



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

5.1.11

NOVEMBER 29, 2023

## EFFECTIVE DATE

(11-29-2023)

## PURPOSE

- (1) This transmits revised IRM 5.1.11, Field Collecting Procedures, Delinquent Return Investigations.

## MATERIAL CHANGES

- (1) The following table outlines changes made to IRM 5.1.11.

Change number	IRM number	IRM Subsection Title	IRM Changes
1	5.1.11.1.6	Acronyms	Changed title to Terms and Acronyms in accordance with IRM 1.11.2.2.5(4) and updated list.
2	5.1.11.1.7	Related Resources	Added Counsel approved language regarding the Taxpayer Bill of Rights (TBOR) to Related Resources
3	5.1.11.2.3	Initial Analysis	Revised note to include a check of BMFOLE to accurately identify any 944 filing requirements
4	5.1.11.2.2(2)	Taxpayer Delinquent Investigations (TDI / DEL RET)	Clarified that unresolved previous tax periods would be for 6 years to adhere to the compliance lookback period

<b>Change number</b>	<b>IRM number</b>	<b>IRM Subsection Title</b>	<b>IRM Changes</b>
5	5.1.11.2.3.1.4	Initial Analysis	Incorporated IGM SBSE-05-0821-0015, Foreign Account Tax Compliance Act (FATCA) research and use in Field and Specialty Collection programs, dated 08-16-2021
6	5.1.11.3	Initial Contact	Incorporated IGM SBSE-05-0723-0045, Field Collection Safety During Field Contact, dated 07-24-2023
7	5.1.11.3.3(1)	Full Compliance Check	Added Forms W-2 and W-3
8	5.1.11.3.3.1	Documentation of Compliance	Added step to document compliance at case closing
9	5.1.11.5.12	MFT 32 and Unpostable 126 Procedures	Updated Section to include new processes for high-risk authentication
10	5.1.11.6(3)	Secured Returns	Removed note as it contradicted IRM 5.1.2.2.3(3) and provided reference to IRM 5.1.2.2.3(3)

<b>Change number</b>	<b>IRM number</b>	<b>IRM Subsection Title</b>	<b>IRM Changes</b>
11	5.1.11.6(8)	Secured Returns	Incorporated IGM SBSE 05-1222-0085 Document Upload Tool (DUT) for Collection, dated 12-05-22
12	5.1.11.6.2	Returns Without Full Payment	Clarified process to request assignment for secured returns
13	5.1.11.6.3	Referrals of Underreported Tax	Incorporated IGM SBSE 05-0922-0057, Processing of Field Collection Referrals to Exam during Delinquent Return Processing, dated 09-08-22
14	5.1.11.6.3.1	Audit Referral Preparation and Processing	Incorporated IGM SBSE 05-0922-0057, Processing of Field Collection Referrals to Exam during Delinquent Return Processing, dated 09-08-22
15	5.1.11.7.1.1	Enforcement Not Pursued: Policy Statement 5-133 Closures	Incorporated IGM SBSE-05-0723-0045, Field Collection Safety During Field Contact, dated 07-24-2023
16	5.1.11.7.2(4)	Referral to Criminal Investigation	Clarified IRC Section 7206(1) content

<b>Change number</b>	<b>IRM number</b>	<b>IRM Subsection Title</b>	<b>IRM Changes</b>
17	5.1.11.7.3(4)	Enforcement Referrals- Individual Master File (IMF) Del Ret	Incorporated IGM SBSE 05-0922-0057, Processing of Field Collection Referrals to Exam during Delinquent Return Processing, dated 09-08-22
18	5.1.11.7.3.3	Del Ret with Income But without IRP	Incorporated IGM SBSE 05-0922-0057, Processing of Field Collection Referrals to Exam during Delinquent Return Processing, dated 09-08-22
19	5.1.11.7.7.1(1)	Taxpayer Contact	Clarified to also ask for payment of delinquent returns when setting a specific date for filing
20	5.1.11.7.7.1(6)	Taxpayer Contact	Incorporated IGM SBSE-05-0723-0045, Field Collection Safety During Field Contact, dated 07-24-2023 for the 6020(B) process
21	5.1.11.7.7.1	Del Ret with Income But without IRP	Replaced mailing address with email addresses based on taxpayer location

<b>Change number</b>	<b>IRM number</b>	<b>IRM Subsection Title</b>	<b>IRM Changes</b>
22	5.1.11.7.7.2	Preparation and Approval of 6020(b) Returns	Removed reminder for the processing of employment tax returns prior to January 1, 2009 under 6020(b) for SMO of LLC's
23	5.1.11.7.7.2(5)	Preparation and Approval of 6020(b) Returns	Added clarification that all 6020(b) wage figures must substantiated
24	5.1.11.7.7.2(9)	Preparation and Approval of 6020(b) Returns	Added additional sources to obtain the number of partners
25	5.1.11.7.7.2(12)	Preparation and Approval of 6020(b) Returns	Updated type of service to include hand delivery with guidance as addressed in IGM SBSE-05-0723-0045, Field Collection Safety During Field Contact, dated 07-24-2023
26	5.1.11.7.7.3(1)	Appeals of Unagreed IRC 6020(b) Cases	Added examples of inventory controls
27	5.1.11.7.7.4(1)	Preparing Returns for Assessment	Clarified timeframe for processing

<b>Change number</b>	<b>IRM number</b>	<b>IRM Subsection Title</b>	<b>IRM Changes</b>
28	5.1.11.7.7.4(6)	Preparing Returns for Assessment	Removed exception and all references to disregarded entity LLC failed filings of employment tax returns for tax periods ended before January 1, 2009.
29	5.1.11.8.12.2	ICS Credit Transfers	Clarified the use of the ICS Credit Transfer application
30	Throughout		Revised references of FTA ( Fraud Technical Advisor) to FEA ( Fraud Enforcement Advisor
31	Throughout		Revised references of “service” to “IRS”
32	Throughout		Replaced “he/she” with gender neutral pronouns
33	Throughout		Reviewed and updated website addresses, legal references and IRM references, as necessary

#### **EFFECT ON OTHER DOCUMENTS**

This material supersedes IRM 5.1.11, dated February 28, 2020. The following Interim Guidance has been incorporated into this revision: SBSE-05-0821-0015 dated 8/16/21 and reissued as SBSE-05-0823-0047 dated 8/10/23; SBSE-05-0922-0057 dated 9/8/22; SBSE 05-1222-0085 dated 12/5/2022; and SBSE-05-0723-0045 dated 7/24/23.

**AUDIENCE**

SB/SE Collection

Rocco Steco  
Acting Director, Collection Policy  
Small Business/Self-Employed





5.1.11

Delinquent Return Investigations

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5.1.11.1  
(02-28-2020)  
**Program Scope and Objectives**

- (1) **Purpose:** This IRM provides procedural guidance to Field Collection employees related to contacting taxpayers during civil law enforcement investigations to secure delinquent returns. These guidelines apply to actions taken before, during, and after these contacts.
- (2) **Audience:** Revenue officers in Field Collection are the primary user of this IRM.
- (3) **Policy Owner:** Director, SB/SE Collection Policy, is the policy owner of this IRM.
- (4) **Program Owner:** SB/SE Collection Policy, Case Resolution Alternatives (CRA) is the program owner of this IRM.
- (5) **Primary Stakeholders:** Field Collection revenue officers and group managers are the primary stakeholders for this IRM. Other areas that may be affected by these procedures or may provide input could include Tax Exempt & Government Entities (TEGE), Exam, and Criminal Investigation (CI).
- (6) **Program Goals:** This guidance contains procedures for effective resolution of delinquent returns by Field Collection employees. Following these procedures ensures the protection of taxpayer rights, emphasizes employee safety and protection, and leads to timely and effective case resolution.

5.1.11.1.1  
(02-28-2020)  
**Background**

- (1) These procedures are based on and consistent with the Taxpayer Bill of Rights, The Privacy Act of 1974, the Fair Tax Collection Processes Act, the Freedom of Information Act, and IRS Policy Statement P-1-1, Mission of the Service, located in IRM 1.2.1.2.1.

5.1.11.1.2  
(02-28-2020)  
**Authority**

- (1) The following authorities provide the basis for these guidelines:
  - Policy Statement P-1-1
  - Privacy Act of 1974
  - Freedom of Information Act
  - Taxpayer Bill of Rights
  - Fair Tax Collection Processes Act

5.1.11.1.3  
(02-28-2020)  
**Responsibilities**

- (1) Director, Collection Policy is responsible for the policies and procedures in this IRM.
- (2) Director, Field Collection, has executive oversight for all Field Collection programs.
- (3) Field Collection Area Directors, territory managers and group managers are responsible for ensuring compliance by field personnel with these procedures.
- (4) Revenue officers are responsible for reading and implementing the procedures listed in this IRM.

5.1.11.1.4  
(02-28-2020)  
**Program Management and Review**

- (1) **Program Reviews:** Program reviews completed by Collection Policy to verify compliance with the IRM requirements and address any TIGTA/GAO findings. Case reviews are conducted by Group Managers to ensure compliance with this IRM.

- (2) **Program Reports:** Collection managers utilize reports generated from the Integrated Collection System (ICS) and the ENTITY Case Management System to monitor and track inventory assignments and timely and appropriately take case actions. Reports and queries from ICS and Entity of cases which include open Delinquent Return (Del Ret) Investigations/ Taxpayer Delinquency Investigations (TDI) can be reviewed to assist managers in determining if employees are timely addressing TDIs. Reports from the Embedded Quality Review system provide review information for managerial use in guiding revenue officers to promote timeliness, effectiveness, and accuracy of case actions.
- (3) **Program Effectiveness:** Operational reviews are conducted by the Collection Area Directors and Territory Managers annually to evaluate program delivery and conformance to administrative and program National Quality Reviews and consistency reviews are routinely conducted to measure program consistency, effectiveness in case actions, and compliance with policy and procedures. Trends reported in these reviews are used to promote and improve program effectiveness. Trends, recommendations and corrective actions issued during the course of program and operational reviews are used to identify opportunities for improvement and achieve program goals.

5.1.11.1.5  
(02-28-2020)

#### Program Controls

- (1) Collection managers verify program and procedural compliance by conducting case consultations, case reviews, performance reviews, and security reviews. Prescribed internal controls are detailed in IRM 1.4.50, Collection Group Manager, Territory Manager and Area Director Operational Aid, which communicates responsibility to Collection managers for promoting quality case work and required internal controls. The ICS, ENTITY Case Management, Embedded Quality Review, and National Quality Review Systems provide the case access, data, and reports used by managers to monitor internal controls.
- (2) There are several procedural and systemic controls for Delinquent Return Closures. Certain methods of TDI closures require managerial approval. Specific transaction codes identify taxpayers under Criminal Investigation. There are a number of controls surrounding IRS employee return delinquencies as well as the referral to CI process.

5.1.11.1.6  
(11-29-2023)

#### Terms and Acronyms

- (1) The following table provides a list of acronyms used throughout this IRM.

Acronym	Explanation
BAL DUE	Balance Due Account
ASFR	Automated Substitute for Return
CCNIP	Case Creation Non-filer Identification Program
CCP	Centralize Case Processing (Collection)
CI	Criminal Investigation
DEL RET	Delinquent Return Investigation
DUT	Document Upload Tool
EIN	Employer Identification Number

Acronym	Explanation
FATCA	Foreign Account Tax Compliance Act
FEA	Fraud Enforcement Advisor
FRP	Frivolous Return Program
IAT	Initial Analysis Tool
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
LLC	Limited Liability Company
PCD	Program Completion Date
PSP	Planning and Special Programs
SMO	Single Member Owner
SSN	Social Security Number
SRFMI	State Reverse File Matching Program
SFR	Substitute For Return
SSN	Social Security Number
TDI	Taxpayer Delinquency Investigation
TEGE	Tax Exempt & Government Entities
TPP	Taxpayer Protection Program

5.1.11.1.7  
(11-29-2023)

#### Related Resources

- (1) IRC 6020(b), Returns executed by Secretary
- (2) IRC 6702, Fraudulent acknowledgements with respect to donations of motor vehicles, boats, and planes.
- (3) *Policy Statement 5-133*, Delinquent returns - enforcement of filing requirements, located in IRM 1.2.1.6.18
- (4) Notice 2010-33, Frivolous Positions.
- (5) 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 **Taxpayer Bill of Rights**.

5.1.11.2  
(02-28-2020)

**Return Delinquency Program**

- (1) Achieving full compliance is the goal of the Return Delinquency Program, including securing full payment of the tax liability with the delinquent return. Cases created by the Return Delinquency Program are worked in most functions of the IRS. Delinquent return cases are created when a return is not filed by the program completion date (PCD) for Campus processing of timely filed returns. Delinquency checks are run against the Master File shortly after the PCD to identify individual and business taxpayers who have not filed their returns.

5.1.11.2.1  
(01-15-2010)

**Case Creation and Notice Issuance**

- (1) There are two types of delinquency checks for individuals. Case creation uses information obtained from both delinquency checks in the Case Creation Nonfiler Identification Program (CCNIP).
- (2) The CCNIP identifies individual taxpayers from:
  - Those who filed an individual income tax return the previous year, but failed to file a current return.
  - Taxpayers for whom IRS received third party Information Returns Program (IRP) documents such as Form W-2 and Form 1099. The IMF delinquency checks using IRP are generally run 10 months after the due date of the return.
- (3) The BMF case creation program identifies business taxpayers who have an open filing requirement for a return that is not filed. BMF delinquency checks are made 16 weeks after the due date of each return and tax period.
- (4) The BMF delinquency check assimilates third party information (CAWR data, 1099 IRP, and Payer Master File Processing) in the case creation program to identify productive BMF nonfiler cases. This process is known as the Business Masterfile Case Creation Nonfiler Identification Process (BMF CCNIP).

5.1.11.2.2  
(11-29-2023)

**Taxpayer Delinquency Investigations (TDI/Del Ret)**

- (1) Nonfilers generally receive one or two notices about their delinquent return. When the taxpayer fails to resolve the delinquency during the notice process, a delinquent return (Del Ret) module is generated and assigned an Inventory Delivery System (IDS) case prioritization code that determines where it will be assigned.
- (2) You must investigate all unresolved previous (the past 6) and subsequent tax periods when a Del Ret module is issued on a taxpayer for a specific tax period. The goal of your investigation is to bring the taxpayer into full filing and paying compliance.
- (3) Del Ret cases are worked as a standalone investigation or in combination with a balance due (Bal Due) account or other investigation (OI). The latter is referred to as a “combo case.”

5.1.11.2.3  
(11-29-2023)

**Initial Analysis**

- (1) Review the complete case history when a Del Ret case is first assigned to you. In addition to the case history, several research tools are available on IDRS and CFOL to help in the initial analysis of your case. The Initial Analysis Tool (IAT) is also a useful tool for verifying compliance. Document the following during your initial analysis:
  - All filing requirements
  - All filing and payment compliance issues
  - A plan of action to resolve the case



**Note:** For a Form 1120 series filing requirement, check ICS Entity Detail to determine which form the taxpayer is liable to file. Also check BMFOLE to address both Form 1120 and Form 944 filing requirements.

5.1.11.2.3.1  
(06-02-2004)  
**IDRS/CFOL Command  
Codes (CC)**

- (1) Use IDRS/CFOL command codes to determine the types of tax and the periods for which the taxpayer may be liable. CFOL command codes are available even when IDRS is unavailable. See the IDRS Command Code Job Aid found on SERP at: <http://serp.enterprise.irs.gov/job-aids/command-code/command-code.html>
- (2) Refer to IRM 2.3, IDRS Terminal Responses, for a complete command code list with definitions.
- (3) Consider researching the following IDRS command codes:
  - ENMOD
  - NAMES
  - NAMEE
  - SUMRY
  - TXMOD
  - TDINQ
- (4) Helpful CFOL command codes are as follows:
  - INOLE
  - BMFOL
  - IMFOL
  - RTVUE
  - BRTVU
  - IRPTR

5.1.11.2.3.1.1  
(10-27-2016)  
**Command Code IRPTR**

- (1) Command Code (CC) IRPTR (Information Returns Processing Transcript Requests) allows IDRS users to request either on-line or hardcopy Information Returns Processing (IRP) transcripts from the Information Returns Master File (IRMF).
- (2) CC IRPTR can be used to request data, either online or hardcopy transcripts, for a particular Payee (online or Hardcopy) or Payer (Hardcopy only) using Taxpayer Identification Number (TIN) along with one or more Tax Years (TY).
- (3) Use IRPTR to request a particular Payee or Payer Taxpayer Identification Number (TIN) for up to six prior tax years.
- (4) Valid IRPTR definers are shown below:
  - “E” Payee hardcopy (paper) transcript request
  - “H” Initial help screen
  - “J” Payee nonfiler summary request
  - “L” Summary request IRPOL
  - “O” Payee online transcript request
  - “R” Payer hardcopy transcript request

**Exception:** For online payer summary of wages and withholding, use CC BMFOLU.

  - “W” Payee online sanitized transcript request

- (5) Hardcopy transcripts have a scheduled shipping date and requests are processed every Wednesday at noon EST. Allow up to 1 to 2 weeks from shipping date for receipt. Contact your distribution center for the status of your transcripts.
- (6) The indicator of "FRAUDULENT EIN" appears on BMF income documents on IRPTR which indicate the EIN was obtained using fabricated business information. Do not use these documents to verify information reported on tax returns. If a current year income document is marked, then consider all previous year income documents to be fraudulent.
- (7) IRM 2.3.35 provides additional details on CC IRPTR.

