



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.63.3

APRIL 27, 2021

EFFECTIVE DATE

(04-27-2021)

PURPOSE

- (1) This transmits revised IRM 4.63.3, Withholding and International Individual Compliance, Offshore Voluntary Disclosure Program, Streamlined Filing Compliance Procedures and Voluntary Disclosure Practice.

SCOPE

- (1) This IRM also includes:
 - Offshore Voluntary Disclosure Programs (“OVDP”)
 - Streamlined Filing Compliance Procedures (“Streamlined Procedures”)
 - OVDP Transition
 - The Voluntary Disclosure Practice - (Post OVDP).

MATERIAL CHANGES

- (1) Editorial changes have been made throughout the IRM references and links have been updated.
- (2) Changed references to Withholding International and Individual Compliance (WIIC) to Withholding Exchange International and Individual Compliance (WEIIC) throughout.
- (3) Changed references to OVDP team to Compliance Support, Development & Communication (CSDC)
- (4) Changed references to Streamlined Filing Compliance Procedures to Streamlined Procedures throughout.
- (5) IRM 4.46.3.1 - added ending date for OVDP and expanded on the four separate programs.
- (6) IRM 4.63.3.1 - provided specific links for each program.
- (7) IRM 4.63.3.1.2 - incorporated information from Internal Guidance Memo (IGM) dated November 20, 2018.
- (8) IRM 4.63.3.1.3 - elaborated on executive responsibilities.
- (9) IRM 4.63.3.1.4 - reworded for clarity.
- (10) IRM 4.63.3.1.5 - added the following acronyms: ACU, ADCCI, COIC, CTR, FEA, FTA, GM, OIC, RSM, SDO, SFO and TM to the table.
- (11) IRM 4.63.3.1.6 through IRM 4.63.3.1.6.4 - removed table and revised subsection structure to add clarity.
- (12) IRM 4.63.3.1.7 - revised formatting and TBOR content updated based on guidance from the Division Counsel/Associate Chief Counsel (National Taxpayer Advocate Program) and Branch 3 of the Associate Chief Counsel (Procedure and Administration).
- (13) IRM 4.63.3.2 - changed title for clarification and removed the words “beginning with” from second bullet in (4).
- (14) IRM 4.63.3.13 - reworded for clarity.

- (15) IRM 4.46.3.18 - removed IRM reference from (d).
- (16) IRM 4.63.3.19.3 - changed the word “Protectorates” to “Territories” in (2).
- (17) IRM 4.63.3.19.4 - removed the word “participating” from (1).
- (18) IRM 4.63.3.19.5 - The following changes were made:
- Removed excess verbiage in (1)
 - Deleted the word “the” before “OVDP” in (2).
 - Deleted the word “return” before “Form” in (2).
 - Deleted the word “also” from (3).
 - Added the words “and other” to (4).
- (19) IRM 4.63.3.19.7.1 - added the word “more than” to (2)(d) and changed the word “unreported” to “specified”.
- (20) IRM 4.63.3.19.7.12 - changed verbiage in second to last sentence for clarity.
- (21) IRM 4.63.3.19.7.4 - added clarification to the example in (1)(c).
- (22) IRM 4.63.3.19.1.1 - changed title of subsection.
- (23) IRM 4.63.3.20 - reworded (1) for clarification.
- (24) IRM 4.63.3.22 - removed references to Form 10509-A. Reworded alpha list for clarification.
- (25) IRM 4.63.3.23 - revised description of Form 14457.
- (26) IRM 4.63.3.24 - removed references to the 2012 Streamlined Procedures.
- (27) IRM 4.63.3.24.2.1 - replaced “TP” with “taxpayer”.
- (28) IRM 4.63.3.24.2.1 - the following changes were made
- Added the word “Form” before 1040 in (1)
 - Reworded (2) for clarification
 - Replaced “TP” with “taxpayer” in (3)
 - Replaced the word “valid” with “completed” in (3)
- (29) IRM 4.63.3.24.2.2 - the following changes were made
- Added the word “Form” before 1040 in (1)
 - Reworded (2) for clarification
 - Replaced “TP” with “taxpayer” in (3)
 - Replaced the word “valid” with “completed” in (3)
 - Replaced the word “less” with “fewer” in (5) and (6)
 - Removed the word “interest” from (7)
- (30) IRM 4.63.3.24.2.2.3 - replaced the word “submitting” with “making”.
- (31) IRM 4.63.3.24.2.3.1 - added additional language to (2) for clarification.
- (32) IRM 4.63.3.24.2.3.3 - this section on Statistical Sampling has been deleted.
- (33) IRM 4.63.3.26 - this is a new section added for the VDP.

EFFECT ON OTHER DOCUMENTS

This IRM implements and supersedes the Interim Guidance Memo LB&I -09-1118-014, Updated Voluntary Disclosure Practice, issued on November 20, 2018.

AUDIENCE

The primary users of this IRM are LB&I WEIIC and SB/SE examiners.

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4.63.3

Offshore Voluntary Disclosure Program, Streamlined Filing Compliance Procedures and Voluntary Disclosure Practice

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Offshore Voluntary Disclosure Program, Streamlined Filing Compliance Procedures and Voluntary Disclosure Practice 4.63.3

page 1

4.63.3.1 (04-27-2021) Program Scope and Objective

- (1) **The Offshore Voluntary Disclosure Program (OVDP)** offered U.S. taxpayers with undisclosed income from offshore assets a compliance avenue to resolve income tax liabilities, various tax information reporting obligations relating to foreign financial assets, and FBAR reporting requirements. OVDP provided protection from criminal prosecution and a uniform civil penalty structure for taxpayers who came forward voluntarily and report their noncompliance. OVDP is a program approved by the Commissioner which terminated on September 28, 2018.
- (2) **Audience:** The intended audience is IRS employees in all operating divisions who are responsible for ensuring compliance with the reporting and record keeping requirements of domestic and offshore income, deductions and investments, including but not limited to the Report of Foreign Bank and Financial Accounts (FBAR), Employment Tax, Estate and Gift and Tax-Exempt Government Entities. It can be referenced by all campus, field compliance personnel, especially in LB&I WEIIC, and SB/SE Examination assigned or involved with OVDP certifications, Streamline Procedures processing and Voluntary Disclosure Practice examinations.
- (3) **Policy Owner:** Director, Withholding Exchange and International Individual Compliance (WEIIC) is the policy owner for OVDP, Streamlined Filing Compliance Procedures and Transition Streamlined. Assistant Deputy Commissioner Compliance Integration (ADCCI) is the policy owner for the Voluntary Disclosure Practice.
- (4) **Program Owner:** Director, Withholding Exchange and International Individual Compliance (WEIIC) is the program owner for OVDP, Streamlined Filing Compliance Procedures and Transition Streamlined. Assistant Deputy Commissioner Compliance Integration (ADCCI) is the program owner for the Voluntary Disclosure Practice.
- (5) **Stakeholders:** The primary stakeholders are LB&I WEIIC and SBSE field examiners and OVDP and Streamlined Procedures employees.

4.63.3.1.1 (04-27-2021) Background

- (1) To date, four separate OVDP programs have been offered and are now closed. These programs are:
 - 2009 Offshore Voluntary Disclosure Program (OVDP)
 - 2011 Offshore Voluntary Disclosure Initiative (OVDI)
 - 2012 Offshore Voluntary Disclosure Program (OVDP)
 - 2014 Offshore Voluntary Disclosure Program (OVDP)

Note: The final iteration of OVDP, generally referred to as the 2014 OVDP was technically a continuation of the 2012 OVDP with significant modifications. The 2014 OVDP became effective July 1, 2014 and terminated on September 28, 2018.
- (2) General and historical information for the various OVDP programs is available on the OVDP landing page at <https://www.irs.gov/newsroom/2012-offshore-voluntary-disclosure-program>. Detail program information can be found in the Offshore Voluntary Disclosure Frequently Asked Questions and Answers 2014 at <https://www.irs.gov/individuals/international-taxpayers/offshore-voluntary-disclosure-program-frequently-asked-questions-and-answers-2014>. For details

on the closing of OVDP see the Closing the 2014 Offshore Voluntary Disclosure Program Frequently Asked Questions and Answers at <https://www.irs.gov/individuals/international-taxpayers/closing-the-2014-offshore-voluntary-disclosure-program-frequently-asked-questions-and-answers>. IRM 4.63.3.1.6 has additional information on OVDP FAQs.

4.63.3.1.1.1
(04-27-2021)

**Streamlined Filing
Compliance Procedures**

- (1) Streamlined Filing Compliance Procedures were made available beginning September 2012. However, the IRS significantly expanded the procedures effective July 1, 2014. These procedures accommodate taxpayers that acted non-willfully and do not need the protection from criminal prosecution offered by OVDP or the Voluntary Disclosure Practice. Streamlined Procedures are approved by the Commissioner and may be changed or terminated at any time.
- (2) The Streamlined Filing Compliance Procedures landing page at <https://www.irs.gov/individuals/international-taxpayers/streamlined-filing-compliance-procedures> describes the Streamlined Procedures in detail. The Streamlined Filing Compliance Procedures are further broken into two categories: Streamlined Domestic Offshore Procedures (SDO) and Streamlined Foreign Offshore Procedures (SFO). See IRM 21.8.2.17.1 for basic information summarizing SFO and IRM 21.8.2.17.2 for basic information summarizing SDO.

4.63.3.1.1.2
(04-27-2021)

OVDP Transition

- (1) OVDP Transition allows taxpayers who were currently participating in OVDP who meet the eligibility requirements for the expanded Streamlined Procedures announced on June 18, 2014, an opportunity to remain in OVDP and request the favorable penalty structure of the expanded Streamlined Procedures.
- (2) Taxpayers seeking such treatment do not need to opt out of OVDP but will be required to certify that the failure to report all income, pay all tax, and submit all information returns, including FBARs, was due to non-willful conduct. As part of the OVDP process, the IRS will consider this request considering all the facts and circumstances of the taxpayers' case and will determine whether to incorporate the streamlined penalty terms in the OVDP closing agreement.
- (3) OVDP Transition terms are described in the Transition Rules: Frequently Asked Questions (FAQs) found on <https://www.irs.gov/individuals/international-taxpayers/transition-rules-frequently-asked-questions-faqs>.

4.63.3.1.1.3
(04-27-2021)

**Voluntary Disclosure
Practice**

- (1) The Voluntary Disclosure Practice is a long-standing practice of IRS Criminal Investigation (CI) providing taxpayers with criminal exposure for tax and tax-related crimes a means to come into compliance with the law and potentially avoid criminal prosecution (see IRM 9.5.11.9). CI takes timely, accurate, and complete voluntary disclosures under consideration when determining whether to recommend criminal prosecution. A voluntary disclosure will not automatically guarantee immunity from prosecution; however, a voluntary disclosure may result in prosecution not being recommended. A timely voluntary disclosure may mitigate exposure to civil penalties.
- (2) For all voluntary disclosures received after September 28, 2018, the IRS will apply a civil resolution framework. Civil penalty mitigation occurs by focusing on a specific disclosure period (see IRM 4.63.3.26.3) and defined penalty structure (see IRM 4.63.3.26.2). During the civil examination of a voluntary disclosure, in rare cases, deviation from the defined penalty structure may be considered based on all relevant facts and circumstances including prompt and

full cooperation (see IRM 4.63.3.26.1.4). Managers must ensure that penalties are applied consistently, fully developed, and documented in all cases.

- (3) Unlike OVDP certifications, taxpayers participating in the Voluntary Disclosure Practice are subject to standard examination procedures.
- (4) The Voluntary Disclosure Practice is described on the IRS Criminal Investigation Voluntary Disclosure Practice page on <https://www.irs.gov/compliance/criminal-investigation/irs-criminal-investigation-voluntary-disclosure-practice>.
 - a. Field examiner guide for Voluntary Disclosure Practice examinations are available on the Voluntary Disclosure Practice SharePoint page found at https://team.ds.irsnet.gov/lbi/intlic/iofop/vdp/_layouts/15/start.aspx#/SitePages/Home.aspx, including but not limited to the examiner guide, templates, referral forms and domestic and offshore Voluntary Disclosure Practice analyst contact information.

4.63.3.1.2 (04-27-2021) **Authority**

- (1) IRM 9.5.11.9, Voluntary Disclosure Practice, explains in broad terms the IRS-CI Voluntary Disclosure Practice offered by the IRS.
- (2) Interim Guidance Memo (IGM) LB&I (published November 20, 2018), updated IRM 9.5.11.9, addressing changes for all voluntary disclosures, domestic and offshore, following the closing of the 2014 Offshore Voluntary Disclosure Program (2014 OVDP). As an overview, the updates include:
 - Centralization of the IRS-CI Voluntary Disclosure Practice
 - Submissions must be made using Form 14457 – Voluntary Disclosure Practice Preclearance Request and Application
 - IRS-CI preclearance is mandatory
 - To request preclearance, taxpayers must submit Part 1 of Form 14457
 - Taxpayers are required to provide a narrative statement of facts detailing their willful conduct in Part II of Form 14457
 - Voluntary disclosures will generally cover a six-year disclosure period
 - Except in exceptional circumstances, a civil fraud penalty will apply to at least one year of all voluntary disclosures
 - If applicable, a willful FBAR penalty will apply in accordance with existing IRS guidelines found in IRM 4.26.16 and IRM 4.26.17
- (3) The IGM applies to all voluntary disclosures made after September 28, 2018, and may be applied at the Service's discretion to domestic disclosures received prior to September 28, 2018, currently under examination.

4.63.3.1.3 (04-27-2021) **Responsibilities**

- (1) The Director, Withholding, Exchange and International Individual Compliance is the executive responsible for all policies and procedures within the Offshore Voluntary Disclosure Program, Streamlined Filing Compliance Procedures and OVDP Transition. The Assistant Deputy Commissioner Compliance Integration is the executive responsible for all policy and procedures within the Voluntary Disclosure Practice.

4.63.3.1.4
(04-27-2021)

**Program Management
and Review**

- (1) **Program Reports:** The Director, WEIC prepares periodic briefing reports for the LB&I division commissioner focusing on:
 - Significant accomplishments and opportunities for improvement
 - Changes in programs that have been implemented
 - Identifying future improvements
- (2) The OVDP team maintains an “OVDP Active Cases Management Report” that includes the number of active cases in OVDP at any given time as well as the number of cases that have been shipped to the field for certification.
- (3) Streamlined Procedures – no reports are currently prepared.
- (4) OVDP Transition – no reports are currently prepared.
- (5) The LB&I:WEIC:Austin Campus (ACU) maintains the “Voluntary Disclosure Practice (Post OVDP) Control Log” that includes the number of active cases in Voluntary Disclosure Practice at any given time as well as the number of cases that have been shipped to the field for examination.
- (6) **Annual Review:** Operational and program reviews are conducted on a yearly basis.

4.63.3.1.5
(04-27-2021)

**Terms/Definitions/
Acronyms**

- (1) The following is a list of frequently used acronyms in this program:

Acronym	Term
ACU	LB&I:WEIC:Austin Campus Unit
ADCCI	Assistant Deputy Commissioner Compliance Integration
ASED	Assessment Statute Expiration Date
BSA	Bank Secrecy Act
CC	Correspondence Coordinator
CL	Certification Librarian
CI	Criminal Investigation
COIC	Centralized Offer in Compromise
CSDC	Compliance Support, Development & Communication
CTR	Currency Transaction Report
EGC	Employee Group Code
ET	Examination Technician
FADI	Foreign Asset Disclosure Initiative
FAQ	Frequently Asked Question
FBAR	Report of Foreign Bank and Financial Accounts
FEA	Fraud Enforcement Advisor

FinCEN	Financial Crimes Enforcement Network
FTA	Fraud Technical Advisor
GM	Group Manager
IDRS	Integrated Data Retrieval System
ICT	Image Control Team
IMF	Individual Master File
IRC	Internal Revenue Code
IRSN	Internal Revenue Service Number
OIC	Offer in Compromise
OVDP	Offshore Voluntary Disclosure Program
PFIC	Passive Foreign Investment Company
RA	Revenue Agent
RSM	Related Statute Memorandum
SDO	Streamlined Domestic Offshore
SFO	Streamlined Foreign Offshore
SFR	Substitute for Return
TE	Tax Examiner
TM	Territory Manager

4.63.3.1.6
 (04-27-2021)
**Related Resources -
 Frequently Asked
 Questions**

- (1) Each of the OVDP programs is governed by a set of Frequently Asked Questions (FAQs). The FAQs for each program provide the specific procedures for taxpayer to enter into, participate in, and resolve their offshore noncompliance with the Service. The discussion in this IRM section (4.63.3.1.6 et seq) in no way supersedes, changes, or alters any published FAQs for any of the OVDPs. The FAQs are the governing document on OVDP matters; any inconsistency between the IRM and OVDP FAQs must be resolved in favor of the OVDP FAQs.

4.63.3.1.6.1
 (04-27-2021)
**OVDP – Frequently
 Asked Questions**

- (1) The 2014 OVDP FAQs are divided into different sections relating to different aspects of the program. For the modified FAQs related to OVDP submissions made on or after July 1, 2014, the sections are as follows:
- FAQs 1 - 6 General Program
 - FAQs 7 -11 Key Features of Program
 - FAQs 12 –21 Eligibility for the Program
 - FAQs 22 - 30 OVDP Process
 - FAQs 31- 41 Calculating the Offshore Penalty
 - FAQs 42 - 43 Statute of Limitations
 - FAQs 44 - 46 FBAR Questions

- FAQs 47 - 48 Taxpayer Representatives
- FAQs 49 - 55 Case Resolution

(2) The FAQs outline the program including its objectives, the process of making an offshore voluntary disclosure, eligibility, all penalties imposed by the program, statute of limitations issues, FBAR questions, and more.

Note: The 2014 OVDP FAQs can be found online at: <https://www.irs.gov/individuals/international-taxpayers/offshore-voluntary-disclosure-program-frequently-asked-questions-and-answers-2012-revised>.

(3) A taxpayer who made an OVDP submission prior to July 1, 2014, may request to have their case considered under the penalty structure of the Streamlined Filing Compliance Procedures under the Transition FAQs. The “Transition FAQs” can be found online at: <https://www.irs.gov/individuals/international-taxpayers/transition-rules-frequently-asked-questions-faqs>.

(4) Additional FAQs were posted as a result of the closing of OVDP on September 28, 2018. The “Closing the 2014 OVDP FAQs” can be found online at: <https://www.irs.gov/individuals/international-taxpayers/closing-the-2014-offshore-voluntary-disclosure-program-frequently-asked-questions-and-answers>.

4.63.3.1.6.2
(04-27-2021)

Streamlined Procedures

(1) The governing documents for the Streamlined Procedures consist of the websites on IRS.gov:

- a. <https://www.irs.gov/individuals/international-taxpayers/streamlined-filing-compliance-procedures>
- b. <https://www.irs.gov/individuals/international-taxpayers/u-s-taxpayers-residing-in-the-united-states>
- c. <https://www.irs.gov/individuals/international-taxpayers/u-s-taxpayers-residing-outside-the-united-states>

(2) There are also two sets of interpretive FAQs. One set applies to “U.S. Taxpayers Residing In the United States” referred to as Streamlined Domestic Offshore (SDO) and the other applies to “U.S. Taxpayers Residing Outside the United States” referred to as Streamlined Foreign Offshore (SFO). The eligibility terms and the Streamlined Procedures FAQs provide the specific procedures for taxpayer to follow to enter into, participate in, and resolve their offshore noncompliance with the Service. The discussion in IRM 4.63.3.24 et seq in no way supersedes, changes, or alters any published FAQs for Streamlined Procedures. The IRS.gov pages and Streamlined Procedures FAQs are the governing document on Streamlined Procedures matters; any inconsistency between IRS.gov and the IRM and Streamlined Procedures FAQs must be resolved in favor of IRS.gov and the Streamlined FAQs.

(3) The website and FAQs outline the current procedures including its objectives, the process of making a Streamlined Procedures submission, eligibility, all penalties imposed by the program and more.

(4) The Streamlined Procedures SDO FAQs can be found online at: <https://www.irs.gov/individuals/international-taxpayers/streamlined-filing-compliance-procedures-for-u-s-taxpayers-residing-in-the-united-states-frequently-asked-questions-and-answers>.

- (5) The Streamlined Procedures SFO FAQs can be found online at: <https://www.irs.gov/individuals/international-taxpayers/streamlined-filing-compliance-procedures-for-u-s-taxpayers-residing-outside-the-united-states-frequently-asked-questions-and-answers>.

