



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

4.70.3

JUNE 26, 2023

## EFFECTIVE DATE

(06-26-2023)

## PURPOSE

- (1) This transmits revised IRM 4.70.3, TE/GE Examinations, Promoter Investigations.

## MATERIAL CHANGES

- (1) Updated IRM 4.70.3.3 to add **Office of Promoter Investigations** to the list of groups with whom TEGE coordinates using the corporate approach.
- (2) Editorial corrections, updates to IRM references, and titles made throughout this IRM section.

## EFFECT ON OTHER DOCUMENTS

This supersedes IRM 4.70.3 dated April 13, 2021.

## AUDIENCE

Large Business and International  
Small Business and Self-Employed  
Tax Exempt and Government Entities

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4.70.3

Promoter Investigations

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4.70.3.1  
(10-30-2018)  
**Program Scope and Objectives**

- (1) **Purpose:** This IRM provides guidance to Tax Exempt and Government Entities (TE/GE) employees pursuing investigations of promoters. It contains procedures for TE/GE coordination with other Business Operating Divisions (BOD). It contains procedures unique to TE/GE for processing Promoter Investigations.
- (2) **Audience:** This section provides guidance primarily for Tax Exempt and Governmental Entities (TE/GE) employees and may provide guidance to Small Business/Self-Employer (SB/SE) and Large Business and International (LB&I) examiners.
- (3) **Policy Owner:** Tax Exempt and Government Entities
- (4) **Program Owner:** Tax Exempt and Government Entities
- (5) **Contact Information:** To recommend changes or make any other suggestions related to this IRM section, see IRM 1.11.6.5, Providing Feedback About and IRM Section - Outside of Clearance.
- (6) **Acronyms:** The following provides a list of acronyms and their definitions:

Acronym	Definition
AT	Abusive Transactions
BOD	Business Operating Division
C&CA	Classification and Case Assignment
CP&C	Compliance Planning and Classification
LB&I	Large Business and International
LDC	Lead Development Center
OPI	Office of Promoter Investigations
OTSA	Office of Tax Shelter Analysis
PSP	Planning and Special Programs
SB/SE	Small Business and Self-Employed
TE/GE	Tax Exempt and Government Entities
WebETS	Web-Based Employee Technical Time System

4.70.3.2  
(10-30-2018)  
**Overview of Promoter Investigations and Definitions**

- (1) This IRM offers guidance to TE/GE Compliance employees pursuing promoter investigations and is intended to complement IRM 4.32, Abusive Transactions.
- (2) IRS is committed to stopping the widespread use of abusive transactions that erode the voluntary tax compliance system and result in substantial tax revenue losses. As a partner in these efforts, TE/GE participates in pursuing

investigation of promoters of these abusive transactions. These investigations are designated as priority work. The IRS combats AT promotions by:

- a. Seeking timely injunctions.
  - b. Asserting civil penalties against promoters.
  - c. Providing published guidance.
  - d. Conducting various client compliance actions.
  - e. Criminally prosecuting promoters or clients.
- (3) The term “promoter” as used throughout this IRM chapter unless specifically noted, includes promoters, material advisors as defined under IRC 6111, and tax return preparers.
  - (4) The term “client” as used in this IRM chapter includes all persons who participated in a promotion, purchased a product or service from a promoter, had an interest in a promotion, or received any material aid, assistance, or advice with respect to the promotion. Client includes investors and advisees. Client also includes all persons who paid to have a tax return or tax form prepared or sought tax advice from any individual or firm offering such service or services. See IRM 4.32.2.2(3).
  - (5) Abusive promotions are defined and discussed in IRM 4.32.2.3.

