to assure the examiner that IRC 6050I reporting requirements have been fulfilled and to determine if the procedures and internal controls in place for the computer and manual systems are reasonable to ensure compliance.
- (2) During the examination, the examiner will re-evaluate and adjust the scope and depth of the examination, if necessary.

4.26.11.7.3.2 (08-04-2021) Examination Period

- (1) The Form 8300 examination period is the most current 12-month calendar year. Any exceptions to this must be approved by the group manager and documented in the case activity record.
 - a. The BSA ECS Form 8300 Coordinator will assign the examination period for the prior year. For example, cases assigned to the groups in calendar year 2021 will have an examination period for 2020. Each year after February 1 of the current year, the group is responsible for updating unstarted cases. For example, inventory cases in status 10 with a 201912 tax period should be updated to tax period of 202012, February 1, 2021.
 - b. For Form 8300 cases under Title 26, IDRS must be reviewed to ensure there are no CI freezes and to verify that the entity is still on the Master-file.

- c. The case history must be annotated to indicate the case was updated to the new tax period and new IDRS must be pulled, to ensure no freeze codes are present for the updated period.
- (2) By setting the examination period at twelve months, the entity will have all records available for the examiner to make an appropriate scope determination, thus not delaying the examination for additional records to expand the scope.
- (3) Within the calendar year, examiners should select six months for an in-depth examination. The six months need not be the most current six months, nor do the months need to be consecutive. The selection of the six months should depend on risk as determined by the examiner. Periods of risk may include times of high volume or events that increase risk.
- (4) If, after the interview, tour of the business, and review of records for the selected six months, it appears that:
 - a. The reportable transactions are minimal and there are no deficiencies in the internal controls resulting in errors on any filed Forms 8300 or there are not any unfiled Forms 8300, the case can be closed with Letter 4280, Form 8300 No Issue Letter, for examinations under Title 26.
 - b. The reportable transactions are not minimal or deficiencies in internal controls have resulted in incorrect or unfiled Forms 8300, the examiner should examine the records for the remainder of the full 12-month examination period.
- (5) The scope and depth of the examination may be expanded if unusual currency flows, high volume periods, or a period related to certain known events are identified. The examiner must discuss expanding the scope to a period beyond the most current 12-month calendar year with the group manager and the examiner must complete the Risk Analysis Workpaper, W/P 120.
- (6) Regardless of the period initially selected, the scope and depth should be expanded if reporting violations or material weaknesses in internal controls are found. Examiners should contact their manager for assistance.
- (7) Only apparent violations, which have been detected during the Form 8300 examination, are considered. At no time should the examiner conclude that additional violations have occurred in other periods without expanding the scope of the Form 8300 examination.
- (8) If a trade or business has several branches or locations, examiners must consult with their managers to consider expanding the scope of the examination to include additional locations or branches, by reclassifying the examination as a headquarters examination. Requests to work additional locations or branches must be coordinated through the group manager. See IRM 4.26.11.4, for information on adding dummy TINs.
- (9) The interview, tour of the business, and records inspected must be solely for the Form 8300 examination. The examiner should not determine if the trade or business has filed other tax returns. This type inquiry is beyond the scope of a Form 8300 examination. Any unsolicited potential income tax issues identified during the exam should be referred to Exam using Form 5346.
- (10) If a transaction occurs during the last two weeks of December, so that the 15-day filing period extends into January of the next year, a new case does not

need to be established on ERCS for the January filing. The filing obligation relates to the transactions in the year examined.

- (11) If the business is required to file a Form 8300, the scope of the Form 8300 examination under Title 26 must include the requirement that the filer provide an annual statement to each person required to be named on the Form 8300. Because notification is not due until January 31st of the following year, examination for compliance with notification requirements will extend into that year. Audit steps to determine if the business is compliant with the annual notification statement requirements does not require establishing a new year on ERCS. Notification relates back to the year examined. There is no customer notification requirement under 31 USC 5331, Reports Relating to Coins and Currency Received in Nonfinancial Trade or Business.

4.26.11.7.3.3
(08-04-2021)
Risk Assessment

- (1) The examiner will assess the risk of noncompliance at various stages throughout the Form 8300 examination. Risk assessments affect the examiner's decisions on scope and depth. Risk assessments occur beginning with the initial examination plan and again when the examiner is considering expanding or contracting the examination. Each update to the risk assessment should be clearly documented.
- a. The first risk assessment occurs with the initial plan to determine the scope and depth of the examination. The initial risk assessment should be made based on the information available at the time of the pre-plan. IRM 4.26.12, Examination Techniques for Form 8300 Industries, provides Form 8300 examination techniques by type of business, including risks by business type. This information should be reviewed during the pre-plan to assist in the initial risk assessment. The risk assessment will be revised throughout the examination process.
- b. The initial interview notes should be drafted, during the pre-plan, and tailored to the information in the preliminary risk assessment.
- (2) To the extent known, the risk assessment should address:
- a. Location
- b. Customers
- c. Products and services
- d. Employees and agency arrangements
- e. Policies and procedures
- f. Any relevant laws and regulations
- (3) The examiner should evaluate the entity's system of internal controls (including internal monitoring) and its employee training to determine if they are adequate for reasonably ensuring compliance with Form 8300 requirements. If adequate, the transaction testing period could be limited.

4.26.11.7.3.4
(08-04-2021)
Other Pre-Plan Activities

- (1) Examiners should review the historical case file of any prior examination. If the prior examination resulted in penalties, it is important to understand the underlying reason and what the business stated it would do to correct the deficiencies going forward. This decision and reasoning must be documented in the activity record or in a relevant workpaper. It must also be documented on the Pre-Plan Analysis Lead Sheet, #110, if the file is not requested at the time of the pre-plan.

- a. The BSA ECS Form 8300 Coordinator will notate the disposition and tax period of prior examinations on the classification sheet. A copy of a historical file is included for examinations requesting follow-up.
- b. If the historical case file is not included, the examiner should request a copy of closing documents from the business.
- c. If the closing documents are not available from the entity under examination, the examiner should request the historical case file from the BSA Compliance Department, Detroit. Information for requesting cases from Detroit is available on the BSA Policy SharePoint. The following information should be provided (if available):

- Type of Case - Title 31 or Title 26 Form 8300
- Case control number
- Business Name and/or DBA
- EIN or Social Security Number
- Street Address, City, State, Zip
- Closed Date (if known)
- Requester Name
- Requester Address
- Requester Telephone

- (2) For the prior examinations that were closed as “No Issue”, the examiner will determine, during the current examination, if requesting the prior case file is warranted.
- (3) If the decision not to order the historical case file was made during the pre-plan, but facts are later developed during the examination warranting a need to review the historical case file, the examiner will document the relevant workpaper. For example, the historical case file would be needed if the current examination will be referred to either CI or FinCEN.
- (4) When planning a visit to a Federal District Court for a Form 8300 court clerk bail bond examination, the examiner will notify the SB/SE Specialty Exam Policy, BSA Policy Program Manager, sixty (60) days prior to a planned visit. This will allow time for coordination with the Administrative Office of Federal Courts’ Audit Branch.

4.26.11.7.3.5
(05-29-2019)
**Suspicious Activity
Reports (SARs)**

- (1) Under a Memorandum of Understanding signed September 24, 2010, FinCEN authorized electronic access to SARs for IRS employees for Title 26 civil tax purposes. This includes Form 8300 examinations conducted under Title 26.
- (2) Electronic access to SARs is limited to employees selected for SAR access and trained in SAR use and security. These employees are subject to an audit trail review.
- (3) Once SAR information is secured for Title 26 compliance purposes, dissemination of that SAR information is subject to both Title 31 and Title 26 disclosure restrictions. Use of SAR information is subject to UNAX guidelines and must only be made in connection with specific and assigned tax administration matters, such as a Form 8300 examination under Title 26 or Title 31.
- (4) SARs cannot be revealed to or discussed with the entity under examination unless they were filed by the entity. Refer to IRM 4.26.4, FinCEN Query (FCQ).

- (5) When using SARs and SAR data the following procedures must be followed to protect the SARs and SAR data. At a minimum:
 - a. Attach Document Other Gov TD F 15-05.11, Sensitive but Unclassified (SBU) Cover Sheet, to the outside of the file.
 - b. Keep all SARs and SAR information inside a sealed confidential envelope. This includes both SARs filed on the case subject and SARs filed by the case subject.
 - c. The activity record or case history should not reveal that SARs and/or SAR information exists. The employee can refer to the SAR as a “confidential informant” as the information source in workpapers or in the case file history and note the information in the confidential envelope.
 - d. If workpapers or the case file reference the SAR or information derived from a SAR, the workpapers and case file history must also be maintained in the confidential envelope.
 - e. Upon advice of Counsel and the Disclosure Office, employees must respond to public inquiries on how information contained in a SAR became known by replying: “I cannot disclose that information. The authority to withhold that information is contained in IRC 6103(e)(7)”, Return Information.
 - f. When closing the case, place the sealed confidential envelope inside the case file on top of all other documents.
- (6) For a full discussion of disclosure considerations when working with SARs, see IRM 4.26.14, Disclosure.

4.26.11.8
(08-04-2021)

Initial Contact: Overview

- (1) The **initial contact** is the first contact with the entity to be examined. All initial contacts must be made by mail using approved form letters. Examiners are not to contact the business until 14 calendar days have passed after mailing the appointment letter. If the business contacts the examiner before the 14 calendar days are up, the examiner may discuss the case at that time.
 - (2) The purpose of the initial contact is to:
 - a. Notify the entity of the examination, and
 - b. schedule the initial appointment.
 - (3) The pre-contact analysis must be conducted prior to mailing the initial contact letter to the entity so the examiner is knowledgeable about the business.
 - (4) Examiners must document any contact or efforts to contact the business on Form 9984, Examining Officer’s Activity Record.
 - (5) When returning telephone calls from businesses or representatives, examiners must not attempt contacts before 8:00 a.m. or after 6:00 p.m. (taxpayer’s time zone).
- Note:** Generally, contacts should be made during the normal business hours of 8:00 a.m. to 6:00 p.m. (taxpayer’s time zone).
- (6) See IRM 4.10.2.8, Initial Contact: Overview, for additional information on initial contacts.

4.26.11.8.1
(08-04-2021)

**Lead Sheet #130, Initial
Entity Contact Check
Sheet**

- (1) After the pre-plan, the examiner will utilize Lead Sheet #130, Initial 8300 Entity Contact Check Sheet.
- (2) The examiner must use the Initial 8300 Entity Contact Check Sheet when:
 - a. Talking to a person responsible for entity's Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, compliance on the phone for the first time.
 - b. Preparing and mailing the appointment letter.
- (3) This workpaper reminds the examiner to:
 - a. Provide the examiner and manager contact information and examiner identification information.
 - b. Confirm the ownership, EIN or SSN of the business, and current address of the business.
 - c. Advise the business that the scope is limited to compliance with IRC 6050I, Returns Relating to Cash Received in Trade or Business, etc., not an income tax examination.
 - d. Discuss the examination process.
 - e. Ask about related entities or locations.
 - f. Ask about the types of books and records, their location, and availability.
 - g. Ask whether the entity will have a POA representative. If so, Form 2848, Power of Attorney and Declaration of Representative, must be provided. Form 2848 must be correctly prepared for a Form 8300 examination. Ensure you provide specific instructions on how the form must be completed.
 - h. Schedule the initial appointment, confirming date, time and location, and discuss the business' role in scheduling the examination.
 - i. Discuss the initial appointment agenda, the need for a tour of the business, and availability of key personnel for an interview.
 - j. Discuss availability of workspace and availability of the items requested in the initial Form 4564.
 - k. Conduct the Form 8300 examination at the place of business.
 - l. Address any concerns of the business. Advise the entity that the IRS might use the information from records for any tax matter permitted by the Internal Revenue Code.

4.26.11.8.2
(08-04-2021)

Making Initial Contact

- (1) The initial contact for a Form 8300 compliance examination must be made by mailing to the business entity Letter 2277, Form 8300 Appointment Letter, with the scheduled date and time for the examination.

Reminder: The examiner is not to make an initial examination contact via telephone.

- (2) The following documents must be mailed to the business with the appointment letter:
 - Form 8300
 - Form 4564, Information Document Request
 - Pub 1, Your Rights as a Taxpayer
 - Pub 5264, Your Exam Rights - The IRS 8300 Examination Process
 - Pub 1544, Reporting Cash Payment Over \$10,000

- (3) If the entity fails to respond to the initial contact letter within 14 calendar days, then phone contact can be made.
- (4) If the taxpayer responds by providing a valid specific use Form 2848 or Form 8821, Tax Information Authorization, (not recorded on the Centralized Authorization File), a copy of the initial contact letter will be mailed to the representative with Letter 937, Transmittal Letter for Power of Attorney.
- (5) The examiner must document the initial conversation on #130, Initial 8300 Entity Contact Check Sheet. The lead sheet will assist the examiner in conducting the initial conversation with the entity.

4.26.11.8.3 (05-29-2019) **Professional Communication**

- (1) Communications with the business, authorized representatives, and third parties must be made in a timely fashion and in a firm, businesslike, and professional manner.
- (2) The examiner should ensure that all written correspondence is professional and appropriate for the issues addressed. Communication should be clear, concise, and reflect a courteous tone and appearance. It should also be neat, legible, and grammatically correct.
- (3) All written correspondence sent to and received from the taxpayer must be maintained as part of the case file.

4.26.11.8.4 (05-29-2019) **Providing Employee Contact Information**

- (1) Section 3705 of the Internal Revenue Service Restructuring and Reform Act (RRA 98) requires that all oral and written communication with the business being examined or authorized representative must include the name, telephone number and the unique identifying number (such as, Smart-ID badge number) of the IRS employee. This requirement will ensure that the business is able to contact the appropriate employee to address any further questions they may have about their examination.
- (2) The examiner will document on Form 9984 to show that the entity and/or representative were provided with the required identifying information during oral communications.
- (3) For information regarding the use of pseudonyms by employees see IRM 10.5.7, Use of Pseudonyms by IRS Employees.