5.1.11.2.3.1.2  
(10-27-2016)

**IRP Selection Criteria  
Codes**

- (1) The Selection Code is a two-digit code indicating the criteria for creation of the Del Ret.
  - a. IRP Selection Criteria Codes are defined in Document 6209, Section 11.7.
  - b. The IMF Del Ret Selection Code is found on the ICS Del Ret Module Summary screen.
  - c. The BMF CCNIP Selection Code is found in the TXMOD "MASTER FILE HISTORY SECTION" (CCNIP-SELECT-CD); it identifies the specific third party source data used to determine whether the taxpayer may be liable to file. The criteria for BMF Selection Codes are in Document 6209, Section 11.7 B.

5.1.11.2.3.1.3  
(04-23-2014)

**State Reverse File  
Matching Initiative  
(SRFMI)**

- (1) SRFMI data on IRPTR is provided by participating state agencies for taxpayers who,
  - a. Filed a state tax return, but have not filed a federal tax return
  - b. Reported higher amounts on a state return than on the federal return
- (2) SRFMI documents are identified as such on IRPTR at the top and bottom of the screen.
- (3) The SRFMI Document code fields on IRPTR are as follows:
  - a. Doc code 30 - wages, taxable interest, business income, capital gain/loss, etc., reported on the state individual income tax return
  - b. Doc code 33 - gross receipts, compensation of officers, salary and wages paid, etc., reported on the state corporate tax return
  - c. Doc code 34 - state wages and state income tax withheld reported on the state withholding tax return
  - d. Doc code 35 - gross sales and services, taxable sales and services, etc., reported on the state sales, service or transaction information return

5.1.11.2.3.1.4  
(11-29-2023)

**Foreign Account Tax  
Compliance Act (FATCA)  
Research**

- (1) The Foreign Account Tax Compliance Act (FATCA) requires US taxpayers to report certain interests in foreign financial assets on Form 8938, *Statement of Specified Foreign Financial Assets* as an attachment to their Form 1040. FATCA also requires foreign financial institutions and certain non-financial foreign entities to report interest in non-US financial accounts or assets held by US account holders on Form 8966, *FATCA Report*. Information contained in Form 8966 may be subject to IRC 6105, *Confidentiality of Information Arising*

*Under Treaty Obligations.* In some instances, treaty restrictions may limit or prohibit the IRS from using the information contained in the Form 8966, *FATCA report*.

- (2) FATCA research can be utilized to identify potential assets with tax implications held outside of the US.
- (3) This research should be completed when there are indications the taxpayer has/had an interest in a foreign bank account, brokerage account, foreign investment fund, or foreign trust, owns/has owned other foreign assets, or is living/has lived outside the United States.
- (4) The Integrated Collection System (ICS) checks the FATCA database on a monthly basis for the presence of FATCA data. If FATCA data is found, an ICS special handling indicator of FATCA-P (primary TIN) , FATCA-S (secondary TIN) or FATCA-B (both TINs) will be present.
- (5) FATCA research is required for IMF High-Income Non-Filer (HINF) delinquent return investigations with unreported income in a single tax year exceeding

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Document the results of the FATCA research in the ICS history.

- (6) Refer to IRM 5.1.18.21, FATCA Research for more information.

5.1.11.3  
(11-29-2023)  
**Taxpayer Contact**

- (1) Attempt the initial contact with the taxpayer in accordance with guidelines and procedures set forth in IRM 5.1.10.3, Initial Contact. If applicable, observe the following during a field contact or obtain available information telephonically or during an office appointment.
  - Taxpayer's standard of living
  - Filing requirements
  - Assets
  - Number of employees
  - Type of business, e.g., construction, sales, consulting
  - Potential income sources and amounts
  - Potential expenses and exemptions, and
  - Other pertinent information that will help determine potential liability and collection potential

**Note:** IRC 7602(e) prohibits the IRS from using financial status or economic reality techniques to determine if the taxpayer received unreported income, absent a "reasonable indication" that there is a likelihood of such unreported income.

- (2) Contact third parties if the Del Ret is not resolved during initial contact. The investigations should include contacts with third parties (e.g., neighbors, business associates, employers, financial institutions) as necessary to resolve the Del Ret through other means. Always follow the IRS's third party contact procedures for advising the taxpayer that third parties may be contacted and for keeping a record of such contacts.

**Note:** The Taxpayer First Act amended IRC 7602(c)(1) and is effective for notices of third party contacts and contacts of third parties made after August 15, 2019. Pub 1, *Your Rights as a Taxpayer*, and the ICS generated Letter 3164, *Third Party Contact Letter*, (revision prior to July 2019) no longer satisfy the advance notice requirements. Advance notice stating intent to contact third

parties must be issued at least 45 days before contact with a third party. When making initial contact, third party notification should not be initiated unless advance notification has been provided and 45 days has passed. See IRM 25.27.1, Third Party Contact Program , and IRM 5.1.1.12, Third Party Contacts, for further guidance..

**Note:** Document your case history with all contacts and appropriate cross-reference information. Local management may provide additional tools for ensuring proper documentation of these actions. Provide a cross-reference in the case history so that the information can be readily located,

- (3) Tax Examiners working Field Collection corporate inventory are not required to make contact in the field with the taxpayer or representative. If a liability determination cannot be made using internal or external data, then the Del Ret can be returned to the Queue. Internal and external data includes data obtained:

- Online
- By phone
- Through the mail, or
- By interviewing the taxpayer in the office

- (4) When the taxpayer states that they are the victim of identity theft, follow the guidelines in IRM 5.1.28, Identity Theft For Collection Employees, for standard documentation requirements and case resolution procedures.

5.1.11.3.1  
(06-02-2004)  
**Taxpayer Rights**

- (1) Observe taxpayer rights when conducting delinquency investigations.
- (2) Verify at first contact that the taxpayer has received Pub 1, *Your Rights as a Taxpayer*. If first contact is by telephone and the taxpayer has not received a copy of the publication, the interview may continue; however, Pub 1 should be sent to the taxpayer.
- (3) Document the case history that the taxpayer has been provided Pub 1 and any questions the taxpayer had were answered.

5.1.11.3.2  
(10-27-2016)  
**Taxpayer Interviews**

- (1) Give taxpayers who reach an impasse during an interview an opportunity to meet with the supervisory official. Advise taxpayers of their appeal rights even if they do not request a higher level of review.
- (2) The taxpayer may be represented during a taxpayer interview by any of the following who is not disbarred or suspended from practice before the IRS, and has a properly executed Form 2848, *Power of Attorney and Declaration of Representative*, from the taxpayer:
- Attorney
  - Certified public accountant
  - Enrolled agent
  - Full-time employee of the taxpayer
  - Immediate family member
  - Or other person permitted to represent a taxpayer before the IRS.

**Note:** If a taxpayer does not have a representative, they may be eligible for assistance from a Low Income Taxpayer Clinic (LITC). For LITC eligibility guidelines see IRS Pub 4134, *Low Income Taxpayer Clinic List* .

- (3) Suspend an interview if the taxpayer clearly indicates that they wish to consult with a representative.
- (4) Serve a collection summons if you believe the taxpayer abuses this process through repeated delays or suspensions of interviews. Document the reasons for non-issuance in such circumstances.

**Note:** Absent a summons, the taxpayer cannot be required to accompany the representative to the interview.

- (5) Notify the taxpayer if you believe the representative is responsible for unreasonable delay or hindrance. Request that the taxpayer appear for an interview and inform the taxpayer that a collection summons requiring the taxpayer's appearance at an interview may be issued. Refer to IRM 5.1.23.6, By-passing a Taxpayer's Representative, for more information and by-pass procedures.
- (6) When appropriate, continue with IRC 6020(b) procedures or referrals to Examination or Criminal Investigation while addressing delays by the taxpayer's representative.

5.1.11.3.3  
(11-29-2023)  
**Full Compliance Check**

- (1) Determine and document whether all returns are filed and paid during initial contact. A full compliance check will include, as appropriate, reference to the following:
  - a. All required IMF and BMF returns including information returns
  - b. Timely payment of estimated taxes and federal tax deposits
  - c. Timely submission of Form 1099, Form W-2 and Form W-3 .
  - d. Employer's retention and submission of Form W-4
- (2) Determine and document the root cause for the tax delinquency and instruct the taxpayer to take the necessary corrective steps.

5.1.11.3.3.1  
(11-29-2023)  
**Documentation of Compliance**

- (1) Confirm all tax periods are filed for the preceding six-year period and secure a copy of the taxpayer's return if necessary. Check compliance through the current tax period including periods previously closed as surveyed or shelved. List all delinquent tax periods and determine the taxpayer's compliance with other types of taxes appropriate for their personal or business activity.
- (2) Document full compliance again after initial contact and periodically as the case progresses, particularly when closing the delinquent return investigation. The ICS history picklist "Full Compliance Check" can be used for compliance documentation.
- (3) Document payment compliance for returns secured with a pre-assessment collection determination.
- (4) Document compliance at case closing.

5.1.11.4  
(02-28-2020)  
**Unable to Locate**

- (1) Use all reasonable efforts to locate the taxpayer before closing the case as unable to locate. See IRM 5.1.18, Locating Taxpayers and Their Assets, for appropriate locator sources. Asset and IRP research may also provide helpful information for locating a taxpayer. See IRM 5.1.11.7, No Return Secured Taxpayer Not Required to File For This Period Only, if assets and/or levy sources are located for an unable to locate/contact taxpayer.

- 5.1.11.5  
(08-15-2001)  
Cases Requiring Special Handling

(2) Group manager approval is required for unable to locate/contact closures.
- 5.1.11.5  
(05-27-1999)  
Restricting Field Contact (PDT/Frivolous Legal Arguments)

(1) Use special processing guidelines found in IRM 5.1.12 , Cases Requiring Special Handling, when working cases of a unique, sensitive or complex nature. For example, taxpayers who
  - Are potentially dangerous
  - Use frivolous legal arguments to delay collection
  - Are under investigation for potential tax fraud
  - Are in bankruptcy .
- 5.1.11.5.1  
(05-27-1999)  
Restricting Field Contact (PDT/Frivolous Legal Arguments)

(1) Avoid field contact, if possible, when working cases on potentially dangerous taxpayers and taxpayers who use frivolous legal arguments to delay collection. Use field contact only after office methods, such as correspondence, telephone contact, and office appointments, have proven unsuccessful. See IRM 5.1.3.5, Armed Escort to Contact a Taxpayer, for armed escort procedures.

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- 5.1.11.5.3  
(02-28-2020)  
Frivolous Nonfilers

(1) Frivolous nonfilers are taxpayers who refuse to file or who file non-processable returns based on arguments not supported by tax law. Review Policy Statement 5–133, Delinquent Returns -enforcement of filing requirements, found in IRM 1.2.1.6.18 and follow the appropriate actions specified in IRM 5.1.11.7, Delinquent Return Investigation Closures, to secure a delinquent return when working frivolous nonfiler cases.

(2) If you determine that a taxpayer has submitted a tax return (original or amended) taking a frivolous position, stamp the return with the date received. Do not send the return to Submission Processing. Instead, send the complete original or amended return with all attachments, including the envelope, to the Frivolous Return Program (FRP) unit address below. Maintain a copy of the return in the case file.

Internal Revenue Service

Frivolous Return Program

1973 N. Rulon White Blvd.

M/S 4450

Ogden, UT 84404

**Note:** For frivolous returns received on ATAT cases, refer to IRM 5.20.10, Abusive Tax Avoidance Transactions, Identification and Processing of Frivolous Documents.

- (4) A person will also be subject to a penalty if the purported return is not based on a position listed in Notice 2010-33, but it meets either a) or b) immediately above and reflects a desire to delay or impede tax administration.
- (5) The IRC 6702(a) penalty is assessed by the FRP unit at the Ogden Compliance Services Campus.
- (6) The FRP unit mails a Letter 3176, *Response to Frivolous Documents/Returns Received from Taxpayers*, along with Pub 2105, *Why do I have to Pay Taxes?*, to the taxpayer informing them of the frivolous argument and requesting they rescind their position and submit any non-filed returns. The FRP unit will monitor for a response from the taxpayer.
- (7) Monitor IDRS for assessment of the IRC 6702(a) penalty (TC 240, PRN 666). If there is no assessment after ten weeks, contact the Ogden Compliance Service Center FRP Coordinator to determine the status.

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5.1.11.5.4  
(11-29-2011)  
**Exempt Organizations**

- (1) Refer a case to Examination on Form 5666, *TE/GE Referral Information Report*, if the following occurs:
  - a. The organization claims to be a church, religious order, or affiliate of a church and no ruling or determination letter is available. Secure a written statement from a responsible officer that the organization is exempt from filing information returns under IRC 6033(a).
  - b. The organization has a ruling or determination letter that it is a Private Foundation, but fails to file Form 990–PF or it claims not to be a private foundation.
  - c. The organization claims it is only subject to file Form 990-N or otherwise not required to file Form 990.
  - d. The organization claims it is no longer in existence, and there is no articles of dissolution or resolution of dissolution, no final return, or no record of final disposition of assets.
  - e. If a person or entity claims the Del Ret organization has merged with another organization, then note the name and EIN of the surviving organization as well as the merger details. There should be Articles of Merger or a similar document.
  - f. The organization claims to be an instrumentality or governmental unit, its status is questionable, and there is no ruling or determination letter about its governmental status or the exclusion of income under IRC 115.
  - g. The organization claims to be a subordinate in a group exemption ruling (e.g., local post or chapter) and fails to file returns.
  - h. A tax-exempt *charitable* organization described under IRC 501(c)(3) is supporting or opposing candidates for public office.
- (2) Contact TE/GE Customer Account Services at 877–829–5500 in Cincinnati and notify them of any changes that would affect their Exempt Organization Master File.

5.1.11.5.4.1  
(02-28-2020)  
**Revocation of Tax Exempt Status**

- (1) Not all exempt organizations are required to file returns or notices. If an organization that is required to file but fails to file the following notices or returns for three consecutive years, it will automatically lose its tax exempt status:
  - a. Form 990, *Return of Organization Exempt from Income Tax*
  - b. Form 990–EZ, *Short Form Return of Organization Exempt from Income Tax*
  - c. Form 990–PF, *Return of Private Foundation*
  - d. Form 990–N, *e-Postcard*
- (2) The tax-exempt status is revoked as of the filing due date of the third year. The Form 990 filing requirement will convert to a Form 1120 or Form 1041 filing requirement effective beginning with the tax year after the revocation and the organization must file a return covering the remainder of the revocation tax year



- (3) Review the taxpayer's Form 990 filing history, filing requirements, delinquent periods, and the due date of the delinquent return(s). See this link for Form 990 series filing requirements, <https://www.irs.gov/charities-non-profits/form-990-series-which-forms-do-exempt-organizations-file-filing-phase-in>
- (4) Determine whether the tax-exempt status has been or will be revoked for failure to file Form 990 series return for three consecutive years, and the due date (or extended due date) of the third year's filing has passed.
  - a. The tax-exempt status has been systemically recognized as revoked if Exempt Organization status code 97 appears on CC ENMOD (EO-STAT), CC INOLES (STS-CD), or CC BMFOLO (Current Status CD).
  - b. If the taxpayer has not filed the required Form 990 series for three consecutive years, and if the due date (or extended due date) of the third year's filing has passed, the tax-exempt status will be revoked, even though status code 97 has not been generated.

**Reminder:** A prior year closed Del Ret filing requirement does not mean a return was filed.

- (5) If the tax exempt status has been or will be revoked, no further action is required to secure a return or initiate a referral. Select "**Shelved**" from the "Close Del Ret" menu. ICS generates a TC 598 cc 057 to IDRS.
- (6) If a Form 990 series return has been filed for one or two of the three previous years, then the tax exempt status is retained and a Form 990 is due for the unfiled year(s). Contact the taxpayer to secure the unfiled return(s). See IRM 5.1.11.7.5, Referrals to Tax Exempt and Government Entities (TE/GE), for referral procedures if the taxpayer refuses to file.

**Exception:** If the taxpayer is a Form 990–N filer, **do not** secure a return.

For a current year Form 990–N, ask the taxpayer to submit the electronic Form 990–N, or "e-Postcard," on the IRS website.

5.1.11.5.5  
(11-29-2011)  
**Wagering Taxes**

- (1) Field Collection is responsible for securing delinquent wagering, occupational, and/or excise tax returns, except when:
  - a. Evidence of criminal activity or fraud is discovered.
  - b. Notification is received advising that the taxpayer is the subject of a criminal investigation.
  - c. Extensive scrutiny of records requires Examination involvement.
  - d. The taxpayer is a tribal entity or tribal casino. Review IRM 4.86.1, Indian Tribal Governments (ITG) Procedures, Indian Tribal Administration and Policy, for additional information.

5.1.11.5.6  
(04-23-2014)  
**Bankruptcy Cases**

- (1) **Stop** all balance due enforcement actions upon learning that the taxpayer has filed a petition under any chapter in bankruptcy.
  - a. Secure and process all delinquent returns in accordance with IRM 5.1.11.6.
  - b. Determine the petition date and docket number.
  - c. Do not demand payment for pre-bankruptcy periods.
- (2) See IRM 5.9.3.9, Revenue Officers and Insolvency, for additional information and necessary actions.

5.1.11.5.7  
(02-28-2020)  
**IRS Employee Return  
Delinquency**

- (1) IRS employee Del Rets are identified by specific Selection Codes. Refer to Document 6209, Section 11.7, for the Selection Code assignment by Delinquent Tax Year and Business Operating Division (BOD).
- (2) Area offices will designate an experienced revenue officer and back-up to work IRS employee cases.
- (3) IRS employee cases bypass ACS and are systemically assigned to the Area ICS/Entity Quality Analyst (IQA) via the Integrated Collection System (ICS).
  - a. The IQA is responsible for receipt, control, and assignment of these cases.
  - b. The IQA will notify the Area Director (AD) or a designated member of the AD's staff by secure email of all IRS employee cases within their area.
  - c. These cases are identified by Taxpayer Identification Number, name, and address as shown on the latest tax return.
  - d. The AD will ultimately be responsible for identifying any conflict of interest in assignment of IRS employee cases.
- (4) Potential violations under RRA '98 Section 1203 (b)(8), "willful failure to file a federal tax return," or (b)(9), "willful understatement of federal tax liability" are generally identified through the Employee Tax Compliance (ETC) program. Do **not** refer these cases to TIGTA.