#### 4.70.3.3 (06-26-2023)

##### **Corporate Approach**

- (1) The corporate approach is a strategy that supports TE/GE coordination with:
  - SB/SE
  - SB/SE Lead Development Center (LDC)
  - Large Business and International (LB&I)
  - Office of Tax Shelter Analysis (OTSA)
  - Office of Promoter Investigations (OPI)
- (2) The corporate approach enables TE/GE to deter and stop promoter schemes involving tax-exempt entities. This approach:
  - a. Designates oversight, roles and responsibilities within management, and develops a uniform strategic approach to conduct and/or facilitate effective promoter investigations.
  - b. Develops and carries out a practical screening process to determine potential promoter investigations. The process includes coordinating with SB/SE, LDC, OTSA and OPI in continually reviewing leads and referrals to identify and address promotions that involve entities and/or transactions.
  - c. Identifies and assigns needed resources (agents and support staff) for TE/GE to take the lead in applicable promoter investigations and/or provide needed support to SB/SE and other functions.
- (3) Managing at the corporate level involves:
  - a. Developing a TE/GE cadre of agents to help with or lead a promoter investigation.
  - b. Coordinating with management to ensure cadre availability.

## 4.70.3.3.1

(10-30-2018)

**TE/GE Roles,  
Responsibilities and  
Promoter Investigation  
Oversight**

- (1) TE/GE designates the following promoter investigation positions:

Position	Designated Person
TE/GE CP&C Program Manager	TE/GE Commissioner designee
TE/GE Fraud Specialist	TE/GE Commissioner designee
Promoter Investigation Cadre (Cadre)	Trained agents for each TE/GE function to take the lead roles in promoter investigations and assist with examinations related to promoter investigations

- (2) TE/GE will annually provide the names and contact information for the following personnel to the LDC and OTSA:

- a. TE/GE CP&C Program Manager
- b. TE/GE Fraud Specialist
- c. TE/GE Division Counsel

## 4.70.3.3.2

(04-13-2021)

**TE/GE CP&C Program  
Manager and Fraud  
Specialist**

- (1) TE/GE CP&C Program Manager responsibilities related to promoter investigations:

- a. Liaison for all functional directors, business operating divisions and agencies
- b. Facilitate inter-agency collaboration
- c. Coordinate with the Servicewide Compliance Strategy Executive Steering Committee and Emerging Issues Team to ensure consistency in compliance issues involving SB/SE and LB&I.
- d. Conduct risk assessments/environment scans
- e. Liaison with TE/GE Learning & Education for training needs
- f. Provide periodic updates and reporting to senior leadership

- (2) With respect to promoter investigations, the responsibilities of the TE/GE Fraud Specialist include overseeing program-related processes across TE/GE:

- a. Administering TE/GE promoter/AT program
- b. Compiling program-related Divisional reports and BPR
- c. Tracking all open and pending promoter investigation leads.
- d. Maintaining a list of TE/GE agents trained to conduct promoter investigations or provide support for promoter investigations.

- (3) The TE/GE Fraud Specialist also monitors and supports all TE/GE fraud, promoter and AT inventory:

- a. TE/GE liaison to the LDC
- b. Supports agents conducting or providing examination assistance related to promoter investigations
- c. Ensures regular communication occurs between TE/GE agents and agents in other BODs who are working examinations related to the same promoter investigation
- d. Facilitates meetings between TE/GE and other BODs and functions to prepare and maintain active investigation action plans for each promoter investigation.

- e. Ensures promoter investigation-related inventory is properly controlled on TE/GE computerized inventory systems.
  - f. Updates the LDC and OTSA on the status of open promoter investigations.
  - g. Updates TE/GE promoter/AT IRMs and website data.
- (4) The TE/GE Fraud Specialist also resolves program needs:
- a. Engages in ongoing discussions with the LDC, OTSA, and functional management to identify program needs.
  - b. Coordinates CP&C Issue ID and Knowledge Management involvement.
  - c. Identifies and delivers program-related training.
- (5) With respect to identifying and delivering program-related training:
- a. Assesses agent and support staff training needs
  - b. Works with the CP&C Program Manager to identify needed training and identify resource needs.
  - c. Coordinates training efforts within TE/GE and with other BODs and functions.
  - d. Ensures delivery of quarterly program roundtables.