4.26.11.8.5 (08-04-2021) **Initial Telephone Conversation**

- (1) Whether the taxpayer or representative responds to the initial appointment letter, or the examiner contacts the taxpayer by telephone after 14 calendar days have expired since the initial letter was mailed, during the initial telephone conversation examiners must:
 - a. Immediately identify themselves and state the purpose of the call.
 - b. Provide their telephone number and unique employee identification number (such as, Smart-ID badge number).
 - c. Provide the taxpayer with the group manager's name and phone number.
 - d. Inform the entity or representative this is a Form 8300 examination, not an income tax examination, and the period involved.

Note: If an entity requests the specific reason it was selected for examination, the examiner will provide a response that is as accurate as possible, without revealing restricted use information. Examiners

should engage their manager and a disclosure official if assistance is needed in determining what information can or cannot be released.

- e. Briefly explain the Form 8300 examination process and answer the entity's or representative's questions or concerns.
- f. Discuss the Form 8300 examination process and inform the entity or representative that the examination may be expanded to additional issues.

Caution: Under no circumstances should the telephone conversation be used to verify items appearing on filed BSA reports; inspection of records or other data cannot be made by telephone. However, if the entity or representative volunteers information during this initial contact concerning audit issues, the examiner should document the discussion.

- g. Determine the type of business records maintained, as well as the location of the records. This will assist in preparing the Form 4564.
- h. Schedule the initial appointment at a reasonable time and place.
- i. Identify the person(s) to be present at the initial interview.
- j. Ask for clear directions to the audit site for timely arrival at the initial appointment.
- k. Taxpayers have the right to retain an authorized representative at any time during an examination. Both BSA managers and examiners are responsible for ensuring this right. Refer to IRM 4.10.1.2.1.9, Overview of Examiner Responsibilities, Taxpayer Rights. Ask the entity if they plan to secure a representative. If yes, explain that a Form 2848 is needed for examinations under Title 26 or Title 31.

Caution: If the entity states they will secure a representative, allow the entity a minimum of 10 business days to secure a representative before taking any follow-up action to schedule the appointment (extensions can be granted on a case by case basis). Ensure the entity and the representative understand the requirements for using Form 2848, for a Form 8300 examination. The examiner should not ask questions during this initial contact because this may give the impression of attempting to by-pass the representative.

- l. Inform the entity or representative that a letter confirming the scheduled appointment along with a detailed Form 4564 will be mailed to them, if not previously done.

- (2) Examiners must not attempt contacts with the entity before 8:00 a.m. or after 6:00 p.m. (entity's time zone) as prescribed by the Fair Debt Collection Practices Act.

4.26.11.8.6
(05-29-2019)

Appointment Letters

- (1) Prepare and provide the appropriate appointment letter and include the initial Form 4564.
 - a. Use Letter 2277, Form 8300 Appointment Letter, for Form 8300 examinations under Title 26. The examiner should ensure that the most current Letter 2277 is provided to the business prior to a Form 8300 examination. The most current version of the letter can be accessed from the Forms/Pubs/Products Repository.

- b. Use Letter 4479, Appointment Letter - PMSJ Dealers, for examinations of dealers in precious metals, precious stones, and jewels required to have an AML program under Title 31, which includes examination for Form 8300 compliance.
 - c. Use Letter 4155, BSA Insurance Appointment Letter, for examinations of insurance companies required to have an AML program under Title 31, which includes examination for Form 8300 compliance.
- (2) The appointment letter should be mailed to the last known address confirmed during pre-plan.
 - (3) A copy of the letter must be retained in the case file.
 - (4) Examiners should confirm the appointment with the entity several days prior to the scheduled appointment date to ensure that the entity is prepared for the appointment. This will reduce the potential lost time traveling to an appointment when the entity is not prepared for the examination or may not be available.

4.26.11.8.7
(08-04-2021)
**Initial Information
Document Request,
Form 4564**

- (1) The examiner's initial request for information and documentation should be clear and concise and cover all issues identified through the pre-plan.
- (2) Requests for information should include a response date, such as a specific date or reference to a specific timeframe (such as, "by May 24, 2021" or "within three weeks from the date on this request"). Requests for information should include the manner in which the entity is to submit the documents to the examiner (such as "mailed in" or "at the initial appointment").
- (3) The examiner should discuss the expected receipt date with the entity or authorized representative and there should be a "meeting of the minds" for example, a mutually agreed upon date, if possible. The receipt date should be reasonable to ensure the examination proceeds efficiently and with consideration for the time frames found in IRM 4.26.6.5.3.23, National Standard Time Frames.
- (4) Subsequent document requests should be clear and concise with established response deadlines.
- (5) The examiner should prepare the initial Form 4564 using the information discovered during the pre-plan. Form 4564 can be found on the BSA Policy SharePoint at <https://organization.ds.irsnet.gov/sites/SbseFraudBSA/BkSecAct/SitePages/Home.aspx> or the Forms/Pubs/Products Repository at: <http://publish.no.irs.gov/catlg.html>.
- (6) Form 4564 must be tailored to request records common to the business being examined. Form 4564 is numbered in the upper right-hand corner (Request Number).
 - a. List specific records, information and documents the entity should have available at the initial appointment and clearly state if any records should be mailed to the examiner in advance of the initial appointment.
 - b. Request only those records that are necessary or appropriate to determine compliance with the Form 8300 laws
 - c. Include requests for documents needed to support issues identified during the pre-plan analysis.

- (7) The initial Form 4564 should be mailed with the appointment letter.
- (8) A copy of all Forms 4564 must be retained in the case file.

4.26.11.9
(05-29-2019)

Examination Process

- (1) The BSA Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, examination process involves:
 - a. Conducting a thorough initial interview with appropriate individuals
 - b. Establishing the entity's knowledge of Form 8300 requirements
 - c. Educating the entity on parts of the law that they do not understand, or they were unaware existed
 - d. Touring of the business and assessing internal controls
 - e. Examining all books and records necessary to determine compliance
 - f. Analyzing results of issues examined
 - g. Drawing conclusions as to overall compliance with IRC 6050I, Returns Relating to Cash Received in Trade or Business, etc.,
 - h. Determining the appropriate letter and/or form to issue based on examination results
 - i. Conducting a closing conference
 - j. Securing and processing any delinquent Form 8300
 - k. Determining if Form 5346, Examination Information Report, is appropriate

4.26.11.9.1
(08-04-2021)

Lead Sheet #135, Initial Appointment Agenda

- (1) The examiner should use Lead Sheet # 135, Initial Appointment Agenda, as a guide for the information to be given and the questions to be asked during the initial interview.
- (2) This agenda reminds the examiner of the points to cover in the initial appointment. The examiner should:
 - a. Advise the entity that the Form 8300 is a dual-purpose form required under both Title 31 and Title 26. Also advise that information acquired during the examination may be used to determine compliance with the related rules under both titles. Fully document this advice on Form 9984, Examining Officer's Activity Record, as follows: "I advised XXX that the Form 8300 is a dual-purpose form required under both Title 31 and the Internal Revenue Code. I further advised that information acquired during this examination may be used to determine compliance with the related rules under both titles."
 - b. Provide Pub 1544, Reporting Cash Payments of Over \$10,000 (Received in a Trade or Business).
 - c. Provide Pub 5264, Your Exam Rights, and Pub 1, Your Rights as a Taxpayer, if the examination is conducted under Title 26.
 - d. Explain mutual responsibilities including contacts and a plan for communicating. Discuss the availability of the examiner and provide contact information for the Group Manager. See IRM 4.26.11.9.3.
 - e. Conduct the initial interview and document the responses given. If multiple persons are interviewed, it is important you document which person responded to what question.
 - f. Tour the business and document observations. A failure to tour the business must also be documented.
 - g. Request an explanation and demonstration of the system for recording cash payments describing procedures, records, and persons responsible.
 - h. Review records and schedule the next appointment.

- i. Discuss progress of the examination. Prepare, issue, and discuss a follow-up IDR, if applicable with a response date that is mutually agreeable.
- j. Schedule a Group Manager Concurrence Meeting to occur within 30 days of initial meeting with the business.

4.26.11.9.2
(08-04-2021)

Lead Sheet #205, Initial Interview Questions and Notes

- (1) Lead Sheet # 205, Initial Interview Questions and Notes, is a blank page which can be used to record the initial interview questions and the examiner's notes related to it. For example, the demeanor of the person interviewed may be noted, as can inconsistencies between information provided by different persons interviewed.
- (2) The interview questions should be developed before the interview based on the considerations in the pre-plan information, initial contact information and IRM 4.26.12, Examination Techniques for Form 8300 Industries. Sample initial interview questions are sometimes provided during on the job training, but these are not a one-size fits all proposition and the examiner must develop the interview questions based on the specific business being examined.
- (3) Examiners are required to ask the business if it ever had a Form 8300 examination and document the answer. If the case file information does not reflect a prior examination, but the business indicates that there was one, the examiner should request copies of the correspondence related to the prior exam. Examiners should also ask about the facts and circumstances surrounding the prior examination. For example, were penalties asserted and what changes to internal controls were made as a result of the prior examination?
- (4) During the interview, the examiner should ascertain and/or verify:
 - a. The TIN of the business. If the business is part of a controlled group, which business is responsible for identifying and filing Forms 8300?
 - b. The names and titles of officers or employees who handle cash transactions and are responsible for filing Form 8300.
 - c. The owner/officer's knowledge of IRC 6050I and its regulations and that of the employee(s) designated by the business to identify reportable transactions and file Form 8300.
 - d. The internal controls of the business with regard to cash transactions.
 - e. Training provided to employees who handle cash or who are responsible for completing and filing Forms 8300.
 - f. The identities of those who handle received cash receipts, prepare bank deposit slips, and makes the bank deposits.
 - g. The number and types of bank accounts. Probe for foreign financial accounts but do not ask if a FBAR was filed. If foreign accounts are present, research FCQ and determine if an FBAR was filed.
 - h. The type of records maintained on transactions required to be reported on Form 8300.
 - i. Whether the business has filed any Form 8300.
 - j. For attorneys, it is important to determine if any prior Form 8300 has been filed blank or incomplete because of a claim of attorney-client privilege, professional ethical obligations, or constitutional protections. If so, the examiner must coordinate with local Area Counsel, through the manager, before proceeding with any summons or penalty actions.

- k. Procedures used by the business to ensure that the information contained in the Form 8300 was complete and correct. For example, did the recipient verify the identity of the person from whom the cash was received by a driver's license, passport, or other document?
 - l. Procedures used by the business to notify transactors.
 - m. The entity's membership in various trade associations.
 - n. Related entities.
- (5) Education is a critical part of a Form 8300 examination. The examiner must discuss with the owner/officer and the person responsible for cash transactions:
- The filing requirements of Form 8300
 - Notification to customer of required Form 8300 filings
 - The records to be maintained
 - The civil and criminal penalties
 - Structuring
- (6) The interview and inspection of records must be solely for the purpose of the Form 8300 examination. No inquiries should be made as to the filing of other returns required by Title 26 or whether a specific item is reported on any such returns. The latter inquiries could result in the inadvertent opening of an income tax examination.
- (7) The examiner should explain the examination process and specifically state that a Form 8300 examination is NOT an income tax examination. The examiner should advise the trade or business that information obtained during the examination may be used for any tax matter permitted by the Internal Revenue Code.
- (8) The interview, tour of the business, and documents provided regarding business operations should identify:
- a. The customer base.
 - b. Types of transactions, and how much cash and cash equivalents are normally received in each transaction.
 - c. Employees involved in the process, their positions, specific responsibilities, and knowledge of the Form 8300 requirements.
 - d. Where specific steps of the transactions occur (accepting cash, issuing cash receipt, placing receipt in transaction file, reviewing files and transactions for Form 8300 requirements, filing Form 8300, and so on).
 - e. When and who conducts reviews to ensure employees are complying.
- (9) Overview of the systems related to Form 8300 specific issues should:
- a. Identify records, computer systems, and manual systems used throughout the cycle of a transaction.
 - b. Provide how the business validates the information recorded into the systems (personal checks, cashier check, money order, loan proceeds).
 - c. Identify the types of reports generated from the computer systems related to cash transaction reporting.
 - d. Identify the types of checks and balances in place (reconciliation of cash deposited for business purposes to identify large cash transactions for follow-up to a potential filing requirement).
- (10) The flow of transactions must be documented following these steps:

- a. A tour of the business.
 - b. Request a demonstration tracing a sample transaction through the entity's books and records. Follow the way a receipt of cash flows through to the Form 8300 filing process.
 - c. Secure a list of employees and separation of duties/financial responsibilities; specifically, employees responsible for identifying transactions and completing and filing Form 8300.
 - d. Review the entity's procedures to ensure policies are implemented and lack of adherence is documented. Identify any weaknesses and deficiencies in internal controls that could or did result in failures to correctly file.
- (11) Deficiencies in the business' policies, procedures, and internal controls must be discussed with the responsible parties.
- (12) Immediately following the interview, the examiner should use their notes to prepare a memorandum or summary of the interview. The memorandum or summary of the interview should not duplicate the interview notes. Use index #200 for this workpaper.
- (13) IRM 4.10.3.3, Interviews: Authority and Purpose, may be used for additional information on interviews.

4.26.11.9.3
(05-29-2019)
**Establishing the Mutual
Commitment Date (MCD)**

- (1) The examiner should work with the entity/representative to establish a MCD and determine the number of expected field visits. Record the MCD on the Form 4318, Examination Workpapers Index. The MCD must be reasonable and attainable.
- (2) The examiner should consider the following factors when determining a MCD:
- a. Number of anticipated additional visits
 - b. Days needed between visits to get information properly prepared
 - c. Availability of records
- (3) Notify the group manager if there is a need to change the MCD by more than 30 days and document it in the case activity record.