**Note:** Refer the taxpayer to Criminal Investigation (CI) if elements of potential fraud are identified. See IRM 5.1.11.7.2 for guidance in preparing and processing CI referrals.

- (5) IRS employee cases are worked like any other taxpayer delinquent return investigation.

**Exception:** IRS employee cases are systemically blocked from closure under the provisions of Policy Statement 5-133, as Unable to Locate - TC 593, as Surveyed- TC 597 or as Shelved- TC 598.

**Exception:** IRS employee cases cannot be transferred to Automated Substitute for Return (ASFR). For IRS employee enforcement referral, see IRM 5.1.11.7.3.2.1.

- (6) Follow the procedures in IRM 5.1.11.6 when a delinquent return is secured. Record the following information in the ICS history:
  - a. Date the return was secured
  - b. Amount of tax, penalty, and interest due identified by "T P I DUE"
  - c. Amount of refund due identified as "REFUND"
  - d. Amount due "AMT. DUE"
  - e. Date paid "DATE PD"
  - f. "EMPLOYEE DECEASED" when applicable
- (7) Always protect against inappropriate disclosures due to the sensitive nature of IRS employee cases.
- (8) If the taxpayer is no longer an employee of the IRS or the secondary coded case is on an ex-spouse and there are no outstanding joint liabilities with the IRS employee, request input of TC 972, AC 191 on Form 4844 to turn off the

IRS Employee Indicator. Note in the Remarks section of the form “Reversing IRS employee Indicator.” Allow two cycles for removal of the indicator.

- (9) Remove the FED Indicator by requesting TC 972, AC 51 only if the taxpayer is **not** a federal employee or retiree.

5.1.11.5.8  
(05-27-1999)  
**Delinquent Return  
Transfers**

- (1) Intra-Area Del Ret transfers are input using ICS and require managerial approval.
- (2) Initiate a Courtesy Investigation (see also IRM 5.1.8.2, Originating Office Procedures, to propose a transfer if:
- a. The taxpayer fails to acknowledge receipt of Letter 729, *Requesting Delinquent Return*, sent to the new address, or
  - b. You are unable to confirm a change of address.
- (3) Indicate the potential taxpayer address in the “**Action Information**” portion, and specify the action required in the “**Action Requested**” portion of the request for a Courtesy Investigation.

5.1.11.5.8.1  
(05-27-1999)  
**Transfer Without Prior  
Courtesy Investigation**

- (1) Del Rets may be transferred without first requesting a Courtesy Investigation if:
- a. They accompany Bal Dues on the same taxpayer that are being transferred
  - b. The Del Rets, as issued, show an address in another area, and
  - c. Terminal research does not show a more current address within your area, the taxpayer is not incarcerated, and the address is not a P.O. Box or in care of a motel or hotel, or employer, or
  - d. The transferee office requests or agrees to the transfer, or
  - e. Correspondence received from the taxpayer or personal contact with the taxpayer provides a new address.

Change the taxpayer’s address on ICS before the transfer. Select the reason for the transfer and secure managerial approval

- (2) Transfer corporate Del Rets only if the corporation itself, not merely one or more officers, is located in the transferee area’s territory.
- (3) Transfer joint or partnership Del Rets only if all the taxpayers reside in the transferee area’s territory.
- (4) Transfer a Del Ret if the taxpayer acknowledges receipt of Letter 729, *Requesting Delinquent Return* or a similar letter, but does not respond sufficiently to close the Del Ret.

5.1.11.5.8.2  
(02-28-2020)  
**Military Personnel**

- (1) If a military taxpayer is stationed within the United States and the District of Columbia (not including US territories/possessions) and correspondence does not resolve the case, initiate a Courtesy Investigation proposing transfer.
- (2) If a military taxpayer requests personal contact and is stationed outside the United States, initiate a Courtesy Investigation requesting assignment to A/C International, Area 35.

**Reminder:** Transfer of the Del Ret to Area 35 is not permitted

5.1.11.5.8.3  
(10-27-2016)  
**Other International  
Delinquent Returns**

- (1) Initiate a request for a Courtesy Investigation for possible transfer by choosing on ICS “Puerto Rico” or “A/C International” if the:
  - a. Taxpayer has moved to an unconfirmed address outside the United States,
  - b. Del Ret cannot be resolved through correspondence,

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**Note:** For combo cases, see IRM 5.1.8.1.4, Account Transfers to International.

- (2) Give specific instructions in the “**Action Requested**” box on the Courtesy Investigation request for each return to be secured or action to be taken.
- (3) If the address is confirmed and the Del Ret cannot be resolved through correspondence, then transfer the Del Ret per the procedures in IRM 5.1.8.1.4 .

**Note:** A revenue officer (RO) can close a module meeting conditions for transfer to International under P-5-133 criteria. However, if there are indications that the taxpayer is employed overseas or has additional income that is not on IRP, the account should be transferred to International.

5.1.11.5.9  
(02-28-2020)  
**Delinquent Return  
Refund Hold Program**

- (1) Refer to Delinquent Return Refund Hold procedures found in IRM 25.12.1, Processing Refund Hold Program Inventory. This IRM subsection contains the criteria for holding a taxpayer’s refund while investigating the delinquent return(s) and the functional procedures for screening, working, and monitoring cases.

- (2) The IRS holds individual income tax refunds, debtor Master File offsets, and

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quency in the five years prior to the current filing year. Refund hold modules can be identified by the following:

- a. Freeze code “-R” on the IDRS module for the year of the refund being held
  - b. TC 570 with 999 in the Julian date of the document locator number
- (3) The Delinquent Return Refund Hold program delays issuing an income tax refund up to six months while the IRS investigates a return delinquency. The refund is released to the taxpayer after it is used to offset any balance due on the delinquent return(s).
- (4) If you are unsuccessful in securing the return(s), refer any select code stand-alone Del Ret module with a Refund Hold indicator to the Automated Substitute for Return (ASFR) or the appropriate Examination process using the applicable ICS closure. See IRM 5.1.11.7.3.

5.1.11.5.10  
(02-28-2020)  
**Taxpayers Who Are  
Federal Contractors**

- (1) See IRM 5.7.9.2.1, Identifying Federal Contractor (FEDCON), for information on the Masterfile that identifies the taxpayer as a federal contractor.
- (2) Per IRM 5.7.9.4, ENTITY-Query for Federal Contractor TDIs in the Queue promptly assess unpaid delinquent returns secured from a federal contractor or vendor. See IRM 5.1.4.5, Prompt Assessments.

**Exception:** Follow normal return processing procedures if prompt assessing will not facilitate collection, i.e., balance due nominal or will be included in an installment agreement or reported currently not collectible.

5.1.11.5.11  
(02-28-2020)  
**The Taxpayer Protection Program**

- (1) The Taxpayer Protection Program (TPP) is responsible for identifying potential identity theft cases that are scored by a set of identity theft models in the Dependent Database (DDb); selected through filters in the Return Review Program (RRP) system; or manually selected by Return Integrity Verification Operation (RIVO). See IRM 25.25.6.1.7 for an overview of the TPP.
- (2) The premise of the Taxpayer Protection Program is to screen returns for identity theft indicators early in the IRS's return submissions process and engage with taxpayers then, instead of processing suspicious returns and relegating victimized taxpayers to the more burdensome ID Theft Affidavit process. The Taxpayer Protection Program generally involves four functional steps.
  - Identifying, removing and holding suspicious returns from the normal processing flow,
  - Notifying the affected taxpayers by mail that they must take further action to authenticate themselves and clear their return,
  - Providing multiple mechanisms (digital, telephonic or in-person) for legitimate taxpayers to authenticate themselves and their returns, and
  - Completing the processing and refund issuance for taxpayers who have successfully authenticated their returns
- (3) For returns identified with potential identity theft indications, the processing of the return is stopped and the tax return information is posted to MFT 32.
- (4) Employees should be aware of the TPP when working Del Ret cases, and research MFT 32 before proceeding with 6020(b) or referral activity.

5.1.11.5.12  
(11-29-2023)  
**MFT 32 and Unpostable 126 Procedures**

- (1) Revenue officers may encounter situations in which the taxpayer states they have filed a return. However, a return has not posted to MFT 30 under their TIN and there are Taxpayer Protection Program (TPP) indicators on the account. The following are indications of TPP involvement:
  - TC 971 AC 121 or TC 971 AC 124 is present and a return (TC 150) is unpostable (UP) 126 reason code (RC) 0 on CC TXMODA
  - TC 971 AC 111 is present on MFT 30 and TC 976 is present on MFT 32 – CC TRDBV CODES screen shows Unpostable code 126 reason code 0
  - TC 971 AC 129 is present on MFT 30 and the refund is held with a -R freeze
  - The return moved to MFT 32 or the return was archived/deleted in the TPP process on CC TRDBV or the return is not posted on MFT 30 or MFT 32.

**Note:** The return may or may not be the taxpayer identification number (TIN) owner's valid return.
- (2) If the account contains unresolved TPP indicators or the presence of an MFT 32, these markers should alert the revenue officer to perform high-risk authentication. Refer to IRM 25.25.6.4(8), Taxpayer Protection Program (TPP) High-

Risk Authentication (HRA) Procedures, for manual TPP - high-risk authentication. Additionally, refer to IRM 25.25.6.5.1, Authentication Passed and the Taxpayer Filed the Return in Question, to verify the validity of the taxpayer and the return in question.

- (3) After completing the high-risk authentication process and considering the taxpayer authenticated, the revenue officer must follow the procedures outlined in the "If/Then" table under paragraph (2) in IRM 25.25.6.2.3, Exam/Collection/Compliance Office Employees - Procedures for Cases with Taxpayer Protection (TPP) involvement, to resolve the unpostable condition.
- (4) Revenue officers who are meeting/calling the taxpayer to determine if that return was filed by them, could start by asking the taxpayer if they received any of the TPP letters which include the following: Letter 4883-C, Letter 5071-C, Letter 5447-C, or Letter 5747-C

**Note: The issuance of these letters can be identified by markers on CC ENMOD or CC TXMOD. The letters are sent via an automated letter process directly from letter support.**

- (5) If face-to-face contact is made with the taxpayer (or over the phone for International) and authentication is completed, the revenue officers should take the following actions to refer the questionable period to return integrity verification operations (RIVO) using the procedures outlined in the "If/Then" table under paragraph (2) in IRM 25.25.6.2.3, Exam/Collection/Compliance Office Employees - Procedures for Cases with Taxpayer Protection Program (TPP) Involvement.
- (6) If the taxpayer indicates that they have previously authenticated their information through phone, correspondence, or fax, it is important to gather more details. Begin by asking the taxpayer for the specific date on which they authenticated their information. This will help determine whether the authentication falls within the processing time frame of 9 weeks (or 16 weeks if the submission was made via fax or mail). Refer to the table below:

If	Then
the authentication date <b>does not</b> fall within the appropriate timeframe	<ul style="list-style-type: none"> <li>advise the taxpayer that although it may take up to 9 weeks to complete the processing of the return (or 16 weeks for fax or mail submission) if expecting a refund, they can check the status of their refund by visiting the Where's My Refund? webpage if the anticipated refund is from the last three years at <a href="https://www.irs.gov/refunds">https://www.irs.gov/refunds</a>.</li> <li>the taxpayer may call toll-free, 800-829-1040 (or 267-941-1000 for International taxpayers), if they don't have access to the internet or requires additional assistance after 9 or 16 week timeframe.</li> </ul>

5.1.11.6  
(11-29-2023)  
**Secured Returns**

- (1) Advise the taxpayer that all tax, penalty, and interest is immediately due when a delinquent return is secured.

**Exception:** The taxpayer is in bankruptcy and the secured returns are for pre-petition periods.

- (2) If a taxpayer advises you that they are in bankruptcy, check IDRS prior to submitting the return(s) to make sure a TC 520 cc XX has been input. If a delinquent balance due return(s) is secured and there is no TC 520 cc XX, contact Centralized Insolvency by telephone so they can determine if a freeze code is necessary before sending the return to the campus for processing. Close the Del Ret module on ICS using the appropriate submenu option for Bankruptcy. Send a copy of all balance due returns to Insolvency. See IRM 5.9.3.9, Revenue Officers and Insolvency.
- (3) Date-stamp all delinquent returns secured in Collection with an official "Received" date stamp. Additional information about the official date stamp is found in IRM 5.1.2.2.3(3), including alternatives such as handwritten recordation when the official date stamp is not available.
- (4) Write TC 599 and the applicable closing code (cc) on the upper left margin of the return and close the Del Ret module on ICS using the "Return Secured" closing option and appropriate submenu option. See IRM 5.1.11.8.1.
- (5) Refer a return to Criminal Investigation (as described in IRM 5.1.11.7.2) if a delinquent return appears to have fraud potential related to a questionable refund.



- (6) If both balance due and refund returns are secured, complete the contact information on Form 13133, *Expedite Processing Cycle*. The refund returns will subsequently post and offset to the balance due module.
- (7) Acceptance of faxes and signature stamps on secured delinquent returns and to resolve post-filing issues is allowed in the following instances:
- Filing of original tax return via fax is allowed as part of a return perfection process (e.g., securing missing schedule or missing signature) initiated by the IRS or in post-filing/nonfiling activities where contact with the taxpayer has been made and documented.
- Note:** Label the top of IMF return(s) with the faxed signature "Process as original."
- Return preparers may sign original returns, amended returns, or requests for filing extensions using a signature stamp, mechanical device, or computer software program; however, taxpayers must continue to sign their returns with an original signature or other authorized alternative (e.g., PIN). For authority see Notice 2004-54.
  - Corporate officers or duly authorized agents may sign Form 94X series, Form 1042, Form 8027, Form CT-1 or any variant of such designated forms by rubber stamp, mechanical device, or computer software program. See Rev. Proc. 2005-39 for authority.
  - Preparer/taxpayer signature stamps will not be permitted when signing other documents such as powers of attorney or inquiry/resolution related documents. See Notice 2004-54 for authority.
- (8) The Document Upload Tool (DUT) is a portal located on IRS.gov where taxpayers can upload requested documentation by using a one-time use only Unique Access Code (a 10-digit alphanumeric code provided by an IRS employee). The DUT provides employees with an option to receive necessary documentation from taxpayers in real time. It also provides taxpayers an option to provide necessary documentation securely to the requesting employee. Wherever Eefax is referenced as an acceptable means of securing documents, the DUT will also be acceptable, when available.
- (9) If the taxpayer has the necessary documents available during contact, inform them that documents may be submitted to you using DUT by following the steps:
- Generate a Unique Access Code
  - Provide the taxpayer the Unique Access Code and url to the DUT site, [www.irs.gov/sendmyreply](http://www.irs.gov/sendmyreply)

**Note:** Only documents with file extensions of pdf, jpg and png can be uploaded

- Multiple files can be uploaded, up to a maximum size of 15 mb per file or document
- Advise the taxpayer to read and follow the screen prompts that will be displayed
- Files may be retrieved as soon as they are uploaded by the taxpayer
- Files received via the DUT will be labeled with the date and time much like correspondence received by fax



5.1.11.6.1  
(02-28-2020)  
**Returns With Payment**

- (1) Compute and include all penalties and interest in the full amount due.
- (2) Apply partial payments secured on multiple returns first to the oldest return in order of tax, penalty, and interest, unless the taxpayer specifically designates otherwise.
- (3) See IRM 5.1.11.8.1 for ICS module closure instructions.

5.1.11.6.2  
(11-29-2023)  
**Returns Without Full Payment**

- (1) Contact the taxpayer and demand full payment (see IRM 5.1.10, Taxpayer Contacts) when a return is received without full payment of tax, penalty, and interest. If full payment is not secured, make all reasonable efforts to collect full payment. If the taxpayer is unable to pay the liability in full, resolve the liability in one of the following ways:
  - a. Grant an installment agreement (see IRM 5.14, Installment Agreements)
  - b. Report the account currently not collectible (see IRM 5.16, Currently Not Collectible )
  - c. Continue the investigation
- (2) Write "TC 599 cc 069" on the upper left margin of the secured return and close the ICS Del Ret module per IRM 5.1.11.8.1.
- (3) If a Collection Information Statement (CIS) is secured, verify the information contained on the CIS without delaying the processing of the return.
- (4) Open an "ICS Only Pre-Assessed" module to complete the investigation if the liability is not resolved by full payment.
- (5) If the subsequent investigation reveals assets that can be used to collect the liability, then monitor the assessment of the secured delinquent return and request assignment of the Bal Due through your group manager via CC STAUP and ASSIGN I/B.
- (6) If enforced collection action will be taken, then request a prompt assessment per IRM 5.1.4, Jeopardy, Termination, Quick and Prompt Assessments.
- (7) If the taxpayer is in bankruptcy, then write TC 599 and the appropriate taxable or nontaxable cc on the return. Assessments can be made on returns where the bankruptcy was filed on or after October 22, 1994. See IRM 5.9.4.3.1(2), BAPCA and BRA94's Effect on Assessments.
- (8) See IRM 5.1.11.7.7 and IRM 5.1.11.8.1 for the appropriate case and ICS closing actions for returns prepared and filed under IRC 6020(b).
  - a. Write TC 599 cc 063 on the upper left margin of the return if unagreed or no response.
  - b. Write TC 599 cc 064 on the upper left margin of the return if agreed or signed by the taxpayer.
- (9) BMF or IMF Del Rets closed with closing codes 063 or 064 with TC 599 receive a first notice from the Master File with Pub 1 and are then accelerated to Bal Due status 26 the following week.
- (10) Initiate a Trust Fund Recovery Penalty investigation on any secured trust fund returns, if required.