4.70.3.3.3  
(10-30-2018)  
**SB/SE Lead  
Development Center**

- (1) The SB/SE LDC receives leads. See IRM 4.32.2.4.1, *Identification of Promoter Leads* and IRM 4.32.2.4.2, *SB/SE Lead Development Center (SB/SE LDC)*. For processing promoter investigation leads, see *Lead Development Center*.
- (2) Form 14242, Reporting Abusive Tax Promotions and/or Promoters is used to make referrals to the LDC. Find additional information for making referrals to the LDC at:
- EO referrals: IRM 4.75.35, *Exempt Organizations Examination Procedures, Fraud and Abusive Transaction Procedures*.
  - EP referrals: IRM 4.71.6.5, *Promoter Referrals and Emerging Issues Referrals*.
- (3) TE/GE supports evaluating promoter investigation leads and support needs by meeting periodically with the LDC to discuss and resolve issues for TE/GE-related leads.

**Note:** The LDC contact the TE/GE Fraud Specialist as necessary to resolve issues for TE/GE-related leads and support needs.

- (4) As part of the LDC authorization and deconfliction process, TE/GE Division Counsel is provided an opportunity to assess the lead and provide feedback to the LDC. This feedback is considered in the determination of which BOD lead the promoter investigation.

4.70.3.3.4  
(10-30-2018)  
**TE/GE Post Approval  
Screening Process for  
Promoter Investigations**

- (1) If a promoter investigation is authorized and it is determined that TE/GE would be the best choice to lead the investigation, the LDC sends the approved lead and case file to the TE/GE Fraud Specialist to evaluate the case material, verify functional jurisdiction, and assess functional resources.



- a. If the TE/GE Fraud Specialist determines that the TE/GE function does not have either jurisdiction or available resources, the LDC will be notified of the circumstances and further discussions will be conducted to determine how best to proceed.
- (2) After the TE/GE Fraud Specialist determines that a TE/GE function has jurisdiction and available resources, the lead is accepted, the database is updated, and case controls are established through CP&C – Classification & Case Assignment (C&CA).

4.70.3.4  
(10-30-2018)  
**TE/GE Lead-TE/GE  
Resources**

- (1) Promoter investigations led by TE/GE agents or support examinations will be assigned to a trained member of its Cadre whenever possible.
- (2) The TE/GE Fraud Specialist will contact TE/GE Counsel for the assignment of a TE/GE Division Counsel attorney to assist with the promoter investigation.

4.70.3.5  
(10-30-2018)  
**TE/GE Lead-SB/SE  
Coordination**

- (1) If TE/GE is the lead operating division, the TE/GE Fraud Specialist will provide the LDC with the names of the TE/GE Lead Agent and TE/GE Division Counsel employee within 30 days of receiving the case file.
- (2) If TE/GE needs SB/SE help (legal, technical, revenue agent, or other), the TE/GE Fraud Specialist will contact the LDC who coordinates with the appropriate Abusive Transactions (AT) Territory Manager to provide SB/SE assistance.
- (3) The TE/GE Fraud Specialist :
  - a. Provides the TE/GE Lead Agent with SB/SE points of contact for their support role in TE/GE-led promoter investigations.
  - b. Communicates at least quarterly with the TE/GE Lead agent to ensure communication with SB/SE and Counsel during this part of the process.
- (4) The TE/GE Lead Agent develops an action plan for each promoter investigation.
- (5) A team approach is used to conduct promoter investigations and complete exams.

4.70.3.6  
(10-30-2018)  
**TE/GE Lead-Client  
Examinations under  
SB/SE Jurisdiction**

- (1) It is important for the TE/GE Lead Agent to contact SB/SE as early in the process as possible to avoid case processing delays when there are client examinations under SB/SE jurisdiction.
  - a. If an SB/SE agent is needed to help with client exams, (i.e., taxable returns must be reviewed to resolve a case), the TE/GE Lead Agent will prepare a Form 6229, Collateral Examination, request for a collateral agent or a request for the release of jurisdiction for the appropriate income tax return.
  - b. If SB/SE is unable to begin the client exams within 30 days, TE/GE may request SB/SE to release its jurisdiction over the clients.

**Note:** This rule doesn't apply to discrepancy adjustments because they aren't considered exams.

- (2) The Form 6229 is emailed to the TE/GE Fraud Specialist, who will coordinate with SB/SE Planning and Special Programs (PSP) Territory Manager to secure SB/SE examination support, if possible.
- (3) If SB/SE is unable to assist, the TE/GE Fraud Specialist will follow up with SB/SE about releasing jurisdiction of the return, if warranted. Caution: Examinations of returns outside TE/GE jurisdiction will not be opened unless SB/SE (or other BOD) has provided a written release of jurisdiction.