4.63.3.1.6.3
(04-27-2021)
OVDP Transition

- (1) OVDP Transition is governed by the Transition Rules: Frequently Asked Questions (FAQs). The OVDP Transition FAQs explain when and how a taxpayer participating in OVDP can seek the favorable penalty structure of the expanded Streamlined Procedures. The discussion in IRM 4.63.3.25 et seq in no way supersedes, changes, or alters any published OVDP Transition FAQs for OVDP Transition. The OVDP Transition FAQs are the governing document on OVDP Transition matters; any inconsistency between the IRM and OVDP Transition FAQs must be resolved in favor of the OVDP Transition FAQs.
- (2) The OVDP Transition FAQs can be found online at: <https://www.irs.gov/individuals/international-taxpayers/transition-rules-frequently-asked-questions-faqs>.

4.63.3.1.6.4
(04-27-2021)
Voluntary Disclosure Practice

- (1) Examinations conducted under the updated Voluntary Disclosure Practice are governed by the Internal Revenue Code and follow regular examination procedures. However, several deviations from standard examination procedures apply to voluntary disclosures, for example the application of the civil penalty framework, as outlined in IRM section 4.63.3.26.2 and the disclosure period as outlined in IRM 4.63.3.26.3.
- (2) The Voluntary Disclosure Practice SharePoint houses tools to assist the examiner including but not limited to: field examiner guide, templates, referral forms, review check sheets and other tools specific to the Voluntary Disclosure Practice.

4.63.3.1.7
(04-27-2021)
Related Resources - Taxpayer Rights

- (1) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see <https://www.irs.gov/taxpayer-bill-of-rights>.
- (2) Per the Taxpayer Bill of Rights (TBOR), taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.
- (3) Taxpayers have the right to receive assistance from the Taxpayer Advocate Service (TAS) if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through normal channels. Refer taxpayers to TAS when the contact meets TAS criteria. See IRM 13.1.7, Taxpayer Advocate Service (TAS) Case Criteria.

- (4) When making a TAS referral, use Form 911, Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order), and forward to TAS in accordance with local procedures.

4.63.3.2
(04-27-2021)

Offshore Voluntary Disclosure Program (OVDP)

- (1) **Reporting Offshore Accounts** - U.S. citizens, resident aliens and certain non-resident aliens are required to report worldwide income from all sources including foreign accounts and pay taxes on income from those accounts at their individual rates. There are many legitimate reasons for holding offshore accounts, including convenience, investing and to facilitate international transactions.
- (2) The OVDP provides a penalty structure that offers clear benefits to encourage taxpayers to disclose previously unreported foreign accounts or assets now rather than risk detection by the IRS and possible criminal prosecution.
- (3) Taxpayers with foreign financial accounts with an aggregate value exceeding \$10,000 any time during the year must file a Form 114, Report of Foreign Bank and Financial Accounts (FBAR) electronically through FinCEN's **BSA E-Filing System**.
- (4) The FBAR is not filed with a federal tax return. It must be filed electronically with the United States Treasury.
- FBARs reporting information for calendar years 2015 and earlier were due by June 30 of the year following the year for which information was reported and there were no extensions of time to file.
 - FBARs reporting information for calendar years 2016 or later are due April 15 of the year following the year for which information is reported. However, FinCEN grants taxpayers an automatic six-month extension for filing FBARs. The six-month extension requires that FBARs be filed by October 15. If a filer fails to file by October 15, the FBAR violation date is effective as of the April 15 due date of the FBAR.
 - Failure to report the existence of offshore accounts or assets or pay taxes on these accounts can lead to civil and criminal penalties.

4.63.3.3
(01-24-2018)

Other Information Returns

- (1) Depending on the taxpayer's facts and circumstances, various international information returns may be required. Such international information returns include reporting of foreign financial accounts, foreign corporations, foreign partnerships, transactions with foreign trusts, receipt of gifts or inheritances from foreign persons, and more. The failure to timely file international information returns may result in substantial civil penalties. *2014 OVDP FAQ 5* lists some of the most common international information returns and related civil penalties which may apply to a non-compliant taxpayer.

4.63.3.4
(01-24-2018)

Criminal Penalties

- (1) Taxpayers who decide not to participate in the OVDP may face certain criminal penalties along with the civil penalties as presented in *FAQ 5* upon an examination of their returns. *FAQ 6* discusses potential criminal penalties a taxpayer may face outside of the OVDP.

4.63.3.5
(01-24-2018)

Program Requirements

- (1) Under the terms of the OVDP, taxpayers must fulfill several requirements in order to remain in the program. See *FAQ 7* for the necessary requirements for taxpayers participating in the OVDP.

Offshore Voluntary Disclosure Program, Streamlined Filing Compliance Procedures and Voluntary Disclosure Practice 4.63.3

page 9

- 4.63.3.6
(01-24-2018)
Foreign Financial Institutions or Facilitators Under Investigation
- (1) Beginning on August 4, 2014, any taxpayer who has an undisclosed foreign financial account will be subject to a 50-percent miscellaneous offshore penalty if, at the time of submitting the preclearance letter to IRS Criminal Investigation an event has already occurred that constitutes a public disclosure that the institution or facilitator is or has been under IRS or Department of Justice investigation. A list of foreign financial institutions or facilitators meeting these criteria is available. See *FAQ 7.2* for full details.
- 4.63.3.7
(01-24-2018)
Penalty Framework
- (1) The OVDP miscellaneous offshore penalty is imposed on the value of “OVDP assets” as defined in *2014 OVDP FAQ 35*. *2014 OVDP FAQ 8* which provides a comprehensive example of how the penalty framework works.
- 4.63.3.8
(01-24-2018)
Disclosure Period
- (1) The OVDP disclosure period has changed during the different voluntary disclosure programs. The disclosure period for the 2014 OVDP is the most recent eight tax years for which the due date has already passed; it does not include fully compliant years. See *2014 OVDP FAQ 9*.
- 4.63.3.9
(01-24-2018)
PFIC Issues
- (1) Many OVDP cases involve passive foreign investment companies (PFIC) issues. The most common situation involves foreign mutual funds which must be reported as PFICs. Often individual taxpayers lack historical information on the cost basis and holding period of PFIC investments, making it difficult for taxpayers to prepare statutory PFIC computations and for the Service to verify them. *2014 OVDP FAQ 10* provides an optional, non-statutory method for taxpayers to compute PFIC gain/loss.
- (2) There are many tools available on the OVDP SharePoint to assist examiners in certifying cases with PFIC issues.
- 4.63.3.10
(01-24-2018)
Eligibility for OVDP
- (1) *2014 OVDP FAQs 12, 13, 14, 15, 20, and 21* discuss various eligibility issues relating to which taxpayers may participate in the OVDP.
- 4.63.3.11
(01-24-2018)
The OVDP Process
- (1) *2014 OVDP FAQs 22 through 24* provide instructions to taxpayers and tax practitioners on making offshore voluntary disclosures.
- 4.63.3.12
(01-24-2018)
Submission Requirements
- (1) *2014 OVDP FAQ 25* lists documents taxpayers must submit to the OVDP unit in Austin.
- 4.63.3.12.1
(01-24-2018)
Extensions
- (1) *2014 OVDP FAQ 25.1* allows taxpayers unable to submit the documents required by *2014 OVDP FAQ 25* within the timeframe specified to request a 90-day extension. The request for a 90-day extension must include a statement of those items that are missing, the reasons why they are not included, and the steps taken to secure them.

- 4.63.3.12.2
(01-24-2018)
Digital Submissions
- (1) *2014 OVDP FAQ 25.2* provides a unique procedure for practitioners to submit required documents on electronic media. Practitioners are encouraged to use these procedures in order to save their clients and the IRS the costs of shipping voluminous documents. This procedure also speeds up the IRS' handling of OVDP submissions.
- 4.63.3.13
(01-24-2018)
Calculating the Offshore Penalty
- (1) The miscellaneous offshore penalty (MOP) is a central provision of the 2014 OVDP. See *2014 OVDP FAQs 31 through 41* for specific guidance, especially 2014 OVDP FAQ 35 which defines the term "OVDP assets" subject to the MOP.
- 4.63.3.14
(01-24-2018)
FBAR Questions
- (1) Taxpayers must file delinquent or amended FBARs for the disclosure period according to current FinCEN procedures. See *2014 OVDP FAQs 44 through 46*.
- 4.63.3.15
(01-24-2018)
Taxpayer Representatives
- (1) Taxpayer representatives must complete Form 2848 with specific information for OVDP. The OVDP website on IRS.gov has a pro forma Form 2848 with necessary language for income tax, civil penalties, and FBAR issues.
- 4.63.3.16
(01-24-2018)
Case Resolution
- (1) Taxpayers must accept the terms of the 2014 OVDP to resolve their cases through this program, *2014 OVDP FAQs 49 and 50*. FAQ 51 provides specific procedures for taxpayers that wish to opt out of OVDP or when the IRS wishes to remove a taxpayer from OVDP.
- 4.63.3.17
(04-27-2021)
The OVDP Hotline
- (1) The OVDP Hotline phone number is (267) 466-0020. The hotline phone number is included in the 2014 OVDP FAQs on *www.irs.gov*.
- (2) Taxpayers or representatives may call the OVDP Hotline for information on case status and to answer procedural questions. The OVDP Hotline does not provide legal advice or case-specific guidance.
- (3) The OVDP Hotline is not manned by live operators. Rather, it is a voice mailbox on which messages may be left. OVDP personnel in Austin have the responsibility of returning messages received on the OVDP Hotline.
- (4) Each Hotline call is logged in the OVDP Hotline Call Log. The log includes the time and date of the call, the caller's name, the caller's phone number, the subject of the call, the OVDP employee returning the call, the date that the call was returned and the answer given to the caller by the OVDP employee returning the call.
- (5) The OVDP Hotline also handles calls related to the Streamlined Procedures.
- 4.63.3.18
(04-27-2021)
Overview of the OVDP Case File Development Process
- (1) OVDP case file development consists of four stages. We address these stages from the IRS' perspective as relating to case files.
- a. Taxpayers submit documents and information to IRS' Criminal Investigation Global Financial Crimes Unit in Philadelphia. See *2014 OVDP FAQ 24*.
- b. Once preliminarily accepted by CI to OVDP, CI forwards the taxpayer's voluntary disclosure to the OVDP Unit in Austin for case establishment.

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- c. Once the case file has been established, case building begins which consists of associating required documents with the case file. See OVDP FAQ 25.
 - d. Once the case file is built or substantially built, the case is sent to a field exam group for certification.
- 4.63.3.18.1
(01-24-2018)
Making an Offshore Voluntary Disclosure
- (1) The process for making an offshore voluntary disclosure is provided in *2014 OVDP FAQ 24*. Some taxpayers may wish to verify that they are eligible to make a voluntary disclosure; *2014 OVDP FAQ 23* provides the procedures for preclearance.
- 4.63.3.18.2
(01-24-2018)
Establishing the OVDP Case File
- (1) The establishment of the OVDP case takes place in three distinct steps:
- 1. **Indexing:** the process of building the taxpayer's OVDP submission in the e-Trak database. Indexing requires that the steps in Exhibit 4.63.3-1 be completed.
 - 2. **File Completion:** the process of creating the physical case folders that will contain the OVDP submission documents and burning a CD with all the documents that CI sent to OVDP after preliminarily accepting the taxpayer into OVDP. See Exhibit 4.63.3-2.
 - 3. **AIMS Establishment:** the process of establishing AIMS controls on the taxpayer's OVDP case. See Exhibit 4.63.3-3.
- 4.63.3.19
(01-24-2018)
OVDP Case Building
- (1) The case building process for taxpayers participating in OVDP continues after the initial set-up by the OVDP team. Once the physical folder is created and initial controls for these cases are finalized through AIMS, these cases are transferred to the case building group. The case building process begins with receipt of documents from the taxpayer as required for participation in the program as discussed in the *2014 OVDP FAQs 7 and 25*. The process is divided into the following categories:
- a. Mail processing and DHL procedures
 - b. Identification and IDRS update of statute extensions
 - c. Identification of domestic vs international cases
 - d. Controlling multiple years for international cases
 - e. ASSED determination
 - f. YY memos
 - g. Statute sweeps/continuous monitoring for quick assessments
 - h. Case building and correspondence for missing documents
 - i. Case shipments to the field
- 4.63.3.19.1
(01-24-2018)
Mail Processing
- (1) OVDP mailing procedures are divided into incoming and outgoing procedures.
- a. Incoming mail primarily consists of the submission documents, either as a result of initial requirements per *FAQ 25* or as a result of OVDP team outreach in the form of correspondence when documentation remains outstanding. Refer to Exhibit 4.63.3-4, *Incoming Mail Procedures*, for specific procedures regarding the processing of incoming mail.
 - b. Outgoing mail consists of internal and external correspondence as well as large shipments containing case orders for the field. OVDP services two internal customer groups: LB&I WEIIC RA groups and SB/SE RA

exam groups. Refer to Exhibit 4.63.3-5, Outgoing Mail Procedures, for specific procedures regarding the processing of outgoing mail.

- c. All outgoing correspondence to an international business address is to be sent via DHL. Shipping letters using DHL to international addresses requires access to the DHL website and specific login information. See OVDP Team 1 manager for access to the website, password and specific instructions.

Note: DHL can only be used when sent to a physical business address because a signature upon receipt is required.

4.63.3.19.2
(01-24-2018)
**Identification and IDRS
Update of Statute
Extensions**

- (1) Upon receipt of mail, all documents must be date stamped. The following documents, requiring signature and managerial review, must be identified:
 - a. Form 872, Consent to Extend the Time to Assess Tax
 - b. Consent to Extend the Time to Assess Civil Penalties Provided by 31 U.S.C. § 5321 for FBAR Violations (aka “FBAR consent”)

Forms 872 are extremely time sensitive as they are not legally effective until signed by an IRS official. Taxpayers or representatives prepare Forms 872 for OVDP; this process differs from standard IRS procedures which require the IRS to prepare and solicit Forms 872. See IRM 25.6.22 for general procedures. Any Forms 872 with typographical errors must be elevated to a team manager who may seek SB/SE counsel advice, as needed.

Note: Refer to <https://www.irs.gov/newsroom/2012-offshore-voluntary-disclosure-program> for a template of this form with OVDP-specific language.

4.63.3.19.3
(04-27-2021)
**Identification of
Domestic vs.
International Cases**

- (1) Personnel in the OVDP Unit determine whether an OVDP participant is characterized as domestic or international. This designation is important because it determines which group will be responsible for certifying the case in the field and the manner in which the case is prepared for the field.
- (2) For OVDP a “domestic case” is defined as any taxpayer currently living in any of the 50 states of the U.S. These cases are worked in the field by SB/SE revenue agents.
- (3) For OVDP an “international case” is defined as any taxpayer currently not living in the U.S. This also includes U.S. Territories such as Guam, the U.S. Virgin Islands and the Commonwealth of Puerto Rico. These cases are worked in the field by LB&I WEIIC revenue agents.

4.63.3.19.4
(04-27-2021)
**Controlling Multiple
Years for International
Cases**

- (1) All cases received for case building are controlled on a singular year through AIMS. Domestic cases do not require any additional years controlled. International cases, on the other hand, require controls on all tax years as well as the MFT 55 Civil Penalty module. Opening of these additional years is a part of the case building procedures.
- (2) Case controls are opened using Form 5345-D, Examination Request – ERCS Users. Follow the procedures in Exhibit 4.63.3-6, Controlling Multiple Years for International Cases.

4.63.3.19.5
(04-27-2021)
ASED Determination

- (1) Determining the end of the period of limitations on assessment, referred to internally as the Assessment Statute Expiration Date (ASED), for tax returns received and processed through OVDP is of utmost importance. A correct ASED is necessary to properly maintain electronic controls. Many factors play into determining the correct ASED.
- (2) Taxpayers accepted into OVDP are required to submit:
 - a. Copies of their previously filed Forms 1040 for all years in the disclosure period
 - b. Original Forms 1040 for any non-filed years
 - c. Amended Forms 1040X for tax years in the disclosure period requiring correction
- (3) When making an ASED determination for a previously filed return the following steps are taken:
 - a. Determine the received date of the original tax return by reviewing the IDRS IMFOLT module. It will contain the received date of the return and indicate the original ASED for that tax year.
 - b. Determine if a Form 872 extension is in the case file and if the controlled year can be extended. Make sure the Form 872 was received and counter-signed by a manager before the ASED barred on the tax year. For example, a timely filed tax return for 2012 will have a standard three-year ASED of 4/15/2016; if the valid Form 872 was fully executed on or before 4/15/2016 it will be eligible to extend to the established date on the form. This example does not consider other possible ASED extenders.
 - c. Complete the ASED Determination worksheet. Once completed, this form will be reviewed by a revenue agent or manager for accuracy.
- (4) For Forms 1040X, Amended Returns:
 - a. Taxpayers are instructed to submit amended returns for all years in the disclosure period. Since the OVDP disclosure period is eight years, some of the amended returns may have statutes that would be barred if the ordinary three-year period of limitations under IRC 6501(a) applied.
 - b. In general, the ASED is determined by the originally filed tax return. An amended return will typically not affect the ASED. However, information shown on an amended return, such as previously undisclosed income, might indicate that an ASED extender applies. Review the tax module's ASED and the existence of a valid Form 872 in order to determine whether the statute is barred. This is an important step especially if the amended return indicates an additional assessment.
 - c. IRS cannot assess on tax years with barred statutes. Determine if an open statute is available to apply Quick Assessment procedures.
 - d. Very often in OVDP cases, extended assessment statutes of limitations are present. The two most common are IRC 6501(c)(8) and IRC 6501(e)(1)(A)(ii). Be aware of these and other exceptions to the general three-year ASED. See IRM 4.63.3.19.7.1, Statutes and Extensions.

4.63.3.19.6
(01-24-2018)
YY Memos

- (1) The 2014 OVDP requires an eight-year disclosure period, and generally participants must submit eight years of amended or delinquent income tax returns. Some amended returns will arrive in the OVDP Unit with previously expired statutes and others will have imminent statutes that will need to be addressed. IRM Exhibit 25.6.23-3 discusses the use of alpha codes for statute controls under special circumstances. The YY alpha code designates Participation in Abusive Offshore Arrangements. The YY code is also used in OVDP cases so that open cases do not appear to have expired statutes. OVDP procedures require that all tax years in the disclosure period must be under AIMS/ERCS controls. For international cases, all years are opened prior to shipment to the field; tax years for domestic cases are opened once the certification process begins.
- (2) Before using a YY statute, a YY memo must be completed. The YY memo is used when:
 - a. Tax years being addressed were already barred when received by OVDP. This is an automatic process and does not require correspondence to the taxpayer.
 - b. Tax years have imminent statutes of limitation when they are within 90 days of expiration. Form 872, Consent to Extend the Time to Assess Tax, and Letter 907, Request to Extend Assessment Statute, are required to be sent to the taxpayer prior to submitting this form for approval.
- (3) The statute appears in the form 04/YY/2014, where the month and year are representative of the original or latest statute. An example: A taxpayer's original statute expired 04/15/2014. The YY statute would appear as 04/YY/2014. If the statute had already been extended to 12/31/2014, the YY statute would be 12/YY/2014.
- (4) The YY Memo is completed by the tax examiner, signed by an OVDP manager (first level), and finally signed by the program manager (second level). Once the completed and signed YY Memo is electronically returned to the originating TE, the Form 5348 is used to update AIMS/ERCS to reflect this new statute.

4.63.3.19.7
(01-24-2018)
OVDP Statute Protection

- (1) The OVDP Unit monitors the ASED. The 2014 OVDP includes a disclosure period of eight years. Therefore, determining the ASED is essential in order to protect the government's interest.

4.63.3.19.7.1
(04-27-2021)
Statutes and Extensions

- (1) IRC 6501 provides the assessment statute of limitations rules for taxes, but not for FBAR penalties. IRC 6501(a) provides that the ASED is three years from the later of the due date of the return or the date the return was filed as the general rule for filed returns.

Note: The ASED extension may or may not concurrently extend the RSED. Additional RSED analysis may be required..

- (2) IRC 6501 provides for various extended limitations periods beyond the general rule of three years. In nearly every OVDP case, one or more extended limitations periods will apply. Statute analysis requires attention to detail. The most common assessment statute of limitation provisions used in OVDP are:

- a. IRC 6501(c)(4) – extended by agreement using Form 872. All OVDP participants are required to submit completed Forms 872 for the entire eight-year disclosure period, so this provision must be analyzed in all cases
- b. IRC 6501(c)(8) – failure to notify the IRS of certain foreign transfers
- c. IRC 6501 (e)(1)(A)(i) – 25% omission of gross income
- d. IRC 6501 (e)(1)(A)(ii) – omission of more than \$5,000 or more of income from a specified foreign financial asset

Refer to the ASED Determination Worksheet. All ASED determinations made by tax examiners must be reviewed and approved by a tax compliance officer, revenue agent, or manager.