5.1.11.6.3  
(11-29-2023)

**Referrals of  
Underreported Tax**

- (1) You may periodically encounter tax returns with potential underreported tax. This may happen when you are:
- Working an assigned Del Ret and the taxpayer files an original return
  - Working an SFR Bal Due and the taxpayer files an original return for reconsideration of the SFR assessment
  - Comparing financial documents with a previously filed return
- (2) If this occurs, do not attempt to audit, examine, or verify the correctness of the

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ensure the secured return is valid (signed and complete) and attempt to resolve with the taxpayer any discrepancies or omissions.

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- (3) Upon receipt of an original return filed for reconsideration of an SFR assessment do the following:
- a. Compare the income reported on the return with the information on IRPTR and attempt to resolve obvious omissions and discrepancies
  - b. Ensure that the proper schedules are filed according to the types of income shown on IRPTR
  - c. Determine if any income that has not been subject to withholding or reported on Form 1099 or other such IRP documents has been reported on the return
  - d. Compare withholding reported to the IRS to that stated on the return

**Note:** Follow the procedures in IRM 5.1.15.4, Audit, Automated Underreporter (IMF-BMF AUR), Substitute for Return (SFR) and Automated Substitute for Return (ASFR) Reconsideration, or IRM 5.1.15.6, Business Master File (BMF) IRC 6020(b) Adjustments, to process an original return filed to request reconsideration of an SFR assessment. Unresolved discrepancies or omissions may result in rejection by the campus of the reconsideration request.

- (4) In all investigations, be alert to discrepancies that may indicate underreporting on a tax return.

**Example:** Bank statements used to verify income reported on Form 433-A show deposits far in excess of the income claimed on the tax return.

**Example:** Bank statements do not show payments for expenses claimed such as alimony, medical or Schedule C expenses.

5.1.11.6.3.1  
(11-29-2023)

**Audit Referral  
Preparation and  
Processing**

- (1) A referral of underreported tax can be made to Correspondence Examination or Field Examination depending on the type of tax and complexity of the issues involved.

**Note:** Any unprocessed delinquent returns must be sent for processing. Only send a copy to Examination.

**Note:** Correspondence Examination works Form 1040 and Schedules A and C only and is the most efficient audit option for Form 1040. Any business related returns must be sent to Field Examination.

- (2) A return is eligible for referral to Correspondence Examination when the following conditions exist:
  - a. Form 1040 and/or related Schedule A and/or C (Schedule A and/or C for years prior to 2018)
  - b. At least 18 months remains on the Assessment Statute Expiration Date (ASED). For timely filed returns, the ASED is three years from the return due date. For late filed returns, the ASED is three years from the date the return is filed. See IRM 25.6.1, Statute of Limitations Processes and Procedures, for more information on determining ASEDs.
  - c. Must have IRP documents showing the unreported income. If income is not on IRP, see IRM 5.1.11.7.3.3.
  - d. Potential underreported tax is sufficient to warrant the cost of an audit
  - e. Documentation supports the referral
  - f. Collection potential exists

- (3) For a referral to Correspondence Examination, E-fax Form 3449, *Referral*

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**Exam CCS CWI.** If the referral documents are unable to be sent electronically, the revenue officer should send their contact information by e-fax or e-mail and will receive a response on alternative methods available to submit.

- (4) For Field Examination referrals of any IMF (Form 1040) or BMF (Form 1065, Form 1120 or Form 1120-S) do the following:
  - a. Consider the ASED, see (2) b. above
  - b. Consider collectibility
  - c. Complete Form 3449, *Referral Report*
  - d. Attach all documentation to Form 3449
  - e. Secure group manager approval
  - f. For submission of Collection Referrals to Field Exam, forward Form 3449 and documentation to the local Planning and Special Programs (PSP) co-ordinator for classification via the following e-mail address based on the taxpayer's location.

Area	States	CA Zip Codes	Info Referral Mailbox Address
01 North Atlantic	CT, MA, ME, NH, NJ, NY, RI, VT	Table cell intentionally left blank	<i>mailto:*SBSE Area 201 Information Referral Program</i>
02 Central	DC, DE, IN, KY, MD, OH, PA, TN, VA, WV	Table cell intentionally left blank	<i>mailto:*SBSE CENTRAL PSP INFO ITEMS</i>
03 South Atlantic	FL, GA, NC, SC, Puerto Rico	Table cell intentionally left blank	<i>mailto:*SBSE Exam SAA PSP Referral</i>

Area	States	CA Zip Codes	Info Referral Mailbox Address
04 Midwest	IA, IL, KS, MI, MN, MO, ND, NE, SD, WI	Table cell intentionally left blank	<i>mailto:*SBSE Midwest Infor Request</i>
05 Gulf States	AL, AR, LA, MS, OK, TX	Table cell intentionally left blank	<i>mailto:*SBSE 205 PSP Info Item Referrals</i>
06 Western	AK, CO, ID, MT, NV, OR, UT, WA, WY, Northern CA	94000-96199 93620 93623 93635 93661 93665	<i>mailto:*SBSE Western Area Information Referrals</i>
07 Southwest	AZ, HI, NM, Southern CA	90000-93999 95004 95012 95023 95024 95039 95043 95045 95075 96107	<i>mailto:*SBSE 207 PSP Info Item Referrals</i>

- (5) Contact an employment tax specialist to discuss potential underreported tax on employment tax returns. Refer underreported tax on employment tax returns (Form 940, Form 941, Form 943, Form 944 and Form 945) to the Employment Tax Examination Program electronically. Go to : <https://srs.web.irs.gov/> for additional information .

**Exception:** For situations of underreported tax on employment tax returns for Indian Tribal Government (ITG) entities, see IRM 5.1.12.24.2, Indian Tribal Government Procedures to coordinate with an Indian Tribal Government (ITG) Specialist.

- (6) To refer an Estate or Gift tax underreporting issue (filed or unfiled return) do the following:
- Prepare a memorandum to the Estate and Gift Tax Examination Unit and include: taxpayer name and address; a detailed description of the potential non-compliance; sources of the lead and/or information; your name and phone number; your group manager's approval.
  - Forward the memorandum with copies of all documentation supporting the potential non-compliance attached on Form 3210, *Document Transmittal* to the following address:

Internal Revenue Service

Attention E&G Team 105

Stop 824-G

201 W Rivercenter Blvd.

Covington, KY 41011-1430

5.1.11.7  
(03-13-2013)  
**No Return Secured**

- (1) Do not solicit delinquent returns when information is discovered that a taxpayer's failure to file a required return is willful or there is any indication of fraud. Suspend compliance activities, promptly report the findings to the Area Fraud Coordinator and process a referral to Criminal Investigation if warranted. See IRM 25.1, Fraud Handbook and IRM 5.1.11.7.2.
- (2) If during initial contact the return is not secured, no willful failure to file is established, and no indications of fraud exist, then set a specific date for the taxpayer to file the return(s).
- (3) Inform the taxpayer that failure to file the delinquent return(s) by the specific date is considered a refusal to file under the provisions of the Internal Revenue Code and that enforcement action may be taken.
- (4) Determine the extent of enforcement activity when a taxpayer is advised to file all required delinquent returns but neglects, refuses, or states an inability to file within the established time frame. See IRM 5.1.11.7.1 to make an enforcement determination.

**Note:** If necessary, assist taxpayers who state an inability to file by providing them with any income information reported to IRS for the delinquent year and directing them to IRS.gov to obtain tax forms.

- (5) Enforcement actions pursued by Collection employees include:
  - a. Summons to appear on a given date to give testimony or produce existing books, papers and records or both; see IRM 5.17.6, Summonses
  - b. IRC 6020(b) authority to prepare and process employment, excise tax and partnership returns; see IRM 5.1.11.7.7.
  - c. Referral
- (6) A referral decision to enforce filing requirements is based on the type of return, characteristics, and the complexity of the unfiled return. Depending on the type of return, characteristics and complexity of the case, non-fraud referrals are appropriate to one of the following functions or processes:
  - a. Automated Substitute for Return (ASFR) unit, (IMF only); see IRM 5.1.11.7.3.1
  - b. Examination Referral to Memphis Campus (IMF only); see IRM 5.1.11.7.3.2
  - c. Examination Referral IMF Form 3449; see IRM 5.1.11.7.3.3
  - d. Examination Referral BMF Form 3449; see IRM 5.1.11.7.4, IRM 5.1.11.7.5, and IRM 5.1.11.7.6.

5.1.11.7.1  
(02-28-2020)  
**Enforcement  
Determination**

- (1) The determination to pursue or not pursue a return will depend upon the facts of each case. Review IRM 1.2.1.6.18, Policy Statement 5-133, Delinquent returns—enforcement of filing requirements, for general guidelines and factors to consider when determining whether to pursue enforcement of filing requirements and secure a return.
- (2) The specific factors that must be considered when making an enforcement determination are as follows:
  - a. Degree of flagrancy
  - b. History of noncompliance
  - c. Impact on future voluntary compliance
  - d. Whether the delinquency involves trust fund monies collected
  - e. Special circumstances peculiar to a specific taxpayer, class, industry or type of tax
  - f. Existence of income from illegal sources
  - g. Minimal or no Tax due
  - h. Cost to the IRS to secure a return with respect to anticipated tax revenue
  - i. Bankruptcy (contact Insolvency)

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- (4) Enforcement of filing requirements will normally be pursued for a six year period. Always request all (non-fraudulent) unfiled returns. The taxpayer may file for all open periods regardless of the age of the delinquency.
- (5) Document the case history with the facts and reasons supporting your decision. If after consideration of the factors above, a determination is made that more or less than six years of filing requirements will be enforced, then managerial approval is required.
- (6) Calculate the six year period for enforcement by starting with the tax year that is currently due and go back six years.

**Example:** If making a field call on October 1, 2022, the enforcement period will cover tax years 2016 through 2021.

- (7) P-5-133 allows an investigating employee to close a Del Ret without enforcement because the non-filing is not willful, and:
  - a. There would be no tax due on the delinquent return; or
  - b. There would be minimal net tax due on the return (see IRM 5.1.11.7.1(3) above); or
  - c. The cost to the IRS to secure a return would exceed anticipated revenue.

**Note:** Examine and calculate anticipated revenue on a case-by-case basis over the length of the Collection Statute for both the potential Bal Due and all other Bal Dues already on the entity.

**Note:** Consider the impact of not filing a Notice of Federal Tax Lien for assessments not pursued based on a P-5-133 determination.

- (8) Generally, when closing a Del Ret under (7) c. above, the nonfiler's current ability to pay will not be the primary factor in determining whether or not to secure less than six years of returns. On a case-by-case basis, apply prudence when it is clear from information available that the nonfiler does not have or will not have the ability to pay some if not all of the potential tax liability over the 10 year statutory collection period (CSED).
- (9) The following are examples of situations where we would not pursue returns because the cost to secure the return would exceed anticipated revenue:
  - a. A defunct corporation where no assets exist to satisfy any part of a tax liability and there is no possibility of a transferee or trust fund recovery penalty assessment.
  - b. A deceased taxpayer where no estate exists to satisfy any part of a tax liability and there is no possibility of a transferee assessment.
  - c. A foreign national taxpayer who has departed the United States with no expectation of return and no identifiable assets exist in the United States to satisfy any part of the tax liability, or collection cannot be pursued abroad through terms of a tax treaty or lack of a tax treaty.
  - d. A taxpayer whose minimum incarceration is a period equal to or exceeding the normal collection period and no identifiable assets exist to satisfy any part of the tax liability.
  - e. A taxpayer who has minimal assets and earning potential due to advanced age, illness, or debilitating condition which will permanently diminish income producing potential.
  - f. A taxpayer with minimal assets and earning potential who has substantial assessments with established CSEDs that will not allow for collection of any more than minimal amounts of the potential balance due arising from a new assessment.
- (10) The following returns must be secured and should not be closed under the provisions of P-5-133:
  - a. Nontaxable returns such as those in Form 990 series
  - b. Form 1065, *U.S. Return of Partnership Income*
  - c. Form 1120-S, *U.S. Income Tax Return for an S Corporation*
  - d. IRS employee returns
- (11) "Net tax due" on employment tax returns is determined before the application of credits. See IRM 5.1.11.7.1(3), above for P-5-133 thresholds.
- (12) Inform taxpayers personally contacted on a potential refund return that a refund will only be issued if a return is filed within three years of the due date of the return. See IRM 25.6.1.5, Statute of Limitation Issues.



5.1.11.7.1.1  
(11-29-2023)

**Enforcement Not  
Pursued: Policy  
Statement 5–133  
Closures**

- (1) Take the following actions for each Del Ret closed under the provisions of Policy Statement 5–133:
  - a. Document the result of the field contact or, if applicable, the reasons why a field call was not made, , along with the reason for closure under the provisions of P-5–133 (see IRM 5.1.11.7.1(7) ).Taxpayer contact has to be confirmed or an appointment made with the taxpayer prior to an attempted field contact as addressed in IRM 5.1.10, Taxpayer Contacts.
  - b. Compute the anticipated tax due for each period and include in the ICS closing narrative history
  - c. Select **No Return Secured**, and the P-5-133 submenu closing action (see IRM 5.1.11.8.3)
  - d. Secure managerial approval

5.1.11.7.1.2  
(03-01-2007)

**Pursue Enforcement: A  
Return Must Be Secured**

- (1) Enforcement actions pursued by Collection employees include:
  - a. Summons (IRM 5.17.6, Summonses)
  - b. IRC 6020(b) authority (IRM 5.1.11.7.7)
  - c. Referral (IRM 5.1.11.7.2 through IRM 5.1.11.7.6.)

5.1.11.7.2  
(11-29-2023)

**Referral to Criminal  
Investigation**

- (1) The *Fraud Handbook*, found in IRM 25.1 is the comprehensive guide for compliance functions. It covers the development of potential fraud issues, referrals for criminal fraud, and the duties and responsibilities for joint investigations. Use this guide as a reference for identifying and developing criminal investigation referrals.
- (2) Fraud may exist where a taxpayer willfully attempts to illegally underreport taxes, not pay taxes, or both. Willfulness means the individual acted deliberately with the specific intent of violating the law.
- (3) Refer and discuss issues of potential fraud with the Fraud Enforcementl Advisor.
- (4) You are responsible for identifying potential fraud and referring that taxpayer to Criminal Investigation. The majority of criminal fraud cases will be established based on a taxpayer's:
  - a. Willful failure to file a return (IRC 7203)
  - b. Willful failure to pay taxes owed (IRC 7203)
  - c. Willful submission of a false return, statement, or other document which contains or is verified by a written declaration that is made under penalties of perjury (IRC 7206(1))
  - d. Failure to collect and deposit in a special trust fund account (IRC 7512 and IRC 7215)
  - e. Evasion of payment (IRC 7201)
  - f. Willful failure to collect or pay over tax (IRC 7202)
  - g. Submission of fraudulent returns, statements, or other documents (IRC 7207), See *Exhibit 25.1.1-1, Criminal Violations*

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5.1.11.7.2.1  
(01-15-2010)  
**Preparing and  
Processing Fraud  
Referrals**

- (1) Procedures for developing fraud referrals and preparing Form 2797, *Referral Report of Potential Criminal Fraud Cases*, are contained in IRM 25.1.3.3, Preparation of Form 2797, and IRM 25.1.8, Field Collection.
- (2) Procedures for processing a fraud referral to Criminal Investigation (CI) are as follows:
  - a. If you suspect fraud, discuss the issues with your group manager.
  - b. If your group manager concurs, a conference will be held with you, your group manager, and the Fraud Enforcement Advisor (FEA).
  - c. Upon concurrence of the FEA, complete Form 11661-A *Fraud Development Status*.
  - d. After approval of Form 11661-A by the FEA, the group manager or their designee will input ICS sub code 910 to the case. The ICS sub code 910 will automatically trigger input of IDRS Transaction Code (TC) 971 with Action Code (AC) 281 on the entity (this is not a modular specific transaction). The TC 971 AC 281 will stop the cycle clock and prevent the taxpayer entity from being included in systemic IDRS/ENTITY case aging reports. Sub code 910 will remain intact until the group manager and the FEA concur on its removal. Procedures for input and removal of sub code 910 and TC 971, AC 281 are contained in IRM 25.1.8.9, Aging of Collection Fraud Cases.
  - e. Fully develop the fraud referral with advice and guidance from the FEA and group manager.
  - f. If firm indications of fraud are confirmed, prepare Form 2797, *Referral Report of Potential Criminal Fraud Cases*. The fraud referral should be a detailed, factual presentation of the taxpayer's affirmative acts of fraud, the evidence supporting those affirmative acts, and the taxpayer's willful intent.
  - g. Submit Form 2797 to the group manager and FEA for approval.
  - h. After approval, the FEA will submit the Form 2797 to the CI Lead Development Center (LDC).
  - i. The CI LDC will process Form 2797 and promptly forward it to the appropriate CI Supervisory Special Agent (SSA).
  - j. Within 10 workdays of receipt of the Form 2797 the CI SSA will hold a five-way conference with you, your group manager, the FEA, and the CI Special Agent. The purpose of the conference is to evaluate the fraud referral.
  - k. CI has 30 days to evaluate the fraud referral and to make a determination to accept it or decline it. A request for an extension of time would require the approval of the Special Agent in Charge (SAC). A second five-way meeting will be held to discuss the final determination of the case.