4.26.11.9.4
(08-04-2021)
**Lead Sheet #300, Form
8300 Lead Sheet**

- (1) Lead Sheet #300, Form 8300 Lead Sheet, lists the examination steps for determining if the business has been compliant. The techniques listed there are not intended to be all-inclusive and are not mandatory. Judgment should be used in selecting techniques appropriate to the business. IRM 4.26.12, Examination Techniques for 8300 Industries, provides techniques for specific types of businesses.
- (2) Upon completion of the interview, conduct a random sample of transactions, tracing the customer's payment through the banking and accounting records. The review of sample transactions should be used to confirm the information given in the interview about the records and to test that the records for review are complete and include all sales. Note any discrepancies.
- (3) The examiner should use the books and records to determine if there were:
- a. Transactions involving the receipt of reportable cash in excess of \$10,000 including consecutive or related transactions in excess of \$10,000 and whether Forms 8300 were filed on such transactions.

- b. If a Form 8300 was required and, if so, whether the required annual statement was furnished to the persons required to be named in the Form 8300.
 - c. If there were failures, whether reasonable cause existed for any failures.
 - d. Whether for evading the reporting requirements, any person caused or attempted to cause a trade or business to fail to file or to file a materially incorrect report or to structure or assist in structuring any transaction.
 - e. If books and records are not adequate nor complete, the examiner should complete a cash flow analysis to determine if all cash, going in or out of the business is accounted for.
- (4) The following steps are recommended:
- a. Reconcile filed Form 8300, using FCQ, to the entity's retained Form 8300.
 - b. Examiner is to compare CTRs filed on the business by the bank to the Forms 8300 filed by the business and determine if the filing to reporting ratios are reasonable or if further review of deposit slips is warranted.
 - c. Inspect the filed forms for completeness, accuracy, timeliness and five-year retention requirement.
 - d. In a Title 26 examination, inspect customer notification statements. Inspect statements for completeness and timeliness. There is no five-year retention requirement for notification statements and there is no customer notification requirement under Title 31. Therefore, in a Title 31 examination do not examine for the customer notification requirement.
 - e. Analyze BSA reports filed on the entity using FCQ and reconcile to bank deposit slips. Filed BSA reports may show large cash deposits and new bank account numbers indicating the possible existence of other accounts.
 - f. Reconcile sources of cash to known business purpose.
 - g. Set scope based on interview, pattern of cash, and records maintained.
 - h. Select currency transactions based on scope and if the facts and circumstances of the case require consideration of cash equivalents.
 - i. Select monetary instruments/transactions based on scope.
 - j. Review entity records for transactions identified in above steps.
 - k. Review records for single or multiple payments received greater than \$10,000.
 - l. Review records for related transactions greater than \$10,000.
 - m. Secure delinquent Form 8300 unless the failure appears intentional.
 - n. Secure a written explanation for non-filed or incorrect Form 8300 and corrective actions that the entity plans to take to address deficiencies in its procedures.
- (5) The examiner should be alert to transactions that appear to have been made in to avoid the Form 8300 reporting requirements, that is, structured transactions. See IRM 4.26.13, Structuring. These transactions may be:
- a. A single cash transaction structured as multiple transactions of less than \$10,000.
 - b. Transactions in excess of \$10,000 where cash and non-cash payments appear to be combined to avoid the filing requirements. For example, the purchase of a diamond necklace worth \$11,500, paid with \$9,900 cash and a \$1,600 personal check.
 - c. A pattern or series of cash transactions of less than \$10,000 conducted over a relatively short period of time by or for the same person.

- (6) There may be a need, on a case by case basis, to interview customers to obtain all the facts needed to develop the issues.
- (7) If a computerized system is utilized, the examiner must perform testing to ensure its integrity before relying upon such records for the Form 8300 examination.
- (8) Depending on the initial findings of the Form 8300 examination, the examiner may need to expand the scope and/or depth to include additional periods. See IRM 4.26.11.9.6 for additional information.
- (9) When recording potential cash transactions, it is important to note:
 - The date funds were received
 - The amount
 - The date funds were deposited
 - The name of the transactor
 - The receipt number
 - Account number and account owner (if different from transactor)
- (10) For any transaction the examiner believes was reportable and a Form 8300 was not filed, the examiner should copy the receipts, contracts, and any other supporting documentation needed to sustain the position. The examiner should record the location of the original records pertaining to these transactions.

4.26.11.9.4.1
(05-29-2019)
**Money Laundering
Trends**

- (1) The business and/or the customer can potentially be knowingly or unknowingly involved in money laundering schemes. The examiner must focus on both the business and the transactor(s) during the Form 8300 examination.
- (2) Money laundering techniques that could be used by the business include:
 - a. Failing to maintain complete records.
 - b. Failing to maintain accurate records.
 - c. Failing to record specific transactions.
 - d. Failing to file Form 8300 on reportable transactions.
 - e. Structuring a transaction by breaking one transaction into several to circumvent the reporting requirements.
- (3) Money laundering techniques that could be used by the customer/transactor include:
 - a. Using multiple locations to conduct transactions.
 - b. Using several individuals at one or more locations to conduct a transaction.
 - c. Using aliases when conducting transactions.
 - d. Conducting numerous transactions at the same location at different times for one day.
 - e. Using a combination of currency and monetary instruments to conduct transactions.
- (4) Evidence uncovered of potential money laundering schemes should be referred to CI on a Form 2797, Referral Report for Potential Fraud Cases.

4.26.11.9.5
(05-29-2019)
**Lead Sheet #140,
Policies, Procedures,
and Internal Controls
Lead Sheet**

- (1) The scope of the examination should be set from the top down. It must be adequate to determine if the business has developed policies, procedures, and internal controls to identify reportable transactions and ensure that they are reported and that annual notification statements are sent. Appropriate policies, procedures, and internal controls depend on the risk of noncompliance.
- (2) The examiner must assess the policies, procedures, and internal controls of the entity. This must be documented on the Policies, Procedures, and Internal Controls Lead Sheet, #140. Use of this lead sheet is mandatory and requires that a conclusion be documented. The updated risk assessment which results from this lead sheet forms the basis for the continued scope and depth of the examination.
- (3) The risk of Form 8300 violations by the business may be analyzed in the first instance by requesting a copy of the business' own risk assessment and discussing it with the business. The examiner should document whether a written risk assessment was completed by the business. The examiner should review and document if the business:
 - a. Identified and detected risks associated with location, customers, products and services, and current operating model.
 - b. Developed appropriate policies, procedures, and internal controls to mitigate and manage the assessed risk.
 - c. Provided for monitoring of the implementation of their policies, procedures, and internal controls.
- (4) The examiner should prepare a risk assessment if no written document exists. This assessment should be developed using the preliminary risk assessment, updated throughout the examination process, and completed at the close of the examination. A copy should be given to the business.
- (5) If this business is subject to an AML program requirement under Title 31 and the Form 8300 examination is being conducted under Title 31, the examination must cover all Title 31 issues. Complete the AML Compliance Program Lead Sheet – Title 31, # 140 and any other appropriate lead sheets for the financial services offered.

4.26.11.9.6
(05-29-2019)
**Lead Sheet #120,
Request to Expand
Scope-Depth**

- (1) Occasionally it will be necessary to expand the scope-depth of an examination outside the initial 12-month examination period. The examiner should use the Risk Analysis Workpaper (#120) to document expanding/contracting the scope and depth of the examination. It must be approved by the group manager.
- (2) Consider "Is it worthwhile to examine this issue?" The examiner should compare the potential benefits to be derived from expanding the scope and depth of an examination to the resources required to perform the examination, and the potential outcome generated from expanding/contracting the scope.
- (3) The objective is to focus the examination on issues of merit. The examiner should consider whether identifying additional violations would promote compliance or change the conclusion of the examination. The examiner should consider such factors as the seriousness of the violations identified and any internal control weaknesses that may result in increased risk for noncompliance or money laundering activities when considering changes to the scope and depth of the examination.

4.26.11.9.7
(05-29-2019)

Lead Sheet #125, Group Manager Concurrence Meeting (GMCM) Check Sheet

- (1) GS-12 examiners and below are required to use lead sheet #125, Group Manager Concurrence Meeting (GMCM). GS-13 examiners are encouraged to utilize a GMCM to provide updates on cases and obtain guidance from managers.
- (2) The GMCM must occur within 30 calendar days after completion of the initial appointment meeting. The examiner should schedule the concurrence meeting as soon as the date of the initial appointment is set. A GMCM is not required, if the case is closed to the manager within 30 calendar days of the initial appointment.
- (3) The examiner should be prepared to discuss:
 - a. The initial appointment meeting and MCD.
 - b. Plan for completing the case.
 - c. Concerns.
- (4) The GMCM must be documented on Lead Sheet #125.

4.26.11.9.8
(08-04-2021)

Delinquent Form 8300 Procedures

- (1) During a Form 8300 examination the examiner may find that a business failed to file Form 8300. The examiner should solicit a written explanation from the business for the failure(s). The examiner must document verbal explanations for the failures if unable to obtain a written explanation.
- (2) The examiner must determine if failure to file Form 8300 was due to reasonable cause. Penalties imposed by IRC 6721, Failure to file correct information returns, and IRC 6722, Failure to Furnish Correct Payee Statements, will not be applied if reasonable cause exists. See IRM 4.26.10, Form 8300 History and Law, for an explanation of the applicable Form 8300 law. Additional information is available in IRM 20.1.7, Penalty Handbook, Information Return Penalties, and 26 CFR 301.6724-1, Reasonable Cause. The business is required to prove reasonable cause, not the examiner. The examiner reviews the facts and circumstances, and applies the regulations, to determine if reasonable cause exist.
- (3) If the examiner is considering whether any violation was due to intentional disregard or is considering referring the case to CI, the examiner should not request delinquent Form 8300 returns before consulting with the group manager and determining if a criminal referral is warranted.
- (4) The examiner is to secure delinquent returns and review forms to ensure all fields are filled out. If form is incomplete, examiner will return the form to the taxpayer to complete. The examiner is to inform the taxpayer that the forms are required to be completed accurately in their entirety. Failure to do so, can subject the taxpayer to penalties. Completed delinquent forms will then be processed through the examination process by the examiner.
- (5) The examiner must inquire about the extent of the entity's knowledge of electronic filing (e-file) process. The examiner is to educate the entity of the benefits of e-file. The examiner is also to provide all the necessary information the entity needs to e-file their Form 8300. The examiner will request the entity's e-file forms. If the entity agrees to e-file, the examiner is to obtain confirmations of delinquent filings from the e-file portal prior to the conclusion of examination. Confirmations are to be included in the case file for support docu-

mentation that delinquent forms have been processed. Penalties associated with delinquent forms are processed during the examination. The examiner is to solicit payment during the examination. If taxpayer refuses to pay at the time of examination, they will be billed for the assessed penalties.

Note: When closing the case out of the group, examiner must notate, on Form 3198, if the taxpayer paid in full, made partial or made no payment at all.

- (6) Taxpayers currently still have the option to paper file Form 8300. However, e-file is currently under consideration for Form 8300. Until mandatory e-file is finalized, entities may choose how to file. If entities choose to paper file, the examiner must collect and process delinquent forms. Examiner must notate in red on the top of the form, "Delinquent Return Secured by Examination" and include the date received. The examiner must make copies of the forms, then mail the original delinquent paper Form 8300 directly to the BSA Compliance Department, CTR Operations located on the 8th floor of the Detroit Federal building in Detroit. The most current address is available on the BSA Policy SharePoint. Examiners must copy the original delinquent forms and identify them in the case file by writing or stamping "COPY". Copied Forms must be kept in the case file.

4.26.11.9.8.1
(08-04-2021)
**Multiple Forms 8300
Historical Filings
Request**

- (1) In the context of an examination for non-filing of Forms 8300, there is no legal prohibition against IRS requesting that a business file one Form 8300 that summarizes what the business should have previously reported on multiple Forms 8300 with respect to multiple receipts of cash from a single customer in a prior year. Examiners may request a single form that represents the non-filed forms as long as it conforms with the requirements of IRC 6050I.
- (2) Form 8300 minimum requirements include but not limited to:
 - Name (full name of individual who cash was received). If multiple parties in a single transaction, all must be included.
 - Amount of cash received.
 - Address.
 - TIN (of the person whom the cash was received). If multiple individuals involved, all must be included.
 - The dates of the transactions (add in the comment section of the form).
 - The nature of the transactions.
 - In addition, the entity is to use the comments section on Form 8300 to state that it is filing one Form 8300 to reflect total cash receipts from a particular customer during the year in lieu of filing the multiple delinquent Forms 8300 that should have filed with respect to that customer and is doing so as requested by the IRS examiner. The request of the IRS examiner should also be attached to the Form 8300 when processing paper filed forms.
- (3) Penalties under IRC 6721(a) or IRC 6721(e), if appropriate, should be assessed on the total number of delinquent Forms 8300.

4.26.11.9.9
(08-04-2021)
**Lead Sheet #305, Form
8300 FBAR Lead Sheet**

- (1) During a Form 8300 examination, the examiner should determine if a separate FBAR examination is warranted. Document these actions on Lead Sheet #305, The Form 8300 FBAR Lead Sheet.

- (2) If relevant to the Form 8300 examination under Title 26, probe for foreign financial accounts during the initial interview. Take care, however, not to cross the line into a Title 31 examination for FBAR, for example, do not ask if the entity filed an FBAR.
- (3) Research FinCEN Query for any FBARs filed by the entity in previous years.
- (4) Upon identification of a potential FBAR violation in furtherance of a Title 26 violation that warrants further investigation, the examiner will prepare the Form 13535, Report of Foreign Bank and Financial Accounts Related Statute Memorandum.

Note: See IRM 4.26.17.2.1, Starting an FBAR Examination Resulting from Title 26 - Related Statute Memorandum (RSM) Required, for complete information about the RSM, impact of the RSM, procedures to obtain an RSM, and procedures following the RSM, including if the RSM is not approved.