4.63.3.19.7.2
(04-27-2021)
**Statute Sweep
Procedures**

- (1) Monitoring for imminent statutes is an ongoing process in the OVDP Unit. Statute monitoring processes have been incorporated into the case building procedures, and most statute issues will be addressed early in the process. To assure that all statutes have been addressed, and at least once per year, before April 15, personnel complete a review of all documents and case files in the OVDP Unit. Since most taxpayers participating in OVDP are individuals, nearly all tax returns in OVDP are calendar year returns. Hence, ASEDs typically fall between April 15 and October 15.

4.63.3.19.7.3
(01-24-2018)
**Quick Assessment
Procedures**

- (1) OVDP processing requires that all original tax returns or amended tax returns received from the taxpayer are maintained in the case file until the case is certified. Given these special processing requirements for OVDP cases, the OVDP Unit relies on quick assessment procedures found in IRM 3.17.244, Manual Assessments. W&I will accept quick assessments from the OVDP Unit with more than 60 days left on their ASED. When an amended return is received by the OVDP Unit, a quick assessment should be considered if:
 - a. The amended return has an imminent statute (e.g., within 12 months), AND
 - b. The amended return shows additional tax to be assessed

- (2) All ASED extensions should be taken into consideration when determining whether a quick assessment is necessary to protect the government's interest. Amended returns which are covered by a consent on Form 872 or on tax years determined to have an extended ASED do not require quick assessments. Quick assessments are prepared on Form 2859, Request for Quick or Prompt Assessment. Complete instructions for completing this form for OVDP purposes can be found in Exhibit 4.63.3-7, Instructions for Completing Form 2859.

4.63.3.19.7.4
(04-27-2021)
**Unprocessed Forms
1040**

- (1) Many OVDP participants, in particular non-residents, submit delinquent original returns. General delinquent and SFR processing instructions can be found in IRM 4.4.9, Delinquent and Substitute for Return Processing. When participating in OVDP, however, these delinquent returns are not sent through regular processing. These returns are held in the case file and an SFR module is opened on IDRS for case control purposes and certification.
 - a. Review the tax return for the **earliest** stamped received date. This will typically **not** be the OVDP date received.

- b. These returns are also typically late filed returns. The ASED will be determined based on three years from the received date. For example, previously non-filed return for 201012 is received on 5/12/2013, the ASED will be 5/12/2016.
- c. Typically, Form 872 extends the ASED to December 31 of the year two years after the Form 872 is submitted. Thus, it typically will not extend the ASED of a recently filed original delinquent return, because the ASED of that return under section 6501(a) would be later than the ASED on the Form 872. The receipt of Form 872 does not always supersede the existing ASED.

Example: A Form 1040 for 201012 is filed on 5/12/2013; the correct ASED based on IRC 6501(a) is therefore 5/12/2016. A Form 872 received on 5/12/13 would typically extend to 12/31/2015. The ASED of 5/12/2016 of the late filed return is beyond the extended ASED on the Form 872 of 12/31/2015. Using the date of extension from the Form 872 would shorten the ASED in this case. Forms 872 can never shorten the ASED.

- d. Once a correct ASED is determined, it can be updated on the tax module using Form 5348, AIMS/ERCS Update.

4.63.3.19.8
(01-24-2018)
**Correspondence for
Missing Documents**

- (1) Once documents have been received for a particular taxpayer, the case will be built using a check-off worksheet. Documents submitted will be identified and placed in the order as listed in FAQ 25.2 in the file.
- (2) Forms 2848 will be processed in accordance with IRM 4.11.55, Power of Attorney Rights and Responsibilities.
- (3) We no longer correspond for missing documents in OVDP.

4.63.3.19.8.1
(01-24-2018)
**Case Shipment
Preparation**

- (1) After the allowed timeframe for receiving documents has elapsed, the OVDP Unit will proceed with preparing cases for shipment.
 - a. If the case is complete, it will be considered "Ready to Ship - Complete" and scheduled for shipment to the field.
 - b. If after the timeframe has elapsed (including the optional extension, if received in writing), and the case is still missing documents, the case is deemed "Ready to Ship – Incomplete" and scheduled for shipment to the field.

Note: The taxpayer is given 90 days from the date of the CI acceptance letter to submit documents. A one-time extension of an additional 90 days may be requested in writing by the taxpayer.

4.63.3.19.9
(01-24-2018)
**Case Shipments to the
Field**

- (1) Orders for cases are received from either SB/SE division or LB&I WEIIC division. Cases are selected and prepared for shipment per Document 13056, Shipping Procedures for Personally Identifiable Information (PII). See instructions for outgoing shipments of cases in Exhibit 4.63.3-5, Outgoing Mail Procedures.

Offshore Voluntary Disclosure Program, Streamlined Filing Compliance Procedures and Voluntary Disclosure Practice 4.63.3

4.63.3.20
(04-27-2021)
Quiet Disclosures

- (1) A quiet disclosure is made when a taxpayer files a series of amended tax returns to report previously unreported income from previously undisclosed foreign financial assets outside of the formal voluntary disclosure practice provided for by IRM 9.5.11.9.6. In most quiet disclosure cases, taxpayers also file delinquent FBARs to report previously undisclosed foreign accounts.
- (2) IRM 3.11.6.4.5.3, Offshore Voluntary Disclosure Program - Quiet Disclosure Cases, requires the campuses that receive amended tax returns reporting foreign attributes to forward them to the Quiet Disclosure Coordinator in OVDP for review.
- (3) See Exhibit 4.63.3-8, Quiet Disclosure Review Process.

4.63.3.21
(01-24-2018)
Opt-Out and Removal

- (1) *2014 OVDP FAQ 51* provides a procedure for a taxpayer participating in OVDP to opt-out of the program and procedures for the Service to remove a taxpayer from OVDP. Once a taxpayer opts out of OVDP or the Service removes a taxpayer from OVDP, full scope income tax, penalty, and FBAR examinations will commence. See 2014 OVDP FAQ 51 for opt-out and removal criteria.

4.63.3.22
(04-27-2021)
FinCEN Requests from the Field Exam Groups

- (1) When an WEIC revenue agent needs access to the BSA FinCEN database, the agent makes a request, approved by the agent's manager, to the FinCEN Coordinator in Philadelphia. The FinCEN Coordinator forwards the request to the FinCEN gatekeeper in OVDP. This procedure was established to limit the number of people in WEIC who have access to the FinCEN database because of the sensitive data contained in this database.
- (2) The FinCEN research process consists of the following steps:
 - a. Agents requesting FinCEN data send a Form 10509 (FinCEN Query (FCQ) Request) to the FinCEN coordinator in Philadelphia. The FinCEN coordinator forwards the Form 10509 request to the FinCEN gatekeeper in CSDC in an encrypted e-mail to the CSDC Team Mailbox in Outlook.
 - b. When the CSDC gatekeeper receives the Form 10509 FinCEN request from the FinCEN Coordinator in Philadelphia, certain information from the request is entered into a control log. The gatekeeper researches the FinCEN database and downloads the results of the search. The agent may request FBARs and other information reports on Form 10509 as appropriate.
 - c. Once the results of the FinCEN research are obtained, they are sent back to the requesting agent by means of an encrypted e-mail from the Compliance Support, Development & Communication (CSDC) Team Mailbox.

4.63.3.23
(04-27-2021)
Commonly Used OVDP Forms and Letters

- (1) The following table summarizes letters and forms specific to the Offshore Voluntary Disclosure Program and the Streamlined Filing Compliance Procedures.

Form/Letter	Title	Description
Letter 5089	Offshore Voluntary Disclosure Initial Letter	Letter is sent to taxpayers and/or Power of Attorney to request additional documentation related to acceptance into the Voluntary Disclosure Program.
Letter 5178	Potential Offshore Voluntary Disclosure Initiative (OVDI)	Letter is sent when submission documents are received but it does not appear that the taxpayer has formally made a voluntary disclosure.
Letter 5371	Insufficient Statement of Facts on Streamlined Submission	Letter is sent to taxpayers who fail to provide a sufficient statement of facts pursuant to the Streamlined Filing Compliance Procedures.
Letter 5498	Potential Streamlined Filing Compliance	Letter sent to taxpayers who sent information to the IRS Austin Campus. It is believed that they want to participate in the Streamlined Filing Compliance Procedures but have not submitted the required documentation.
Letter 5555	Incomplete / Non-Processible Streamlined Certification	Letter is sent to taxpayers who fail to provide a completed signed certification pursuant to the Streamlined Filing Compliance Procedures.
Letter 5595	Streamlined Certification with Potential Canadian Retirement Plan	Letter is sent to taxpayers who appear to have included their Canadian Retirement Plan as part of their Miscellaneous Offshore Penalty calculation under the Streamlined Filing Compliance Procedures. This letter provides instructions on how to request reconsideration of the previously assessed penalty for such taxpayers.
Form 14452	OVDP Foreign Account or Asset Statement	A required submission document. Taxpayers must prepare a separate form for each foreign account or asset they are reporting.
Form 14453	OVDP Penalty Computation Worksheet	A required submission document. Taxpayers must use this form to annotate all foreign account balances for their disclosure period and calculate correct miscellaneous offshore penalty.
Form 14454	Attachment to Offshore Voluntary Disclosure Letter	To be submitted along with the Form 14457 (see below). An attachment should be completed for each undeclared foreign bank account.

Offshore Voluntary Disclosure Program, Streamlined Filing Compliance Procedures and Voluntary Disclosure Practice 4.63.3

Form/Letter	Title	Description
Form 14457	Voluntary Disclosure Practice Pre-clearance Request and Application	This form was significantly modified for all disclosures after the closing of ODVP. The form has two parts, Part I for preclearance and Part II for preliminary acceptance into the Voluntary Disclosure Practice. Prior to September 28, 2018, this form was referred to as the Offshore Voluntary Disclosure Letter. It is available to be used by the taxpayer when preparing to request participation in the OVDP through CI.
Form 14653	Certification by U.S. Person Residing Outside of the United States for Streamlined Foreign Offshore Procedures	The certification to be used for participation into the Streamlined Foreign Offshore Procedures.
Form 14654	Certification by U.S. Person Residing in the United States for Streamlined Domestic Offshore Procedures	The certification to be used for participation into the Streamlined Domestic Offshore Procedures.
Form 14708	Streamlined Domestic Penalty Reconsideration Request Related to Canadian Retirement Plans	This form is to be used by taxpayers requesting a reconsideration of their previous Streamlined Filing Compliance Submission due to the inclusion of Canadian retirement plan in the Streamlined Domestic Offshore penalty base.

4.63.3.24
(04-27-2021)
**Streamlined Filing
Compliance Procedures**

- (1) Tax returns submitted under the Streamlined Domestic Offshore (SDO) or the Streamlined Foreign Offshore (SFO) procedures will be processed like any other returns submitted to the IRS. Consequently, receipt of the returns will not be acknowledged by the IRS and the Streamlined Procedures filing process will not culminate in the signing of a closing agreement with the IRS.

4.63.3.24.1
(04-27-2021)
**Streamlined Filing
Compliance Procedures
– W&I Processing**

- (1) Taxpayers are instructed to mail their completed Streamlined Procedures submission to Mail Stop 6063 AUSC. The following table provides links to the W&I IRM procedures that can be used to assist in determining if correct actions have been taken on accounts submitted under Streamlined Procedures.

IRM Reference	Title
IRM 3.8.45.31	Campus Deposit Function – Expanded Streamlined Filing Compliance Procedures
IRM 3.10.72.16.9	Receipt & Control – “Streamline” Return Procedures (AUSPC Only)

IRM Reference	Title
IRM Exhibit 3.10.72-2	Receipt & Control – Correspondence “C” Letters - Routing Guide
IRM Exhibit 3.10.72-4	Receipt & Control – Miscellaneous Documents/Forms/ Correspondence - Routing Guide
IRM 3.21.3.9.1	International Code and Edit – Streamlined Filing Compliance Procedures
IRM 3.22.3.6	International Error Resolution – Streamlined Filing Compliance Procedures
IRM 21.8.1.27	IMF International Adjustments – Streamlined Filing Compliance
IRM 21.8.2.17	BMF International Adjustments – Streamlined Filing Compliance Procedures

4.63.3.24.2
(04-27-2021)

Large Business and International Processing (CSDC Unit)

- (1) Members of the LB&I CSDC Unit handle processing of documents and correspondence relating to the Streamlined Procedures.

4.63.3.24.2.1
(04-27-2021)

Determining ASED for Streamlined Cases

- (1) Personnel in the CSDC Unit correct ASEDs for tax returns submitted through the Streamlined Procedures. Submissions must be screened to determine the appropriate ASED.
- (2) The CSDC Unit has observed five recurring scenarios involving submissions to the Streamlined Procedures:
- Only delinquent Forms 1040
 - Only amended Forms 1040-X
 - A mix of forms including Forms 1040 and 1040X
 - Forms 1041
 - A mix of returns including Forms 1040-PR, 1040-NR, 1040-SS, 1065, 1120, 720, 709 and 706

Note: Some of the tax returns listed above are not accepted by the Streamlined Procedures. Such tax returns will not receive the beneficial terms of the Streamlined Procedures and will be sent for normal processing. Additionally, sometimes taxpayers who do not qualify to use the Streamlined Procedures (because, for example, they have submitted a voluntary disclosure letter under OVDP) will attempt to use the Streamlined Procedures. Their returns should also be sent for normal processing.

- (3) Check e-Trak VDP to determine if the taxpayer is in OVDP. If the taxpayer is in OVDP, then it may be a Transition Streamlined request. If the taxpayer is NOT in OVDP, (No e-trak #) then continue ASED clearance.

Offshore Voluntary Disclosure Program, Streamlined Filing Compliance Procedures and Voluntary Disclosure Practice 4.63.3

4.63.3.24.2.1.1
(04-27-2021)
**ASED for Form 1040
Submission Packages**

- (1) For packages containing ALL Forms 1040, U.S. Individual Income Tax Returns, and any Forms 1040 in a mixed package including any Form 1040-X that is to be processed as a Form 1040, determine if the Form 1040 is an original filed tax return by checking each Tax Module using CFOL Command Code (CC) IMFOL with definer T. Look for the Transaction Code (TC) 150 and verify the received date. (Substitute for Returns listing TC 150 are not original returns)
- (2) Each Form 1040 submitted under the Streamlined Procedures must have in red ink along the top center of the first page either of the following:

- Streamlined Domestic Offshore (SDO)
- Streamlined Foreign Offshore (SFO)

Determine if the package is a Streamlined Procedures submission; then proceed to write the applicable phrase in red ink on the top center of the 1st page of each Form 1040.

- (3) Determine if there is a valid non-willful certification included in the taxpayer's Streamlined Procedures submission package:
 - Make 3 photocopies
 - Attach a copy of each completed non-willful certification to the back of each 1040 and/or 1040-X
 - Log the information regarding the certification into the assigned Excel spreadsheet located on CSDC SharePoint
 - Give the original non-willful certification to the Certification Librarian, or place in the designated basket
 - If there is not a completed non-willful certification included in the TP's submission package, do not take any action with respect to the non-willful certification

4.63.3.24.2.1.2
(04-27-2021)
**ASED for Form 1040X
Submission Packages**

- (1) For packages containing ALL Forms 1040-X, Amended U.S. Individual Tax Returns, and any Forms 1040-X in a mixed package including any Forms 1040 that is required to be processed as a Form 1040-X, determine if the Form 1040-X is request to amend the originally filed Form 1040, U.S. Individual Income Tax Return, for each respective tax module by researching CFOL CC IMFOL with definer T for TC 150.
- (2) Each Form 1040-X submitted under the Streamlined Procedures must have in red ink along the top center of the 1st page with either of the following:

- Streamlined Domestic Offshore (SDO)
- Streamlined Foreign Offshore (SFO)

Determine if the package is a Streamlined Procedures submission; then proceed to write the applicable phrase in red ink on the top center of the 1st page of each Form 1040.

- (3) Determine if there is a completed non-willful certification included in the taxpayer's Streamlined Procedures submission package:
 - Make 3 photocopies
 - Attach a copy of each completed non-willful certification to the back of each 1040 and/or 1040-X

- Log the information regarding the certification into the assigned Excel spreadsheet located on CSDC SharePoint
 - Give the original non-willful certification to the Certification Librarian, or place in the designated basket
 - If there is not a completed non-willful certification included in the taxpayer's submission package do not take any action with respect to the non-willful certification
- (4) Ascertain if the ASED has expired and make a determination to extend the date legally.
 - (5) If the ASED has not expired and there is more than 15 days left but fewer than 90 days, in addition to writing "ASED has Not Expired", check the Short Statute box on the AM Coversheet to expedite processing.
 - (6) If the ASED has not expired and there is fewer than 15 days left, the applicable year will be forwarded for Quick Assessment.
 - (7) If the ASED has expired, then you will have to make a determination if it can be extended based on the provisions of IRC 6501. There are three primary Internal Revenue Code Sections we will use to extend the ASED for expired years for Streamlined Procedures submission packages.
 - If there is an original Form 5471, 5472, 3520, 3520-A, 8865 or 926 included with the Streamlined Procedures submission package, the ASED can be extended under IRC 6501(c)(8)
 - If there is more than \$5,000 in unreported income from a foreign financial institution (FFI), the ASED can be extended under IRC 6501(e)(1)(A)(ii)
 - If there is more than 25% omission in income the ASED can be extended under IRC 6501(e)(1)(A)(i)
 - (8) There are numerous IRC sections that allow for extending the ASED. We will work the three previously discussed. If you determine that another code section applies to extend the ASED; submit the code section and criteria met to the RA for review after first completing all of the processing procedures for ASED clearance for each Form 1040, 1040-X, and 1041.

4.63.3.24.2.1.3
(04-27-2021)

**ASED for Form 1041
Submission Packages**

- (1) For packages containing any Form 1041, determine if the Form 1041 is an original return or an amended return. The procedures for Form 1041 are the same as the procedures for Form 1040. Original Forms 1041 included in streamlined submission packages need to be routed to Ogden.
- (2) Form 1041 can be amended. You can identify an amended Form 1041 by the "F" section on page 1. There is a box for "Amended return" that will be checked if it is amended. There is no Form 1041-X. The ASED determination procedures for amended Forms 1041 are the same for Forms 1040-X.
- (3) All of the same applicable legal extensions in IRC 6501 that are applicable to Form 1040-X are applicable to Form 1041 amended returns.

Exception: Form 1041 is considered a BMF return and to access the ASED information you will need to use CFOL Command Code BMFOL with definer T and MFT 05. There is also a separate Accounts Management Coversheet for Forms 1041.

- (4) Complete the AM Streamlined Cover Sheet for each Form 1041 that is amended.
- (5) Complete Form 3210, Document Transmittal. Route to ICT if package contains all Forms 1040X and no Forms 1040. Route to Batching if package contains any Forms 1040.
- (6) If amended Form 1041 returns are included, route amended Form 1041 returns to ICT (with the Form 1041 AM Coversheet attached). Route all original Forms 1041 included in a Streamlined Procedures submission package to:

Batching M/S 6054
1973 North Rulon White Blvd.
Ogden, UT 84404-7843
- (7) If the ASED was extended, place in the designated basket for RA review. All extensions require revenue agent concurrence.
- (8) If Form(s) 2848 are included with a Streamlined Procedures submission package, the Form(s) 2848 must be “detached” and routed to the CAF Unit for processing. An action trail should be included which indicates the Form(s) 2848 were detached.
- (9) If it is determined a return should be processed as normal, without Streamlined Procedures treatment, an action trail should be placed on the lower left-hand corner of the return(s) and return(s) routed for normal processing.