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must do the following:

- a. For IMF cases, go to the ICS Del Ret Module Summary screen, select Close Mod and then select **CI Referral (IMF only)**. This will close the Del Ret module as an acceptance to CI.

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cation that the case is closed.

#### 5.1.11.7.3 (11-29-2023)

#### Enforcement Referrals - Individual Master File (IMF) Del Ret

- (1) If a determination has been made that a return is required (see IRM 5.1.11.7.1), fraud is not involved (see IRM 5.1.11.7.2), and other collection enforcement activities are not appropriate (see IRM 5.1.11.7), then a nonfiler may be referred for enforced collection of a delinquent return.
- (2) Research MFT 32 prior to completing the referral, as the taxpayer may have been selected for inclusion in the Taxpayer Protection Program (TPP). See IRM 25.25.6.1.7 for an overview of the TPP. For returns identified with potential identity theft indications, the processing of the return is stopped and the tax return information is posted to MFT 32.
- (3) For Individual (MFT 30) nonfiler (Form 1040) referrals, evaluate factors such as type and source of income, amount of income, and the complexity of the case to make the appropriate and most efficient enforcement referral. Each referral process has limitations and specific requirements; however, always refer to the most efficient process when fraud is not involved.
- (4) Refer an Individual Master File (IMF) non-filed return (Form 1040) for enforcement to one of the following processes for preparation of a Substitute for Return (SFR). This table lists the IMF SFR processes in order of most efficient to least efficient and briefly describes limitations and restrictions of each

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Process	Bal Due(s) allowed?	IRP income required?	High Income restriction
ASFR	NO	YES	NO
Memphis Campus Exam	YES	YES	NO
Exam referral	YES	NO	YES

#### 5.1.11.7.3.1 (02-28-2020)

#### Standalone Del Ret with IRP

- (1) The Automated Substitute for Return (ASFR) process prepares a Substitute for Return for **individuals** who fail to file after notification. ASFR uses Information Return Program (IRP) information posted to the Information Returns Master File (IRMF) to calculate potential tax due and issue a Notice of Deficiency. If no return is secured 90-120 days after the Notice of Deficiency is issued, ASFR assesses the tax due based on the calculation.

**Note:** If the taxpayer is overseas then the IRS cannot assess until after 150 days.

- (2) Research MFT 32 prior to completing the referral, as the taxpayer may have been selected for inclusion in the Taxpayer Protection Program (TPP). See

IRM 25.25.6.1.7 for an overview of the TPP. For returns identified with potential identity theft indications, the processing of the return is stopped and the tax return information is posted to MFT 32.

- (3) ASFR is authorized to prepare an individual's income tax return under IRC 6020(b) and the regulations thereunder. The automated process is located in the Brookhaven campus.

- (4) Refer **standalone** Del Rets to ASFR processing if the case meets ASFR

all of the following criteria:

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**Exception:** Refer International Del Rets that meet the criteria for ASFR referral described below to the Memphis campus rather than to Brookhaven. Document the reason for not referring to ASFR as "ASFR International Block." See IRM 5.1.11.7.3.2 for the procedures for referrals to the Memphis campus.

- a. The Del Ret module is in Status 03.

**Note:** If the Del Ret module(s) is not in status 03, then take action to either accelerate status 02 modules or reverse the satisfying transaction in status 06 modules.

- b. There are less than 60 IRP documents for the tax year referred (if more than 60, see IRM 5.1.11.7.3.2).
  - c. IRP exists on IRPTRJ for the module (if insufficient or no IRP posted to the IRMF for the delinquent year, see IRM 5.1.11.7.3.3).
  - d. There is no current or pending TC 530 on the account (see IRM 5.1.11.7.1, or IRM 5.1.11.7.3.2).
  - e. There are no unresolved Bal Due modules (status 22, 24, 26) or associated modules in status 53 or 60 on ICS or IDRS (see IRM 5.1.11.7.1, or IRM 5.1.11.7.3.2).
  - f. There are no -V, -W, -L, -Z, or Z- freezes on the module or account (see IRM 5.1.11.7.1).
  - g. The Select Code is not an IRS employee or CI selection code.
- (5) Document the ICS history with the ASFR referral decision and use "**Transfer to ASFR (IMF Only)**" to reassign the Del Ret module to ASFR.
  - (6) If contact is made with a taxpayer whose return is being prepared by ASFR, attempt to secure the return(s); however, do not issue a summons if the taxpayer refuses to file.
  - (7) If a return is secured for a period previously referred to ASFR that has not been assessed (no TC 290 or TC 300 posted), call the campus ASFR Contact and fax the return there. The ASFR Contact Information is found on SERP <http://serp.enterprise.irs.gov/databases/who-where.dr/asfr-contacts.html>. Mark the original return "Duplicate Original" in red at the top and retain it in the case file. If the return is too large to fax, after calling the ASFR Contact mail it to the following address:

IRS

ASFR Stop 654

1040 Waverly Ave.

Holtsville, NY 11742-9013

(8) If a return is secured for a period that has been assessed, then process the return as a Request for Reconsideration. See IRM 5.1.15.4, Audit, Automated Underreporter (IMF/BMF AUR), Substitute for Return (SFR) and Automated Substitute for Return (ASFR) Reconsideration.

(9) Telephone contact may be made directly with the ASFR Contact for other reasons after a nonfiler has been referred to ASFR. The most common reasons for contact include:

- Assign/re-assign case
- Prioritize a case with pending collection activity (e.g., pending levy/seizure)
- Retrieve a case erroneously referred to ASFR, (e.g., pending fraud investigation)

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5.1.11.7.3.1.1  
(10-27-2016)

**Transfer to ASFR (IMF Only)**

- (1) Select **“Transfer to ASFR (IMF Only)”** from the “Close Del Ret” menu when a **standalone** Del Ret meets the criteria for referral to ASFR.
- (2) Research MFT 32 prior to completing the transfer, as the taxpayer may have been selected for inclusion in the Taxpayer Protection Program (TPP). See IRM 25.25.6.1.7 for an overview of the TPP. For returns identified with potential identity theft indications, the processing of the return is stopped and the tax return information is posted to MFT 32.
- (3) ICS transfers the Del Ret by reassigning it to the Campus’s ASFR function with TSIGN 8000.

5.1.11.7.3.2  
(04-23-2014)

**Other Standalone Del Ret and Combo Case Del Ret with IRP**

- (1) A Del Ret is ineligible for an ASFR referral if it involves:
  - a. More than 60 IRP documents
  - b. A combo case (Del Ret with an open Bal Due module)
  - c. An associated module in status 53 or 60
  - d. SRFMI data
  - e. An international taxpayer
- (2) Research MFT 32 prior to completing the referral, as the taxpayer may have been selected for inclusion in the Taxpayer Protection Program (TPP). See IRM 25.25.6.1.7 for an overview of the TPP. For returns identified with potential identity theft indications, the processing of the return is stopped and the tax return information is posted to MFT 32.
- (3) The referral process for a Del Ret ineligible for ASFR is virtually the same as the ASFR process in using IRP to calculate tax due; however, the referral is

processed by the Campus Examination function in Memphis using a referral to an electronic mailbox through secure email. The Del Ret **must** have IRP posted to the Information Returns Master File (IRMF) for the delinquent year and result in a Bal Due. To refer the Del Ret:

- a. Select **“Exam Referral”** to close the ICS Del Ret module(s).
- b. Document the total IRP amount(s) for each tax year(s) in ICS history
- c. Document the reason for not using an ASFR referral in ICS history, (see IRM 5.1.11.7.3.1(3)).
- d. Prepare a secure email “e-referral” to the Memphis campus using the address: *\*CTR CS HINF-SFR GCP*.
- e. Use “HINF-SFR” as the subject of your email.
- f. Include the Taxpayer’s TIN (with no dashes) and the non-filed tax years with total IRP in your message.

**Note:** Even though the taxpayer is not a “High Income Nonfiler” as defined in IRM 5.1.11.7.3(3) , a referral to the Memphis Campus may still be made for a Del Ret that does not meet ASFR criteria because there is an open balance due module or associated module in status 53 or 60.

**Reminder:** If an associated module has been reported currently not collectible and collection potential has not improved, consider whether a referral resulting in an additional uncollectible assessment should be made. See IRM 5.1.11.7.1.

- (4) If contact is made with a taxpayer whose return was referred to the Memphis Campus, attempt to secure the return(s); however, do not issue a summons if the taxpayer refuses to file.
- (5) If a return is secured after a referral to the Memphis Campus and an assessment has not posted to the module (no TC 290 or TC 300), retain a copy and process the date-stamped original return through normal channels as a “return secured” (TC 599 cc 069).
- (6) If a return is secured for a period referred to the Memphis Campus and an assessment has been made (TC 290 or TC 300 posted), retain a copy and process as a Request for Reconsideration of a SFR assessment. See IRM 5.1.15.5.4.5, Automated Substitute for Return (ASFR) Reconsiderations.

5.1.11.7.3.2.1  
(04-23-2014)

#### IRS Employee Referrals

- (1) Prepare a secure email to *\*SBSE IRS Employee Nonfiler Referral*.
- (2) Use “IRS Employee Nonfiler Referral” as the email subject.
- (3) Include the following in the email message:
  - a. Taxpayer’s TIN
  - b. Non-filed tax years
  - c. Income information, i.e., sources and amounts
- (4) If the unfiled return(s) is received from the IRS employee after the referral, send an email message to *\*SBSE IRS Employee Nonfiler Referral* and processing information will be provided on a case-by-case basis.

5.1.11.7.3.3  
(11-29-2023)

**Del Ret with Income But  
without IRP**

- (1) Prepare Form 3449, *Referral Report to Examination*, for an IMF Del Ret **only** if it cannot be referred to ASFR in Brookhaven or Examination in Memphis because there is insufficient or no IRP posted to the IRMF for the delinquent year. In addition, all IMF Form 3449 Del Ret referrals must meet high income

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#

follow the steps in this table:

Step	Action
1.	State the income
2.	State the amount of any withholding
3.	Compute the potential tax due using Filing Status 1 or 3 with no deductions and 1 exemption
4.	State which documents or sources were used to compute income and withholding
5.	Document the non-IRP income and sources <b>Note:</b> For married taxpayers, prepare a separate Form 3449 for each liable spouse for individual income tax referrals. Filing a joint return is an election made by taxpayers filing voluntarily. Compute tax only on the basis of an individual. Use Filing Status 3 to compute the tax.
6.	Describe the source and amount of income for the taxpayer, e.g., self-employed computer programmer, insurance sales, trust fund income for IMF. <b>Reminder:</b> The majority of the high-income must be from a non-IRP source. If the majority of the non-filer's income was reported as IRP, a Form 3449 referral is NOT appropriate, see IRM 5.1.11.7.3.1 or IRM 5.1.11.7.3.2.
7.	Attach all documentation substantiating income, including: <ul style="list-style-type: none"> <li>• IDRS/CFOL research</li> <li>• Summoned documents</li> <li>• Relevant case history</li> </ul>
8.	Secure managerial approval

Step	Action
9.	The email address for submitting Form 3449, refer to paragraph (2) of the table in IRM 5.1.11.7.3.3 <b>Exception:</b> If the referral is for an international taxpayer, forward the approved part 1 and 2 of Form 3449 to: SE:LM:IN:C:FR:FSP:Team 1 Internal Revenue Service 1111 Constitution Ave., NW, MA3-324 Washington D.C., 20224
10.	Retain Part 3 of Form 3449 in the Del Ret file
11.	Close the oldest module of each MFT on the Del Ret by selecting "Exam Referral" (see IRM 5.1.11.8.5)
12.	Prepare Form 4844, Request for Terminal Action, for input of TC 592 if an erroneous referral was made

- (2) E-mail approved Part 1 and 2 of Form 3449 to the following e-mail address based on the taxpayer's location.

Area	States	CA zip codes	Info Referral mailbox address
01 North Atlantic	CT, MA, ME, NH, NJ, NY, RI, VT	Table cell intentionally left blank	<i>mailto:*SBSE Area 201 Information Referral Program</i>
02 Central	DC, DE, IN, KY, MD, OH, PA, TN, VA, WV	Table cell intentionally left blank	<i>mailto:*SBSE CENTRAL PSP INFO ITEMS</i>
03 South Atlantic	FL, GA, NC, SC, Puerto Rico	Table cell intentionally left blank	<i>mailto:*SBSE Exam SAA PSP Referral</i>
04 Midwest	IA, IL, KS, MI, MN, MO, ND, NE, SD, WI	Table cell intentionally left blank	<i>mailto:*SBSE Midwest Infor Request</i>
05 Gulf States	AL, AR, LA, MS, OK, TX	Table cell intentionally left blank	<i>mailto:*SBSE 205 PSP Info Item Referrals</i>
06 Western	AK, CO, ID, MT, NV, OR, UT, WA, WY, Northern CA	94000-96199 93620 93623 93635 93661 93665	<i>mailto:*SBSE Western Area Information Referrals</i>



Area	States	CA zip codes	Info Referral mailbox address
07 Southwest	AZ, HI, NM, Southern CA	90000-93999 95004 95012 95023 95024 95039 95043 95045 95075 96107	<i>mailto:*SBSE 207 PSP Info Item Referrals</i>

- (3) Research MFT 32 prior to completing the referral, as the taxpayer may have been selected for inclusion in the Taxpayer Protection Program (TPP). See IRM 25.25.6.1.7 for an overview of the TPP. For returns identified with potential identity theft indications, the processing of the return is stopped and the tax return information is posted to MFT 32.
- (4) Do **not** refer the taxpayer to Examination using Form 3449 if:
  - a. The case may be closed by criteria established in IRM 5.1.11.7.1.  
**Example:** Associated modules have been reported currently not collectible and collection potential has not improved.
  - b. The IMF case can be referred to ASFR in Brookhaven IRM 5.1.11.7.3.1 or Exam in Memphis IRM 5.1.11.7.3.2.
  - c. All attempts to locate the taxpayer or their legal representative have been unsuccessful.  
**Exception:** Even if you are unable to contact or locate the taxpayer, make a referral if the taxpayer has material current high income and/or clear ownership of substantial assets that may be attached to satisfy a potential tax liability.
- (5) Refer to Examination only those Business Master File (BMF) taxpayers that cannot have returns prepared under authority of IRC 6020(b) or when there is an employee classification issue.

5.1.11.7.4  
(03-13-2013)  
**Excise Tax Returns**

- (1) Form 720, *Quarterly Federal Excise Tax Return*, and Form 2290, *Heavy Highway Vehicle Use Tax Return*, may be prepared under the authority of IRC 6020(b) if a taxpayer fails or refuses to file. See IRM 5.1.11.7.7.
- (2) Do not prepare the returns under IRC 6020(b) if preparation will involve reviewing taxpayer records or will pose complex legal questions. Refer the taxpayer to Excise Operations Support (EOS) on Form 3449 and provide all facts relative to the preparation of the return.
- (3) Send Form 3449 via secure email to the EOS Outlook mailbox \*SBSE Excise EOS.



## 5.1.11.7.5

(11-29-2011)

**Referral to Tax Exempt  
and Government Entities  
(TE/GE)**

- (1) If you encounter a responsible officer of an exempt organization who refuses to file a required exempt organization return, a referral should be sent using Form 5666, *TE/GE Referral Information Report*, to:

Internal Revenue Service

EO Examinations Classification Unit

MC 4910 DAL

1100 Commercial Street

Dallas, TX 75242

**Note:** If the exempt organization has not filed as required a Form 990 series return for three consecutive years, it will automatically lose its tax-exempt status. See IRM 5.1.11.5.4.1.

- (2) A summons does not have to be served prior to referring a case to TE/GE.
- (3) Attach an explanatory cover memo and include all information on the referral to assist TE/GE in preparation of the return.
- (4) Employee Plans, Form 5500 series (MFT 74) are no longer worked in Field Collection. If a Del Ret includes a Form 5500 delinquency and the plan number is 001–500, proceed as follows:
- Prepare Form 5666
  - Attach a copy of the Del Ret and case history
  - Close the ICS Del Ret selecting “**Exam Referral**, ” and
  - Send the referral to:

Internal Revenue Service

TE/GE Second Floor

Employee Plans Classification

9350 Flair Drive

El Monte, CA 91731

- (5) If a Del Ret is for any other Form 5500 series or where the plan number is 501 or higher, close the ICS Del Ret by selecting “**No Return Secured**” and submenu action “Not Liable for return (BMF-NMF)” which will post a TC 590 cc 050 to the module.

5.1.11.7.6  
(04-23-2014)

**Employer/Employee  
Relationship Questions**

- (1) Employment Tax Program examiners determine when income of independent contractors or officers of corporations should be reported as wages subject to income tax and/or FICA. These examiners also determine the employer liability for employment taxes in a third-party payer arrangement (e.g., professional employer organization). The program involves the following taxes:
  - a. Withholding of income tax on wages of employees reported on Form 941, Form 943, Form 944, and Form 1042
  - b. Employer tax and employee tax (Social Security and Medicare) under the Federal Insurance Contribution Act (FICA) on Form 941, Form 943, and Form 944
  - c. Employer tax and employee tax for retirement purposes imposed on employers of individuals performing railroad services and the railroad employee representative's tax under the Railroad Retirement Tax Act reported on Form CT-1 and Form CT-2
  - d. Withholding on certain gambling winnings reported on Form 945 and on Form 1042 by the payor of winnings
  - e. All non-payroll items reported on Form 945
  - f. Tax for unemployment insurance under the Federal Unemployment Act reported on Form 940
  - g. Withholding of tax on nonresident aliens and foreign corporations under IRC 1441 and IRC 1442 reported on Form 941 and Form 1042
- (2) Refer a case to Specialty Tax, Employment Tax when it is determined during an investigation that a taxpayer may be treating employees as independent contractors or officers may be taking draws, loans, dividends, professional or administrative fees, etc., to avoid reporting taxable wages. Do not ask to see taxpayer records if there is a question about how a taxpayer is treating individuals performing services. Review and/or use of certain documents secured from the taxpayer in an employment tax delinquent return investigation may constitute an examination and require additional processing not used in Collection. Refer potential Employer/Employee relationship determinations on Form 3449 relating all the facts of the case and close the ICS Del Ret by selecting **"Exam Referral."**
- (3) Refer a case to the Indian Tribal Government (ITG) group when it is determined during an investigation that an ITG entity may be treating employees as independent contractors to avoid reporting taxable wages. See IRM 5.1.12.24.2, Indian Tribal Government Procedures to coordinate with an Indian Tribal Government (ITG) Specialist.
- (4) IRM 4.23, Employment Tax, contains additional information for all functions pertaining to the administration of Employer/Employee classification issues.