4.70.3.7  
(10-30-2018)  
**SB/SE Lead-TE/GE  
Resources**

- (1) If SB/SE is the lead operating division, the LDC will notify the TE/GE Fraud Specialist of the assigned SB/SE revenue agent and SB/SE Counsel Attorney.
  - a. After TE/GE agrees to provide support for promoter investigations involving a TE/GE entity or taxpayer, the TE/GE Fraud Specialist will facilitate the assignment of the examination to a Cadre agent.
  - b. SB/SE Counsel will contact TE/GE Division Counsel if additional legal support is needed.

4.70.3.8  
(10-30-2018)  
**SB/SE Lead-TE/GE  
Coordination**

- (1) The TE/GE Fraud Specialist is the TE/GE liaison with the LDC.
- (2) The TE/GE Fraud Specialist will ensure that SB/SE notifies TE/GE of SB/SE points of contact.
- (3) The TE/GE Fraud Specialist will regularly communicate with the assigned TE/GE agent(s) to ensure TE/GE continually coordinates and develops the case with SB/SE and Counsel.
- (4) The TE/GE Fraud Specialist:
  - a. Communicates with the LDC and appropriate SB/SE management to ensure they include the TE/GE agent(s) and manager(s) in their workplan development meeting with SB/SE employees and Counsel.
  - b. Includes the assigned TE/GE agent and group manager when coordinating assignments for supporting TE/GE client examinations to ensure the exams are done timely.
- (5) A team approach to conduct promoter investigations and complete supporting client exams is essential.

4.70.3.9  
(10-30-2018)  
**Client List Processing  
for TE/GE Led  
investigations**

- (1) It's critical to the success of any promoter investigation to address non-compliance by clients in abusive promotions and to show "harm" to the government because of the promotion.
 

**Note:** Harm to the government is the loss, or potential loss, of revenue through noncompliance.
- (2) Occasionally, TE/GE may need to examine clients' tax returns in promoter investigations to substantiate harm to the government. See IRM 4.32.2.13, Post-Injunction Activities and IRM 4.32.2.14, Client/Investor/Advisee Lists for compliance actions that IRS may take on clients. TE/GE may develop other compliance actions for TE/GE taxpayers.
- (3) It is important for the TE/GE Lead Agent secure the promoter client list as early as possible in the investigation to allow time for case building and classi-

fication. Once the client list is secured, it will be sent to the TE/GE Fraud Specialist, who will share it with CP&C, C&CA to initiate the selection of client examinations.

- (4) If the case involves SB/SE taxpayers, the TE/GE Fraud Specialist will:
  - a. Share the list with the AT List Keeper within 30 days of receipt.
  - b. Coordinate the appropriate case building requirements with stakeholders in the appropriate operating divisions with the SB/SE ATAT List Keeper. See IRM 4.32.2.14, Client/Investor/ Advisee Lists for procedures to submit a list.
- (5) For cases that involve individual client noncompliance, the TE/GE Fraud Specialist will coordinate a compliance strategy with the appropriate functions in TE/GE and the other affected BODs.

4.70.3.10  
(10-30-2018)  
**TE/GE Case Controls  
and Closing Procedures**

- (1) The TE/GE Fraud Specialist ensures that case controls are established when the LDC sends an authorized investigation to the TE/GE Lead Agent.
  - a. IRC 6700, IRC 6701, IRC 6707 and IRC 6708 penalty investigations are controlled on TE/GE computer systems.
  - b. Controls are established only for the most current fully completed calendar year.
- (2) Web-Based Employee Technical Time System (WebETS) is used to track promoter investigation time charges. Time applied to identification and submission of sub-promoter leads to the LDC be charged to the key case.
- (3) Client examinations worked by TE/GE are controlled like other TE/GE examination cases.
- (4) The LDC requires the business units to provide status updates every two months for all promoter investigations. The TE/GE Fraud Specialist must complete the reports and submit them to the LDC. Examiners assigned to these investigations provide the information for the reports.
- (5) The TE/GE agent must contact the TE/GE Fraud Specialist for case closing procedures.