4.63.3.24.2.2
(04-27-2021)

**Correspondence for
Streamlined Filing
Compliance Procedures**

- (1) CSDC Unit personnel working on Streamlined Procedure cases have three bins for daily mail receipt: two for Statute Control (tax returns) and one for Streamlined Procedures correspondence. The bins are located in Room 545.
- (2) Mail is received with a Form 3210 indicating the number of return packets for Statute Control and/or number of Streamlined Correspondence. The mail is usually delivered in the afternoon.
- (3) The Tax Examiners (TEs) will verify that the Form 3210 is correct, sign it, give **Part 1 – Recipient’s Copy** to the group secretary and mail **Part 3 – Acknowledgement Copy** to the originator.
- (4) Because correspondence generally is not statute sensitive, TEs will monitor the basket and work correspondence as other priority work allows.
- (5) Each TE will record their work and the status of the case on their Correspondence Log according to Exhibit 4.63.3-10, How to Log Correspondence. If possible, the TE will close the case using the steps outlined below.
- (6) If the TE is unable to resolve the case immediately, the TE will submit the case to the Correspondence Coordinator (CC) to place into suspense.
- (7) The CC will put the suspended case in a folder labeled with the taxpayer’s TIN; the folders will be organized by TIN order on the correspondence suspense shelves.

- (8) If additional information pertaining to a suspended case is received by Streamlined Procedures, either via mail or the telephone hotline, the CC will retrieve the case file from suspense and work the case.
- (9) Any correspondence that cannot be resolved by the CC will be referred to a revenue agent (RA) to work.
- (10) The CC will monitor the follow-up dates of cases in suspense. If the case is not resolved prior to the follow-up date the CC will retrieve the case from suspense and follow up on it.
- (11) Each TE's individual Correspondence Log should be uploaded to the Share-Point site at the end of their TOD so the most current copy is available to the CC.
- (12) The CC will merge the TE's individual Correspondence Log into the Master Correspondence Log on a regular basis based on the amount of correspondence received.
- (13) See Exhibit 4.63.3-9, Streamlined Filing Compliance Procedures - Steps for Tax Examiners, for tax examiner procedures for handling streamlined correspondence.

4.63.3.24.2.2.1
(01-24-2018)
Correspondence for Streamlined Filing Compliance Procedures – Steps for Tax Examiners

- (1) All tax examiners (TEs) will maintain their individual Correspondence Log. When applicable, each step should be input as the TE performs the task using the procedures described in Exhibit 4.63.3-9, Streamlined Filing Compliance Procedures - Steps for Tax Examiners.
- (2) All TEs will upload their individual Correspondence Log to the CSDC Share-Point daily before the end of their tour of duty.

4.63.3.24.2.2.2
(04-27-2021)
Correspondence for Streamlined Filing Compliance Procedures - Steps for Correspondence Coordinator

- (1) The Correspondence Coordinator (CC) has two main responsibilities, which encompass several different tasks. The CC is responsible for:
 - Compiling all the individual logs into one master log

Note: The Streamlined Procedures correspondence master log is an Excel spreadsheet utilized to track all outgoing Streamlined Procedures correspondence sent from the Austin CSDC/Streamlined Unit
 - Managing the correspondence held in suspense

4.63.3.24.2.2.2.1
(01-24-2018)
Compiling Logs

- (1) Each tax examiner has a file with their name on the SharePoint site (Streamlined Correspondence – TE Name.xlsx). On a bi-weekly basis the CC is responsible for transferring the information from the individual logs to the master log. Within the master log there are tabs with each TE's name.
 - Copy the information from each individual log and paste it into the corresponding TE's tab in the master log
 - Mark the last row copied on the individual's log with a heavy black line to mark it as the last row copied
 - Continue copying, pasting and marking from individual logs into related tabs in the master log until all new information has been transferred
 - The individual tabs will be compiled in the "SDO-SFO contact log" tab within the master log file

- Review the individual tab information as it is transferred to ensure that all applicable fields have been addressed
- Ensure the columns on the SDO-SFO tab are marked accordingly (Follow-Up, OVDP, MFT 55, RESOLVED, etc.)
- Highlight each row according to legend

Color	Meaning
Yellow	Intent to submit Streamlined submission
Blue	Follow-up
White	No response
Purple	Left message
Orange	OVDP
Mauve	MFT 55
Melon	Follow up with RA
Green	Resolved

- Save the document bi-weekly, changing the date to the current Friday's date

Example: 2014 Streamlined Correspondence - Master 10-24-14.xlsx
updated to 2014 Streamlined Correspondence - Master 11-7-14.xlsx.

4.63.3.24.2.2.2.2
(04-27-2021)

**Manage Correspondence
in Suspense**

- (1) After the correspondence has been addressed by the TEs, additional time may be needed for taxpayer action; hence correspondence may need to be suspended for further action. Some reasons include:

- Unassociated forms that may belong to a previous submission

Example: Information returns, FinCEN reports, a letter indicating they've filed Form 1040 or 1040X.

- Sent in old Streamlined Procedures questionnaire
- Correspondence that is not easily identifiable
- Waiting for response to Letter 5498

For each correspondence, a manila folder will be labeled with the taxpayer's SSN and placed in order on the Suspense Wall. For correspondence received without an SSN, the file will be organized by last name.

4.63.3.24.2.2.3
(04-27-2021)

**Miscellaneous
Correspondence**

- (1) If a taxpayer or representative sends a letter indicating that they will be making a submission in the future, such correspondence has no legal or procedural impact. Input the letter in the log, treat the letter as classified trash and monitor as follows:

- After 90 days from the TE review date, check to see if any returns have been posted or a Certification received

- If a packet has been submitted the case can be marked as “Resolved” and highlighted in green
- If nothing has been received notate “no additional follow-up” in the resolution column and fill row with grey lines

4.63.3.24.2.2.4
(01-24-2018)

Separated Submission

- (1) Forms that are received in correspondence that appear to be part of a submission may be suspended until the packet posts on IDRS.

- Research the years associated with the correspondence using IMFOLT
- If a packet has posted then the correspondence can be associated with the most recent return by using Form 9856, Attachment Alert

Note: If an original 1040 was submitted, the DLN will correspond with a TC 150.

Note: If an amended 1040X was submitted, the DLN will correspond with a TC 977.

- If after review, the forms are misrouted or incomplete submissions then send Letter 5498. Notate date of letter on the spreadsheet and change category to Follow-Up.

Note: Mark Follow-Up date as 60 days for domestic and 90 days for international.

4.63.3.24.2.2.5
(01-24-2018)

2012 Streamlined Filing Compliance Procedures Questionnaire

- (1) The 2012 Streamlined Filing Compliance Procedures Questionnaire is obsolete. When a taxpayer submits a 2012 Streamlined Filing Compliance Questionnaire, contact the taxpayer to determine their intent. First try to make contact by phone. Research CFINK if a name of a representative is given. Otherwise, send Letter 5498 and note date of letter on the spreadsheet and change category to Follow-Up. Allow 60 days for domestic and 90 days for international.

4.63.3.24.2.2.6
(01-24-2018)

Follow-Up

- (1) After response periods lapse or actions are taken, update the master log. Update for items including:

- Follow-Up - highlighted in blue
- Referred to RA - highlighted in melon
- Left message - highlighted in purple
- No response - highlighted in white
- Intent to submit - highlighted in yellow

- (2) Each week the master log should be reviewed for upcoming “Follow-up” dates and any other actions.

4.63.3.24.2.3
(04-27-2021)

Streamlined Certifications Excel Spreadsheet

- (1) Taxpayers submitting returns through the Streamlined Procedures are required to include, among other things, a signed certification form that represents:

- a. The taxpayer is eligible for the Streamlined Procedures
- b. All required FBARs have been filed
- c. Any tax and FBAR compliance failures resulted from non-willful conduct

Note: Forms 14653 and 14654 recite various statements adopted by the taxpayers.

- (2) Personnel in the CSDC Unit log and file original certifications received from taxpayers as part of the Streamlined Procedures. Original certifications are received in several ways.
 - **Internal** – Original certifications are detached by another function and sent to AUSC 4305 in a sealed envelope or with an internal routing coversheet. The Certifications Librarian has primary responsibility for logging internally received certifications. As work priorities allow, TEs and Examination Technicians (ETs) may assist with logging certifications.
 - **Statute Clearance** - As part of the Statute Clearance work stream, TEs are instructed to detach original certifications from statute cleared submission packages containing 1040X returns exclusively.
 - **Correspondence** – Original certifications may also be sent directly to the CSDC Unit by taxpayers and received as correspondence. After following correspondence procedures, these original certifications will be logged and filed.

4.63.3.24.2.3.1 (04-27-2021)

Logging Certifications – Individual Spreadsheets

- (1) The CSDC SharePoint site contains an Excel spreadsheet for each TE and ET for certifications. Record original certifications received on such spreadsheets. The Certification Librarian will log certifications in the Master Log.
- (2) The Certification Librarian or assigned ET should periodically check the incoming mail basket for certifications routed to AUSC 4305 from other areas. Check certifications against the Master Log to identify possible duplicates, misidentified responses to correspondence or subsequent certifications with additional information. In all cases of duplicate certifications, if an original copy is already on file, dispose of the photocopy (after confirming that the photocopy matches the original) as classified waste. Refer responses to correspondence to the TE tasked with correspondence review.
- (3) An “Instructions” tab is available in each file.
 - Enter new certifications on the appropriate worksheet as you receive them (tabs for Streamlined Foreign Offshore – SFO or Streamlined Domestic Offshore – SDO).
 - Spouses on joint certifications should be logged in the columns next to the primary taxpayer.
 - If the taxpayer indicates they are not filing returns for the previous 3 years and owe zero tax because the non-willful conduct occurred prior to the most recent 3 years, but within the FBAR disclosure years, place an “X” in the No Returns Filed column.
 - Enter the total Tax and Interest paid in the **Tax + Interest** column. This amount is usually found on page 1 of the SFO and SDO certifications.
 - Enter the total MOP in the **Total MOP** column. The taxpayer’s MOP calculation is usually found on page 3 of the SDO certification (Form 14654).
 - If the taxpayer calculated the MOP based all or in part on a Canadian RRSP, place an “X” in the **MOP Paid on RRSP** column.
 - Be sure to save your file after entering certifications.
 - After logging, sort the paper certifications in numerical order by SDO or SFO, TIN, and month received. Bundle the certifications by month, and

mark with the month received. Place the certifications in the **2014 STREAMLINED ORIGINAL CERTIFICATIONS** basket or give directly to the Certifications Librarian. Do not place unlogged certifications directly into the files or the basket.

4.63.3.24.2.3.2
(04-27-2021)

**Logging Certifications –
Master Spreadsheet**

- (1) The Streamlined Procedures certifications master spreadsheet is located on the CSDC SharePoint site and maintained by the Certifications Librarian. The file is organized with tabs for updates to the log. Periodic updates of certifications received should be emailed to the supervising manager.

- Check out and open the master spreadsheet file from the SharePoint site. Click on the tab for the latest update period, SFO or SDO as needed.
- Open each individual spreadsheet and copy new entries over to the master list tab for the current update period. Place a solid line or other notation on the individual spreadsheet to indicate which entries have been copied.
- Save and check-in the updated file.

4.63.3.24.2.3.3
(01-24-2018)

Filing Certifications

- (1) Logged certifications are organized by SDO or SFO, TIN, and month received.

- Check the **2014 STREAMLINED ORIGINAL CERTIFICATIONS** basket regularly for newly logged certifications.
- Organize certifications by TIN and month received. Certifications with no TIN should be placed in the folder marked 900-999/NO TIN.
- In all cases of duplicate certifications, if an original copy is already on file, dispose of the exact photocopy as classified waste.
- Interfile with existing filed certifications.
- Add folders when additional space is needed for certifications and for each new month.

4.63.3.24.2.3.4
(01-24-2018)

**Removing Certification
from the Files**

- (1) When a certification is permanently removed from the files, document the reason for removal (e.g. OVDP Transition) in the “Certification Removed from File” column under the “Complete” list tabs.

4.63.3.25
(04-27-2021)

OVDP Transition

- (1) Transitional treatment under OVDP allows taxpayers participating in OVDP, prior to July 1, 2014, who meet the eligibility requirements for the expanded Streamlined Procedures, an opportunity to remain in the OVDP while taking advantage of the favorable penalty structure of the expanded Streamlined Procedures. Transitional treatment is governed by the Transition Rules Frequently Asked Questions (FAQs) found on IRS.gov.

4.63.3.26
(04-27-2021)

**Voluntary Disclosure
Practice (Post OVDP)**

- (1) All voluntary disclosures, whether domestic or offshore, made after September 28, 2018, will follow standard examination procedures guided by current policy. Specifically, the Service will apply the civil resolution framework as outlined in this IRM. At the Service’s discretion, this civil resolution framework may extend to non-offshore disclosures that have not been resolved but were received on or before September 28, 2018.
- (2) Voluntary disclosure examinations have several unique aspects that require consideration or modification from regular processing and examination procedures.

Offshore Voluntary Disclosure Program, Streamlined Filing Compliance Procedures and Voluntary Disclosure Practice 4.63.3

4.63.3.26.1
(04-27-2021)
Voluntary Disclosure Practice Requirements

- (1) IRS Criminal Investigation (CI) is responsible for decisions allowing taxpayers to use the voluntary disclosure practice. This IRM does not supersede any portion of CI's IRM 9.5.11.9. If there is any perceived conflict between this IRM and CI's IRM concerning any CI procedure, CI's IRM controls.

Note: Joint Returns and Disclosures – Criminal liability depends on individual conduct and intent. When spouses filed joint income tax returns but only one spouse committed a tax or tax-related crime, the willful spouse or both spouses may enter the Voluntary Disclosure Practice. A spouse whose conduct was not willful is not required to make a voluntary disclosure; however, making a joint disclosure will ease the administrative burden of the civil examination.

- Examiners will need to follow IRM 4.10.1.2.2.1, for Separate Notice Requirements. When deficiencies, penalties and interest are not paid in full, agreements will require both signatures in accordance with IRM 4.10.8.4.5, Waiver of Assessment for Joint Returns. When only one spouse enters into an agreement and full payment is not received, see IRM 4.10.8.11.3, Separate Assessments on Joint Returns.
- (2) Taxpayers with illegal source income under federal law are not eligible to make a voluntary disclosure. Income from activities determined to be legal under state law but illegal under federal law is considered illegal source income for purposes of the Voluntary Disclosure Practice. For example, cannabis (or marijuana) is illegal under federal law even though it has been legalized in several states.
- (3) A voluntary disclosure requires taxpayers to be truthful, timely and complete in their disclosure. It also requires taxpayers to:
- a. Cooperate with the IRS in determining their tax liability and compliance reporting requirements
 - b. Cooperate with the IRS in investigating any professional enablers who aided in the noncompliance
 - c. Submit all required returns, information returns, and reports for the disclosure period, and
 - d. Remit payment in full for the tax, interest and any penalties determined by the IRS to be applicable. If they are unable to remit full payment, taxpayers must make good faith arrangements with the IRS to pay in full the applicable tax, interest, and penalties
- (4) Cooperation includes but is not limited to:
- a. Promptly and fully responding to all information document requests
 - b. Submitting to interviews and providing access to related party witnesses
 - c. Providing statute extensions or waivers as necessary for tax and tax-related issues (including FBAR, if applicable)
 - d. Providing delinquent or amended returns, information returns, supporting documents, accountant's workpapers, etc.
 - e. Providing bank secrecy waivers for offshore cases
 - f. Resolving all compliance matters covered by the disclosure by agreement, and

- g. Full payment of all determined taxes, additions to tax, interest and penalties, or entering into a payment arrangement acceptable to the IRS
- (5) If taxpayers fail to cooperate during their civil examination, the examiner may request that Criminal Investigation revoke their preliminary acceptance. The examiner should follow the revocation procedures found in IRM 4.63.3.26.9.
 - (6) If preliminary acceptance into the Voluntary Disclosure Practice is revoked, examiners may expand the scope of the examination to include all tax years and assert all potentially applicable civil penalties, including FBAR, to the maximum extent under the law.

4.63.3.26.2
(04-27-2021)

Penalty Framework

- (1) A civil fraud penalty or fraudulent failure to file income tax penalty, under IRC 6663 or IRC 6651(f), respectively, will apply to at least one year of all voluntary disclosures. The penalty should be asserted in the tax year with the highest tax deficiency. Tax deficiency is defined as the tax liability reported on a delinquent return secured as part of the voluntary disclosure submission or the increase in tax liability determined from examination adjustments. (See Exception following paren 11 below.)
- (2) In all cases where the fraud penalty applies, that penalty will be specifically identified and referenced by code section and title in all closing agreement, letters, reports and any other documents in accordance with normal examination procedures.
- (3) The application of a single year fraud penalty assumes that all terms of the Voluntary Disclosure Practice are complied with, including but not limited to, full cooperation. If taxpayers do not cooperate and revocation procedures are followed, the civil fraud penalty may be applied to more than one year of the voluntary disclosure period based on the facts and circumstances of the case.
- (4) The single fraud penalty is in lieu of accuracy-related penalties and delinquency penalties, IRC 6662, IRC 6651(a)(1) and IRC 6651(a)(2), respectively.
 - Examiners should review taxpayer modules to determine if accuracy or delinquency penalties related to items reported with respect to the disclosure were improperly assessed by the Campus, and, if necessary, take appropriate action to abate these penalties.
- (5) The following examples relate to income tax penalties:
 - a. Taxpayers submit six years of amended returns: one fraud penalty on the year with the highest tax deficiency and no accuracy-related penalties for the other five years
 - b. Taxpayers submit six years of delinquent returns: one fraudulent failure to file penalty on the year with the highest tax deficiency with no delinquency penalties on the other five years
 - c. Taxpayers submit three years of delinquent returns and three years of amended returns: a single penalty for either fraud or fraudulent failure to file on the year with the highest tax deficiency with no accuracy-related or delinquency penalties on the other five years

Exception: Fraud referral procedures are not required for agreed Title 26 voluntary disclosure cases closing **with** a Form 906 Closing Agreement. However, if the Title 26 case will close without a closing agreement, unagreed or when preliminary acceptance has been revoked, regular

referral procedures including FEA involvement and approval on Form 11661 – Fraud Development Recommendation- Examination, must be followed.

- (6) The Estimated Tax Penalty under IRC 6654 is to be applied, when applicable, to all years of the voluntary disclosure as this is a computational proxy for interest.
- (7) Willful FBAR penalties will apply in cases involving FBAR noncompliance. Willful FBAR penalties will be computed in accordance with existing IRS penalty guidelines under IRM 4.26.16, Report of Foreign Bank and Financial Accounts and IRM 4.26.17, Report of Foreign Bank and Financial Accounts (FBAR) Procedures
 - For all cases where the FBAR penalty is present, that penalty will be specifically identified as such in the Letter 3709, FBAR Closing Agreement, Form 13449, Agreement to Assessment and Collection of Penalties Under Title 31 USC 5321(a)(5) and 5321(a)(6), and any other documents in accordance with normal examination procedures.
- (8) Penalties for the failure to file information returns will not be automatically imposed. Examiner discretion should be exercised based upon the facts and circumstances of each case and take into consideration the application of other penalties. See IRM 4.63.3.26.13.2, Other International Information Return section below.
- (9) Other applicable Title 26 penalties for Specialty Issues will be subject to penalties with a structure similar to income tax penalties and will be handled based upon the facts and circumstances of the case. See IRM 4.63.3.26.14, Other Specialty Issues below. In the future, more guidance will be issued on various specialty taxes.
- (10) For all non-OVDP voluntary disclosures received on or before September 28, 2018, the Service has the discretion to apply the procedures outlined in this IRM.

Exception: Given the objective of the Voluntary Disclosure Practice, in rare and extraordinary cases, taxpayers may request the imposition of the accuracy related or failure to file penalties under sections 6662, 6651(a)(1) and (2), and the non-willful FBAR penalty, in lieu of the one-year civil fraud or fraudulent failure to file income tax penalty and the willful FBAR penalty. Taxpayers must present clear and convincing evidence to the satisfaction of the Service to deviate from the established penalty framework. The Service will not consider deviating from the standard penalty structure due to a fraud penalty's negative impact on social status, political aspirations, or professional licensure. If a taxpayer requests a lesser penalty, the examiner should contact designated counsel or analyst listed on the Voluntary Disclosure Practice SharePoint page. Any deviations from the penalty structure presented above will require elevation and approval from designated Voluntary Disclosure Practice Counsel. We anticipate deviation from the penalty structure to be exceedingly rare. The Service has publicly discouraged practitioners, both on IRS.gov in at major practitioner educational

events, from using the voluntary disclosure practice for cases with no potential for criminal liability. See www.irs.gov/vdp, specifically the section “Who may disclose”, “which notes that If your violation of the law was not willful, you should consider other options including correcting past mistakes by filing amended or past due returns.” For other useful links for other compliance options, see the box “Voluntary Disclosure Not for You?”