4.26.11.9.10
(08-04-2021)
**Lead Sheet #405, Fraud
Awareness**

- (1) Lead Sheet #405, Fraud Awareness Lead Sheet, fulfills the requirement to make a comment on fraud in every case. This is a mandatory lead sheet, however if it is determined that there are no fraud indicators, examiners do not need to print. Check the appropriate box on Form 4318 and initial.
- (2) Final referral procedures depend on the underlying nature of the violation identified and if it is a civil or criminal referral.
 - a. If the Form 8300 case is being worked under Title 31, the Form 8300 violations will be noted on the Letter 1112, Title 31 Violation Notification Letter. See IRM 4.26.8.9, Nonfinancial Trade or Business Examination Initiated Under Title 31, for additional information.
 - b. If the Form 8300 case is being worked under Title 26 and the IRC penalties apply, the case is forwarded for penalty assessment by IRS.
 - c. All Form 8300 criminal cases are referred to IRS CI.
 - d. The process of fact gathering is the same in all cases.
- (3) To make a judgment on fraud, the examiner must assess knowledge and intent. Acquiring information regarding knowledge and intent occurs during the entire examination.
- (4) Statements made during Form 8300 interviews can demonstrate the entity's knowledge. The degree of knowledge may be determined by asking the following questions during the initial interview:
 - a. Were you aware that a Form 8300 was required in this transaction?
 - b. Why was Form 8300 not filed?
 - c. Did you know the consequences of the failure to file a Form 8300?
 - d. Are you a member of any trade organization? If so, has that organization published or provided any information regarding the filing requirements of Form 8300?
- (5) Knowledge can also be shown through interviews of salespersons and employees in the accounting department, regarding procedures and training on Form 8300 reporting requirements.

- (6) A key point in demonstrating knowledge and intent is the date of the first filed Form 8300. Subsequent failures to file Form 8300 may indicate intentional failures on the part of the trade or business.
- (7) To confirm indications of fraud, it is important to establish not only knowledge of the requirements but intentional/willful determination not to comply with those requirements. Indicators of intent include:
 - a. Not taking the advice of their accountant.
 - b. Failing to provide requested records.
 - c. Numerous non-filings.
 - d. Filings with names other than that of the business.
 - e. Few filed Form 8300, but many CTRs filed on the business.
 - f. Failure to deposit all cash received without a valid business reason.
 - g. Use of several bank accounts.
 - h. Use of several entities to make deposits.
 - i. False, misleading, or inconsistent statements.
 - j. Alteration, falsification, concealment, or destruction of records.
 - k. Advising customers on how to structure transactions to avoid Form 8300 filing requirements.
 - l. Issuing more than one receipt for a transaction.
 - m. Recording receipts from a customer over a period of several days.
 - n. Deposit slips which show two or more cash deposits, although records show one, large, cash receipt.
- (8) The examiner should follow the guidelines on the Fraud Awareness Lead Sheet for any person involved in a transaction who had sufficient knowledge of the Form 8300 filing requirement but who willfully failed to file, filed a form with false information, or attempted to cause a Form 8300 not to be filed. The following steps should be followed:
 - a. If there are indications of fraud, they must be memorialized on this lead sheet.
 - b. A discussion with the group manager must be held concerning the advisability of involving a Fraud Enforcement Advisor (FEA). The discussion with the group manager is memorialized on the lead sheet. Contact with the BSA Policy Form 8300 analyst is also advised.
 - c. If it is determined to request the assistance of an FEA, an informal conference will be held between the examiner and FEA which is also memorialized on the lead sheet.
- (9) If the FEA agrees that indications of fraud exist, the examiner will prepare Form 13639, Fraudulent Intent Referral Memorandum (FIRM). The instructions are attached to the memorandum.
- (10) If firm indications of fraud are present, the FEA will recommend the preparation of Form 2797. This decision is memorialized on the FIRM.
- (11) Fraud resources include:
 - a. IRM 25.1, Fraud Handbook, which defines fraud and discusses the indicators of fraud.
 - b. IRM 25.1.12, BSA and Form 8300 Willfulness Referral Procedures.

4.26.11.9.10.1
(08-04-2021)

**Fraud Development
Procedures, Form 13639,
FIRM**

- (1) When further examination is warranted to determine if a violation was willful:
 - a. The FEA will prepare a plan of action for further examination to determine whether a violation was willful. The FEA will document this in the Explanation section of Form 13639, Fraudulent Intent Referral Memorandum (FIRM), and return a copy of Form 13639 to the examiner through the group manager.
 - b. The examiner and the FEA will work together to carry out the examination plan.
 - c. If affirmative acts (firm indications) of willfulness are discovered after further examination, the examiner will immediately contact the FEA for guidance. Under no circumstances should the examiner contact CI.
- (2) Upon completing the plan of action for further examination to determine whether a violation was willful, the examiner, group manager, and FEA will discuss the results and reach a conclusion regarding a criminal referral:
 - a. The FEA will memorialize this conclusion on the initial Form 13639 or a second (follow-up) Form 13639 will be completed and stapled to the initial Form 13639.
 - b. The FEA will indicate in Part 6 of Form 13639 (original or follow-up) the final referral recommendation, either firm indications of willfulness and criminal criteria are present, and preparation of Form 2797 is recommended, or criminal investigation is not appropriate.
 - c. The FEA will provide, in the Explanations section, the reasons why a criminal referral is not appropriate, or if a criminal referral is recommended, detail of the firm indications of willfulness.
- (3) If further examination is not warranted in determining if a violation was willful, the FEA will indicate so in Part 6 of Form 13639 and provide a written explanation of the reason(s) why further examination to determine if a violation was willful is not warranted and include any recommendations regarding civil penalties in the explanation section of the form. The examiner may proceed with the routine case procedures. The examiner and FEA should discuss if a Prime Lead Memorandum to CI is appropriate, if a Form 2797 is not. Form 15221, Prime Lead Memorandum, can be found on the BSA Policy SharePoint site and the IRS Forms Repository.

4.26.11.9.10.2
(05-29-2019)

**Criminal Referral
Procedures**

- (1) If, after involvement of the FEA, a referral to IRS CI is recommended, the examiner is required to use the current version of Form 2797, Referral Report of Potential Criminal Fraud Cases, which is found on the form repository. Instructions are attached to the form.
 - a. Form 8300 examinations are usually conducted under Title 26. The preparation and processing of Form 2797 for Title 26 examinations is set out in IRM 25.1.3, Fraud Handbook, Criminal Referrals.
 - b. Procedures when the examination is conducted under Title 31 are the same, but care must be taken not to use any Title 26 information unless a related statute determination has been made. A copy of the related statute memorandum must then be attached to the Form 2797.
- (2) A civil money penalty may be imposed, even though a criminal penalty is imposed for the same violation. If the case is being accepted for criminal investigation, the participants should discuss the possibility of parallel civil and

criminal actions during the disposition conference. Parallel referrals (to FinCEN for cases examined under Title 31 and to CI) may be desirable to protect the statute of limitations or for other reasons. If the case warrants parallel civil and criminal actions, the CI FinCEN liaison will review the referral for compatibility with CI needs. Only after this review is the Form 5104, Report of Apparent Violation of Financial Recordkeeping and Reporting Violations, forwarded to FinCEN.

- (3) Evidence of violations that do not meet the criminal/local criteria requirements may be referred by the examiner as an information item to CI. See IRM 25.1.12.9, BSA Leads to CI, and IRM 4.26.11.11.5.
- (4) When a Form 8300 case is referred to CI for criminal activity, the civil Form 8300 case and related civil penalty statute is still running. It is very important that groups take the appropriate action to ensure the civil penalty statute is properly monitored and protected. See IRM 4.26.10.11, Form 8300 Statutes of Limitations.

4.26.11.9.11
(08-04-2021)

**Lead Sheet #415,
Reasonable Cause
Check Sheet-Form 8300**

- (1) If the examiner has determined that a penalty is applicable per IRC 6721, Failure to File Correct Information Returns, or IRC 6722, Failure to Furnish Correct Payee Statements, the penalty will be assessed if it is determined that the reasonable cause criteria for the violation has not been met.
- (2) The examiner will document the consideration of a reasonable cause waiver using Lead Sheet #415, Reasonable Cause Check Sheet – Form 8300. This workpaper lists the action items and requirements needed for a reasonable cause waiver to be applied. In addition to this lead sheet checklist, the examiner is to refer to the full penalty relief criteria contained in IRM 20.1.1.3.2, Reasonable Cause (Introduction and Penalty Relief), and IRM 20.1.7.12.1, Reasonable Cause (Information Return Penalties), prior to making a final determination. If criteria for a reasonable cause waiver are met or even if they are not, the examiner will include Lead Sheet #415 in the case file and explain findings in the Facts section and acknowledge there was manager concurrence.
- (3) The examiner will secure written documentation of review and approval by the Group Manager to assess or waive a penalty prior to presenting penalty proposal to taxpayer. (IRC 6751(b), Approval of Assessment)
- (4) The examiner will determine if penalty was due to willful neglect? If a penalty is determined to be a result of willful neglect reasonable cause may not be considered to waive the penalty. (26 CFR 301.6724-1(a)(1), Waiver of the Penalty -General rule)
- (5) The examiner will waive a penalty for reasonable cause if the entity establishes the following criteria: (26 CFR 301.6724-1(a)(2), Waiver of the penalty - Reasonable cause defined)
 - a. The filer acted in a responsible manner both before and after the failure occurred,
 - b. There are significant mitigating factors with respect to the failure, and
 - c. The failure is a result of an event beyond the entity's control.
- (6) The examiner will consider significant mitigating factors as defined by 26 CFR 301.6724-1(b), Significant Mitigating Factors. The factors include:

- a. First time required to file/furnish the return
 - b. History of compliance
 - c. Other significant mitigating factors
- (7) The examiner will consider events beyond the entity's control as defined by 26 CFR 301.6724-1(c), Events Beyond the Filer's Control. Events beyond the filer's control may include:
- Unavailability of relevant business records
 - Actions of the Internal Revenue Service
 - Actions of the Payee or any other person
 - Other Events beyond filer's control (explain)

Note: When evaluating "Other Events", ensure the examiner is aware of nationally declared disaster areas. If entity is located in the location of the declaration, examiner needs to discuss it with their manager to determine what impact that declaration may have.

- (8) The examiner will determine if the entity was acting in a responsible manner when TINs are missing. The examiner will follow IRM 20.1.7.12.2.1, Missing TINs & 26 CFR 301.6724-1(e), Acting in a Responsible Manner - Special Rules for Missing TINs, when making the determination of responsible manner. The criteria include:
- Initial solicitation, first Annual solicitation, second annual solicitation
 - Other requirements and exceptions
 - Manner of making annual solicitations
- (9) The examiner will determine if the entity was acting in a responsible manner when incorrect TINs are included on filed forms. The examiner will follow IRM 20.1.7.12.2.3, Incorrect TINs, & 26 CFR 301.6724-1(f), Acting in a Responsible Manner - Special Rules for Incorrect TINs, when making the determination. The criteria include the following:
- Initial solicitation, first Annual solicitation, second annual solicitation
 - Other requirements and exceptions
 - Manner of making annual solicitations

4.26.11.10
(05-29-2019)
**Analysis and
Conclusions**

- (1) Once the examiner has completed the review of records, a determination must be made as to what violations occurred and if penalties are applicable.
- (2) If no violations were identified during the Title 26 examination, the examiner will issue Letter 4280, Form 8300 No Issue Letter. If it is a Title 31 examination, the examiner will issue Letter 5722, Title 31 Form 8300 No Issue Letter. The group manager will need to sign the letter before it is issued.
- (3) The examiner may conclude, with manager approval, that penalties should be asserted. In reaching penalty conclusions, the examiner uses Lead Sheet #400, Penalty Approval Form, as a guide:
- a. If violations are found but there is no evidence of intentional disregard, the examiner will issue Letter 4595, Form 8300 No Intentional Disregard 30 Day Letter, along with Form 14141, Agreement to Penalties Under 26 USC 6721 and 6722, to explain which penalties apply.

- b. If the examiner determines that the violations were the result of intentional disregard, the examiner will issue Letter 4596, Form 8300 Intentional Disregard 30 Day Letter, along with Form 14141 to explain which penalties apply.
 - (4) If a fraud referral was made and accepted, the examiner must wait until CI makes a fraud determination before concluding the examination.
-
- (1) Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, cases selected for examination may be surveyed any time prior to assignment to an agent, or after assignment to an agent, but before receipt or review of any records. Once records are received or reviewed, the return may not be surveyed.
 - (2) BSA Form 1900, BSA Survey Form, must be used to survey all Form 8300 cases. The examiner and group manager must complete BSA Form 1900 to document the reasons for surveying a case and both must sign and date the form. It can be used regardless of the title under which the examination was assigned. It can be used for surveys both before and after assignment. The BSA Form 1900 to be used for Form 8300 examinations can be found at: <https://organization.ds.irsnet.gov/sites/SbseFraudBSA/BkSecAct/8300/Forms%20Documents/Forms/AllItems.aspx>.
 - (3) Valid reasons for surveying a case include, but are not limited to:
 - a. Entity is out of business. BSA Form 1900 and the case activity record must show steps taken to determine that the entity was out of business.
 - b. Entity was recently examined within the prior year and the case is not marked for a follow-up examination.
 - c. Case was established in error.
 - d. Lack of audit potential. An explanation must be provided for why the case has no audit potential. The fact that entity had no CTR or Form 8300 filing is not sufficient.
 - e. Entity has moved or relocated to another city or state. Agent should provide new location information.
 - f. Related location was recently examined which resulted in No Change. Entity is low risk. Agent must provide information on the related entity.
 - g. Business was sold. Change in ownership - agent should provide new owner information.
 - h. After several attempts, unable to contact or locate business. Entity appears to be out of business.
 - (4) Invalid reasons for surveying a case include, but are not limited to:
 - a. Form 8300 case was too old (unless imminent statute issue exists); case has been in group over a year.
 - b. Lack of audit potential without an adequate explanation or documentation.
 - c. Form 8300 case too far to travel unless detailed explanation was provided.
 - d. Form 8300 case is being surveyed due to having no current CTR or Form 8300 filings with no further explanation.
 - e. Form 8300 case is being surveyed due to the location of business without an adequate explanation.