5.1.11.7.7  
(04-23-2014)

**IRC 6020(b) Authority**

- (1) The following returns may be prepared, signed and executed by revenue officers under the authority of IRC 6020(b):
  - a. Form 940, *Employer's Annual Federal Unemployment Tax Return*
  - b. Form 941, *Employer's Quarterly Federal Tax Return*
  - c. Form 943, *Employer's Annual Tax Return for Agricultural Employees*
  - d. Form 944, *Employer's Annual Federal Tax Return*
  - e. Form 720, *Quarterly Federal Excise Tax Return*
  - f. Form 2290, *Heavy Highway Vehicle Use Tax Return*
  - g. Form CT-1, *Employer's Annual Railroad Retirement Tax Return*
  - h. Form 1065, *U.S. Return of Partnership Income*

- (2) Per **Delegation Order 5–2 (Rev 2)**, effective October 21, 2013, GS-09 Revenue Officers, GS-09 Bankruptcy Specialists, and GS-11 Bankruptcy Advisors have the authority to prepare, sign and execute returns under IRC 6020(b).

5.1.11.7.7.1  
(11-29-2023)  
**Taxpayer Contact**

- (1) When the taxpayer is contacted, set a specific date for filing and paying . Secure sufficient information so that an accurate return can be prepared if the taxpayer fails to file by the specified date, such as:

- a. Total wages, number of employees, and tax withheld for each delinquent return (Form 941, Form 943 , or Form 944).

**Note:** Do not ask to review the taxpayer's payroll or other compensation records for this information. Review and/or use of certain documents secured from the taxpayer in an employment tax delinquent return investigation may constitute an examination and require additional processing not used in Collection.

- b. Name of states in which wages were paid (Form 940).  
c. Number of partners in the partnership, their names, addresses, social security numbers/employer identification number, each partner's interest percentage in the partnership, and the partnership's gross income (Form 1065 or Form K-1). If possible, obtain copies of the partnership agreement and copy of the last filed Form 1065.  
d. Type of truck, number of axles, gross weight of vehicle and tax due (Form 2290).

- (2) Advise taxpayers who are personally contacted that failure to file by the specified date will be considered a refusal to file. This could subject the taxpayer to a fine, criminal penalties, or both, under IRC 7203.
- (3) Explain the trust fund recovery penalty, if applicable.
- (4) If collection of the tax on a secured delinquent return appears to be in jeopardy, follow the procedures for prompt and jeopardy assessments (see IRM 5.1.4, Jeopardy, Termination, Quick and Prompt Assessments).
- (5) If the taxpayer is in a receivership or probate proceeding, follow the procedures for quick assessments in 5.1.4.4, Quick Assessment.
- (6) A field call is required before using IRC 6020(b) authority to obtain information and ensure that the entity is liable for any returns. Taxpayer contact has to be confirmed or an appointment made with the taxpayer prior to an attempted field contact as addressed in IRM 5.1.10 , Taxpayer Contacts.
- (7) If the taxpayer fails to file employment, excise, and/or partnership tax returns by the specified date, prepare the returns under the authority of IRC 6020(b).

5.1.11.7.7.2  
(11-29-2023)  
**Preparation and Approval of 6020(b) Returns**

- (1) You can prepare returns and letters through the ICS template process.

**Note:** At local management option and with the concurrence of Campus Compliance Services and Centralized Case Processing, CCP may perform all phases of the IRC 6020(b) clerical and review process for Form 940 , Form 941, Form 943, Form 944, or Form 1065 using information from Section I of

Form 5604, *Section 6020(b) Action Sheet*. This includes signing of returns and submitting them for routine processing.

- (2) Complete Form 5604, *Section 6020(b) Action Sheet*, for **all** cases, not just those referred to CCP, when initiating returns under the authority of IRC 6020(b) and:
  - a. Fully document the ICS history with a complete explanation of the basis for the assessment(s).
  - b. Include information such as wages paid, income tax withheld, FTDs or payments, and any calculations or other information used to establish the correct liability for each tax period.

**Note:** This information is important because it could be used later if the taxpayer requests an appeal, files suit, or files Form 911, *Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order)*.

- (3) Attach a copy of the ICS history documentation that explains the basis for the assessment(s) to Form 5604, *Section 6020(b) Action Sheet*. This will eliminate the need to complete the "Basis for Assessment" section on Form 5604, *Section 6020(b) Action Sheet*.
- (4) Use state wage information, SRFMI data, or other reliable sources to determine the amount of wages paid, the amount of income tax and FICA tax withheld, and other necessary information.

**Note:** Do not prepare a return to equal a credit balance on the delinquent module. Prepare the return based on information as described above that was obtained during your investigation.

**Note:** Use the following to prepare Form 940, Form 941, Form 943 or Form 944.

- a. Compute daily wage information times 91 days
  - b. Compute weekly wage information times 13 weeks
  - c. Compute monthly wage information times 3 months
  - d. Compute annual wage information by multiplying appropriate days, weeks and months times amount(s) provided
- (5) Form W-4 was updated in 2020. Personal exemptions and dependency exemptions are no longer utilized for withholding calculations. If available, review the current Form W-4 for withholding amounts.
- (6) Use the following method of tax computation for preparing returns when actual amounts are not available:
  - a. Withholding is 20% of the wage amount when the actual amount is not provided by the taxpayer
  - b. Social Security tax should reflect the correct rate for the applicable period
  - c. Use the wage amount from the last period satisfied (LPS) adjusted by the inflation factor to compute wages for IRC 6020(b) returns. The inflation factor is a percentage (2.5%) applied against the wage amount from the LPS.

**Note:** The inflation factor is not applicable if the Del Ret module is **before** the LPS module data.

- d. To compute the inflation factor for a delinquent period multiply .025 times the number of quarters between the Del Ret period and the last period satisfied (LPS)
- e. Multiply the product from d. by the wages on the LPS for the first quarter return being prepared
- f. For subsequent returns, use the wages for the preceding quarter prepared under IRC 6020(b)
- g. Add the product from e. to the wages for the LPS or the preceding quarter for the total wages to be used on the IRC 6020(b) return

**Note:** Do not include COBRA premium assistance payments made pursuant to section 3001 of the American Recovery and Reinvestment Act of 2009 when completing Form 941 under IRC 6020(b) for any of the four quarters of 2009.

- h. Use annual wage amounts to prepare IRC 6020(b) returns for Form 944 delinquencies
  - i. Indicate a final return prepared under IRC 6020(b) as final where appropriate.
  - j. All figures for wages paid and amounts withheld must have a substantiated, evidenced-backed basis reported on Form 5064
- (7) Prepare IRC 6020(b) returns for either unfilled quarterly Form 941 or unfilled annual Form 944 but not both for the same period. The open Del Ret will determine which return is delinquent and eligible for 6020(b) processing. Do not prepare 6020(b) Form 941 returns to close an open Form 944 delinquency. Do not change FRs for the 941/944 changeovers manually.
- (8) If the total tax assessment calculation on the tax period results in a balance of \$50,000 or more, managerial approval is required. The manager has the option to either digitally sign Form 5604, or include a statement in the email they use to send to CCP for processing.

**Note:** Requests above the tolerance without managerial approval will be rejected by CCP. Refer to IRM 5.4.10.6, IRC 6020(b) Processing; for additional guidance on the CCP process.

- (9) Use the following procedure for preparing Form 1065, *U.S. Return of Partnership Income*:

**Exception:** Do not prepare Form 1065 under IRC 6020(b) for smaller domestic partnerships (10 or fewer partners each of whom is an individual or the estate of a deceased partner) as long as each partner has reported his or her share of income, deductions, and credits of the partnership on their timely filed income tax return. Per Rev. Proc. 84-35 such smaller partnerships are considered to have met the reasonable cause test and will not be subject to a failure to file penalty. See IRM 20.1.2.4.3.1 for the procedures for applying the revenue procedure. See IRM 5.1.11.7, Delinquent Return Investigation Closures for Del Ret closing actions.

- a. For Form 1065, complete the name, address, and EIN portion of the form along with the number of Schedule K-1s that will be attached. If you know the gross receipts, then also complete lines 1a, 1c, and 8. These lines should all contain the same amount. This is all that is completed on Form 1065.

- b. Schedule K-1 should also be completed and attached to Form 1065. A Schedule K-1 is completed for each known partner. Partners can be individuals, other partnerships, trusts, S-Corporations, or Corporations. On all cases, complete the partner's identifying number, name, address, and Zip Code, as well as the partnership's identifying number, name, address, and Zip Code.
- c. If the partnership's income for the tax year is unknown, then do not complete anything else on the Schedule K-1.
- d. If the partnership's income for the tax year (line 8 on Form 1065) is known, then complete line 1 on Schedule K-1. If each partner's distribution of income percentage is known, then prepare each Schedule K-1 appropriately. If the distribution of income percentage is unknown, then divide the distribution of income equally among the partners, and reflect that amount on the Schedule K-1.

**Example:** \$100,000 total distributive income (Line 8 from the Form 1065) and four partners. Then \$25,000 will be reported on each partner's K-1.

- e. Partnerships generally don't pay tax, but instead pass through income and deductions to their partners, who then report it on their individual income tax returns. Therefore, it is important to know that the main objective of ensuring the Form 1065 and Schedule K-1 is filed, either voluntarily by the partnership or under IRC 6020(b) authority, is to ensure that the partners have accurately reported their share of the partnership income. It is important to appropriately follow up on each partner's filing requirements for the delinquent tax year. If appropriate, consider a referral to Exam on Form 3449 if the partners failed to report partnership income. If potential fraud exists, then follow IRM 5.1.11.7.2.
  - f. The number of partners may be obtained various sources including through state corporation commission records, bank documents, previously filed partnership returns, and information secured during taxpayer contacts.
- (10) Prepare a return for the current tax period if that period becomes delinquent during the IRC 6020(b) process.
  - (11) Prepare the tax returns in sets. A completed set includes an original and one copy of each return for each tax period.
  - (12) Mail or hand deliver Letter 1085, **30 Day Letter Proposed IRC 6020(b) Assessment**, or Letter 1616, *30 Day Letter Proposed 6020(b) Assessment Partnership Return*, along with the original return(s) and all applicable enclosures to the taxpayer. Taxpayer contact has to be confirmed or an appointment made with the taxpayer prior to an attempted field contact as addressed in IRM 5.1.10, Taxpayer Contacts. ICS templates contain Letter 1085 and Letter 1616. Retain a copy of the letter and tax return(s) in the case file.
  - (13) If a taxpayer files bankruptcy after a Letter 1085 or Letter 1616 has been mailed, immediately inform Insolvency and provide them with copies of the proposed returns. Unless instructed otherwise, continue 6020(b) processing.
  - (14) If the Letter 1085 or Letter 1616 sent to the taxpayer's last known address is returned by the post office as undeliverable and the taxpayer is unable to locate or contact see IRM 5.1.11.7.7.5.



5.1.11.7.7.3  
(11-29-2023)  
**Appeals of Unagreed  
IRC 6020(b) Cases**

- (1) If the taxpayer requests an Appeals conference:
  - a. Forward the case to the Independent Office of Appeals (Appeals) on Form 12835, *Transmittal of Case to Appeals* or Form 3210, *Document Transmittal*.
  - b. Establish a control at either the group level or in CCP while the case is pending in Appeals. Such controls may include an ICS Other Investigations (OI) or by the use of ICS notifications
- (2) To place the Del Ret module in suspense while the taxpayer exercises the right of appeal, choose “**Surveyed**” and then “6020(b) Unagreed Appeal” from the Close Mod menu on the Del Ret Module Summary screen.
- (3) The group manager or CCP manager will periodically follow up with Appeals concerning the status of the case.
- (4) When Form 5402, *Appeals Transmittal and Case Memo* is received from Appeals, follow the instructions on the form for disposition of the case.
- (5) Appeals will:
  - a. Sign the prepared return under the authority of IRC 6020(b).
  - b. Complete Form 5604 Section III.
  - c. Process the return directly to the appropriate Campus for assessment with Part 1 of Form 5604.

5.1.11.7.7.4  
(11-29-2023)  
**Preparing Returns for  
Assessment**

- (1) Process the returns for assessment under the authority of IRC 6020(b) if, the taxpayer fails to
  - a. File the delinquent returns, or
  - b. Return the signed 6020(b) returns after 30 days have passed from the issuance date of Letter 1085 or Letter 1616.
- (2) In all cases if payment of the proposed return is not received, follow procedures in IRM 5.1.11.6.2.
- (3) Sign and date the return at “Sign Here” with the following statement on the bottom of the return:

“This return was prepared and signed under the authority of Section 6020(b) of the Internal Revenue Code. Apply condition code 4.”

**Caution:** Unsigned returns will not be processed.

**Note:** Dated returns with the electronic signature will be processed.

- (4) Enter the appropriate TC and closing code on the upper left margin of the return.
- (5) Close the ICS Del Ret module by selecting “**Return Secured**” using the appropriate submenu option (see IRM 5.1.11.8.1).
- (6) Complete section III of Form 5604, attach a signed copy to each return, and forward the signed, date-stamped, 6020(b) return to Submission Processing as a secured return.

## 5.1 Field Collecting Procedures

- (7) Follow the steps in this table for the processing of single member LLC's.

Step	Action
1.	Prepare Form 3870 using the name and EIN of the SMO
2.	In the Reason for Adjustment section of Form 3870 include the following statement: "This liability resulted from the operation of (Name and EIN of LLC), for which (Name of Single Member Owner) was liable as the employer; it should be added to the original assessment as a supplemental assessment. When the adjustment is processed, CCP should note the name and EIN of the LLC in the IDRS history on the module."
3.	Attach the entire 6020(b) package (tax return, Form 5604, and any supporting documentation) to Form 3870.
4.	Forward by secure email to Centralized Case Processing at <i>*SBSE CCS LLC1</i>

5.1.11.7.7.5  
(03-13-2013)

### Unable to Locate and Unable to Contact Cases

- (1) Follow the procedures in this table when the Letter 1085 or Letter 1616 sent to the taxpayer's last known address is returned undeliverable:

***If Letter 1085/1616 sent to the taxpayer's last known address is returned undeliverable:***

And	Then
The taxpayer, proprietors, partners, or responsible persons, and assets cannot be located, but their TINs <b>can</b> be determined	Follow IRM 5.1.11.6.2 to process the returns.
The taxpayer, proprietors, partners, or responsible persons, and assets cannot be located, and their TINs <b>cannot</b> be determined	Close the delinquent return module(s) as unable to locate (TC 593, cc 057).
The taxpayer is unable to contact	Prompt assess the return(s) (IRM 5.1.4.5, Prompt Assessment), Or Prepare a pre-assessed Form 53 (IRM 5.16.1.4, Requesting Currently Not Collectible Input for Assessed and Pre-assessed Tax Periods).



And	Then
A new address is found	Send a copy of the Letter 1085 or Letter 1616 to the new address. If no response from the taxpayer, process the returns after the original time period for the taxpayer to respond has passed.

5.1.11.8  
(06-02-2004)  
**Delinquent Return  
Investigation Closures**

- (1) Disposition of the Del Ret will depend upon the circumstances of individual cases. This subsection describes Del Ret module closing actions. See Document 6209 Section 11.8(3), TDI Closing Codes for Transaction Code 59X closing codes (cc).
- (2) For technical details on each type of case closure, refer to the specific sections listed in this IRM. See Exhibit 5.1.11-1 and Exhibit 5.1.11-2 for answers to a number of questions in the disposition of Del Rets.
- (3) The ICS system is a menu driven process. Users select literals from a menu which then generate transaction codes to IDRS.
- (4) Closing the Del Ret on the ICS system is done using the “**Close Del Ret**” menu found on the ICS “Delinquent Return Module Summary” screen. Once an option is selected, ICS will generate a Transaction Code 59X and an applicable closing code for the closure.
- (5) The following IRM subsections will explain the selections available as a closing options from the “**Close Del Ret**” menu.

5.1.11.8.1  
(06-02-2004)  
**Return Secured**

- (1) Select “**Return Secured**” from the “Close Del Ret” menu to close the Del Ret module(s) on ICS when a return is secured.
  - a. Select the appropriate closing action from the submenu for the type return you secured.
  - b. ICS generates a TC 599 with a cc to IDRS (the closing code depends on what closing action you selected) .
  - c. Record a payment secured with a return via a submenu within closing actions Taxable, Bankruptcy, or 6020(b) Agreed. This generates a TC 610 workstation transaction and updates the ICS module balance to reflect the payment.

**Caution:** If the taxpayer is in bankruptcy, do not accept a payment for a pre-petition tax year.

- (2) See IRM 5.1.11.6 for specific details on types of returns secured.