- (11) In order to satisfy the requirements of IRC 6751(b)(1), the immediate supervisor of the person making the initial penalty determination must review the penalty determination, including alternative penalties, and must personally approve in writing the assertion of the penalties according to the Code and Service policy. See IRM 20.1.1.2.3.1 Examination Change Reports Assessing Penalties.
- For FBAR examinations, the examiner’s position must be approved by an operating division FBAR coordinator, group manager, and, for willful penalties, designated Voluntary Disclosure Practice FBAR counsel before discussing with the taxpayer or representative per IRM 4.26.17.4(2) and by the manager prior to assessment per IRM 4.26.16.6.8.

4.63.3.26.3
(04-27-2021)

Disclosure Period

- (1) The disclosure period is based on the submission date of Part II of Form 14457- Voluntary Disclosure Preclearance and Application. Taxpayers will need to adjust accordingly based upon the timing of the preclearance request submitted on Part I of Form 14457.

Note: The preclearance process will take a minimum of 30 days but can take 60 days or longer.

- (2) Generally, voluntary disclosures will include a six-year disclosure period requiring civil examinations of the most recent six tax years for which the due date has already passed. For returns filed on extension, but before the extension due date, the filing date will be treated as the due date.
- (3) There are three exceptions to this six-year disclosure period:
- a. If taxpayers do not cooperate during the civil examination, the examiner has discretion to include the full duration of the noncompliance.
 - b. In cases where noncompliance involves fewer than the most recent six tax years, the voluntary disclosure must correct noncompliance for all tax periods involved.
 - c. With the IRS’ review and consent, cooperative taxpayers may be allowed to expand the disclosure period. Taxpayers may wish to include additional tax years in the disclosure period for various reasons (e.g., correcting tax issues with other governments that require additional tax periods, correcting tax issues before a sale or acquisition of an entity, correcting tax issues relating to unreported taxable gifts in prior tax periods, etc.).
- (4) The following examples illustrate calculating the disclosure period:
- a. Taxpayer A makes a voluntary disclosure relating to willful noncompliance spanning the last 20 years. Taxpayer A fully cooperates and provides amended returns correcting all matters for the most recent six years. If Taxpayer A comes forward in January 2018, the disclosure period will

- include tax years 2011-2016. If Taxpayer A comes forward in December 2018, the disclosure period will include tax years 2012-2017.
- b. Assume Taxpayer A, in the example above, filed for an extension to file her 2017 tax return until October 15, 2018. If the taxpayer comes forward in June 2018 before filing her 2017 return, the disclosure period will include tax years 2011-2016. However, if the taxpayer filed her 2017 return in May 2018 before making a disclosure in June 2018, the disclosure period will include tax years 2012-2017.
 - c. Taxpayer A makes a voluntary disclosure relating to willful noncompliance spanning the last 20 years. Taxpayer A does not cooperate during the civil examination. The Service is not limited to a six-year disclosure period and may examine all years with noncompliance. Cooperation is described in IRM 4.63.3.26.1.4.
 - d. Taxpayer B makes a voluntary disclosure in January 2018 relating to willful noncompliance that occurred only during the most recent 4 tax years. Taxpayer B fully cooperates. Thus, his disclosure period includes tax years 2013-2016, the 4 years where there was noncompliance.
 - e. Taxpayer B makes a voluntary disclosure in January 2018 relating to willful noncompliance in tax years 2008 through 2015. Taxpayer B fully cooperates and clearly establishes that he is compliant with all tax and information requirements for the most recent tax year that was filed (2016). Taxpayer B's disclosure period will be limited to 2011-2015, the first five years of the disclosure period.

Note: After taxpayers have been preliminarily accepted into the Voluntary Disclosure Practice, they will be expected to comply with U.S. law for all subsequent tax periods for all applicable filing requirements, both Title 26 and 31. Examiners should ensure all subsequent returns or reports are filed correctly and review for consistency related to adjustments or issues identified in the voluntary disclosure years. Amended/delinquent returns should be secured as necessary to bring the taxpayers into full compliance

4.63.3.26.4
(04-27-2021)
**Taxpayer
Representatives**

- (1) Taxpayer representatives must complete Form 2848 - Power of Attorney and Declaration of Representative, including specific information for the Voluntary Disclosure Practice. Examiners should review Form 2848 for completeness and proper authorization. See IRM 4.11.55.2.7.2 - Processing of the POA, IRM 21.3.7.5, Form 2848 - Power of Attorney and Declaration of Representative and Form 8821 -Taxpayer Information Authorization Overview and IRM 4.26.17.3.2 - Power of Attorney in FBAR Examinations.
 - a. Form 2848 must include all years of the disclosure period. Consider including subsequent years to ensure future voluntary compliance.
 - b. Form 2848 must include all applicable Title 26 civil taxes, penalties, information returns and Title 31 FBAR.

Note: With respect to FBAR examinations, see IRM 4.26.17.3.2(1) regarding authorized representatives.

- c. A fiduciary representing a taxpayer must provide a properly executed Form 56 - Notice Concerning Fiduciary Relationship and supporting court documentation authorizing the fiduciary. See IRM 3.13.5.32, Form 56 -

Notice Concerning Fiduciary Relationship. Any concerns with documentation regarding the authority to represent should be elevated to assigned counsel.

4.63.3.26.5
(04-27-2021)
**The Voluntary
Disclosure Practice
Hotline**

- (1) The Voluntary Disclosure Practice Hotline phone number is (267) 466-0020.
- (2) Taxpayers or representatives may call the Voluntary Disclosure Hotline for procedural questions only. This Hotline will not provide legal advice or case-specific guidance. Advice provided by the Voluntary Disclosure Practice Hotline is not binding, as it is based on isolated issues. Examiners will be responsible for making a final determination based upon all facts and circumstances of the case.
- (3) This Hotline is a voice mailbox on which messages may be left. Service personnel will return messages received on this Hotline and will document each call in the Voluntary Disclosure Hotline Call Log.
- (4) It is important to remember that FBAR questions are not answered by the Voluntary Disclosure Practice Hotline. All FBAR inquiries should be directed to CTR Ops' FBAR Hotline or the FinCEN FBAR webpage's contact link.
- (5) The IRS FBAR and Title 31 Helpline connects practitioners and filers, both domestic and abroad, with a team of specially trained technicians, examiners and specialists to answer technical Title 31 questions. To reach the IRS FBAR and Title 31 Helpline, direct the taxpayer to:
 - Call (866)-270-0733 for callers within the U.S. (toll-free)
 - Call (313)-234-6146 for callers outside the U.S. (not toll-free)
 - Practitioners may send questions to FBARquestions@irs.gov

4.63.3.26.6
(04-27-2021)
**Overview of the
Voluntary Disclosure
Case Development
Process (Six Stages)**

- (1) Taxpayers request preclearance by submitting Part I of Form 14457 - Voluntary Disclosure Practice Preclearance Request and Application to IRS' Criminal Investigation Global Financial Crimes Unit in Philadelphia.
- (2) Once precleared, taxpayers request preliminary acceptance by submitting Part II of Form 14457 - Voluntary Disclosure Practice Preclearance Request and Application to IRS' Criminal Investigation International Operations Unit in Philadelphia.
- (3) Once preliminary acceptance into the Voluntary Disclosure Practice is granted by CI, CI forwards taxpayers' voluntary disclosures to the ACU for case establishment.

Note: Taxpayers are instructed to hold all required(*) returns, reports and schedules for the disclosure period and submit them directly to the assigned examiner once the civil examination commences. Taxpayers who file delinquent tax or information returns directly with the IRS processing campuses may have certain penalties automatically assessed. During the examination, the examiners should reconcile taxpayers' module and consider abatement of penalties automatically assessed as applicable.

*Taxpayers must file FBARs electronically as required by FinCEN and provide a copy of the electronically filed FBARs to the assigned examiner.

- (4) The ACU establishes and begins preliminary case building, including associating required documents with the case file.

- (5) Once ACU completes preliminary case building procedures, the case is sent to the appropriate Planning and Special Programs (PSP) for classification, case building completion, and field assignment. See PSP IRM 4.1.1.6.17.

Note: For a listing of Voluntary Disclosure Practice Project Code and Tracking Codes, see the Field Examiner Guide Paper found on the Voluntary Disclosure Practice SharePoint.

- (6) Once assigned the examination begins and is conducted in accordance with IRM 4.10, Examination of Returns, with exceptions addressed in this IRM.

4.63.3.26.7
(04-27-2021)

ASED Determination and Protection

- (1) Determine the Assessment Statute Expiration Date (ASED), for tax returns received and processed through the Voluntary Disclosure Practice. Information regarding statute of limitations is found under IRM 25.6, Statute of Limitations.

- (2) Taxpayers accepted into the Voluntary Disclosure Practice are required to submit the following documents needed for making a statute determination:

- a. Copies of their previously filed tax returns (and any applicable international information returns) for all years in the disclosure period,
- b. Original delinquent tax returns (and any applicable international information returns) for any non-filed years, and
- c. Amended tax returns (and any applicable international information returns) for tax years in the disclosure period requiring correction.

- (3) Protect statutes by following statute control procedures as outline in IRM 25.6.23, Examination Process-Assessment Statute of Limitations Controls.

Note: Title 31 FBAR statute consents are fundamentally different than Title 26 consents. For FBAR consents see IRM 4.26.17.3.1, FBAR Statute of Limitations and IRM 4.26.17.3.1.3. Extending the FBAR Statute of Limitations and/or discuss with your offshore Voluntary Disclosure Practice analyst. Additional information pertaining to FBARs can be found in IRM 4.63.3.14 FBAR Questions.

- (4) Agreeing to extend the assessment period is an element of cooperation.

- a. Examiners must solicit Form 872 under IRM 25.6.22.2, Guidelines for Soliciting Extensions, Consent to Extend the Time to Assess Tax, for tax years with less than one year remaining on the assessment statute period.

Note: IRM 4.10.1.4.4, Digital Signatures, provides guidance on acceptable digital signatures for use when delegated Service officials elect to sign consent forms digitally.

- (5) If a Title 26 ASED is expired for a year in the disclosure period, and no exception to extend the statute applies, alpha code "OO" or "YY" (for offshore cases) will be used to establish the case. See IRM Exhibit 25.6.2-3, Instructions for Updating the Statute on AIMS.

- (6) If an ASED is about to expire and an extension cannot be secured, discuss with your manager.

4.63.3.26.8
(04-27-2021)

Unprocessed Taxable Returns (Forms 1040 and 1120) – Delinquent and Amended

(7) When a Voluntary Disclosure Practice case involves one or more years with barred ASEDs, a Form 906, Closing Agreement is required for all years of the disclosure period. Consult with your domestic or offshore analyst for assistance.

(1) The Voluntary Disclosure Practice requests taxpayers submit original delinquent and/or amended returns to the assigned examiner once the examiner initiates contact. These returns should not be processed through normal return processing procedures to ensure proper penalty application within the established civil penalty framework for the Voluntary Disclosure Practice.

(2) When an original delinquent return for a year included in the disclosure period is provided to the examiner, the examiner will process the return following Delinquent Return Received After SFR TC 150 Posted at Master File found in IRM 4.4.9.7.

(3) When an amended return is provided to the examiner, do not process. The examiner will incorporate all adjustments on Form 4549/4549-A Report of Income Tax Examination Changes.

a. In cases where the statute is expiring and it is anticipated a statute extension cannot be secured and a statute exception does not apply, follow Quick Assessment procedures found in IRM 4.4.25.

(4) When delinquent and/or amended returns were prematurely submitted and were processed prior to case assignment, follow regular exam procedures.

a. Reconcile tax module to the amended return and RGS to ensure the starting point is correct.

b. Review taxpayers' transcripts to determine penalties are consistent with the terms of the Voluntary Disclosure Practice. If required, abatement of penalties should not occur until the case is nearing resolution.

Note: When closing a case using Form 906 Closing Agreement, all adjustments identified on the delinquent or amended return and during examination should be included on the Form 906 Closing Agreement and the Form 4549-A, Report of Income Tax Changes (Without Taxpayer Signature).

Examiners should **not** use Form 4549 – Report of Income Tax Changes with Form 906 Closing Agreement. However, in cases where delinquent or amended returns were previously processed, all adjustments must be included on the Form 906 but only the adjustments not previously assessed will be included on the Form 4549-A. In this scenario, the Form 906 and Form 4549-A will not agree.

(5) Analysis of related returns should be considered. See IRM 4.10.5.4.1.

4.63.3.26.9
(04-27-2021)

Revocation Procedures

(1) In the event a taxpayer fails to cooperate with the civil examination (cooperation is described in paragraph 4 of IRM 4.63.3.26.1), the examiner may request that CI revoke preliminary acceptance. Requests for revocation are expected to be rare. Examiners should attempt multiple requests (at least 2-3) with a taxpayer before considering revocation. Examiners should continue to actively work both the Title 26 and 31 examinations (if applicable) while pursuing revocation. The steps for revocation are outlined in the following paragraphs.

Note: Maintaining a detailed Form 9984 - Examining Officer's Activity Record, documenting examination's requests for information and the taxpayer's response will be key in preparing the summary for a revocation request.

- (2) Discuss the lack of cooperation with the taxpayers/representatives. If taxpayers remain uncooperative, the examiner should discuss the facts and circumstances of the case with the Group Manager (GM), domestic/offshore Voluntary Disclosure Practice analyst, and Counsel. If it is agreed that the taxpayers are not cooperating, proceed with next step.
- (3) Issue Letter 6229 –Voluntary Disclosure Practice Revocation informing the taxpayers their preliminary acceptance into the Voluntary Disclosure Practice is conditional, in part, on cooperation.
 - a. Provide the examiner's information as the contact information.
 - b. Letter 6229 should be signed by the examiner.
 - c. Complete grid at the end of Letter 6229 detailing the dates, contacts made, and results of the contact.
 - d. Enclose a new Form 4564, Information Document Request, listing all outstanding information previously requested.
 - e. Allow 30 days response time (45 days if outside the U.S.).
 - f. If the taxpayers remain uncooperative, proceed to next step as shown in paragraph 4 below.
 - g. If the taxpayers become cooperative, continue with the examination.
 - h. If the taxpayers become cooperative then later resume uncooperative behavior, skip to the next step in paragraph 4 below and issue Letter 6230. Letter 6229 does not need to be reissued and the waiting period does not reset.
- (4) Issue Letter 6230 – Voluntary Disclosure Practice Revocation Status is a follow up letter to Letter 6229, addressing taxpayers' continued lack of cooperation. Taxpayers may request a review of the examiner's decision to request CI revocation of preliminary acceptance in writing to the Territory Manager (TM).
 - a. Enter TM or designee contact information in body of the letter. The designee can be the Group Manager.
 - b. Provide the examiner's information as the contact information.
 - c. Letter 6230 should be signed by the examiner.
 - d. Allow 30 days response time (45 days if outside the U.S.).
 - e. If the taxpayers fail to respond or remain uncooperative, proceed to next step in paragraph 5 below.
 - f. If the taxpayers request a TM conference, the examiner should coordinate a mutually agreeable time, preferably within two weeks of the request.
 - g. If an agreement is not secured after TM conference, move to the next step as shown in paragraph 5 below.
 - h. If the taxpayers become cooperative, continue with the examination. Explain to the taxpayers/representatives that further failure to cooperate may result in the revocation referral made without notification.
 - i. If the taxpayers become cooperative and then later resume uncooperative behavior, skip to the next step in paragraph 5 below. Letter 6230 does not need to be reissued and the waiting period does not reset.

- (5) If after issuance of Letters 6229 and 6230, it is determined that taxpayers are not cooperating, complete the “Voluntary Disclosure Practice – Revocation Referral Request” found on the Voluntary Disclosure Practice SharePoint.
 - a. Prepare an executive summary of your case, highlighting the taxpayer’s lack of cooperation. All pertinent facts and circumstances should be provided for CI to make an informed decision.
 - b. Send the completed request to your voluntary disclosure domestic or offshore analyst for elevation to CI.
- (6) Continue with the examination while waiting for a determination. Examiner may consider expanding the scope of the disclosure period as well as applying maximum penalties for all years.
- (7) The analyst will notify the examiner of CI’s determination.
- (8) If preliminary acceptance is revoked, the examiner should consult with the FTA for fraud development and if applicable, refer to (1) of IRM 4.26.17.5.3, Fraud Referrals in FBAR Exams.
- (9) If preliminary acceptance is not revoked, proceed with the examination in accordance with the terms of the Voluntary Disclosure Practice. See Exhibit 4.63.3-11 – Voluntary Disclosure Practice Flow Chart Revocation Process.

4.63.3.26.10
(04-27-2021)

Payments Prior to Case Assignment

- (1) If prior to case assignment, taxpayers submit payment for any portion of amounts determined from taxes, additions to tax, penalties and interest, ACU will have accepted and processed those payments as designated by the taxpayers. If the taxpayers did not designate a specific tax or penalty type, or the tax year a payment should be applied to, the payment will be applied to the most recent tax year identified by the taxpayers on their Form 14457, Voluntary Disclosure Practice Preclearance Request and Application.
- (2) These payments are advance payments; consequently, any credit or refund of the payments is subject to the limitations of IRC Section 6511. If a representative attempts to designate a remittance as a cash bond, please coordinate the issue with your voluntary disclosure analyst.
- (3) Examiners are responsible for reconciling payments in all modules and must request funds be transferred to correct modules as necessary.
 - Reconciliation tools are available on the Voluntary Disclosure Practice SharePoint.
- (4) When a tax year module is on IDRS retention when the payment was received, the examiner should ensure that the payment is posted correctly after submission.

Note: Any pre-payments designated for FBAR penalties will be applied by ACU to MFT 55. As soon as practical, after the FBAR penalty is determined/ approved and before closing the FBAR case, examiners must follow IRM 4.26.17.4.4.1, Instructions for Mispasted FBAR Payments, to move the funds from MFT 55 to the FBAR account. Confirm fund movement from MFT 55 via transcript, which must be printed and included in the physical FBAR case file before closing it from the exam group.

Offshore Voluntary Disclosure Program, Streamlined Filing Compliance Procedures and Voluntary Disclosure Practice 4.63.3

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4.63.3.26.11
(04-27-2021)
Collection Considerations

- (1) Collectibility is not a consideration for determining whether a Voluntary Disclosure Practice case is examined, as these cases involve taxpayers who have voluntarily disclosed tax or tax-related crimes. See IRM 4.20.1, Examination Collectibility, Procedures.
- (2) As part of cooperation, the Voluntary Disclosure Practice expects full payment of tax, interest and penalties as part of cooperation.
- (3) In some cases, taxpayers may not have the ability to full pay. As soon as taxpayers indicate they do not have the ability to full pay, the examiner should request a completed Form 433-A - Collection Information Statement for Wage Earners and Self Employed Individuals or Form 433-B - Collection Information Statement for Business, with all required attachments from the taxpayers.

Note: The examiner is responsible for verifying that all collection forms and supporting documents are complete and signed.

- (4) A Voluntary Disclosure Practice Collection Referral is mandatory when the estimated unpaid tax, interest and penalties are greater than established thresholds for voluntary disclosure cases. FBAR penalties should not be included in computing the threshold. Thresholds can be found at IRM 4.20.1.3.4. The Voluntary Disclosure Practice Collection Referral form is found on the Voluntary Disclosure Practice SharePoint.
 - a. The examiner must complete all fields in Part I of the referral form and email the form to the ATAT- Collection contact based on taxpayers' address. The listing of ATAT-Collection Area Contacts is linked on the Collection Referral form and can be found on My SB/SE under Abusive Tax Avoidance Transactions- ATAT Collection Coordinator Contacts by State.
 - b. Once a referral is made, the examiner should wait for Collection concurrence before closing the case.
 - c. If there are excessive delays with the referral, the examiner should contact the domestic or offshore analyst for elevation.
 - d. If tax liabilities are significant and the taxpayer indicates full payment cannot be made, coordinate early with Counsel for the Voluntary Disclosure Practice.
- (5) In cases where the taxpayers agree with amounts due but do not pay in full and Collection concurs, examiners must coordinate with Counsel to include special non-full payment language in the Form 906 Closing Agreement.
- (6) Offer In Compromise (OIC) will not be considered pre-assessment for a Voluntary Disclosure Practice case. If an OIC is prematurely submitted, the examiner will date stamp page 1 of Form 656, Offer in Compromise, in the upper right-hand corner and forward to the Centralized Offer in Compromise (COIC) location based on where the taxpayers reside, as shown in Offer-in-Compromise – Centralized Service Center Locations: <http://serp.enterprise.irs.gov/databases/who-where.dr/oic-standup.html>. If the taxpayer has no assessed liability, the offer will be returned as not processable by COIC. Please notify Counsel for the Voluntary Disclosure Practice if an OIC is submitted and the tax liabilities are significant.