4.26.11.10.1
(08-04-2021)
Survey

- (5) If a Form 8300 case is received in the field and the manager and examiner, prior to contacting the entity, concur that the examination should be initiated using Title 31 procedures see IRM 4.26.11.12.9.
- (6) Survey cases do not require IDRS prints.
- (7) The BSA Form 1900, which identifies the package as a Form 8300 survey must be included in the case file that is closed to the BSA Compliance Department, Detroit.

4.26.11.10.2 (08-04-2021) **No Issue Cases**

- (1) If, after the interview and review of records for the selected six months, it appears that the reportable transactions are minimal or that there are no deficiencies in the internal controls resulting in incorrectly filed or unfiled Form 8300 and if:
 - a. The Form 8300 examination was conducted under Title 26, use Letter 4280.
 - b. The Form 8300 examination was conducted under Title 31 and if there are no Title 31 violations, issue Letter 5722. Letter 5722 is only issued if there are no Form 8300 reporting issues identified.
- (2) Both letters may be completed electronically.
- (3) As with all BSA letters, the group manager must sign the letter prior to issuance.
- (4) Provide the letter to the business either in person or by mail.
- (5) Complete lead sheet #400 which provides spaces for reasons for non-assertion of a penalty as well as for penalty approval.
- (6) The No Issue case file is assembled as follows:
 - a. On the outside of the folder, staple Form 3198, Special Handling Notice for Examination Case Processing, and the Form 8300 Case Control Sheet.
 - b. Check Form 3198 "Special Features Other Instructions" and enter "Please Process with Hold Code 2" Hold Code 2 stops payment notice from being generated automatically.
 - c. On the inside left of the folder for a Title 26 case, staple INOLES and BMFOLT current within the past 30 days of closing. Also, attach a password protected CD containing pertinent workpapers. The entity folder should be deleted from the computer once saved to a CD.
 - d. Loose inside the folder, place the original and one copy of the most current version of Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties, with signatures of originator and manager. The Form 8278 should show -0- in Amount Assessed column to indicate no change for penalties under both IRC 6721, Failure to File Correct Information Returns, under penalty reference number 651, and IRC 6722, Failure to Furnish Correct Payee Statements, under penalty reference number 653.
 - e. The Form 4318, Examination Workpaper Index, package with the most current version of the lead sheets is included in the file.

- (7) When closing the case on ERCS, the PX record will be updated to status "41" and disposal code "02".
- (8) The case file is sent to the Detroit Federal Building, BSA Compliance Department, Attention 8300 Penalty Team. The most current mailing address is available on the BSA Policy SharePoint.
- (9) If the BSA 8300 Penalty Team does not receive the case file within 20 days of being put into status "41", the ERCS record will be returned to group in status "12". For this reason, the group manager should ensure the closed case files are timely shipped to the Detroit Federal Building, BSA Compliance Department. The case is not considered closed until it reaches status "90" on ERCS.
- (10) When CTR Operations receives the case from the field and if case is in order, the case status will be changed from status "41" to status "90". When a case has been in status "41" for over 20 days, case is subject to be returned to status "12". CTR Ops Penalty Team will contact the group manager, prior to returning the case to status "12", to determine if there is any resolution to be able to get case into status "90". If case needs rework, the case will be returned to the group and case will be put back in status "12" by CTR Operations. It is the responsibility of the group manager to ensure case is complete and sent timely to CTR Operations when case is closed out of the group.

4.26.11.10.3
(05-29-2019)
Penalty Cases

- (1) Form 8300 civil penalties are applied under IRC 6721 and IRC 6722. These penalties may apply to negligent or intentional disregard conduct but will not apply in the case of reasonable cause. To determine reasonable cause, see IRC 6724, Waiver; Definitions and Special Rules, 26 CFR 301.6724-1, Reasonable Cause, and IRM 20.1.1.3.1, Unsigned or Oral Requests for Penalty Relief.
- (2) IRC 6721 provides for a penalty when an information return is not timely and/or correctly filed by the due date of the return.
- (3) IRC 6722 provides for a penalty when a payee statement is not timely and/or correctly furnished.
- (4) Additional information on penalties may be found in IRM 20.1, Penalty Handbook.

4.26.11.10.3.1
(05-29-2019)
**Lead Sheet #400,
Penalty Approval Form**

- (1) The examiner must complete lead sheet #400, Penalty Approval Form. This is a mandatory check list used in the discussion between examiner and manager to determine whether a penalty needs to be assessed under Title 26. It must be used even if the examiner's recommendation is for no penalties. It is used only for Title 26 Form 8300 cases.
- (2) Form 8300 Title 26 civil penalties can be applied under IRC 6721 and IRC 6722. The penalties do not apply if any failure is due to reasonable cause and not to willful neglect.
- (3) IRC 6721 provides for a penalty for each failure to:
 - a. File return or file return timely.
 - b. File return accurately (including missing, incorrect and/or not currently issued TINs).

- (4) IRC 6722 provides for a penalty when a payee statement is not timely or correctly furnished. The penalty is imposed for each failure to:
 - a. Furnish a payee statement on or before the due date to the person to whom the statement must be furnished.
 - b. Furnish all information required.
 - c. Furnish correct information.
- (5) IRC 6724 permits a waiver of the penalty where reasonable cause is present. The examiner must always document oral requests for waivers of penalties due to reasonable cause. Although the burden of establishing reasonable cause is on the trade or business, the examiner should always document any special factors or occurrences that may have affected the trade or business' level of compliance. See IRM 20.1.7.12, Waivers, Definitions and Special Rules IRC 6724, for the technical requirements for reasonable cause. Certain procedures must be followed by the taxpayer to use the reasonable cause waiver.
- (6) IRC 6050I(f), Structuring Transactions to Evade Reporting Requirements Prohibited, prohibits any person from causing or attempting to cause a trade or business to fail to file a Form 8300 or to file a Form 8300 that contains a material omission or misstatement of fact. This section also prohibits structuring to avoid the section IRC 6050I reporting requirements. It provides that the same civil and criminal sanctions applicable to a person who fails to file or completes a false or incorrect return should apply. In other words, the civil penalties found in IRC 6721 and IRC 6722 apply.

Note: A comparable section for Form 8300 penalties under Title 31 is found in 31 USC 5324, Structuring transactions to evade reporting requirement prohibited, and related regulations at 31 CFR 1010.314, Structured Transactions.

- (7) IRC 6751(b), Approval of Assessment, requires that penalty assessments have the written approval of the examiner's immediate supervisor. The manager must perform a meaningful review of the employee's penalty determination prior to assessment and document their approval by signing lead sheet #400, Penalty Approval Form – Form 8300. For additional information see IRM 20.1.1.2.3, Managerial Approval of Penalties.
- (8) IRS Policy Statement 20-2 (formerly P-2-4) prohibits the assertion of penalties against another Federal agency. Office of Chief Counsel advises that this includes judiciary branch Federal court clerks. No such prohibition exists for state offices or officials.
- (9) Refer to IRM 4.26.10, Form 8300 History and Law, for detailed information on penalties and statutes of limitations. IRM 20.1.7, Information Return Penalties, has additional guidance on asserting penalties for violation of the Form 8300 filing requirement and the requirement to furnish statements.
- (10) Additional information may be found in 26 CFR 301.6721-1, Failure to File Correct Information Returns, and 26 CFR 301-6722-1, Failure to Furnish Correct Payee Statements.

4.26.11.10.3.2
(08-04-2021)

**Letter 4595, Form 8300
No Intentional Disregard
30 Day Letter**

- (1) If violations are found but there is no evidence of intentional disregard, issue Letter 4595 along with Form 14141 to explain which penalties apply. Letter 4595 and Form 14141 are available on the forms repository and can be completed electronically. The examiner completes the highlighted areas and can then print and provide copy of each to the business.
 - a. Employee Badge Number: Employees must use the 10-digit personal identification number printed on the front of their SmartID or legacy badge in written or verbal communications with businesses. The entire 10-digit PID must be used and must not include any spaces or dashes. An example is: 10000XXXXX. Do not use the SEID number.
 - b. The Last Date to Respond to this Letter: This is the date that is thirty days after the date the letter is issued. The date the letter is issued should appear on the face of the letter, entered at "Date". Every effort should be made to deliver the letter to the business on the issue date at the top of the letter.
 - c. The examiner must manually select penalty paragraphs to include in the letter. Letter 4595 has a drop-down menu for selectable paragraphs at the top of the form. These penalty paragraphs must agree with Form 14141.
 - d. Form 14141 must be completed separately and be included with the Letter 4595.
 - e. The group manager must approve and sign the letter and Form 14141 prior to issuance.
- (2) If a Form 2848, Power of Attorney and Declaration of Representative, has been completed, follow the instructions on the Form 2848 concerning notices and communications. Be sure to send a copy to the representative if requested to do so on the Form 2848. The representative's name and address may be shown just below the address of the business.
- (3) The letter contains directions on procedures available to the business for agreeing to, or disagreeing with, the conclusions.
- (4) If the business agrees to the assessment and collection of the proposed penalty or penalties, a person authorized to enter into a closing agreement signs, dates, and returns one copy of the Form 14141.
- (5) The examiner must solicit payment. The business should enclose a check or money order payable to the United States Treasury for the amount indicated on the agreement form. If the business agrees but cannot pay in full, it pays what it can, and IRS will send a bill for the remaining amount with information on payment options.
- (6) If the business takes no action by the last date to respond shown on the letter, the case file is sent to the Detroit Federal Building, BSA Compliance Department, Attention 8300 Penalty Team. The most current mailing address is available on the BSA Policy SharePoint. The IRS will assess the penalty and the business will receive a letter advising it of its appeal rights and related procedures.
- (7) If the business disagrees with the examiners proposed penalties, they may provide a written response to the examiner and request a meeting with the examiner's supervisor. If their position is not accepted by the examiner and supervisor; the case is closed to Detroit by following normal case closing procedures. The examiner documents the conversation with the business,

documenting reasons why they did not accept the businesses request to adjust the penalties. Except for the intentional disregard penalties under IRC 6721(e)(2)(c) and IRC 6722(e)(2)(A), the business does not have pre-assessment appeal rights with respect to IRC 6721 or IRC 6722 penalties. Cases involving intentional disregard penalties, the taxpayer does not have to pay the penalties before the case is closed and the case may be closed without a signature from the taxpayer on the Form 14141.

4.26.11.10.3.3
(08-04-2021)

Letter 4596, Form 8300
Intentional Disregard 30
Day Letter

- (1) Letter 4596 is available on the forms repository and can be completed electronically.
- (2) Letter 4596 is completed in the same manner as Letter 4595. See directions above.
- (3) The letter contains directions on procedures available to the business for agreeing or disagreeing with the conclusions.
- (4) If the business takes no action by the last date to respond shown on the letter, the IRS will assess the penalty and the business will receive a letter advising it of its appeal rights and related procedures.
- (5) If the business agrees to the assessment and collection of the proposed penalty or penalties, a person authorized to enter into a closing agreement signs, dates and returns one copy of the Form 14141.
- (6) The examiner must solicit payment. The business should enclose a check or money order payable to the United States Treasury for the amount indicated on the agreement form. If the business agrees but cannot pay in full, it pays what it can, and IRS will send a bill for the remaining amount with information on payment options.
- (7) If the business disagrees, it should be offered a pre-assessment conference with the Office of Appeals to dispute proposed penalties. If the business agrees with a portion of the penalties, it may pay the penalties not in dispute and appeal the others. Pre-assessment appeal is only offered for intentional disregard Form 8300 cases.
- (8) The letter contains an explanation of the appeal process. If the business does not agree, it must respond before the last date to respond shown on the letter if it wants to appeal.
 - a. If the total amount is \$25,000 or less, the business may make a small case request instead of filing a formal written protest. The small case request must be in writing. The business should send a letter to the examiner requesting Appeals consideration, stating the penalties with which it does not agree, and the reasons for its disagreement. The business is directed to attach a copy of Letter 4596 with the statement of disputed issues. An envelope is enclosed with the letter and the small case request is returned to the examiner in the enclosed envelope.
 - b. If the proposed penalties are more than \$25,000, the business must mail to the examiner a written protest in duplicate before the last date to respond.
- (9) A written protest must include:

- a. Business name, address, daytime telephone number, and Social Security Number or Employer Identification Number.
 - b. A statement that it wants to appeal the IRS findings to the Appeals Office.
 - c. A copy of the letter showing the proposed penalties with which it does not agree.
 - d. The examination period involved.
 - e. A list of the penalties that it contests and why it does not agree.
 - f. A statement of facts, signed under penalty of perjury, supporting its position.
 - g. A statement of law or other authority that it relied on, and how that law or other authority applies to its case.
 - h. A declaration that the signature written protest is signed under penalties of perjury, for example, "Under penalties of perjury, I declare that I have examined the facts presented in this statement and any accompanying information, and, to the best of my knowledge and belief, they are true and complete."
 - i. If a representative of the business submits the protest, he or she may substitute a declaration stating that he or she prepared the protest and accompanying documents; and stating whether he or she knows personally that the statement of fact(s) contained in the protest and accompanying documents are true and correct.
- (10) Pre-assessment appeal is available to the business only in the case of intentional disregard penalties. Letter 4596 offers pre-assessment appeal rights whereas Letter 4595 does not. This difference also affects partial agreement cases. Letter 4596 contains the following language: "If you agree with a portion of the penalties as proposed, you can pay the penalties you agree with and appeal the others. You must also submit a request for a conference on the disputed amounts as described below." Letter 4595 does not contain this language because pre-assessment appeal is available only in the case of intentional disregard. The explanation of the appeal process in Letter 4596 is sufficient to meet the requirement to provide an explanation of how to appeal.
- (11) Closing procedures for Appeals cases are covered below in IRM 4.26.11.11.2. Additional guidance on appealing penalties can be found in IRM 4.26.10, Bank Secrecy Act, Form 8300 History and Law, and the Penalty Handbook, IRC 20.1.7, Penalty Handbook, Information Return Penalties.
- (12) Rules for representation at the conference with Appeals are:
- a. The business may represent itself or be represented by an attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service. The representative must be qualified to practice before the Internal Revenue Service. If the representative attends a conference without the business, he or she must file a Form 2848 or Form 8821 before receiving or inspecting confidential information.
 - b. Corporations may be represented by a corporate officer. Effective in 2018, the partnership representative may represent partnerships. Either may be represented by an attorney, certified public accountant, or an individual enrolled to practice before the IRS. Form 2848 is used for this purpose. This form is available from an IRS office or from <https://www.irs.gov/>.
 - c. Witnesses may attend the conference to support the business' position.