5.1.11.8.2  
(06-02-2004)

**Unable To Locate**

- (1) Select "**Unable to Locate**" from the "Close Del Ret" menu to close the Del Ret when you are unable to locate a taxpayer.
- (2) Close the earliest Del Ret period for each MFT.
- (3) Group Manager approval is required.
- (4) ICS generates a TC 593 cc 057 to IDRS when approved.

5.1.11.8.3  
(11-29-2011)

**No Return Secured  
Taxpayer Not Required  
To File For This Period  
Only**

- (1) Select "**No Return Secured**" from the "Close Del Ret" menu when a taxpayer is not required to file for a period.
- (2) ICS generates a TC 590 and closing code (cc) to satisfy a particular period; however, the requirement to file for subsequent periods remains open.
- (3) Select one of the following closing actions from the ICS submenu to generate the appropriate closing code:
  - a. **Not liable for return (BMF - NMF)** (cc 050) is used when the taxpayer is not liable for this period but does plan to be liable for future returns and any business activity indicated by the Selection Code, IRPTR, or SRFMI data has been addressed.
  - b. **Income below filing requirement (IMF)** (cc 051) is used after verifying and calculating that the taxpayer's total income is below the amount required to file for that year. Use CC IRPTRJ to help you verify income. Be sure to include the spouse's income when calculating married filing joint status.
  - c. **Little or no tax due (Policy Statement 5-133)** (cc 052) is used to close a case based on the Policy Statement 5-133. See IRM 5.1.11.7.1.  
  
**Note:** It is also used to close a Del Ret module for a Form 1065, **U.S. Return of Partnership Income**, or a Limited Liability Company (LLC) classified as a domestic partnership, based on Revenue Procedure 84-35. See IRM 5.1.11.7.7.2.  
  
**Note:** This closing action requires managerial approval before the closure is completed.
  - d. **T/P due refund** (cc 053) is used after verifying the taxpayer's income and calculating that the tax due on the return, if it were filed, would result in a refund.
  - e. **T/P due refund 6020(b)** (cc 063) is used when a 6020(b) return is prepared and there is more credit than tax resulting in a refund due the taxpayer. See IRM 5.1.11.7.7 for 6020(b) procedures.
- (4) For problems concerning multiple entities, see IRM 5.1.11.8.13 for additional guidance.

5.1.11.8.4  
(02-28-2020)

**No Return Secured  
Taxpayer No Longer  
Required to File (Final)**

- (1) Select "**No Return Secured/Final**" from the "Close Del Ret" menu when the taxpayer is no longer required to file a return. The filing requirement for the MFT should be closed on the Master File, and any business activity indicated by the Selection Code, IRPTR, or SRFMI data addressed.
- (2) ICS generates a TC 591 to satisfy that period as well as closing the filing requirements on all subsequent periods for that MFT so be sure to select "No Return Secured/Final" on the earliest period on each MFT.

- a. ICS generates a TC 591 cc 066 on all subsequent open Del Rets for that MFT.
  - b. Close any other ICS modules for other MFTs related to the entity.
  - c. Prepare paper documents, (Form 2363 or Form 4844) to close filing requirements on non- ICS MFTs. Be sure to include the effective date of the actions.
  - d. Create an ICS history item to document the actions taken on paper.
- (3) A TC 591 will stop future delinquency checks for that MFT.
- (4) Select a closing action from the ICS submenu to generate the appropriate closing code:
- a. **Business discontinued** (cc 050) is used when an entity has discontinued and returns are no longer required. Close out all filing requirements on all MFTs after the closing date.
  - b. **Business transferred** (cc 050) is used when a business has stopped operating under this entity and has established another entity to take its place. Close out all filing requirements on all MFTs after the transfer date.
  - c. **Change in Organization** (cc 050) is used when an organizational change has taken place for the entity and a new entity has been established. In addition to any Del Rets close out all filing requirements on all MFTs after the change date.
  - d. **Discharged all employees** (cc 050) is used when the business has discharged all of its employees yet the business has not closed. Close the Form 940, 941, 943, 944, and 945 filing requirements after the discharge date.
  - e. **IRC 6020(b) Program** (cc 063) is used when a 6020(b) return is being prepared and it will be the final return for the business. See IRM 5.1.11.7.7 for 6020(b) procedures.
  - f. **Other** (cc 050) is used for any situations that do not fall into the above categories.
- Example:** An IMF Del Ret where the taxpayer is deceased; in this situation prepare Form 2363 , *Master File Entity Change* to request the input of a TC 540, "Deceased Taxpayer," and create an ICS history item.
- (5) To prevent future delinquencies on those periods or MFTs not appearing on ICS at the time of closing the Del Ret do the following:
- a. Prepare Form 2363 or Form 4844 as appropriate
  - b. Request that a TC 591 with appropriate closing code be input
  - c. Include the effective date or the out of business date

5.1.11.8.5  
(06-02-2004)  
**Exam Referral**

- (1) Select "**Exam Referral**" from the "Close Del Ret" menu when you refer a case to Examination, ETE, TE/GE, or the Memphis Campus.
- (2) Close the earliest Del Ret period for each MFT referred.
- (3) ICS generates a TC 595 cc 057 once the closure is verified.

- 5.1.11.8.6  
(06-02-2004)  
**CI Referral (IMF Only)**
- (1) Select **"CI Referral (IMF Only)"** from the "Close Del Ret" menu when a case is referred to Criminal Investigation.
  - (2) ICS will generate a TC 596 cc 057 once the closure is verified.
  - (3) Close the earliest Del Ret period for each MFT referred.
  - (4) See IRM 5.1.11.7.2 for specific details on CI referrals.
- 5.1.11.8.7  
(06-02-2004)  
**Return Previously Filed**
- (1) If the return has been previously filed (allow 10 weeks from the date the return was filed for it to post), secure a signed copy of the return with proof of payment, if appropriate. A careful analysis of the facts should be made to determine for which entity the previously filed return was intended. Verify fact of filing using CFOL command codes as shown in IRM 5.1.11.2.3.1.
    - a. If the signed copy is for the Del Ret entity, forward the return for processing.
    - b. Write on the top of the return "Possible Duplicate Return" and close the Del Ret module on ICS by selecting "Return Previously Filed." When the submenu is displayed select closing action "Return previously filed." This will generate a TC 594 cc 058.
    - c. If the signed copy is the spousal entity and the return is posted to spouse's SSN, close the Del Ret module on ICS, using "Close Del Ret" menu select "Return Previously Filed." When the submenu appears select closing action "Spouse on joint return." This will systemically generate a TC 594 cc 059.
    - d. If the secondary SSN is incorrect on the jointly filed return, use Form 2363, *Master File Entity Change*, to correct the secondary SSN of the entity.
    - e. If fact of filing cannot be verified on the spouse's SSN, secure an original tax return and forward for processing using procedures in IRM 5.1.11.6. Close the Del Ret with closing action "Spouse on joint return."
    - f. Where there has been an entity change and the return was not intended for the Del Ret entity a closing action of "Return Previously Filed" is not appropriate in this situation.
    - g. When taxpayer is not liable for **this module only**, close on ICS by selecting "No Return Secured." When the submenu appears select "Not Liable for Return (BMF-NMF)" or "Income below filing requirement (IMF)." This will generate a TC 590 cc 050 or 051 as appropriate.
    - h. When a taxpayer is no longer liable to file under this entity, close on ICS by selecting "No Return Secured/Final." When the submenu appears select closing action that best describes why the entity is no longer liable to file return. This will generate a TC 591 cc 050.
- 5.1.11.8.8  
(06-02-2004)  
**Shelved**
- (1) Select **"Shelved"** from the "Close Del Ret" menu only when prescribed in IRM instructions or by direction from Headquarters.
  - (2) ICS generates a TC 598 cc 057 to IDRS once the closure is verified.
- 5.1.11.8.9  
(06-02-2004)  
**Surveyed**
- (1) Select **"Surveyed"** from the "Close Del Ret" menu to generate a TC 597 on IDRS.
  - (2) The appropriate closing actions for a TC 597 are as follows:

- a. **Routine — cc 057** is used only when prescribed in IRM instructions or by direction from Headquarters.
- b. **6020(b) Unagreed Appeal — cc 063** is used to close the Del Ret module(s) when the taxpayer exercises appeal rights in unagreed IRC 6020(b) cases. See IRM 5.1.11.8.3.

5.1.11.8.10  
(11-29-2011)  
**Unable to Contact (IMF Only)**

- (1) Select **“Unable to Contact”** from the “Close Del Ret” menu to close an IMF module when efforts to contact the taxpayer are unsuccessful and the determination is made not to pursue enforcement.
- (2) ICS will generate a TC 593 with cc 056 to IDRS.
- (3) Close the earliest Del Ret period for each MFT.

5.1.11.8.11  
(03-01-2007)  
**Erroneously Created Module(s)**

- (1) Select **“Erroneously Created Mod”** from the “Close Del Ret” menu when an ICS only Del Ret was opened and is no longer needed.
- (2) ICS **will not** generate a transaction code to IDRS.

5.1.11.8.12  
(03-01-2007)  
**Del Ret Module(s) with Credit Balances**

- (1) Some Del Ret modules have credit balances after the module is closed. Handle the credit balance separately from the Del Ret closure based on whether you secure a return or not.

5.1.11.8.12.1  
(06-02-2004)  
**Debit(s) on Module**

- (1) If the taxpayer does not claim the credit and the statutory period for refunding a payment **has not** expired, research IDRS.
  - a. If there are any outstanding debit balances on other modules, then transfer the credit per IRM 5.1.11.8.12.2.
  - b. If any credit remains after the transfer, leave it on the module. Do not remove to excess collections.

5.1.11.8.12.2  
(11-29-2023)  
**ICS Credit Transfers**

- (1) Use “Credit Disposition” option on the ICS Module Detail screen to dispose of the credit balance on an ICS Del Ret module.
- (2) Select the “Transfer to Another Period” option and complete the required fields.
- (3) The ICS credit transfer application does allow for some credit transfers to be made within the same taxpayer ID number. Prepare Form 2424, *Account Adjustment Voucher*, to have credit transferred on IDRS for those credits that cannot be transferred on ICS.

**Reminder:** A TC 570 may be needed to hold the credit on the new module until a return has been processed or other action has been completed.

5.1.11.8.12.3  
(03-01-2007)  
**Closing Del Ret with TC 59X and Credit Balance Exists**

- (1) When you close a Del Ret module with a TC 59X take the actions in the following table depending on the option selected:

If a Del Ret Module is closed using	And	Then
Return Secured	This table cell intentionally left blank	See IRM 5.1.11.6.
Unable to Locate: Exam Referral CI Referral Shelved Surveyed	The credit has been researched and will remain on the module	Input TC 971, AC 296, and leave the credit on the module.
Not Liable for Return or No Longer Liable for Return	The credit should be refunded to the taxpayer.	Secure a signed no-liability (non-taxable) return from the taxpayer. Annotate the return with Input as original for Refund. Forward for processing as an original delinquent return.
Not Liable for Return or No Longer Liable for Return	The credit should be refunded to the taxpayer, but a signed no-liability return cannot be secured	Secure a signed statement of no-liability from the taxpayer.
Not Liable for Return or No Longer Liable for Return	The taxpayer refuses to provide a signed no-liability return or statement of no liability	Input TC 971 AC 296 and close the Del Ret module with correct transaction code. Leave the credit on the module.
Return Previously Filed With Spouse	This table cell intentionally left blank	Transfer the credit to the spouse's social security number using procedures in IRM 5.1.11.8.12.2.

5.1.11.8.13  
(06-02-2004)  
**Entity Changes**

- (1) Carefully analyze all facts when working a Del Ret module when you find there has been a change in the entity to ensure that the case is closed properly and that all returns have been filed under the appropriate TIN(s).
- (2) Make changes to the taxpayer's address, location or ZIP code on ICS using the "Case Summary" screen and selecting the "Entity Detail Menu."
  - a. Select the "Name/Address menu" from the "Entity Detail Menu."
  - b. The information will load to IDRS and then return and update the entity on ICS.
- (3) All other changes require Form 2363, *Master File Entity Change*, to make changes to the taxpayer's entity. Some of these changes could include:

- a. TIN change – only if entity is not changed
- b. Name change – only one entity is involved
- c. Filing Requirements – either changing or establishing
- d. Taxpayer Deceased – request input of TC 540 for IMF deceased taxpayer(s)

(4) The following table will help you solve most types of entity problems:

If	And	Then
Del Ret module is on the new entity	The taxpayer filed correctly under the old entity for that period	Close the Del Ret using “No Return Secured Taxpayer Not required to File for This Period Only” to generate a TC 590 closing code 050.
Del Ret module is on the old entity	The taxpayer filed correctly under the new entity	Close the Del Ret using “No Return Secured Taxpayer Not required to File for This Period Only” to generate a TC 590 closing code 050.
Del Ret module is the correct entity	The return was filed under another number	Close the Del Ret using <b>Return Previously Filed</b> to generate a TC 594 closing code 059. Prepare Form 3870 to transfer the return and any credits to the Del Ret entity.
New entity is being established	This table cell intentionally left blank	Prepare Form SS-4, <b>Application for Employer Identification Number</b> for issuance of a new TIN. Close any Del Ret modules using <b>No Return Secured Taxpayer Not required to File (Final)</b> to generate TC 591 cc 050. Close all other filing requirements by preparing Form 2363.
Consolidation is needed	This table cell intentionally left blank	Prepare Form 2363 to change the <b>From</b> TIN to the <b>To</b> TIN and request transaction code 011. Prepare an additional Form 2363 to change any other data on the <b>To</b> account, if needed. Input both Forms 2363 the same cycle.  <b>Note:</b> The Name Controls of the “To” and “From” accounts must be the same before consolidation will take place; therefore, if the Name Control of the “From” account is in error, prepare a Form 2363 to change the Name. Input the Name Control Transaction code 013 into the system two cycles prior to the TC 011 transaction.



If	And	Then
Change in an EIN for other than a consolidation	This table cell intentionally left blank	Prepare a Form 2363 and request transaction code 011 to change the EIN. Prepare an additional Form 2363 to change any other data on the <b>To</b> account of the Form, using the <b>From</b> EIN. Input both forms in the same cycle.

5.1.11.9  
(05-27-1999)  
**Delinquency Check Programs**

- (1) Activities previously known as Returns Compliance Programs (RCP), Information Gathering Projects (IGP), Fed/State projects and Compliance 2000 initiatives were consolidated into the Compliance Initiative Proposal (CIP).

5.1.11.10  
(01-15-2010)  
**Rules and Restrictions with Respect to Collection Activities in Canada and Mexico**

- (1) There are strict guidelines and procedures that must be followed when working a case involving a taxpayer with activity in the border countries of Canada and Mexico. Your group manager should consult with the appropriate international group manager when you are about to work such a case. See IRM 5.21.3, Collection Tools for International Cases for additional information.

5.1.11.11  
(02-28-2020)  
**Heavy Highway Vehicle Use Tax**

- (1) In order to avoid a reduction of highway funds federal aid, generally, a state must require that proof of payment of the IRC 4481 tax for a vehicle be presented to the state department of motor vehicles before the state will register the vehicle. See 23 U.S.C 141(c) (2018) which provides that the form of proof may be prescribed by the Secretary of the Treasury (originally enacted as 23 U.S.C.141(d) by Pub.L No.97-424, title I, 143,96 Stat.2129 (Jan 6, 1983)). The form of the proof of payment is prescribed by Treas. Reg. 41.6001-2(c) and generally consists of a receipted Schedule 1 of Form 2290, *Heavy Highway Vehicle Use Tax Return*, or a photocopy thereof. (See paragraph (c) (2) of 41.6001-2 for acceptable substitute proof of payment documentation. See also paragraph (b) for limited circumstances when a state may register a vehicle without proof of payment.) Ordinarily, Schedule 1 will be receipted during routine campus processing or Taxpayer Assistance Center processing.
- (2) Section 41.6001-2(c)(2) provides that the state “must accept” as a substitute proof of payment “a photocopy of the Form 2290 (with the Schedule 1 attached) that was filed with the Internal Revenue Service for the vehicle being registered with sufficient documentation of payment of tax due at the time Form 2290 was filed (such as a photocopy of both sides of a cancelled check).”
- (3) Further, “this substitute proof of payment may be used to register a vehicle when, for example, the receipted Schedule 1 has been lost, or with at the time required for registration of a vehicle, a receipted Schedule 1 has not been received by a taxpayer who has filed a Form 2290 with respect to such vehicle.”
- (4) A taxpayer in the situation being described in this section has the option of going straight to the state department of motor vehicles (DMV). The regulations do require, however, that the taxpayer provide the state DMV the

documentation described, in order to show the return was filed and the tax paid. The same standard would apply to when a taxpayer requests a Schedule 1 receipt from the Field Collection office (to take to the DMV, instead of the documentation itself) so that getting a Schedule 1 would not be a work-around.

5.1.11.11.1  
(02-28-2020)  
**Field Collection  
Processing**

- (1) Stamp both copies of Form 2290 Schedule 1 with the area office "received" stamp. Attach one copy of Schedule 1 to the original return. Return the other copy of Schedule 1 to the taxpayer if:

- a. The return is filed timely, and
- b. The liability is paid in full.

**Note:** Section 867 (b) of P.L. 108-357, American Jobs Creation Act of 2004, repealed IRC 6156, which gave the taxpayer the option to pay the tax on a timely filed return in four equal installments.

- (2) Field Collection employees will also stamp Schedule 1 of Form 2290 in the following situations:

- a. The taxpayer provides (i) a copy of the Form 2290 (with the Schedule 1 attached) that it filed and (ii) documentary proof that the tax was paid (even though the taxpayer did not receive a receipted Schedule 1 of Form 2290).
- b. The Field Collection employee determines that an installment agreement (Form 433-D) is the appropriate method of resolving the unpaid liability. After an agreement is secured and submitted for processing, the receipted Schedule 1 of Form 2290 will be returned together with Part 2 of Form 433-D to the taxpayer.