4.63.3.26.12
(04-27-2021)
**Form 906 Closing
Agreement - Review and
Approval Process**

(1) **This section does not apply to the review and approval of FBAR Closing Agreements, which follow different approval and processing procedures See IRM 4.63.3.26.13.1.1, FBAR Closing Agreements Drafting and Review Process below. FBAR closing agreements must be reviewed and approved prior to the Form 906 Closing Agreement review and approval. Once approved, the FBAR closing agreement should be included with request for Form 906 review.**

(2) All Voluntary Disclosure Practice Form 906 Closing Agreements must be reviewed and approved by designated Technical Services and Counsel **before** issuance to the taxpayer.

Note: All related cases closing on Form 906 should be submitted for review together and should all close together at the conclusion of the examination.

(3) The examiner drafts the Form 906 in accordance with IRM 8.13.1, Processing Closing Agreements in Appeals.

Note: Template Forms 906 (and FBAR Closing Agreements) are available on the Voluntary Disclosure Practice SharePoint and are to be used as a starting point. Examiners must incorporate the specific facts and circumstances of their case. For assistance with drafting, examiners should contact their Voluntary Disclosure Practice analyst. The Voluntary Disclosure Practice analyst will coordinate with Counsel for review, as necessary.

(4) Once drafted, examiners will commence the review process as directed on the “Voluntary Disclosure Practice INITIAL Form 906 Review Checksheet” which can be found on the Voluntary Disclosure Practice SharePoint:

- a. The examiner will upload required documents into one RGS folder.
- b. The group manager (GM) must complete a full review of Form 906, IDRS and the case file before notifying Technical Services by email to: *SBSE Tech Svcs VDP 906 Review *sbse.tech.svcs.vdp.906.review@irs.gov* that the Form 906 is ready for review.
- c. Technical Services completes their review in RGS and sends approval notification by email to the GM.
- d. The GM must forward Forms 906/4549-A and the Voluntary Disclosure Letter/Application to designated Voluntary Disclosure Practice Counsel to request final review and approval.
- e. After designated Voluntary Disclosure Practice Counsel approval is received by email, the examiner will provide Letter 4555 and Form 906 in triplicate to the taxpayers/representatives for signature.

Caution: If an examiner discovers any required alterations to Form 906 after Counsel approval, the examiner must obtain Counsel approval prior to making the revision.

Note: Counsel review as addressed in this IRM means review by Counsel assigned to support the Voluntary Disclosure Practice. Only certain SB/SE Counsel attorneys have been trained to support the Voluntary Disclosure Practice. Additionally, Forms 906 involving specialty issues may require additional Counsel coordination (see specialty issues in this IRM).

- (5) After the taxpayers return three signed original Forms 906, examiners will commence the review process as directed on the “Voluntary Disclosure Practice FINAL Form 906 Review Checksheet ” which can be found on the Voluntary Disclosure Practice SharePoint:
 - a. The examiner must review the Forms 906 returned by the taxpayers for any alterations.
 - b. The GM must complete the final case review prior to closing the case to Technical Services for execution of the Form 906.

Note: Form 906 Review Checksheets **must** be used to document the review approval process by the examiner, group manager, Technical Services reviewers/group managers and Counsel during both the initial and final Form 906 review process. These check-sheets are available on the Voluntary Disclosure SharePoint site. Also, see IRM 8.13.1.

4.63.3.26.13
(04-27-2021)
**International Aspects -
Foreign Financial
Accounts**

- (1) U.S. citizens, resident aliens and certain nonresident aliens are required to report worldwide income from all sources including foreign financial accounts and pay taxes on income from those accounts at their individual rates. In addition to reporting income, there are various international information returns that must be filed annually.

4.63.3.26.13.1
(04-27-2021)
FBAR

- (1) Taxpayers with financial interest in or signature or other authority over foreign financial accounts with an aggregate value exceeding \$10,000 any time during the year must file Form 114, Report of Foreign Bank and Financial Accounts (FBAR). See IRM 4.26.16.3, FBAR Filing Criteria.

Note: FinCEN Form 114 replaced TD F 90-22.1 starting in 2013.

- (2) Delinquent and/or amended FBARS must be filed electronically through FinCEN’s BSA E-Filing System, unless FinCEN grants and exemption to allow paper-filing. The FBAR is not filed with a federal tax return and cannot be submitted directly to the assigned examiner. See paragraph (2) in IRM 4.26.16.4.1, FBAR Filing Help.
- (3) Failure to accurately report the existence of or keep records for foreign financial accounts can lead to civil and criminal penalties. See IRM 4.26.16.6, FBAR Penalties.
- (4) FBAR examinations, if applicable, are conducted pursuant to IRM 4.26.16, Report of Foreign Bank and Financial Accounts (FBAR) and IRM 4.26.17, Report of Foreign Bank and Financial Accounts (FBAR) Procedures.

Note: The Voluntary Disclosure Practice modifies standard procedures for FBAR penalties (standard procedures in IRM 4.26.16 and IRM 4.27.17) as follows:
- The willful FBAR penalty must be approved by a designated Voluntary Disclosure Practice FBAR Counsel, not local FBAR Counsel.
- An abbreviated penalty write up is acceptable when penalty is agreed with a closing agreement as long as facts are sufficient to support willful determination.

- (5) Examiners must secure an approved Form 13535 - Related Statute Memorandum (RSM) before initiating an FBAR examination for a taxpayer participating in the Voluntary Disclosure Practice. See IRM 4.26.17.2.1, Starting an FBAR Examination Resulting from Title 26 – Related Statute Memorandum (RSM) Required.
- (6) Willful FBAR penalties will apply in cases involving FBAR noncompliance. Willful FBAR penalties will be computed in accordance with existing IRS penalty guidance under IRM 4.26.16 and IRM 4.26.17.
- (7) In all FBAR examinations, examiners must solicit a consent to extend the civil statute of limitations on FBAR penalty assessment using the Consent to Extend the Time to Assess Civil Penalties Provided by 31 USC §5321 for FBAR Violations pursuant to IRM 4.26.17.3.1.3, Extending the FBAR Statute of Limitations for all years of the disclosure period.
- (8) When FBAR issues are present in a Voluntary Disclosure Practice case, Form 2848 - Power of Attorney and Declaration of Representative must be prepared in accordance with IRM 4.26.17.3.2, Power of Attorney in FBAR Examinations and specifically state:
 - Description of Matters: “FBAR Examination” or “Matters Related to FBAR”
 - Tax Form Number: “TD F 90-22.1 and/or FinCEN Form 114”
 - Years: Years 20XX through 20XX

Note: Examiners must have an approved Form 13535 - Related Statute Memorandum, in order to discuss FBAR matters with the taxpayer or representative, even if authorization is provided on Form 2848.

4.63.3.26.13.1.1
(04-27-2021)

**FBAR Closing
Agreements Drafting,
Review and Case
Closing Process**

- (1) FBAR examinations conducted as part of the Voluntary Disclosure Practice will follow regular examination procedures and must be elevated for approval through the FBAR Exam Coordinator and Voluntary Disclosure Practice FBAR Counsel Coordinator. See IRM 4.26.17.4.

Note: The “ **Voluntary Disclosure Practice** FBAR Counsel Coordinator” should perform the review, not local FBAR Counsel Coordinator.

- a. Template closing agreements are available on the Voluntary Disclosure SharePoint. These templates should be used as a starting point and modified for the facts and circumstances of the case.
 - b. Examiners should work with their offshore Voluntary Disclosure Practice analyst, assigned FBAR Coordinator, and Voluntary Disclosure Practice FBAR Counsel for assistance in drafting, reviewing and approving the Willful FBAR penalty, including penalty computations, development of facts for summary memorandum, closing agreements, etc.
- (2) After Voluntary Disclosure Practice FBAR Counsel review and approval is obtained:
 - a. The FBAR case should be submitted as part of the Title 26 Form 906 package for Technical Services review as described in paragraph (2)(b) of IRM 4.63.3.26.12 above.
 - b. FBAR documents to include for the review are summary of facts (usually Form 886A), penalty computation workpaper, and closing agreement. Ad-

ditional documents are not required but may be included if deemed necessary to shed light on unique aspects of the case.

- c. Examiners should prepare a package for the taxpayer following general case closing procedures found under IRM 4.26.17.4.3, Closing the FBAR Case with Penalties.

- (3) After taxpayer agreement is secured, examiner will prepare the case for closing following IRM 4.26.17.4.3.2, Closing the FBAR Case with Penalties – Agreed.

Exception: When an FBAR Closing Agreement is secured, managers must close the FBAR case to Technical Services with the related Title 26 case files, not CTR Operations as directed in paragraph 3 of IRM 4.26.17.4.

4.63.3.26.13.2
(04-27-2021)
**Other International
Information Returns**

- (1) Depending on the taxpayers' facts and circumstances, various international information returns may be required. Such international information returns include but are not limited to reporting of foreign financial assets, foreign corporations, foreign partnerships, transactions with foreign trusts, receipt of gifts or inheritances from foreign persons.
 - a. For information returns related to foreign entities, the Service will require all information returns for the disclosure period to be filed.
 - b. If a foreign entity was legally dissolved during the disclosure period, the taxpayer must provide clear and convincing evidence of this dissolution in order to avoid the requirement to file information returns for the years following the year of alleged dissolution. Merely asserting that a foreign entity was abandoned will not eliminate the requirement to file information returns.

Note: The IRC 965 "transition tax" treats deferred foreign income as Subpart F income. IRC § 965(a) defines deferred foreign income as the greater of the accumulated post-1986 deferred foreign income of such corporation determined as of November 2, 2017 or December 31, 2017. IRC § 965(d) further clarifies that in the case of a Controlled Foreign Corporation (CFC), deferred foreign income does not include income that would be excluded from gross income of a United States Shareholder under IRC § 959, i.e., Previously Taxed Income (PTI).

A taxpayer participating in VDP remedies a specific number of tax years. For taxpayers that own CFCs or otherwise have Subpart F income, part of coming into compliance includes reporting applicable Subpart F income. Since the disclosure scope within VDP is generally six years, noncompliant years prior to the disclosure scope may have previously untaxed Subpart F income. Absent the Subpart F income actually being reported by the taxpayer, VDP does not constructively provide the taxpayer with PTI for pre-disclosure years. In other words, a taxpayer using VDP must strictly comply with the Internal Revenue Code for purposes of § 965 and computing PTI. Taxpayers must properly account for and report Subpart F income and PTI and only amounts actually reported by

the taxpayer prior to the disclosure period and amounts reported as part of the disclosure will constitute PTI.

- (2) In a Voluntary Disclosure Practice case involving previously unreported foreign financial accounts where material FBAR penalties are applied, international information return penalties will not be automatically asserted, rather they should be considered based upon facts and circumstances.
- a. If taxpayers filed delinquent international information returns directly with the campus, examiners should review taxpayers' modules to determine if penalties were automatically assessed. If the examiner determines the failure to file penalties are not warranted, appropriate action should be taken to abate the penalties. In general, where significant willful FBAR penalties are asserted, examiners should consider not asserting international information return penalties. If questions arise, coordinate with your offshore voluntary disclosure analyst and assigned Counsel.
 - b. When the examiner secures original delinquent international information directly from the taxpayer and determines penalties are not appropriate, the examiner should write in red on the top of the return "Delinquent Return Secured by Examination" **and** "Penalties Considered by Examination" then follow IRM 4.4.9.5.11.1 for processing.

Note: For Forms 3520/3520A see paragraph 8 of IRM 20.1.9.13.1
For all other foreign international information returns see paragraph 14 of IRM 20.1.9.2.

4.63.3.26.14
(04-27-2021)
**Other Specialty Issues
(Estate and Gift, Excise
Tax, Employment
Tax, Tax Exempt-
Government Entities)**

- (1) If a voluntary disclosure involves both income tax noncompliance and a specialty tax issue, the examiner should use the Specialty Referral System (SRS) for assistance in working the specialty tax issues.
- (2) Cases involving only a specialty tax issue will be assigned directly to a revenue agent with training related to that specialty issue:
- a. Estate and Gift Tax refer to IRM 4.25.7, Estate and Gift Tax, Estate and Gift Tax Penalty and Fraud Procedures
 - b. Employment Tax refer to IRM 4.23.8, Employment Tax, Determining Employment Tax Liability
 - c. Excise Tax refer to IRM 4.71.5, Employee Plans Examinations of Returns, Form 5330 Examinations
 - d. Tax Exempt-Government Entities refer to IRM 25.1.9, Fraud Handbook, Tax Exempt/Government Entities (TE/GE)

4.63.3.26.14.1
(04-27-2021)
**Estate and Gift –
Voluntary Disclosure
Practice Penalty
Framework**

- (1) A civil fraud penalty or a fraudulent failure to file penalty, IRC sections 6663 or 6651(f), respectfully, will apply to the deficiency in estate tax for all voluntary disclosures involving estate tax issues at the reduced rate of 50% rather than the statutory rate of 75%. See example listed below.
- a. **Omitted Asset:** Executor of Estate Alpha filed a Form 706 for year 201X. Executor intentionally omitted \$2,000,000 of assets that should have been reported on the Form 706. Executor submits an amended Form 706, and a fraud penalty applied at the rate of 50% rather than 75% will apply to the deficiency in estate tax resulting from the omitted assets.
 - b. **Non-File:** Executor of Estate Alpha intentionally failed to file a required Form 706 for year 201X. Executor files a Form 706, and a fraud penalty

applied at the rate of 50% rather than 75% will apply to the deficiency in estate tax resulting from the fraudulent failure to file the return.

- c. **Valuation:** Executor of Estate Alpha filed a Form 706 for year 201X. Executor intentionally reported a fraudulent value on the return. Executor submits an amended Form 706, and a fraud penalty applied at the rate of 50% rather than 75% will apply to the deficiency in estate tax resulting from the fraudulent value.
- d. **Gifts/Deductions/Exclusion/Credits/Tax:** Executor of Estate Alpha filed a Form 706 for year 201X. Executor intentionally reported fraudulent lifetime gifts, deductions, exclusion, credit and/or total transfer tax on the return. Executor submits an amended Form 706, and a fraud penalty applied at the rate of 50% rather than 75% will apply to the deficiency in estate tax resulting from the fraudulent reporting on the return.

4.63.3.26.14.1.1
(04-27-2021)
**Gift Tax and
Generation-Skipping
Transfer Tax Penalties**

- (1) A civil fraud penalty or a fraudulent failure to file penalty, IRC sections 6663 or 6651(f), respectfully, will apply to the deficiency in gift tax and generation-skipping transfer tax for all voluntary disclosures involving gift tax and generation-skipping transfer tax issues.
- (2) If the fraudulent activity or reporting involves multiple years, the 6-year disclosure period does not apply. The taxpayer submits original and/or amended returns for all years, and a fraud penalty is assessed on the year with the highest tax liability and no accuracy-related penalties for the other years. The following example relates to gift tax penalties involving multiple years.

Example: Donor makes gifts for 9 years from 201X to 201X and intentionally failed to file Forms 709 for all years. Donor files Forms 709 for all 9 years, and a fraud penalty applied at the rate of 75% is assessed on the year with the highest tax liability and no accuracy-related penalties for the other years.

- (3) If the fraudulent activity involves a single year, a fraud penalty at the rate of 50% rather than 75% will apply to the deficiency in gift or generation-skipping transfer tax resulting from the fraudulent activity.
- (4) The examples that relate to estate tax penalties apply to a donor with respect to gifts, and with respect to generation-skipping transfer tax distributions and terminations.

4.63.3.26.14.2
(04-27-2021)
**Employment Tax –
Voluntary Disclosure
Practice Penalty
Framework**

- (1) Employment tax voluntary disclosures will be subject to penalties with a structure similar to income tax penalties. Further guidance is pending.

4.63.3.26.14.3
(04-27-2021)
**Excise Tax – Voluntary
Disclosure Practice
Penalty Framework**

- (1) Penalties relating to excise taxes will not be automatically asserted and will be handled based upon the facts and circumstances of the case.

4.63.3.26.14.4
(04-27-2021)

**Tax Exempt-Government
Entities – Voluntary
Disclosure Practice
Penalty Framework**

- (1) Penalties relating to tax exempt-government entities taxes will not be automatically asserted and will be handled based upon the facts and circumstances of the case.

Exhibit 4.63.3-1 (01-24-2018)**Indexing**

(1) Indexing is the process of building the taxpayer's OVDP submission in the e-Trak database.

(2) Indexing requires that the following steps be completed:

a. **Copying the Submission Folders from CI Foreign Asset Disclosure Initiative (FADI) Date Folder:**

1. Access the CI FADI Date Folder that contains the next set of Submission folders to be indexed. The CI FADI Date Folder is available in the FADI Shared folder. Copy the entire CI FADI Date Folder to the Indexer's hard drive; never work from or alter the CI FADI Date Folder.
2. Each FADI Date Folder includes a Submission folder for each taxpayer coming into OVDP. Within each Submission folder there will be several PDF scans of the documents that the taxpayer sent to CI, plus documents and correspondence created by CI related to the submission.

b. **Indexing Research:**

1. It is the responsibility of the Indexer to assign each OVDP submission an e-Trak Submission Index number (SI number). The Indexer is also responsible for determining the taxpayer's correct name, correct TIN, correct filing status - i.e. Single or Married Filing Joint, etc., determining whether the taxpayer is a filer, non-filer, or stop filer, and determining the taxpayer's most current address. It is critical that the data entered into the e-Trak database be current and correct.
2. **No TIN:** When a submission is received but the taxpayer's application does not include a TIN, the Indexer will first determine whether the taxpayer has an SSN. If the taxpayer has an SSN but has not filed a tax return under the SSN and, therefore, there is no record of the taxpayer in the IMF database, the taxpayer's case file will be established as a non-filer. If the taxpayer has an SSN and there is a record of the taxpayer in the IMF database, the case file will be established using the taxpayer's SSN.

Note: If an IRS number (IRSN) needs to be issued to the taxpayer to establish the case file, follow the appropriate procedures for requesting an IRSN.

c. **Research Tools:** To meet the requirements stated above, the indexer will research the following sources:

- **Form 14457: Offshore Voluntary Disclosure Letter:** Review the Offshore Voluntary Disclosure Letter to determine the Primary Taxpayer's correct name, TIN, address, the existence of possible related submissions, and other pertinent information.
- **CI Formal Acceptance letter:** Confirm that the taxpayer has been accepted into OVDP. Also, note the date on the formal Acceptance letter.
- **CI List Database:** From the CI List, verify that the submission is for an International disclosure rather than for a Domestic disclosure. Both are on the CI list and, on occasion, a Domestic disclosure is sent to OVDP by mistake.
- **e-Trak:** Check the e-Trak database to determine whether the case has already been established. In some cases, the Submission folder from CI is either additional documentation for an established taxpayer or was already sent to OVDP and is for an already established case.
- **AMDISA:** Verify that the taxpayer is not under examination in another exam group.
- **IMFOLI:** Verify whether the taxpayer has filed tax returns.
- **IMFOLT:** Review the IMFOLT for the tax years covered by the taxpayer's submission to determine the taxpayer's filing status.
- **INOLES:** Verify the taxpayer's correct name and address.