- (13) If the business still disagrees, the IRS will assess the penalties and the business will receive a letter advising it of its appeal rights and related procedures. Generally, if Appeals considers a penalty before it is assessed, it will not reconsider the same penalty after it is assessed, but there are exceptions to this rule. See IRM 20.1.1.4.1.1, Pre-assessment Appeals, for additional information. After payment, the business has the right to file a claim for refund with the IRS. If the IRS denies the refund claim or does not act upon it within six months from the date the claim was filed, the business can file a refund suit in U.S. District Court or U.S. Court of Federal Claims. The business has two years from the date of the notice of claim disallowance to file suit.

4.26.11.10.3.4
(08-04-2021)

**Form 14141, Agreement
to Penalties Under 26
USC 6721 and 6722**

- (1) Form 14141 must accompany both Letter 4595 and Letter 4596. The purpose of the Form 14141 is to explain the penalty type and computation and provide a vehicle for agreeing to any proposed penalties. The Form 14141 is designed to show the total penalties asserted. The form can be completed electronically. The examiner completes the highlighted areas and can then print the result to give to the business.
- (2) Instructions for completing the form may be found on the BSA Policy SharePoint.
- (3) On the final page is space for appropriate signatures and dates if the business agrees with the penalty amount.
- a. Name of Entity - Requires the legal name of the business that uses an EIN. A legal entity uses the signature of one or more authorized officers to bind it.
 - b. Signature of Authorized Officer - For the signatures of the authorized officers of a business that uses an EIN. There are spaces for their titles and dates signed. The fact that an individual's name is signed on the return or document is prima facie evidence that such individual is authorized to sign on behalf of the corporation or partnership. See 26 CFR 1.6062-1, Signing of Returns, Statements, and Other Documents Made by Corporations, and 26 CFR 1.6063-1, Signing of Returns, Statements, and other documents made by partnerships.
 - c. Representative's Signature - Space for the signature of a representative of a business who is named on a Form 2848.
- (4) Written supervisory approval must be obtained prior to issuing any written communication of penalties that offers the business an opportunity to sign an agreement to the proposed penalties. Form 14141 must be signed by the supervisor, examiner, and an authorized signer of the business.
- (5) The procedures for the intentional disregard case are as follows:
- a. In intentional disregard cases which are fully agreed, the business signs the Form 14141 and returns it to the examiner.
 - b. In fully disagreed intentional disregard cases, the business does not sign the Form 14141 and files a protest.
 - c. In partially agreed intentional disregard cases, the Form 14141 shows the total penalties asserted, but the protest, to which the Form 14141 should be attached, shows the items that are in dispute. Payment for the amount of the agreed penalties should be solicited by the examiner.

4.26.11.11
(05-29-2019)

Closing the Examination

- (1) Once the Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, examination is completed, the examiner must set up a closing conference with the owner(s) and/or officer(s) of the business to discuss any Form 8300 violations identified and cited and procedures to be taken to correct the problem.
 - a. A closing conference must be held with the owner, corporate officer, or general partner. Other employees, such as the person responsible for filing Form 8300 may be asked to attend to assist in addressing specific items.
 - b. The examiner must review with the business for any transactions not reported, and Forms 8300 not filed timely, completely, or correctly.
 - c. Obtain an explanation for any non-filed or incorrect Form 8300.
 - d. If systemic deficiencies have been identified, ask the business to provide a written statement of the corrective actions it will undertake to address the deficiencies noted.
 - e. If no referral to CI is warranted, the examiner should secure delinquent Form 8300.
- (2) The examiner must prepare the case for closing after the closing conference is completed and documented. Form 8300 Case File Assembly guidelines are available on the BSA Policy SharePoint.
- (3) The examiner must complete the Form 8300 Case Control Sheet to summarize the Form 8300 examination.
- (4) The examiner must complete a workpaper #215, summarizing the conclusion of the examination. This must be included in the Form 4318, Examination Workpapers Index, package.
- (5) Once completed, the case file should be mailed to the group manager utilizing current mailing procedures. See IRM 10.5.1.6.7.3, Shipping.

4.26.11.11.1
(08-04-2021)

Closing Cases with Penalties

- (1) Case file assembly in this section is for cases that involve a penalty assessment under IRC 6721, Failure to File Correct Information Returns, and/or IRC 6722, Failure to Furnish Correct Payee Statements, or that involve intentional disregard where there is no pre-assessment appeal by the entity.
- (2) On the outside of the folder:
 - a. Staple Form 3198, Special Handling Notice for Examination Case Processing, available from the forms repository or the BSA Policy SharePoint. Form 3198 must be used to alert the 8300 Penalty staff of the disposition of completed examination cases.
 - b. Staple Form 8300 Case Control Sheet. Business identity information including the address on the Form 3198 must be the same as that appearing on the Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties.
- (3) To the inside left of the case folder, staple:
 - a. INOLES and BMFOLT current within the past 30 days.
 - b. A copy of any payment checks and Form 3244-A, Payment Posting Voucher - Examination, if applicable. The payment and the original Form 3244-A should be sent to the teller. Only copies should be in the Form 8300 case file.

- c. The Primary Case folder must be copied to a password protected CD and be included in the file. The entity folder should be deleted from the examiner's computer once saved to a CD.
- (4) Loose inside the folder include:
 - a. Form 8278 is a mandatory closing document for Form 8300 cases closed with a penalty under Title 26. The form is available on the forms repository or BSA Policy SharePoint.
 - b. Lead sheets and workpapers must be included. Use of the pre-printed tabs is highly recommended, but not mandatory. The Form 4318 workpaper package remains in the case file. A copy of Form 3198, Form 8278, Form 3244-A and penalty workpapers should be included in the Penalty Case File Section 530 of the workpapers.
 - c. To create a well-organized, professional case file, the workpapers in the case file must be arranged in the numbering sequence shown on Form 4318, Examination Workpapers Index, Form 8300 (top to bottom). Document 12357, BSA Examination Workpapers Index Reference Tabs-Form 8300, list the number sequence on each tab. It is recommended to use the tabs to organize the case file.
 - d. Enclose the following forms (if applicable):
 - Form 5346, Examination Information Report, package and a copy.
 - Copy of Form 13639, Fraudulent Intent Referral Memorandum (FIRM).
 - Copy of Form 2797, Referral Report of Potential Criminal Fraud Case.
 - Suspicious Activity Reports enclosed in a sealed confidential envelope. They must be treated as confidential information related to a case and must be protected from unauthorized disclosure.
 - Copies of any delinquent Form 8300.
 - Copies of documents that support violations.
 - Copy of Form 15221, Prime Lead Memorandum.
- (5) The examined closed case files must be shipped to the Detroit Federal Building, Attention 8300 Penalty Team. The most current address is available on the BSA Policy SharePoint. The following procedures will be used:
 - a. The PX record for non-intentional disregard penalty cases will be updated to disposal code "03", status "41" on ERCS. Penalty sections and dollar amounts must be entered on the ERCS closing screen.
 - b. The PX record for Intentional Disregard Appealed cases will be updated to status "15" with no disposal code.
 - c. The BSA 8300 Penalty Team staff will process the Form 8300 cases, post the penalty assessments to IDRS, and forward the case file to the closing unit for storage.
 - d. Cases not received by the 8300 Penalty Team within 20 days of the ERCS status update will have their ERCS status revert to the group's prior status code.
- (6) All Form 8300 cases must remain in their original yellow folders.

4.26.11.11.2
(08-04-2021)

**Procedures for Appealed
Cases - Intentional
Disregard Penalty Cases**

- (1) Intentional disregard penalties are the only penalties that BSA proposes that have pre-assessment appeal rights. Guidance on appealing penalties can be found in IRM 20.1, Penalty Handbook. Entities are required to receive a Letter 4596, Form 8300 Intentional Disregard 30 Day Letter, advising them of their appeal rights prior to assessing the intentional disregard penalty under section IRC 6721(e), Penalty in Case of Intentional Disregard. Otherwise, entities receive Letter 4595, Form 8300 No Intentional Disregard 30 Day Letter, that advises them of their post-assessment appeal rights.
- (2) All unagreed cases are to be closed within twenty days from the earlier of the date:
 - The Letter 4596 defaults, or
 - The request for an Appeals conference is received from the taxpayer.
- (3) The examiner must prepare a rebuttal to the appeal within seven days of receipt. A BSA Policy analyst will review the case within ten days of receipt for completeness and technical and procedural accuracy.
- (4) If a business contests the proposed intentional disregard penalty and IRS does not agree with their position, the business is entitled to a pre-assessment appeal hearing and the case files must be sent to Appeals. The BSA examiner must prepare a rebuttal to the appeal, and the group manager must approve both the rebuttal and the adequacy of the proposed penalty. The examiner is required to receive an opinion from local Area Counsel as to whether they would support the proposed intentional disregard penalties.
- (5) BSA groups will update the PX record on ERCS to Status "15" and send their Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, intentional disregard Appeals cases to the BSA Policy Analyst at the most current address available on the BSA Policy SharePoint found at: <https://organization.ds.irsnet.gov/sites/SbseFraudBSA/BkSecAct/SitePages/Home.aspx>.
- (6) The BSA Policy Analyst will review the statute of limitations and e-mail the group manager to update the statute on ERCS as needed. The default statute should be January 1 (01-01-XX) three years from the tax period examined or the regular statute of three years from the first filed Form 8300.
 - a. Cases with less than 365 days on the statute will be sent back to the group to secure a statute extension or to assess the penalty before forwarding the case to Appeals. The BSA Policy Analyst will e-mail the group manager to have the case put back into group status "12". See IRM 4.26.10, Form 8300 History and Law, for guidance on extending the statute.
 - b. The field group is responsible for protecting the assessment statute for the ERCS penalty record prior to forwarding the Appeals case to the BSA Policy Analyst. The statute of limitations for assertion of the failure to file IRC 6721 penalty is like that of any other tax return. It runs from the later of the due date of filing under IRC 6050I, Returns Relating to Cash Received in Trade or Business, etc., or the date the Form 8300 was filed. Once Form 8300 is received by IRS, the statute is three years from the date of receipt. There is no statute on the notice penalty; however, it is best to assess it within the same three-year time frame to maintain a good relationship with the entity.

- (7) BSA Policy will review the case within ten days of receipt for completeness and technical and procedural accuracy during which time the case remains in Status "15".
- a. If the analyst determines there is insufficient evidence to support the penalty and/or problems with the case file, the case will be returned to the group for further development or correction. The BSA Policy Analyst will prepare a memorandum to the group manager summarizing errors and corrections needed. The memo will be forwarded to the BSA Policy Program Manager for approval and signature. The signed memorandum will be emailed to the group manager with a copy to the territory manager. A copy of the memo will be included in the case file, which will be mailed back to the group. The BSA Policy Analyst will e-mail the group manager to have the case put back into group status "12".
 - b. If the case is technically and procedurally correct and there are no other problems, the BSA Policy analyst will mail the case to the appropriate Appeals office. Instructions for routing cases to Appeals are found at <http://appeals.web.irs.gov/APS/caseroouting.htm> - select option "Case Routing Addresses and Instructions" to find the correct Appeals office for the case. The BSA Policy Analyst will also notify the Appeals Liaison via e-mail that the case was forwarded to Appeals.
 - c. Email the group manager to have the case updated to status "90" on ERCS.
 - d. The group manager will update the ERCS records to capture the penalty sections and penalty dollars proposed and update the ERCS record to status "90".

4.26.11.11.3
(08-04-2021)
**Protest Adequacy-
Intentional Disregard
Penalty Cases**

- (1) If the entity responds to the 30-day letter by requesting an Appeals conference, examiners must follow the applicable procedures in this subsection.

Reminder: Unless specifically excluded from Appeals consideration, all cases are eligible for an Appeals conference if the taxpayer submits and adequate formal written protest (when required), or small case request.

- (2) To be considered "adequate", a formal written protest and a small case request must contain all information required by Pub 5 (with exceptions noted in the table below). Adequacy of a protest is generally not determined based on its substantive content, such as whether the protest contains enough facts or legal support.

Example: A taxpayer submits a formal written protest and cites IRC 162, Trade or Business Expenses, but does not provide reasons for their disagreement and any information to support their position as required by Pub 5. Therefore, the protest is inadequate; the examiner must return the protest to the taxpayer and grant additional time for the taxpayer to perfect it. See table below in paragraph (3).

Example: A taxpayer submits a small case request and indicates disagreement based solely on the inability to pay. The protest is inadequate; the examiner must return the protest to the taxpayer and grant additional time for the taxpayer to perfect it. See table below in paragraph (3).

Example: A taxpayer submits a formal written protest with the information required by Pub 5, addressing the issues raised in the 30-day letter, reasons for disagreement, and information to support their position on the issues. The examiner disagrees with the taxpayer's facts and/or does not consider the taxpayer's position sufficiently supported; however, the protest is adequate because it contains all information required by Pub 5. The examiner should determine if a rebuttal is needed prior to forwarding the case for Appeals consideration. See IRM 4.26.11.11.4.

- (3) When a taxpayer requests an Appeals conference, examiners must follow the applicable procedures in the following table:

If	Then
The total amount for any period under review is not more than \$25,000.	<p>The filer may make a small case request instead of filing a formal written protest. The filer may complete Form 12203, Request for Appeals Review.</p> <p>Note: Pub 5 contains instructions on preparing formal written protests and small case requests in unagreed cases.</p>
The total amount for any period is more than \$25,000.	<p>The filer must submit a formal written protest.</p> <p>Note: Pub 5 contains instructions on preparing formal written protests and small case requests in unagreed cases.</p>
The filer submits a formal written protest or small case request.	<p>The protest must be reviewed at the group level, as designated by management, within 20 days of receipt to determine whether the protest complies with the requirements as outlined in Pub 5. The protest review should include consideration of any new facts, law, or arguments presented to determine if:</p> <ul style="list-style-type: none"> • The case requires further development by the examiner; • The examiner's report should be modified.