**Caution:** Exercise care when considering an installment agreement for a taxpayer identified as a repeater.

- c. Under no circumstances will Schedule 1 of Form 2290 be receipted without full payment or resolution of the unpaid liability reached using Form 433-D. Schedule 1 will not be stamped "received" if the amount is or has been determined to be currently not collectible.

5.1.11.12  
(04-23-2014)  
**Creation of a Manual  
IDRS Del Ret Under  
Special Circumstances**

- (1) During the course of a Collection investigation, you may encounter taxpayers that are not assigned to you but where the investigation has resulted in clear indicators that the taxpayer has significant sources of unreported income. You will usually encounter these individuals in conjunction with an assigned investigation. The taxpayer may be functioning in a way that allows income to remain undetected through regular income reporting processes.
- (2) Creation of a manual IDRS Del Ret module should be considered if the case circumstances indicate:
  - a. A delinquent return investigation is appropriate based on existing guidelines,
  - b. A need for the field to maintain control over the delinquent return process, and
  - c. The outcome is expected to be an Examination referral, a fraud referral, or securing taxable, collectible returns.

- (3) By requesting the IDRS module, the field can retain control over actions on the case, and the case will not enter other work streams such as Automated Substitute for Return (ASFR) or the Automated Collection System (ACS).

**Note:** This procedure does not preclude you from using existing procedures to create a Compliance Initiative Project (CIP) or an Integrated Collection System (ICS) Other Investigation (OI) if circumstances warrant.

- (4) Before deciding to open the Del Ret, verify that the following conditions apply:
- The taxpayer must be an IMF taxpayer.
  - There must already be an existing entity for the taxpayer established on IDRS.
  - There should not be a TC 140 or TC 474 on IDRS.

**Note:** Either of these transaction codes indicate there may be an established delinquency either in notice status or assigned to another function or work stream (such as Substitute for Return). If this is the case, these procedures are not applicable, and you should follow existing procedures for deciding whether to accelerate the notice case for assignment or contact the employee working the case.

- (5) Take the following into consideration when deciding whether to request the module. One or more of the following conditions should apply:
- There is information from a reliable/credible source that there is unreported income. Examples of sources include the Currency Banking and Retrieval System (CBRS), a contact from a Criminal Investigation (CI) Special Agent, or information from a source close to the taxpayer (ex-spouse or former employee).
  - A significant time investment is expected to conduct the investigation. Do not open an IDRS Del Ret module to simply secure a return and close a module, or to close a module as little or no tax due.
  - There is a significant compliance impact expected. This may be because the taxpayer has a large amount of unreported income, is a promoter of abusive tax avoidance schemes, or there are indicators of fraud.
- (6) Follow the steps in this table to request the module by completing and processing Form 4844, then following up and requesting your TSIGN:

Step	Action
1.	Complete Form 4844 on ICS requesting input of TC 474 (no delay).
2.	Secure managerial approval.
3.	Send Form 4844 through ICS to the appropriate Centralized Case Processing mailbox.
4.	Follow up in two weeks. If the TC 474 created the Del Ret module on IDRS, skip Step 5 and go to Step 6
5.	If the TC 474 created Del Ret module is not on IDRS, then complete Form 4844 on ICS requesting input of TC 590, cc 51 and TC 592. Allow two weeks for the transactions to post.

Step	Action
6.	Follow established procedures to request TSIGN to accelerate the module.

**Exhibit 5.1.11-1 (02-28-2020)****Index for Questions and Answers to Assist in the Disposition of Del Rets**

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TP not required to file	4
TP out of business	4
Wrong period	5
<b>Form 940 Questions</b>	Blank Cell
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FR is "0" or "1"	3
TP entity merged	1
<b>Form 941/944 Questions</b>	Blank Cell
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FR is "O"	2
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<b>Form 943 Question</b>	Blank Cell
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<b>Form 1040 Questions</b>	Blank Cell
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<b>Form 1041 Questions</b>	Blank Cell
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**Exhibit 5.1.11-1 (Cont. 1) (02-28-2020)****Index for Questions and Answers to Assist in the Disposition of Del Rets**

<b>General Questions</b>	<b>Question</b>
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**Exhibit 5.1.11-2 (02-28-2020)****Questions and Answers to Assist in the Disposition of Del Rets****General Questions**

1. Question: You receive a Del Ret with a TIN that is different from the number on the return that the taxpayer filed. How is the Del Ret closed if you discover that both TIN's have been issued to the taxpayer?

Answer: Determine from available information which TIN should be used. If the Form 941 filing requirement (FR) is open, that TIN will be used. If both numbers have an open Form 941 FR, the oldest number should be used, if possible. If the return was filed using the number shown on the Del Ret and that number is determined to be correct, secure a signed copy. From the ICS "Close Del Ret" menu select "Return Previously Filed." When the submenu is displayed select the appropriate closing action. In this case, prepare Form 2363 to input TC 011. If the number on the Del Ret is incorrect, select "No Return Secured/Final" and the appropriate closing action. In addition to the Del Ret modules, close out all open filing requirements on the incorrect number.

2. Question: A corporation has two TIN's. One number has a delinquency for a Form 1120. The other number has a delinquency for Forms 941 and 940. The Del Rets are outstanding under both TINs. How should each of these Del Rets be closed?

Answer: The TIN having the Form 941 FR will be the one retained as the correct number. If both Del Rets have open 941 FRs, the oldest number will be retained. Prepare Form 2363 to consolidate the accounts. Add the period and type of tax to the number being retained, if different and unfiled. From the ICS "Close Del Ret" menu select "No Return Secured/Final" and the appropriate closing action to close the Del Ret with the incorrect number.

3. Question. You receive a Del Ret requesting a return with a "O" filing requirement. Your investigation reveals no existing or prior liability for this type of tax. How is this case closed?

Answer: This occurs when TC 474 is input for the wrong type of tax which creates a tax module without indicating a filing requirement. From the ICS "Close Del Ret" menu select "No Return Secured/Final" and the appropriate closing action to close the Del Ret.

4. Question: If a taxpayer states that they went out of business, how should you close the Del Ret if the taxpayer is preparing the return(s) for the period(s) stated on the Del Ret?

Answer: Have the taxpayer file the return with you. Indicate "Final" and write TC 599 with the appropriate closing code on the return. Ensure that the appropriate block of the Form 941 or the Form 944 is checked and the date last wages paid is entered. From the ICS "Close Del Ret" menu select "Return Secured," and the appropriate closing action for that period. To satisfy open filing requirements, select "No Return Secured/Final" for the subsequent period of the same MFT as well as all other filing requirements. Prepare Form 2363 to final out filing requirements on non-ICS Del Ret modules.

5. Question: You have a Del Ret on one period and the taxpayer filed a return erroneously indicating a different period. How do you close the Del Ret?

Answer: Prepare Form 3870, *Request for Adjustment*, to bring the return to the Del Ret period. From the ICS "Close Del Ret" menu select "Return Previously Filed," and the appropriate closing action to close the Del Ret. Also indicate on the Form 3870, the transaction code and closing code to input to close the tax period the return was posted to.

6. Question: How is the LRA used in coding Del Rets if we have multiple MFTs on the Del Ret?

**Exhibit 5.1.11-2 (Cont. 1) (02-28-2020)****Questions and Answers to Assist in the Disposition of Del Ret****General Questions**

Answer: The coding is determined on the last return amount of the MFT being delinquency checked. If multiple MFT's are being delinquency checked at the same time and one MFT meets the criteria for coding, all other types of tax will also be coded on the Del Ret.

**Form 940 Questions**

1. Question: What should be done if taxpayer states that there was a consolidation or statutory merger during the tax period and a Form 940 was filed by the new entity?

Answer: From the ICS "Close Del Ret" menu, select "No Return Secured/Final." When the submenu is displayed select "Change in Organization." However, if taxpayer states the business was sold and the new owner filed, determine if the taxpayer is also liable for Form 940.

2. Question: If taxpayer states just the amount of wages paid in a quarter, must they also state the number of weeks any one employee worked before a determination of "not required to file this period" can be made?

Answer: The Del Ret may be closed using "No Return Secured" and appropriate closing action if taxpayer states that either the number of weeks or the amount of wages was less than the requirement to file. Generally, you should accept taxpayer's statement of no liability unless conflicting information is present.

3. Question: You receive a Del Ret for a 200712 Form 940. The FR shows 0 or 1 and the LPS shows the last Form 941 filed was for the 200609 period?

Answer: Deletion of a FR prevents subsequent delinquency checks but any delinquency checks that have been made where the Del Ret has been delayed will keep a tax module open until an appropriate transaction code is posted. A final code for Form 941 will satisfy any subsequent delinquent tax modules but will not satisfy delinquent tax modules for other types of tax. Close the Del Ret by selecting "No Return Secured/Final" and appropriate closing action.

**Form 941/944 Questions**

1. Question: You receive a Del Ret on a partnership taxpayer for a Form 941. Your investigation reveals that they formed a corporation which filed the return under a new name without a TIN. How do you close your Del Ret?

Answer: Confirm that a Form SS-4 has been submitted by the new entity or that an EIN has been issued to the new Corporate entity by researching IDRS. From the ICS "Close Del Ret" menu select "No Return Secured/Final." When the submenu is displayed select "Business Transferred." Prepare Form 2363 to close out open FR's for other MFTs.

2. Question: You have a Del Ret for a Form 941 for the period 200609. ICS shows a FR of 0 and a return filed for 200703. How do you close this Del Ret if a return is secured for 200609?

Answer: From the ICS "Close Del Ret" menu select "Return Secured," with the appropriate closing action. Submit the return for processing marking it "Final." Although the FR is 0, the posting of a return will open the filing requirement if the return is not marked "Final. "

3. Question: You receive a Del Ret without a FR for Form 941; however, the taxpayer is liable for tax. How does this happen?

Answer: Frequently, taxpayers will indicate "Final" on their fourth quarter return thinking that it is their final return of the year. The filing of a return will automatically turn the FR back on.



**Exhibit 5.1.11-2 (Cont. 2) (02-28-2020)****Questions and Answers to Assist in the Disposition of Del Rets****General Questions**

4. Question: You have a Del Ret for a Form 941. The taxpayer advises you that they have filed a final Form 941 taxable return under the same name and TIN shown on the Del Ret. How do you close this Del Ret?

Answer: After securing a signed copy of the return, select "Return Previously Filed" and appropriate closing action for the Del Ret module. Select "No Return Secured/Final" to close the subsequent period. This will ensure the elimination of the filing requirement even though the taxpayer may have indicated "Final" on his last Form 941.

5. Question: The taxpayer files a Form 941 return for one period and includes tax and wages for two periods. How do you close the Del Ret?

Answer: Secure a Form 941 return for the period on the Del Ret and a Form 941-X for the period on which the return was filed. Prepare a Form 3870 explaining the circumstances including instructions on transferring the credit and attach the Form 941 and 941-X. Request expedite action on processing the adjustment. Close the Del Ret by selecting "Return Secured," and appropriate closing action from the ICS "Close Del Ret" menu.

6. Question: A taxpayer has exceeded the \$1,000 annual threshold for Form 944. Should the FR be changed back to Form 941?

Answer: No. Once the FR has changed to Form 944, and it is past April 1, (i.e., the last date to "Opt-out") the taxpayer will remain a Form 944 filer. Applicable FTDs must be made according to thresholds established in the deposit rules for employment taxes. When the taxpayer timely files Form 944, the FR will systemically change to Form 941 for the following year.

**Form 943 Question**

1. Question: How will a Form 943 Del Ret be closed if the employer states that the only employee is the employer's child, but the age of the child is not stated?

Answer: From the ICS "Close Del Ret" menu select "No Return Secured" with the appropriate closing action.

**Form 1040 Questions**

1. Question: How do we treat a Form 1040 when the taxpayer is a fiscal year filer?

Answer: Treat the taxpayer as a calendar year filer, with the exception that we are looking for a return filed other than YYYY12 (YYYY \_\_\_\_\_year or delinquency check). Do not change the filing status at the Master File.

2. Question: If the taxpayer is deceased, do you select "No Return Secured/Final" if the taxpayer was technically liable for a return for the period shown on the Del Ret?

Answer: If there is a technical liability for a return but the information for "this year" indicates little monetary liability, do not try to secure a return. Close the Del Ret using "No Return Secured/Final," and the appropriate closing action. Prepare Form 4844 to input a TC 540 and annotate the ICS history accordingly. If, on the other hand, a substantial tax liability exists, secure a return from the executor of the estate. If there is no estate to satisfy any part of a tax liability and there is no possibility of a transferee assessment, select "No Return Secured" with "Little or no tax due (Policy Statement 5-133)".

3. Question: Del Ret is on the taxpayer with their SSN. They filed a separate return using their deceased spouse's SSN. What do you do?

**Exhibit 5.1.11-2 (Cont. 3) (02-28-2020)****Questions and Answers to Assist in the Disposition of Del Rets****General Questions**

Answer: Close the Del Ret by using "Return Previously Filed" and appropriate closing action because the name and number are correct on the Del Ret. Prepare a Form 3870 requesting adjustment by moving the return from the spouse's number to the taxpayer's number.

**Form 1041 Questions**

1. Question: Taxpayer states Form 706 was previously filed for the year in question?

Answer: This is an insufficient response. Tax paid on Form 706, United States Estate Tax Return, is based on evaluation of the property of the estate. Form 1041 is filed by the executor for the deceased taxpayer on income from an estate or trust.

2. Question: Taxpayer states all income was reported on Form 1040. What action do you take?

Answer: Verify that the estate or trust had no income for that period. From the ICS "Close Del Ret" menu select "No Return Secured" with the appropriate closing action.

**Form 1120 Questions**

1. Question: You receive a Del Ret for a Form 1120, yet investigation reveals the taxpayer files a Form 1120-S or other "lettered" Form 1120. How do you close this Del Ret module?

Answer: From the ICS "Close Del Ret" menu close the Del Ret module by selecting "No Return Secured" and the appropriate closing action. Prepare Form 2363 to change the filing requirement to the correct Form 1120. If there is a Form 1120-S filing requirement, confirm that the taxpayer filed a Form 2553, Election by a Small Business Corporation, which has been accepted for the Del Ret module. Secure Form 1120 if Form 2553 has not been filed.

**Note:** Any actions (approved, denied, etc.) taken regarding the Form 2553 will post to the entity as a TC 09X, check Document 6209 for specific details.

2. Question: The taxpayer has a Form 1120-S filing requirement and informs the IRS that the corporation will now file Form 1120. If the campus turns on the filing requirement in any month prior to the Fiscal Year Month (FYM) established on the Master File, is it possible to receive a Del Ret for a Form 1120?

Answer: Yes, when the next delinquency check is made, the program analysis will determine if the taxpayer filed a Form 1120 in the past twelve months. If not, a delinquency notice will be issued and if the tax module is not satisfied, a Del Ret will subsequently be issued. Close the Del Ret by selecting "No Return Secured" and the appropriate closing action from the ICS "Close Del Ret" menu.

3. Question: You receive a Del Ret for a Form 1120 and find the taxpayer is responsible for filing Form 1120-F, U. S. Income Tax Return of a Foreign Corporation. How do you close this Del Ret?

Answer: Form 1120-F is included in the BMF. The filing requirement for the Form 1120-F is 6. Prepare Form 2363 to change the filing requirement.

4. Question: What action do you take if taxpayer indicates Form 1120-POL (U.S. Income Tax Return for Certain Political Organizations) was filed instead of Form 1120?

Answer: From the ICS "Close Del Ret" menu select "Return Previously Filed" and the appropriate closing action. Prepare Form 2363 to change the filing requirement to 9 on the BMF.

**Exhibit 5.1.11-2 (Cont. 4) (02-28-2020)****Questions and Answers to Assist in the Disposition of Del Rets****General Questions**

5. Question: What action is required if the taxpayer states the corporation is exempt from filing because it is a non-profit organization?

Answer: Determine if the corporation has filed for tax exempt status. If so, find out the status of the request. If the corporation has not applied, inform the taxpayer that it must be filed and approved. Also request that the Form 1120 for the Del Ret be filed.

6. Question: You have a Del Ret requesting a Form 1120. The taxpayer is filing Form 990, having been granted exemption from income tax. How should this Del Ret be closed?

Answer: From the ICS "Close Del Ret" menu select "No Return Secured/Final." When the submenu is displayed select the appropriate closing action.

7. Question: How do you close a Del Ret on Form 1120 for a non-existent corporation which has gone out of business and no one is willing to prepare the return?

Answer: See IRM 5.1.11.7.1, Enforcement Determination.

8. Question: Taxpayer states return has not been filed, but that corporation showed a net loss. What action should be taken?

Answer: See IRM 5.1.11.7.1.

9. Question: You receive a Del Ret for a Form 1120. Investigation reveals the taxpayer is a subsidiary corporation being included in a consolidated return with a parent corporation. How do you close this Del Ret?

Answer: An election may be made for a subsidiary corporation to file with its parent. A copy of IRS Form 851, Affiliations Schedule, verifies the election status. Close the Del Ret by preparing Form 4844 to request input of TC 590 closing code 014. Write the EIN of the parent corporation on Form 4844.

10. Question: You have a Del Ret with a Form 1120 due for a stated period. Your investigation reveals that the taxpayer files a Form 1120 for a different period. How do you close the Del Ret?

Answer: From the ICS "Close Del Ret" menu select "No Return Secured." When the submenu is displayed select the appropriate closing action. Prepare Form 2363 to change the fiscal year month (FYM). However, a short period return may be due and this possibility should be checked with the taxpayer.