Exhibit 4.63.3-1 (Cont. 1) (01-24-2018)**Indexing**

- d. **Related Submissions and Related Index Numbers:** Related submissions refer to submissions that should be certified together. For OVDP submissions, this is normally because the taxpayers are reporting the same OVDP assets, i.e. a married couple, siblings or families with joint offshore accounts. It is the indexer's responsibility to determine whether there are related submissions and, if so, to determine the controlling submission and the primary taxpayer's TIN for each submission. It is extremely important that the correct primary TIN is identified because this is the TIN that is built in AIMS. Each group of related submissions must be assigned its own, unique, Related Index (RI) number in addition to an e-Trak SI number.
- e. **Identifying the Primary TIN:** Every submission will have a primary TIN. When a tax return(s) includes both a primary and secondary TIN, even if the OVDP submission was only filed on behalf of the secondary taxpayer, the primary TIN will be the first TIN listed on the tax return. If there are multiple related taxpayers for a submission, review IDRS and determine how the taxpayers filed and under what TIN.
- f. **Assigning an e-Trak Submission Index Number:** It is the indexer's responsibility to assign the e-Trak Submission Index (SI) numbers. The e-Trak report "Submission Index VDP Last Input Rept." shows the last e-Trak SI number that was assigned. Using this report, assign each submission the next sequential Submission Index Number.
- g. **Recording the Submission in e-Trak:** All OVDP cases must be recorded in the e-Trak database. It is the indexer's responsibility to establish the case in the e-Trak database by completing the "Taxpayer" tab and part 1 of the "Controls" tab; part 2 of the "Controls" tab is completed during the AIMS establishment step. The e-Trak recordation process begins once an e-Trak SI number is assigned. The "Taxpayer" tab and both parts of the "Controls" tabs in e-Trak must be completely filled out before the cases are given to Team 1 for case building.
1. **"Taxpayer" Tab:** Enter the following data on the "Taxpayer" tab:
 - **Submission Index Number** - record the e-Trak SI number assigned to the case.
 - **OVDP Submission TIN** - This is the TIN that is shown on the CI List. The TIN is usually, but not always, the same as the primary TIN. The purpose of this field is to be able to reconcile the indexed TINs with those that have been provided by CI.
 - **Related Index Number** - record the Related Index Number, if applicable. Each group of related cases must be assigned its own, unique Related Index Number. Additionally, every case within a group of related cases must have the same, identical Related Index Number.
 - **Controlling** – Enter "Yes" or "No" in this field, using the drop-down feature, only when there are related submissions. When there are related submissions, only one case is designated as the controlling case and is thus marked "Yes". The other cases can be marked "No". If related cases have addresses in different parts of the country, the controlling case is where all the related cases should be sent for certification by the field.
 - **Disclosure Filed Timely** - This was used when there were late submissions under OVDP 2009. There are no late OVDI 2011, OVDP 2012, or OVDP 2014 submissions. Therefore, for OVDI 2011, OVDP 2012, or OVDP 2014 this should be marked "Yes".
 - **Case Type** - Choose the appropriate case type, 2011 Initiative, 2012 Program or 2014 Program.
 - **TIN** - The TIN for only the PRIMARY taxpayer information is entered. It is extremely important that the correct Primary TIN is entered.
 - **Last Name/Business** - If this is a business (EIN), record the entire name in the Last Name/Business field. Do not enter anything in the first name field. NOTE: Add Title/suffix or "DECD" following the first name.
 - **Spouse Information** - Self-explanatory
 - **Address Information** – Use the address found in INOLES
 2. **"Controls" Tab:** Enter the following data in part 1 of the **Controls** tab:

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Exhibit 4.63.3-1 (Cont. 2) (01-24-2018)

Indexing

- **Office** – Use the dropdown feature to enter “AUS” for Austin.
 - **CI Memo Date** - Use the date of the formal Acceptance Letter from CI.
 - **Disclosure Received Date** – Enter the date that CI assigned to the Date Folder holding the submission that is being entered into e-Trak.
 - **Filer Indicator** – both filers and stop filers are entered as “filers”, only non-filers are entered as “non-filer”.
- h. **Transferring the Submissions to the VDP2-3 Shared Folder:** Once the appropriate information has been entered in the e-Trak database by the Indexer, the Indexer will rename and move the renamed Submission folders from the Indexer’s hard drive to the “VDP2-3 Scans folder” located in the “VDP Shared folder”. The submission is renamed by indicating the e-Trak SI number plus the CIMIS number assigned by CI, for example “81114-1750154630”.
- i. **Creating the Blue Folder that is used to maintain the CI documents:** The Indexer will print out four sets of documents from each Submission folder, now on the Indexer’s hard drive, and place the paper copies of the documents in a Blue folder for the File Completion step. Record the e-Trak SI number on the tab on the Blue folder. The Blue folder will contain:
- **Offshore Voluntary Disclosure Letter** – The Blue folder will contain the earliest perfected Form 14457, Offshore Voluntary Disclosure Letter, that the taxpayer submitted to CI requesting admission to OVDP. On occasion, there will be multiple Offshore Voluntary Disclosure Letters that the taxpayer submitted to CI; the earlier versions usually had to be perfected by the taxpayer before CI would accept them into OVDP.
 - **CI Check Sheet(s)** showing the various background checks that CI performed
 - **CI Acceptance letter** to the taxpayer, stamped with the date that the CI folder was received by OVDP
 - **Form 2848 Power of Attorney**, if applicable
 - **Form 56 Notice Concerning Fiduciary Relationship**, if applicable
 - **Form 9984, Examining Officer’s Activity Record** is used to communicate notes to other people involved in the OVDP process. The Form 9984 might include the following information:
 - If an -L Freeze is present but the submission was accepted by CI.
 - Any other information that would be helpful for File Completion step, the AIMS/ERCS Establishment step, or information that may be useful for the case builders.
- j. **Updating the FADI Control Log:** If a Submission folder has not been indexed, the exception must be noted on the FADI Control Log. For example, if a Date Folder includes a Domestic submission and, thus, the submission has not been indexed, this should be noted on the FADI Control Log. If all the Submission folders have been indexed, this should also be noted on the FADI Control Log.

Exhibit 4.63.3-2 (01-24-2018)**File Completion**

The File Completion step is the process of creating the physical case folders that will contain the OVDP submission documents.

- a. **Burning the PDF Scans to a CD:** All the electronic documents received from CI should be burned onto a CD using the Symantec CD Burn process. All PDF scans for submission folders with an “addl” suffix, i.e. documents received for an already established case, must also be burned to a CD. Each CD is encrypted with a pre-set password.
- b. **Determining Whether the Submission is Domestic or International:** Determine whether the submission is domestic or international based on the address of the taxpayer in INOLES and the address of the POA. If either address is international, the submission is international.
- c. **Creating a Manila Folder to store the CD:**

Outside Front Cover - Top, Left

- Put the Case Type: VDP 2011, VDP 2012 or VDP 2014
- Related cases associated with the Primary case file should have a Related Case Cover Sheet attached to the front of the manila folder.

Outside Front Cover - Top Center

- Put the Primary TIN, & underline it in red
- Put the Primary name below it
- Put the Secondary TIN (if any)
- Put the Secondary Name below it

Outside Front Cover - Top Right

- Put the Submission Index Number (SI number).
- Below the SI number, next to “Year” on the folder:
 - Write “Filer” if the taxpayer has filed in the past, even if the taxpayer is a stop-filer.
 - Write “Non-Filer” if the taxpayer is a non-filer. Special procedures are required to establish a non-filer case in AIMS.
 - In the “Date Assigned Tax Auditor” section, write the file completer’s initials (first & last) and the date that the manila folder was created.

Outside Front Cover - Bottom Right

- In the related taxpayer name section, write pertinent comments. Include:
 - If the secondary TIN is the account holder
 - If any other -L Freezes are present, indicate the year & the project code

Inside Front Cover

- Staple the CD and encrypted media instructions sheet to the inside front cover of the manila folder.
- Include any Form 9984 in the manila folder.

- d. **Creating a Brown Folder for each submission entered into the E-Trak database:**
 - Each manila folder will have a brown folder even if the related submissions have the same e-Trak number.
 - The blue folder(s) and the Manila folder(s) go into the brown folder.
 - Write the e-Trak number on the spine of each brown folder.
 - Write “INTL” in the upper right corner of the brown folder for all international submissions. If the submission is a domestic submission, write in the state abbreviation in the upper right corner of the brown folder.

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Exhibit 4.63.3-2 (Cont. 1) (01-24-2018)

File Completion

- If there are related submissions, rubber band the brown folders for all the related submissions together; place the controlling submission's brown folder on top.

Exhibit 4.63.3-3 (04-27-2021)**Establishing AIMS/ERCS Control**

- a. **Inputting e-Trak submissions in AIMS:** Determine if the taxpayer is a “filer” or “non-filer” using the IMFOLT of the year to be controlled. (If there is a TC 150 without a substitute for return (SFR) indicator posted to the account they are “filers”.) If there is not a TC 150, use IMFOLI to determine if they have filed previously and stopped.
- b. **Use IDRS Command Code “AM424” to add the control to AIMS:** The submissions will process one at a time using the following information:
- Source Code: 73 filer & stop-filer or 24 non-filer
 - Primary Business Code: 330
 - Secondary Business Code: 87700
 - Master File Tax Code: 30 for individuals with an SSN, EIN's will vary
 - Status Code: 6
 - Return Request Indicator: 3 (no return)
 - Project Code: 1123 (2012 Program) or 1153 (2014 Program)
 - Tax Identification Number: SSN, EIN or IRSN
 - Name Control
 - Year to be controlled
 - Activity Code: 272 for SSN's, EIN's will vary
 - Push Code: 36 (used for non-filers and stop-filers)
 - Statute Day: EE (used for non-filers and stop-filers)
- c. **Establishing a Case in IMF:** When INOLES shows that the taxpayer is not established in the IMF database (no account on Master File) because the taxpayer has not filed a tax return, the case must be opened in IMF.
- d. **Reviewing IDRS to Verify that Submissions were Fully Established in AIMS:** Once a submission is established in AIMS, the AIMS/ERCS establisher will complete part 2 of the e-Trak Controls Tab (disposition section). The steps to perform this task are:
1. **Date to AIMS:** This is the date that the case is fully established in AIMS.
 2. **Ready to Ship** – “Yes” when the case is ready to transfer to the CSDC Case Building team.
 3. **Disposal** – “Ship”
 4. **Disposal Date:** This is the date that the Submission was given to the CSDC Case Building team
 5. **Comments:** Use this field to record all pertinent case comments.
- Note:** Because there is a 256-character limit in this section, it is important to keep these comments brief and succinct. Do not format the comments by inserting carriage returns or any other formatting methods. Separate thoughts with a period. Use abbreviations when possible.
- e. **Transferring the Cases to the CSDC Case Builders:** Each week, the AIMS establisher will check the AIMS database to determine which of the submissions that have been input in AIMS through AM424 have been fully established on AIMS. When a submission is fully established on AIMS, the submission is ready to move to the CSDC case building team. When the submission case files are physically moved to the CSDC case building team, a list of the submissions being moved will be given to the CSDC case building team.
- f. **Updating the AOIU Status Report on CSDC SharePoint:** When all the cases in a CI Date folder are moved to the Case Building team, the AOIU Status Report maintained on SharePoint is updated to reflect the completion of the Date folder. The information in this control log allows management to monitor the status of the Case Establishment work stream. Each time that cases are moved to the Case Builders, the “Monthly” tab should be updated to reflect the number of cases that are being moved.
- g. **Sending the Letters 5089:** When OVDP cases are ready to transfer to the Case Builders, Letter 5089 is sent to the taxpayer and to the taxpayer’s representative. This letter informs the taxpayer and the representative of the 90-day deadline for submitting the documents required for their OVDP

Exhibit 4.63.3-3 (Cont. 1) (04-27-2021)

Establishing AIMS/ERCS Control

submission. The letter also gives the 180-day final deadline for submitting documents and informs the taxpayer and representative of the process for requesting a 90-day extension beyond the initial 90-day deadline.

- h. **Add Cases to the OVDP Active Cases Management Report:** See IRM 4.63.3.1.4, Program Management and Review.
- i. **Associating OVDP unassociated documents with the case file:** Taxpayers will on occasion send documents related to their OVDP submission to the CSDC Unit before they are accepted by CI into the program. When the documents are received, they are placed in a suspense file and recorded on a control log. Each time new cases are ready to transfer to the case builders, the log is checked by the AIMS establisher to determine whether or not the documents associated with a particular case have already been received. If the documents have already been received by CSDC, they are retrieved from the suspense file and associated with the OVDP case file before the case file is given to the case builders.

Exhibit 4.63.3-4 (01-24-2018)**Incoming Mail Procedures**

1. Mail is received in the campus mailroom.
2. Mailroom clerk will open the mail and any checks received will be deposited and processed by the mailroom clerk.
3. Mail is also delivered to the CSDC Team by internal mail or from Receipt and Control function. When possible, mail should be checked and processed daily .
4. Some mail is not opened and delivered to the CSDC Team. The mailroom will call the team to have it picked up. These are usually flat packages and boxes (primarily internal mail). The tax examiner will go to the mailroom for those items. These packages will be located inside the mailroom, which is a restricted area.
5. All employees are to review the documents to see if there are any checks that need to be processed. No one is to accept mail that includes remittances. If there are checks, the employee is to give the mail back to the mailroom clerk for deposit and processing.
6. All mail is date stamped with Receipt and Control stamp given to tax examiner by mailroom clerk per IRS procedures (IRM 3.10.72.3) (e.g. first page of tax returns and correspondence.) Taxpayer original documents such as bank statements are not stamped.
7. When mail is received in CSDC Team, it is stamped using OVDP stamp as “received in OVDP”.
8. Using the taxpayer’s SSN, the tax examiner will research all incoming mail by first checking IDRS, and reviewing AMDIS. If there is an AMDIS, tax examiner will look for a Project Code (see list of OVDP Project Codes) and an employee group code (EGC) to determine where the mail should be routed.
9. If it is in OVDP, (OVDP EGC) the tax examiner will check e-Trak for the e-Trak number. Tax examiner will pull the case file to associate the documents.
10. If the AMDIS shows an EGC not in OVDP and the examination has not been closed, the mail is routed to the Exam Group controlling that case. When possible, mail should be routed daily and not be allowed to stack up or accumulate. Routing instructions are provided by the tax examiner or employee performing the research.
11. If there is no control on AMDIS, the tax examiner will research e-Trak to determine if an e-Trak number is assigned.
12. If there are Forms 1040X with foreign sourced income and/or foreign information returns (5471, 5472, 886, etc.) these may be Quiet Disclosures and will go to the Quiet Disclosure Coordinator. Quiet Disclosures will never be on the CI listing, nor will they have an e-Trak number.
13. If there is an e-Trak number, the case is an OVDP case and the tax examiner will associate mail with the case file.
 - a. A letter in the file with or without an original signed 906 requesting penalty reconsiderations, reductions, and/or removal will be given to the RA working penalty reconsiderations.
Note: Penalty reconsideration was provided for certain taxpayers that participated in the 2009 OVDP after new lower penalty categories were introduced in the 2011 OVDI. See 2011 OVDI FAQs 52 and 53. Penalty reconsiderations, reductions, and removal requests are now extremely rare.
 - b. A letter in the file indicating the taxpayer wants to opt-out of OVDP goes to the RA working opt-out cases.
14. If there is no e-Trak number, the tax examiner is to research the CI List. If on the CI list, the tax examiner is to determine what CI did with the disclosure. The list should tell the tax examiner what CI has done with the voluntary disclosure. (these are considered “unassociated documents”)
 - a. **Accepted/Direct Referral** – we will eventually get an e-Trak number. Documents will be considered Taxpayer’s information is entered on the spreadsheet “Unassociated Documents OVDP with no e-Trak number” by the TE or RA involved in that work stream.
 - b. **Declined/ Ineligible to Participate or Closed Incomplete** – Documents for CI Declined taxpayers are currently handled through the unassociated documents work stream.

Exhibit 4.63.3-4 (Cont. 1) (01-24-2018)

Incoming Mail Procedures

- c. **Withdrawn** – These are considered non-OVDP documents and are given to the Declined & Withdrawals campaign librarian for consideration in the risking process. RA to determine next processing.
 - d. **Pending** – If there is no information on the disposition of the case, this is considered pending. Documents are given to the responsible Sr. RA in the same manner as the Accepted/Direct Referral cases.
15. If the file is not on the CI List, the tax examiner will research the file for any indication of why we received the documents. If the tax examiner cannot determine where the documents should go, give them to an RA or the Manager for review.
- a. The file may have documents indicating the taxpayer wanted to go into OVDP.
 - b. The file may have a letter requesting information on their case.
16. Tax examiner is to review all documents for amended returns and Forms 872.
- a. Amended returns with a balance due are to be reviewed. Tax examiner will print an IMFOLT for that year and give to the manager.
 - b. All Forms 872 and FBAR extensions that are received need to be pulled and go to the manager along with the case file for review and signature. If the taxpayer did not sign and there is no Form 2848 for the POA, then it needs to go to the manager or designated examiner to contact the POA for the proper documentation. Forms 872 that need perfection go to designated person.
17. All incoming Forms 3210 need to be acknowledged after verifying we have received everything listed. An acknowledgement copy will be returned to the person shipping the documents. Our copy needs to be filed in our OVDP Incoming Form 3210 binder.

Note: Forms 3210 will be received from internal sources only.

Exhibit 4.63.3-5 (01-24-2018)**Outgoing Mail Procedures**

1. Outgoing mail that needs to be processed will be given to the tax examiner.
 2. Verification of each address and contact person is made prior to shipping and shipping label prepared. Use the Who/Where tab in SERP to look up the address of the EGC to mail the documents
 3. A Form 3210 is prepared with the listing of cases, documents, etc. Information on the Form 3210 will include: e-Trak number (if there is one), SSN (last 4 digits per guidance), Name Control, and description of documents being mailed.
 4. If more than one box, Form 3210 is prepared for each box of documents with the # of boxes in the shipment noted on the shipping label. Confirm SSN/e-Trak for each case in the box is correct.
 5. Part 4 of the Form 3210 is filed in the "Unacknowledged" section of the OVDP Outgoing binder for our records. The Outgoing Binder is divided into two sections: Unacknowledged 3210s and Acknowledged 3210s. The unacknowledged Form 3210 will be pulled and shredded when the acknowledged 3210 is received and filed. The acknowledged copy will then be filed in that section of the binder.
 6. A follow-up will be made in 10 days if Form 3210 is not acknowledged by the person receiving the mail/documents and will continue to follow-up through email and/or phone calls until acknowledged copy is received.
 7. Files to be shipped are double wrapped, as required per IRM 10.2.13.4.4.1, Shipping Personally Identifiable Information (PII). Also see Document 13056, Employee Toolkit on Shipping Procedures for Personally Identifiable Information (PII).
 8. Electronic transfer of database, if required is made on ERCS by tax examiner or initiated by PSP if the transfer is to SBSE.
 9. Mail needs to be in the mailroom by 2 p.m. to be shipped that day. If after 2 p.m., it will be shipped the next day.
 10. Boxes are taken to the mailroom for shipping.
 - a. Form 9814 is used to ship documents via UPS, write on top "Tracking Information Please" to receive the tracking information. Form 9814 will be returned from mailroom with tracking number on it. CSDC mailing address should be included on the Form 9814.
 - b. Attach a copy of the Form 9814 to the "to be retained copy" of the Form 3210 (part 4 of Form 3210). The Form 9814 will be removed when the acknowledged copy of the Form 3210 is received.
 - c. A copy of the Form 9814 will be sent to the CSDC manager from the mailroom and will be filed in CSDC.
- Note:** Only use DHL when sending to a physical business address as DHL requires a signature.
11. All outgoing correspondence to an international business address is to be sent via DHL.

Offshore Voluntary Disclosure Program, Streamlined Filing Compliance Procedures and Voluntary Disclosure Practice 4.63.3

Exhibit 4.63.3-6 (01-24-2018)

Controlling Multiple Years for International Cases

1. OVDP cases which are identified as International must have all participating years controlled on AIMS/ERCS prior to sending to the field. The cases are opened under the exam freeze –L. OVDP exam group codes (EGC) currently are:

PBC	SBC	EGC
330	87700	1940

2. Current **project codes** which are most widely used are:
 - a. 1008 – timely filed 2011 OVDI (Identified by e-Trak number in the 4XXXX series)
 - b. 1123 – timely filed 2012 OVDP. Identified by e-Trak number in the 6XXXX series
 - c. 1153 – timely filed 2014 OVDP. Identified by e-Trak number in the 8XXXX series
3. **Taxpayer Name, Name Control and Address:** To ensure no error message is received when the Form 5345-D is being input, the taxpayer’s name, name control and address should be taken from the INOLES. Enter the taxpayer’s name (LAST, FIRST, MI), street address, city, state, and zip exactly as it appears on the INOLES. On business returns, be sure to check the name control on INOLES, e.g., Tom Jones Company – name control could be TOMJ or JONE.
4. **PBC/SBC/EGC** – See above. For domestic cases, use EGC 1942; International cases use 1943
5. **TIN** – Use the primary taxpayer’s social security number or ITIN. The penalty module will be opened for the either the primary or, if the voluntary disclosure is only for the secondary spouse for that spouse.

Note: A separate form must be made when TIN or MFT is different, therefore the penalty module will also have its own Form 5345-D due to the civil penalties MFT 55.

6. **MFT** – For individuals tax account MFT is 30; for corporations tax account MFT is 02; for partnerships tax account MFT is 06; for trusts tax account MFT is 05; for penalty module MFT is 55/P9.