If	Then
The formal written protest or small case request does not comply with the requirements as outlined in Pub 5.	<p>The protest should be returned to the filer and additional time should be granted to perfect the protest. The examiner should use the following letter for this purpose:</p> <ul style="list-style-type: none"> Letter 1025, Letter of Protest <p>Note: If the only item missing from the protest is a copy of the 30-day letter, the case can be closed using the copy in the file, therefore, there is no need to return the protest to the filer for perfection.</p>
The formal written protest or small case request contains information warranting consideration.	<p>The case may require additional development because of additional facts raised and/or new information, issues, or legal arguments presented in the formal written protest or small case request. Cases requiring additional development are priority work and should be given expedited consideration. See IRM 4.10.8.12.9.3.1, Timely Actions - Request for Appeals Conference.</p> <p>Reminder: Appeals does not return cases for further development.</p>
The examiner or group manager feels there is something in the formal written protest or small case request that does not change the determination but requires further comment or explanation.	A rebuttal is to be prepared for Appeals and included in the case file before it is sent to Appeals.
The formal written protest or small case request is complete.	The examiner must prepare Letter 2280, Transfer to Appeals, to notify the filer the case is being closed to Appeals. The letter must be signed by the group manager and mailed to the filer.

If	Then
There is not sufficient time remaining on the statute of limitations to send the case to Appeals and a consent was previously solicited.	The BSA Policy Analyst will review the statute of limitations and email the group manager to update the statute on ERCS. follow the procedures in IRM 4.26.11.11.2, Procedures for Appealed Cases - Intentional Disregard Penalty Cases. Procedures for Appealed cases – Intentional Disregard Penalty Cases.
The filer's representative submits the formal written protest or small case request for the filer.	The representative must include a substitute for the filer's declaration described in Pub 5. The declaration will state: <ul style="list-style-type: none"> • The representative prepared the protest and accompanying documents; and • Whether the representative knows personally that the facts contained in the protest and accompanying documents are true and correct.
The filer verbally requests a transfer of jurisdiction for the appeal, and the formal written protest or small case request is complete.	The case file will be sent promptly to the local Appeals office serving the examiner's area. This procedure applies even if the filer has requested a hearing in an Appeals office other than the one servicing the examiner's area.

4.26.11.11.4
(08-04-2021)

Forms for Closing 8300 Cases

- (1) Form 3198 and Form 8278 are mandatory closing documents for Form 8300 cases closed under Title 26. Form 3244-A is mandatory for Form 8300 cases when payment is received.
- (2) Form 3198 must be completed for all examined Form 8300 cases.
 - a. Business identity information including the address on the Form 3198 must be the same as that appearing on the Form 8278, IDRS and ERCS.
 - b. Cases with a Dummy TIN must cross reference the true TIN on Form 3198. The correct TIN will be annotated on the top of the form to identify the actual taxpayer and the Dummy TIN will be referenced in the "Remarks" or "Other" section as Dummy TIN for ERCS purposes. Case processing can only make assessments on the valid TIN.

- c. In Other Instructions: Use "HOLD CODE 2" when an Advance Payment is received. Do not use "HOLD CODE 2" if there is no advance payment received.
 - d. The bottom of Form 3198 should include the Tax Period, MFT, Disposal Code, Penalty Code Sections, Penalty Amount and Agreement Date.
- (3) Form 8278 is an adjustment document used for the manual assessment or abatement of miscellaneous civil penalties that are not subject to deficiency procedures. The form is available on the forms repository or BSA Policy Share-Point and is a mandatory closing document for Form 8300 cases closed under Title 26.
- a. Pull up the Information Returns Penalties page of the document.
 - b. Follow the instructions attached to the form.
 - c. A single Form 8278 may include multiple penalties for the same year in which penalties are identified.
 - d. A separate Form 8278 is required for each year when working a case involving multiple years.
 - e. Taxpayer information must match IDRS and ERCS.
 - f. Tax Period and Statute Date must be in the correct format and must match ERCS.
 - g. Form 8278 must be prepared with the correct TIN. If a Dummy TIN was originally used, a comment must be made in the remarks section of the form regarding the Dummy TIN for ERCS purposes. Case processing can only make assessments on the valid TIN.
 - h. Enter the proper MFT code in item 3 "MFT". MFT for Form 8300 penalties is "13" for businesses (BMF) and "55" for individuals (IMF).
 - i. BSA only assesses penalties under Penalty Reference Numbers 651, 652, 653 and 654. Any other penalty reference numbers will be rejected, and the case will be returned to the group for correction.
 - j. Input the Number of Violations and the Amount Assessed in Columns c and d. Do not complete columns e and f. Use the remarks section to explain any unusual penalty computations, for example a \$30 penalty.
 - k. Examiner and manager must sign the document with original signature. Original signature is either Pen or Electronic Digital signature with coding.
- (4) Form 3244-A must be prepared for each year in which payment is received.
- a. Enter return form number and proper MFT code in the box at the top labeled "Form number/MFT". MFT for Form 8300 penalties is "13" for businesses (BMF) and "55" for individuals (IMF).
 - b. The Form 3244-A can list either Form 8278 or Form 8300 under form number.
 - c. Form 8300 advance payments are listed on Form 3244-A under Transaction Data as TC 640. Enter the total payment at the bottom of the transaction data.
 - d. Prepared By - Enter the Primary Business Code, Secondary Business Code, and Group number, along with the preparer's name and telephone number, so that the preparer of Form 3244-A may be contacted, if necessary.
 - e. Under Remarks, examiners must enter BSA Penalty case and check number.

- f. Part 1 of Form 3244-A and the taxpayer's remittance will be forwarded to the applicable Servicing Campus on the same day, or following day, of receipt. Use Form 3210, Document Transmittal, to transmit the form and payment.

4.26.11.11.5
(08-04-2021)
**BSA Information
Reports**

- (1) The identification of potential income tax, employment tax, and ATAT referrals is required as part of the examination process. In addition, a Form 8300 examination may uncover other information which should be referred to other business units. The examiner charges time to the case for identifying and submitting these referrals.
- (2) Form 5346, Examination Information Report, must be completed when a related return should be considered for an examination. Instructions for completion appear with the form. Transactions may or may not have been reported on a Form 8300.
 - a. Project Code 432 must be noted on Form 5346 for all leads generated from Form 8300 examinations.
 - b. The BSA examiner must attach any relevant documents to the Form 5346.
 - c. The Form 5346 package, consisting of the Form 5346 and related documents, must be copied and both original and copy packages placed in the case file for review by the manager.
 - d. Information reports must be reviewed by the group manager. If approved, the manager emails the electronic Form 5346 and attachments to: **SBSE BSA Info Reports/Referrals* mailbox.
- (3) Form 14242, Reporting Abusive Tax Promotions and/or Promoters, must be completed to refer information to the Lead Development Center (LDC). Follow similar procedures as for Form 5346 above. If approved by the group manager, Form 14242 and attachments should be emailed to the appropriate BSA Policy Analyst. If Form 14242 cannot be emailed, then mail or fax it to the BSA Policy Analyst with a copy to BSA ECS and a copy retained in the administrative file. The analyst name and address are available on the BSA Policy SharePoint.
- (4) When it is determined the case does not meet the local criminal referral requirements, and BSA and the FEA believe the information should be shared with CI, the following actions will be taken:
 - 1. The examiner will complete the Form 15221, Bank Secrecy Act Prime Lead (BSA) - Prime Lead Memorandum, and send it to the BSA Manager, via secure email, for approval.
 - 2. The manager will review and approve Form 15221 and update the case to status 17 in the Title 31 database.
 - 3. The examiner will complete the PLM with the assistance of the FEA.

Note: Box 8 of the PLM requires a list of all attachments. Include electronic copies of all supporting evidence; cash checks (front and back), money orders, wire transmission receipts, a spreadsheet of wires and/ or other similar records. If the documents are not available electronically or readily convertible to electronic, they should be made available once a special agent requests access to them from the BSA examiner.

Note: If original documents are provided to CI, copies should be kept with BSA case file.

4. The examiner will secure email the completed PLM to the manager for approval along with the previously approved Form 15221.
 5. The manager will review, sign, and secure email the PLM and previously approved Form 15221 to the FEA for signature.
 6. The manager will secure email the PLM and Form 15221 to BSA Exam Case Selection **SBSE BSA Info Reports/Referrals*.
 7. The FEA will secure email the PLM and Form 15221 to the FEA manager.
 8. The FEA manager will review, approve and secure email the PLM to the appropriate special agent in charge at the appropriate field office or their designee, for example CI fraud coordinator, and secure email the PLM to the fraud data specialist (FDS).
 9. FDS will record the PLM and number of individuals/entities included with the PLM on a spreadsheet within the Office of Fraud Enforcement (OFE).
 10. CI will have 30 calendar days to review the PLM, supporting documents and schedule a meeting with the referring examiner, manager and the FEA to discuss the merits of the PLM. CI does not have to accept or decline the PLM but may hold it for future use. The CI supervisory special agent can request an extension to the 30 days in writing to the BSA territory manager. Together, they will decide if an extension is warranted and if so, will determine an acceptable extension date. The FEA manager will be cc'd when an extension is submitted to the BSA Territory Manager.
 11. If CI initiates a criminal investigation from any information in the PLM, CI will assign a source code in the Criminal Investigation Management Information System (CIMIS) of "SBSE BSA Prime Lead". Any "spinoff" investigations are to be coded similarly. This action will provide data which can be used to track BSA PLM accomplishments.
 12. The manager will update the case from status 17 to status 12 after the four-way meeting and the examiner will complete the examination. The BSA case file remains in the examiner's possession throughout the PLM process.
 13. The FEA will notify the FEA Manager when the PLM is no longer an active fraud development case. The FEA Manager will secure email the FDS of the change in status of the PLM.
 14. The manager will record the prime leads in the Title 31 database when the examination is closed. This is completed by selecting "Enter Leads" in the case closure screen and selecting "CI" as the "type".
 15. CI will provide Fraud with a quarterly report of investigations sourced from PLMs.
 16. The OFE will provide a quarterly report to BSA Exam Case Selection of received PLMs and investigations initiated from them via secured email **SBSE BSA Info Reports/Referrals*.
- (5) Form 3949, Information Report Referral, is used to record and control information items or tips provided by informants (whistleblowers) in connection with violation of the Internal Revenue Code. Form 3949-A, Information Referral, is completed by an informant who does not want an award. Instructions are on the reverse of the Form. A mailing address is provided for the completed form. If an award is requested, Form 3949 is completed by the examiner receiving the information and accompanied by Form 211, Application for Award for Original Information. Detailed procedures for these forms are given in IRM 25.2.1, General Operating Division Guidance for Working Whistleblower Claims. Routing is determined by the amount of the unreported income and

criminal potential. BSA forwards the information to Fraud using the Form 15221 for assistance in determining criminal potential. If approved, a Form 2797 is completed and forwarded to the SAC at the appropriate CI Field Office with a copy retained in the administrative file.

- (6) Form 2797 is used by Compliance function personnel to refer potential criminal fraud cases to CI for appropriate action. It is used after a Form 15221 has been forwarded to OFE and approved. For additional information about the FIRM and the Form 2797 refer to IRM 4.26.8.6, Coordination with a Fraud Enforcement Advisor.

4.26.11.11.6
(08-04-2021)
Forwarding Closed Cases

- (1) Intentional Disregard Form 8300 penalty cases are sent to the BSA Policy analyst for review, at the address shown on the BSA Policy SharePoint. Refer to IRM 4.26.11.11.2.
- (2) All other closed case files are mailed to CTR Operations located in the Detroit Federal Building, Attention: BSA 8300 Penalty Team. The address can be found on the BSA Policy SharePoint.
- (3) Penalty cases that warrant a re-examination will require for examiner to create a zip file that will be sent to ECS by the group manager. Examiner, with manager consent, will determine if case needs to be revisited in one year from the date the case is closed or in two years. Risk factors of the case to be considered when making date determination.
- (4) The following naming convention to be used when creating the zip file (Last four of TIN of the Business_Group Number_Follow up date) (for example xxxx_Group 1604_06-05-23. Zip file to contain the following files:
 - Letter 4595, Form 8300 No Intentional Disregard 30 Day Letter
 - Lead Sheets
 - Memorandums of Interview
 - Form 14141, Agreement to Assessment and Collection of Penalties Under 26 USC 6721 and 6722 for Violations of 26 USC 6050I
 - Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties
 - Form 3198, Special Handling Notice for Examination Case Processing

Note: Manager will send the zip file to the following ECS mailbox **BSA ER*, when closing case out of the group. Email subject line to state "Closed 8300 Follow Up Case".

- (5) Naming convention for letters (Letter Type_Last four of EIN_Group_Closure Date) (Example: L4595_XXXX_1609_12-15-21).

4.26.11.12
(05-29-2019)
Special Procedures

- (1) The procedures for Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, examinations conducted under Title 26 IRC 6050I, Returns relating to cash received in trade or business, etc., are often different from procedures when the Form 8300 examination is conducted under Title 31 (31 USC 5331, Reports relating to coins and currency received in non-financial trade or business). See IRM 4.26.8, Special Procedures.
- (2) Special procedures that are different from Title 31 procedures include: Summons, Third-party records, and Disclosure.

- (3) Special procedures that are the same include: Computer Audit Specialist requests, Technical Assistance requests, and Safety.
- (4) Guidance to the field for the procedures to be used when examining an entity that is subject to both Title 26 IRC 6050I and Title 31 can be found on the BSA Policy SharePoint.

4.26.11.12.1
(05-29-2019)

Power of Attorney

- (1) Form 2848, Power of Attorney and Declaration of Representative, is effective for Form 8300 examinations worked under Title 26 or under Title 31.
- (2) See IRM 20.1.7.4, Powers of Attorney for Civil Penalties, and IRM 4.11.55, Power of Attorney Rights and Responsibilities.

4.26.11.12.2
(05-29-2019)

Summons

- (1) Before issuing any summons, the Form 8300 examiner should prepare Form 4564, Information Document Request, listing the specific documents needed to perform a Form 8300 examination. A summons may be needed if the business fails or refuses to comply or if records are needed from a third-party record keeper, such as a bank, which requires a summons. The summons used depends upon whether the Form 8300 examination is being conducted under Title 26 or Title 31.
- (2) In a Title 26 examination, the examiner issues IRS Form 2039, Summons. See your manager for assistance when issuing summonses. Title 26 summonses are discussed in the Summons Handbook beginning at IRM 25.5.1, Summons, Introduction. If the subject of the examination is an attorney, see IRM 4.26.12, Examination Techniques for Form 8300 Industries.
- (3) The Title 31 summons is FinCEN Form 113, BSA Summons. It is available on the BSA Policy SharePoint. The income tax summons (IRS Form 2039) is not used in a Title 31 examination. Title 31 summons procedures are set out in the instructions attached to the BSA Summons. They are discussed in IRM 4.26.8, Special Procedures. A parallel discussion is found in IRM 25.5.11, Title 31 Bank Secrecy Act Summons.

4.26.11.12.3
(08-04-2021)

Third-Party Records

- (1) There are several instances when third parties may be needed to testify or provide records. These may include:
 - a. Determining whether the annual statement has been furnished to each person whose name is required to be on the Form 8300. See IRC 6050I(e), Statements to be Furnished to Persons with Respect to Whom Information is Required.
 - b. If the business refuses to provide records or states that the records have been lost, stolen, or destroyed, or if the records appear to be false, it may be necessary to contact third parties who have knowledge of the records and the transactions.
- (2) Third-party notification, as required by IRC 7602(c)(1), Notice of Contact of Third Parties, is applicable to Form 8300 examinations conducted under Title 26. See IRM 4.11.57, Examining Officers Guide (EOG), Third Party Contacts. If the subject of the examination is an attorney, see IRM 4.26.12, Examination Techniques for Form 8300 Industries.

- (3) Effective August 15, 2019, Pub 1 no longer satisfies the advance notice requirement of IRC 7602(c)(1), Notice of Contact of Third Parties.
 - Issue advance notice of third-party contacts (Letter 3164-S, Third Party Contact - Notification for Compliance Reviews & 637 Registration Reviews),
 - Intend, at the time such notice is issued, to contact third parties (the notice must state this intent),
 - Notice must include the tax period(s) at issue. Employees may reissue notices yearly, if necessary,
 - Specify in the notice the time period, not to exceed one year, within which IRS intends to make the third-party contact(s), and
 - Send the notice at least 45 days before contact with a third party,
 - Record each third party contacted, and
 - Provide a list of third parties contacted upon request (Letter 3173).
 - (4) IRC 7602(c)(3) contains 3 exceptions to the above requirements. The exceptions are:
 - IRC 7602(c)(3)(A) to any contact which the taxpayer has authorized
 - IRC 7602(c)(3)(B) if the Secretary determines for good cause shown that such notice would jeopardize collection of any tax or such notice may involve reprisal against any person; or
 - IRC 7602(c)(3)(C) with respect to any pending criminal investigation
 - (5) IRC 7602(c)(3)(A) which is if the taxpayer authorizes the contact, we do not need to provide notice or record the contact. If the taxpayer authorizes a contact with a specific third party, then notice, (Letter 3164-S) is not required nor is recording (Form 12175). This applies only to the third parties that are specifically named in the authorization (Form 12180).
 - (6) In all cases involving third-party contact notices provided after August 15, 2019, or in which contacts with third parties will occur after August 15, 2019, a notice meeting the new requirements must be provided. Employees may not contact a third party until the 46th day following the date of the notice.
 - (7) Employees may reissue notices yearly, if necessary.
 - (8) Letter 3164-S (Rev 7-2019) has been updated to reflect new requirements.
 - (9) Contact with third party can be made immediately and examiner does not have to wait 45 days if Form 12180 has been approved and received from the taxpayer.
-
- (1) When conducting a Form 8300 examination under Title 26, the examiner should not inquire about Title 31 requirements, such as FBAR requirements. During a Form 8300 examination under Title 26, information may be identified that indicates that a potential civil or criminal violation of Title 31 has occurred. When a related statute determination has been made, the information evidencing the violation may be used in the Title 31 case. Refer to IRM 4.26.14, Disclosure, for an in-depth discussion. The examiner must involve the group manager in any related statute determination.
 - (2) Some BSA examinations of Form 8300 are started under Title 31. This is generally true when the Form 8300 entity also has anti-money laundering

4.26.11.12.4
(05-29-2019)
Disclosure

program requirements under Title 31. For Title 31 examinations, FinCEN's Re-Dissemination Guidelines govern disclosure. See IRM 4.26.14 for an in-depth discussion.

4.26.11.12.5
(05-29-2019)
**Computer Audit
Specialist Requests**

- (1) Use of a CAS must be considered on Form 8300 examinations if:
 - a. A large number of transactions need review.
 - b. A large volume of records need review.
 - c. The trade or business maintains a computerized recordkeeping system.
- (2) Procedures for requesting CAS assistance are the same for Title 26 and Title 31 cases.
- (3) All inquiries, correspondence, and so on, pertaining to any of the materials in IRM 4.47, Computer Audit Specialist, or the Computer Audit Specialist Program, should be directed to the office of the CAS National Program Manager. (IRM 4.47.2, CAS Technical and Procedural Information)

4.26.11.12.6
(05-29-2019)
Technical Assistance

- (1) The examiner may access the BSA Policy SharePoint site at <https://organization.ds.irsnet.gov/sites/SbseFraudBSA/BkSecAct/SitePages/Home.aspx>, to obtain the most current BSA program information and documents. The BSA Policy SharePoint site is a controlled access site; only BSA employees have access. The group manager can request access for a BSA employee who needs to be added to the access group.
- (2) The examiner should contact the group manager with any technical questions pertaining to Form 8300 or for procedural assistance. Questions for BSA Policy Analysts or Technical Advisors must go through the group manager. Examiners should not contact technical advisors directly.

4.26.11.12.7
(08-04-2021)
**Stop Correspondence
Procedures**

- (1) Examiners must request to stop Form 8300 correspondence so that BSA Compliance Department, Detroit does not send a penalty letter to a filer that has already been examined by a field examiner.
- (2) To request the BSA Compliance Department, Detroit, to stop correspondence related to Form 8300 the examiner must complete Form 8300 Request to Stop 8300 Correspondence available on the BSA Policy SharePoint.
- (3) Examiners must include the beginning date and the ending date of the examination period on their Request to Stop Correspondence. This ensures the documents filed during the examination period are excluded from CTR penalty runs. The restart date will follow the end date of the examination period. The full 12-month examination period should be included in the request.
- (4) The examiner must use secured e-mail to forward the request to the 8300 Penalty Team using the stop correspondence e-mail address **SBSE 8300 Stop Correspondence* (organizational mailbox). The examiner will receive a reply from the mailbox that the request has been received for processing. The request will be assigned and processed within 48 hours.
- (5) If an examiner needs assistance on the Form 8300 Stop Correspondence procedures the examiner may send an e-mail to **SBSE 8300 Stop Correspondence* or utilize the CTR Contacts on BSA Policy SharePoint.

- (6) The examiner must document the request to stop correspondence in the Activity Record and place the requests and any e-mail responses from the BSA Compliance Department, Detroit in the "Miscellaneous" section of the workpapers.
- (7) The Team Lead in Detroit or the assigned tax examining technician will process the request. An acknowledgement response is generated from the organizational mailbox or the assigned processor.

4.26.11.12.8
(05-29-2019)

Safety

- (1) BSA examinations generally take place at the place of business. If the neighborhood or circumstances at the place of business cause the examiner to have a safety concern, the examiner should:
 - a. Notify the group manager.
 - b. Ask the business to bring all records to the IRS office.
- (2) Another option is to request an armed escort.
 - a. An armed escort request is appropriate when the examiner intends to meet with taxpayers who have been designated by the Office of Employee Protection (OEP) as a Potentially Dangerous Taxpayer (PDT) or Caution Upon Contact (CAU), or in other circumstances where the employee and his or her manager believe interaction with a taxpayer may pose a risk of injury to the employee.

Note: Information about individuals designated as PDT or CAU is Title 26 information and is not available for Title 31 examinations.
 - b. All armed escort requests must be made in writing by IRS management via a memorandum, not to exceed two pages, to the TIGTA-OI SAC of the appropriate TIGTA-OI field division at least one week prior to the scheduled appointment date with the taxpayer. It must contain the subject's identity information, the employee's identity information, a description of the activity to take place, and the reasons that an armed escort is warranted. IRS CI no longer fulfills this function.
 - c. See IRM 4.2.1.3, Request for Armed Escort, for additional information.
- (3) The IRS has two Servicewide employee safety programs designed to warn employees of taxpayers who have been designated as potentially dangerous and or should be approached with caution:
 - Potentially Dangerous Taxpayer Program
 - Caution Upon Contact Taxpayer Program
- (4) See IRM 4.2.1.2, Potentially Dangerous Taxpayer (PDT) and Caution Upon Contact (CAU) Indicators, for more information.

4.26.11.12.9
(08-04-2021)

Entities Subject to both Title 26 and Title 31

- (1) Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, is a dual-reporting form. The report is required to be filed with the Internal Revenue Service (IRS) by IRC 6050I, Returns Relating to Cash Received in Trade or Business, etc. (Title 26) and the Financial Crimes Enforcement Network (FinCEN) under 31 USC 5331, and 31 CFR 1010.330, Reports Relating to Currency in Excess of \$10,000 Received in a Trade or Business. Only one form is required to be filed for a transaction subject to both sections of the law.

- (2) Trades or business with an anti-money laundering program requirement should be opened and started under Title 31. Violations of their AML program requirements and the Form 8300 requirements will be determined during the Title 31 examination. Violations of the AML program requirements are cited on the Letter 1112. Violations associated with a Form 8300 requirement are assessed by IRS under Title 26 after the Title 31 examination is closed.
- (3) FinCEN delegated to the IRS the authority under 31 USC 5318(a)(3), Compliance, Exemptions, and Summons Authority, and 31 USC 5318(b), Limitations on Summons Power, to examine “any” nonfinancial trades or businesses for compliance with the Form 8300 requirements of the BSA and to investigate possible civil violations of these requirements. This enables the IRS to share the results of Title 31 examinations with FinCEN and other federal and state governmental agencies, for purposes consistent with the BSA, without disclosure issues. Even though examined under Title 31, violations associated with a Form 8300 requirement are, in most circumstances, assessed by IRS under Title 26 after the Title 31 examination is closed.
- (4) Form 8300 penalties asserted under Title 26 IRC 6721, Failure to File Correct Information Returns, and IRC 6722, Failure to Furnish Correct Payee Statements, are assessed and collected by the IRS. Form 8300 penalties asserted under 31 USC 5321, Civil Penalties, are assessed by FinCEN and collected through the court system.
- (5) Form 8300 penalties for causing or attempting to cause a business to fail to file a return or to file a return with a material omission/misstatement or structuring asserted under IRC 6050I(f)(2), Penalties, are the same as those under IRC 6721 or IRC 6722. Structuring penalties under Title 31 found in 31 USC 5321(4), Structured Transaction Violation, are different.
- (6) When a business has requirements under both Title 31, such as the AML program requirement, and Titles 26 and Title 31 to file a Form 8300, the examinations should be started under Title 31. This allows the examination to cover not only the determination of whether their AML program is adequate but to secure any delinquent Form 8300. In the majority of cases, the Title 31 examination will be closed citing AML program violations and a separate case file will be built under Title 26 to assess penalties on violations of the Form 8300 and determining compliance with the annual reporting statements required under IRC 6050I.
- (7) For procedures see IRM 4.26.8.9, Nonfinancial Trade or Business Examination Initiated Under Title 31, IRM 4.26.8.7, Trade or Business Examined under Title 31, and IRM 4.26.8.8, Trade or Business Examined with AML Program Requirements.
- (8) If a Title 26 Form 8300 case is received in the field and the BSA manager and examiner, **prior to contacting the entity**, concur that the examination should be initiated using Title 31 procedures, the examiner should survey the Title 26 Form 8300 case, return it to the group manager who will then return it to ECS.

4.26.11.12.10
(05-29-2019)

**Statute of Limitation for
Penalties under IRC
Section 6721 and 6722**

- (1) The statute of limitations if the Form 8300 case is pursued under Title 26, is limitless in the case of an unfiled Form 8300. See IRM 4.26.10.12, Authority. Under IRC 6724(b), Payment of Penalty, and IRC 6671(a), Penalty Assessed as Tax, penalties relating to information returns “shall be paid on notice and demand by the Secretary in the same manner as taxes”. Thus, the statute of limitations found in IRC 6501, Limitations on Assessment and Collection, applies to any Form 8300 which has been filed.
- (2) No statute of limitations applies to non-filed returns. Penalties may be assessed at any time. See IRC 6501(c)(3), No Return.
- (3) For missing or incorrect information on a filed information return, the penalties must be assessed within three years after the due date of the return or the date filed, whichever is later. See IRC 6501(a), General Rule.
- (4) There is no statute date for failure to notify under Title 26 IRC 6722.
- (5) There is no form designed to accommodate an extension of the statute of limitation on IRC 6721 or IRC 6722 penalties.
- (6) Form 872, Consent to Extend the Time to Assess Tax, is used to extend the statute of limitations on IRC 6721 penalties. Line (1) of the extension form is completed as follows for “the kind of tax”:
 - a. The amount of liability “for penalties prescribed by IRC 6721”.
 - b. The word “tax” printed to the right of the entry field should be lined through.
- (7) See IRM 25.6.22, Statute of Limitations, Extension of Assessment Statute of Limitations by Consent, for additional information.