Note: A separate form must be made when TIN or MFT is different, therefore the penalty module will also have its own Form 5345-D due to the civil penalties MFT 55.

7. **Tax Period:** Input YYYYMM (e.g. 201212) for each year and month ending that needs to be controlled. The penalty module tax year is determined by the particular OVDP the taxpayer is participating in.
8. **Activity Code:** Use the activity code from the key year for all related years. For the penalty module, activity code is always 506.
9. **Source Code:** Refer to the Source Code Job Aid Document 6036.
10. **Status Code:** The Status code should be 08 for domestic and 06 for international cases.
11. **Statute Date:** Use alpha code if applicable when the statute is within 90 days, for Non-Filed returns in OVDP it will be EE with a Push Code of 036. If a YY memo is necessary due to a barred statute, the statute date will be in the form 04/YY/2014. For the penalty module, the statute date will in the form 04/XX/2015. If you are using a YY statute, you will need to attach a copy of the YY Memo to the Form 5345-D.
12. **Tracking Code:** Generally not used by OVDP
13. **Project Code:** The key case has a project code. The same code is required on all prior, subsequent returns and the penalty module as well. In most cases, you will use the same project as the currently open control (check AMDISA).
14. **Claim amount:** Not used by OVDP POD. AIMS will post the correct POD.
15. **Related Return Indicator:** K – key case Y – related year. OVDP forms will normally indicate that these are all related cases by using Y in this box.
16. **Ageing Reason Code:** Not used by OVDP

Exhibit 4.63.3-6 (Cont. 1) (01-24-2018)**Controlling Multiple Years for International Cases**

17. **Input on ERCS:** This section will be initialed by the person who input the request on ERCS. A copy of the Form 5345-D will be returned to the agent for their case file with the IDRS prints.
18. **Related Return Information:** The examiner will complete this section to show the key case. This is the authority for opening the related cases.
19. **Reason for Request:** A reason must be given. When opening all additional tax years for international cases this should be noted; when opening the penalty module a short sentence indicating this is sufficient.
20. **TEFRA/ Original Return Requested / Labels / Joint Committee/ Foreign Control/ etc.:** Enter N in these box(es) for OVDP purposes.
21. **LB&I/CIC:** Not used by OVDP
22. **Examiner's Signature / Manager's Signature:** The examiner is required to sign Form 5345-D before forwarding to the manager for approval. Once approved it is given to the assigned tax examiner for input on ERCS.
23. If the taxpayer's filing status has changed, you will need separate forms for each filing status.
24. International cases require all pertinent tax years to be opened and controlled, including the penalty module (MFT 55). The disclosure period for the current program is 8 years. In addition, it is possible that the taxpayer's particular situation allows for a different number of years to be opened. You will need to review the case file documents to determine the correct number of years.

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Exhibit 4.63.3-7 (01-24-2018) Instructions for Completing Form 2859

To complete Form 2859, Request for Quick or Prompt Assessment:

- a. Top Section
 1. **Reason for request** – Check box by **Quick**
 2. Check box by **130-132 Exam Agreed**

- b. Part A - Taxpayer Information
 1. **TIN:** Enter first Social Security Number entered on Form 1040X
 2. **Name Control:** Use first four letters of primary taxpayer's last name from IDRS. IMFOLT, IMFOLI, and AMDISA – all show the taxpayer's name control
 3. **Name:** Enter taxpayer names as found on Form 1040X; First, MI, Last
 4. **Address:** Enter address as found on Form 1040X
 5. **23C Date:** Check the **Specify** box. Using the space right next to **Specify** enter appropriate 23C date.
Note: This date changes. Check the posting in office for correct 23C date to use.

- c. Part B – Requester Information
 1. **Statute Expiration Date:** Use **ASED** from the IMFOLT print
 2. **Requester name/address/phone number:** Enter your Name, Unit, Mail Stop and Phone number – Use Ext 8707
 3. **Employee assignment number/function:** Enter **your** 10 digit IDRS number. You can find this number by using command code SFDISP in IDRS.
 4. **Date:** Enter today's date

- d. Part C – Assessment Information
 1. Section 1. **Form No.** – Enter **1040**
 2. Section 2a. **Period ended** – Enter **tax year (e.g. 200912; 201012, etc.)**
 3. Section 4a. **Tax Adjustment** –
 - a. If you have a Form 1040X that contains only one column of numbers (Rev. 01-2010), use figure from **Amount You Owe**, Line 19
 - b. If you have a Form 1040X that contains three columns of numbers, look at figures on Total Tax – Net Change, Line 10, Column B **or** Amount You Owe Line 21 (or Line 19, depending on form revision) **WHICHEVER IS GREATER** between Total Tax – Net Change and Amount You Owe
 4. Section 18. **Total Assessments** – Use same figure as Line 4a, above
 5. Section 22. **Total Lines** – Use same figure as Line 4a
 6. Section 23. **Payment on Tax Module** – Use same figure as Line 4a
 7. Section 24. **Balance of Tax Due** – Enter 0.00 (zero)

- e. Remarks: At the very bottom of the form in Remarks – Enter: **“OVDI Per Form 1040X – DO NOT BILL”**

Exhibit 4.63.3-8 (01-24-2018)

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Exhibit 4.63.3-9 (01-24-2018)**Streamlined Filing Compliance Procedures – Steps for Tax Examiners**

All tax examiners (TEs) will maintain their individual Streamlined Correspondence Log. When applicable, each step should be input as the TE performs the task using the standard descriptions described below. All TEs will upload their individual Streamlined Correspondence Log to the CSDC SharePoint daily before the end of their tour of duty.

Step 1 – Process Form 2848 Power of Attorney and Declaration of Representative

The Form 2848 must be verified and submitted to CAF within 5 days of receipt. After the review of Form 2848 is complete, the TE will complete the “IRS Only” box; write “Faxed to CAF” with the date on top of form; and fax the Form 2848 to the appropriate CAF unit.

1. **Check CFINK** to verify that the Form 2848 you received has not already been submitted to CAF. If CFINK shows a POA for the taxpayer you must confirm that the information matches the Form 2848 that you received.
 - Use the CFINK IDRS Command Per CFOL Express. This command code provides information on the taxpayer’s Powers of Attorney nationwide.
 - **Format:** CFINK 000-11-2222
 - **Comment:** The periods shown will be the only modules covered by the Power of Attorney. The output will look like this: 30 200912. In this instance the fiscal year ended in the 12th month.
 - Next, input:
 - **Format:** CFINK 000-11-2222
30 200912
 - **Comment:** This will provide the name of the representative and his/her representative ID number.
 - To obtain the address and phone, input:
 - **Format:** CFINK 4000-12345R
 - **Comment:** Number is representative ID number.

CFINK can also be researched using the IAT tool.

2. **Verify** - Per 4.11.55.1.7.1, the F-2848 must contain:
 - The taxpayer’s identity
 - The Power of Attorney/representative’s identity
 - The type of tax or tax form number
 - The applicable tax periods
 - The taxpayer’s dated signature
 - The representative’s designation, jurisdiction, and dated signature

Specific instructions

- Per OVDP’s 2014 FAQ 48, Form 2848, Line 3 “Description of Matter” should list “Income, Civil Penalties, and Report of Foreign Bank and Financial Accounts (FBAR) Matters”. (A sample is provided through a link in the FAQ.) The use of terms such as “all taxes” is not acceptable.
- The tax forms for the respective matters are 1040, N/A (for civil penalties), and TD F 90-22.1/ FinCEN Form 114.
- The years should name the specific years covered by the Form 2848; the use of terms such as “all years” is not acceptable.
- The representative must be an individual; a firm or corporation cannot be designated a representative.
- Make sure the Form 2848 is the current form.
- Verify that both the taxpayer and the representative(s) signed the Form 2848.

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Exhibit 4.63.3-9 (Cont. 1) (01-24-2018)

Streamlined Filing Compliance Procedures – Steps for Tax Examiners

- Joint filers must complete and submit separate Form 2848s.
- Verify that the representative's designation is valid. Most of the representatives for OVDP are attorneys (designation "a") or CPAs – both are required to hold a valid license in the state that they list for their licensing jurisdiction or authority.

Example: To research an attorney licensed in California, Google "State Bar of California". Click on attorney search and enter the bar number listed on the Form 2848. The results will indicate if the attorney is active and currently allowed to practice law in California.

Example: To research the license of a Texas CPA, Google "Texas State Board of Public Accountancy" and click on "License Lookup". Click on "Individual Licensee – Lookup" and search by the license number listed on the Form 2848

- If the license number is incorrect, search using the representative's name and address. If you can't find anything, bring it to the RA.
- Form 2848 may be a fax or a copy.

3. **Process** - Per IRM 4.11.55.1.8.2

- Upon receipt of a POA (Form 2848), the employee must ensure that all required elements are properly completed and the form must be date stamped.
- Once it's determined that the POA is valid and can be submitted to CAF, the employee should take the following actions:
 - Enter the name, telephone number, function of the person reviewing the POA and date of the review in the space provided on the first page.
 - Note across the top of page 1 "Faxed to (Appropriate Campus) on (Date)".
 - Domestic Form 2848s should be faxed to the Ogden CAF unit at 855-214-7522
 - Foreign Form 2848s should be faxed to the Philadelphia CAF unit at 855-772-3156
 - Receipt, review and forwarding of the POA to the CAF unit must be completed within five workdays of IRS receipt.
 - Retain the Form 2848 and fax sheet with the correspondence

Step 2 – Input & Verify the Taxpayer Name(s) and TIN(s)

- Input the taxpayer's name and TIN into the correspondence log. If the correspondence is for a married couple, input the primary name and TIN first, the spouse name and TIN second.
- Use INOLES to verify that both the primary and the secondary taxpayers' names and TINs are correct on the correspondence.
- If the TIN is not on the correspondence or attached documents use the command code NAMES to research the TIN. See CFOL Express or use the IAT tool if you are not familiar with the IDRS command code NAMES.
- If you are unable to locate the taxpayer using NAMES, then document that fact in the correspondence log.

Exhibit 4.63.3-9 (Cont. 2) (01-24-2018)**Streamlined Filing Compliance Procedures – Steps for Tax Examiners****Step 3: Determine if the taxpayer’s case is an OVDP case.**

Research steps	Research Notes
<p>Is the taxpayer on the most current CI list?</p> <p>If yes, is the taxpayer CI pending? (Does the taxpayer have an “End Date”? This is the date the taxpayer was either accepted or rejected by CI.)</p> <ul style="list-style-type: none"> • If yes – the taxpayer has been accepted by CI and is NOT CI Pending. • If no – the taxpayer has not been accepted by CI and is labeled CI Pending. Attach a printout of the section from the CI list, write TE's name and take to senior revenue agent (SRA) . Note CI Pending and date submitted to SRA on correspondence log. <p>If no, move to Step 4 - Non-OVDP correspondence</p>	<p>On CI list Not on CI list</p> <p>CI pending: submitted to SRA (date)</p>
<p>Is taxpayer established on AMDISA?</p> <ul style="list-style-type: none"> • AMDISA is created by Team 1 when they build the OVDP case. If AMDISA is present on IDRS, make a print of the AMDISA screen. • If the taxpayer has an end date and is not yet established on AMDISA, print out their section of the CI list. 	<p>AMDISA No AMDISA</p>
<p>Is taxpayer established on e-trak?</p> <ul style="list-style-type: none"> • Note the e-trak number on the AMDISA printout or printout of CI list. • Include the e-trak number on the correspondence log. 	<p>No e-trak; e-trak #xxxxx</p>
<p>If an OVDP case, determine where the case file is located. Austin CSDC: PBC-330, SBC-87700, EGC-1940, 1942, 1943</p> <ul style="list-style-type: none"> • Attach the AMDISA screen print or CI printout to the correspondence and write the e-trak number on upper right corner • Place the correspondence in Team 1’s “Incoming Mail” basket. <p>In the Field:</p> <ul style="list-style-type: none"> • Attach the AMDISA screen print to the correspondence and write the e-trak number on upper right corner. • AMDISA contains the Employee Group Code (EGC) of where the case is assigned. • Use the Who/Where tab in SERP to locate the manager of the exam group where the case has been assigned. Click on “Exam Employee Group Code (EGC) Contacts”; click on Excel link “Employee Group Code Contacts”; click on PBC listed on AMDISA; search EGC for group number and name of Group Manager. • Email the Group Manager to notify them that the correspondence is being sent to them. Include the e-trak number. • Take the correspondence to the Exam Tech to be sent to the field using Form 3210. 	<p>Forward to Team 1</p>

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Exhibit 4.63.3-9 (Cont. 3) (01-24-2018)

Streamlined Filing Compliance Procedures – Steps for Tax Examiners

Step 4 – Determine what the Non-OVDP Taxpayer letter says:

Research steps	Research notes
<p>Taxpayer is responding to Letter 4087.</p> <ul style="list-style-type: none"> • When Submission processing receives a Streamlined submission and it is missing any requirements, Letter 4087 is sent requesting the needed documents. At times, these responses are misrouted to LB&I. • If a SDO/SFO certification is received along with a copy of Letter 4087: <ul style="list-style-type: none"> • Check ERS inventory using ERINV XXXXXXXXXX@18 and print response screen. Make copy of certification and forward response screen, copy of certification, and any additional documents received with certification to Correspondence Coordinator. • Log original certification accordingly and send original certification through to Certification Librarian. 	<p>ERINV</p>
<p>The taxpayer will be submitting a package.</p> <ul style="list-style-type: none"> • Research IMFOLT and TXMODA to determine if returns and/or amended returns have been processed. • Streamlined returns will have a DLN that has a range of 850-899 in the 9th through 11th numbers. <p>Example: DLN: 20221-306-88301-3</p> <ul style="list-style-type: none"> • If you can determine that they've already submitted a package and the correspondence does not contain a certification, an information return or tax return, then log the correspondence as resolved per How to Log Correspondence below and "classify waste" the correspondence. • Classified waste is documentation containing taxpayer entity or account information not needed for audit trail purposes. See IRM 21.5.1.4.10 for information on classified waste. • If you determine that they haven't filed, then suspend the case for 90 days from the review date to give them time to submit and/or W&I time to process returns. 	<p>IMFOLT TXMODA</p> <p>Log per HTLC</p> <p>Log per HTLC Note Follow-up date</p>

Exhibit 4.63.3-9 (Cont. 4) (01-24-2018)

Streamlined Filing Compliance Procedures – Steps for Tax Examiners

Research steps	Research notes
<p>The taxpayer previously submitted a package and is providing additional forms/information.</p> <ul style="list-style-type: none"> • Research IMFOLT and TXMODA to determine whether any returns and/or amended returns have been processed. (i.e. Streamlined DLN, amended return on CIS, TC 977 with applicable date.) • Research ERINV XXXXXXXXX@18, to determine whether ERS is waiting for a response. If the SSN is in ERS, then print out the response screen and take it to the CC. The CC will contact ERS and take the correspondence to ERS clerical. • If a submission has been processed, send the correspondence to be associated with the most recent year of the packet using Form 9856, Attachment Alert. <ul style="list-style-type: none"> • If a submission has not been processed, notate the research completed on the log and forward it to CC to suspend for future action. 	<p>IMFOLT</p> <p>Forwarded to CC for ERS</p> <p>Associate with return, RESOLVED</p> <p>Suspend</p>
<p>The taxpayer is submitting only a Certification for the Streamlined Domestic Offshore Procedure (SDO) or the Streamlined Foreign Offshore Procedure (SFO).</p> <ul style="list-style-type: none"> • Research ERS inventory, if returns are in ERS suspense the certification may be in response to Letter 4087. Print ERINV response screen, make copy of certification and forward both to CC. • Research IMFOLT and TXMODA to determine whether original tax returns and/or amended returns have been processed with a Streamlined DLN (See sample of Streamlined DLN above.) • If the tax returns have posted with the Streamlined DLN, verify on the Master Certification Log on SharePoint whether a certification has been received. Log the correspondence per How to Log Correspondence below. • If a certification has already been received, log the certification as correspondence and take to Certification Librarian with a note indicating that a copy has already been logged. • If a certification has not already been received, log the Streamlined Certification in your individual TE Correspondence log, as well as your individual Certifications log on the SharePoint site. Transfer the Streamlined Certification to the Certification Librarian. • If there aren't any tax returns posted or pending, examine the certification for the 5% Miscellaneous Offshore Penalty (MOP). • Research IMFOLI and IMFOLT MFT 55 to determine whether a MOP has been paid. • If the MOP is the only reason for submitting a certification, then mark the MFT 55 column in the Correspondence Log. • Log the certification and deliver it to the Certification Librarian. 	<p>ERINV</p> <p>IMFOLT, TXMODA</p> <p>Forward to CL, RESOLVED</p> <p>Forward to CL, RESOLVED</p> <p>MFT55</p>

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Exhibit 4.63.3-9 (Cont. 5) (01-24-2018)

Streamlined Filing Compliance Procedures – Steps for Tax Examiners

Research steps	Research notes
<p>Taxpayer correspondence is a partial submission, old Streamlined or undeterminable.</p> <ul style="list-style-type: none"> • Send Letter 5498 making sure that the “Insert Date” field has the most current revision date for the Streamlined Compliance Procedure found on IRS.gov. • For domestic addresses, date the letter 5 days from current date and provide a print out of the SDO procedures. https://www.irs.gov/individuals/international-taxpayers/u-s-taxpayers-residing-in-the-united-states • For international addresses, date the letter 10 days from current date and provide a print out of the SFO procedures. https://www.irs.gov/individuals/international-taxpayers/u-s-taxpayers-residing-outside-the-united-states • Mark in individual correspondence log that letter was sent and mark “Follow-Up Date” as 60 days from date of letter for domestic and 90 days for international. • Attach a file copy of letter to front of correspondence and forward to CC. 	<p>Letter 5498</p> <p>Date of Letter</p> <p>Follow-up date</p>

Exhibit 4.63.3-10 (01-24-2018)**How to Log Correspondence**

Correspondence Log Columns	Research Notes
Last Name	Taxpayer's last name
First Name	Taxpayer's first name
TIN/SSN	Taxpayer's TIN
IRS Received Date	From date stamp
Tax Examiner Initial Review Date	Date tax examiner first works the case
Docs Received in Austin	Date documents received in Austin if sufficiently different than first received date. SFO/SDO Cert., Form 709, Letter, Form 3520, etc.
Research Notes	Notate if you checked the CI list, AMDISA or IMFOLT, notate e-Trak number if applicable, state "streamlined DLN" if the returns are posted with a streamlined DLN. Notate any other relevant information that you find.
POA	Provide the name and contact phone number of the POA. Addresses are NOT needed.
Resolution	Notate the actions taken on the case (i.e. transferred to Team 1, Suspended, referred to revenue agent).
Follow-up Date	If the case requires any type of follow-up (waiting for returns to post, waiting for submission, waiting for response from TP, etc.) mark "Follow-Up Date" as 60 days for domestic and 90 days for international.
Resolved Date	The Resolved Date is the date the case is completely closed and we do not have to take any further action or monitor for action.
CI Pending/Accepted	Place an "X" in the column if the SSN is on the most recent CI list.
Referred to Revenue Agent	Place an "X" in the column if the case has been referred to an RA. Indicate which RA in the Resolution column.
Date Mailed to TP	Notate the date Letter 5498 was mailed out. Mark 60 days for domestic and 90 days for international for "Follow-Up Date".
Intent to Submit Streamlined	Place an "X" in the column if the TP and/or POA indicate they will be submitting a streamlined packet. These should be followed up in 90 days from the review date.

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Exhibit 4.63.3-10 (Cont. 1) (01-24-2018) How to Log Correspondence

Correspondence Log Columns	Research Notes
Follow-up	Place an "X" in the column if follow up is needed.
No Response	If contact with the TP has been made by phone and/or a letter and nothing has been received from the TP after 90 days from the latest contact, place an "X" in the column.
Left Message	If telephone contact has been made and you left a message, place an "X" in the column. Be sure to notate the date you left the message in the research/resolution column(s).
OVDP	Place an "X" in the column if the case has an e-trak and was placed in Team 1's incoming mail basket.
MFT 55	Place an "X" in the column if the only submission was to pay the 5% Miscellaneous Offshore Penalty.
Follow-up with RA	For cases that are not easily determined or were forwarded to the RA for a decision, place an "X" in the column and notate a follow-up date in the research and/or resolution column(s).
Resolved	Place an "X" in the column once the case is completely resolved and we are no longer monitoring the case for timing or action.

Exhibit 4.63.3-11 (04-27-2021)

Voluntary Disclosure Practice Flow Chart Revocation Process

