



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

5.7.2

APRIL 5, 2024

## EFFECTIVE DATE

(04-05-2024)

## PURPOSE

- (1) This transmits revised IRM 5.7.2, Trust Fund Compliance, Letter 903 Process.

## MATERIAL CHANGES

- (1) IRM 5.7.2.1.5 Added that ICS uploads the transaction code to IDRS.
- (2) IRM 5.7.2.2 Added Letter 903 must be hand delivered during a scheduled appointment.
- (3) IRM 5.7.2.2(5) Added If / Then table incorporating field safety procedures.
- (4) IRM 5.7.2.2.1 Added information regarding the new ICS pop-up window when closing accounts with TC 148-09 present.
- (5) Editorial changes were made throughout the document. Links and citations were updated.

## EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 5.7.2, dated February 8, 2021. This IRM incorporates Interim Guidance Memorandum SB/SE 05-1223-0064, Letter 903 Procedures, dated 12/9/2023.

## AUDIENCE

SB/SE revenue officers and W&I Collection employees

Rocco A. Steco  
Director, Collection Policy  
Small Business/Self Employed



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5.7.2  
Letter 903 Process

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5.7.2.1  
(02-08-2021)  
**Program Scope and Objectives**

- (1) This IRM provides guidance on processes and procedures when working accounts that require the issuance of a Letter 903, You Haven't Deposited Federal Employment Taxes.
- (2) **Purpose:** This IRM section provides instructions for working accounts requiring a Letter 903.
- (3) **Audience:** The primary users of this IRM are Revenue Officers in Field Collection.
- (4) **Policy Owner:** Director, Collection Policy, SB/SE.
- (5) **Program Owner:** Collection Policy, SB/SE, Employment Tax (ET) is the program owner of this IRM.
- (6) **Primary Stakeholders:** Field Collection, Criminal Investigation and Counsel.
- (7) **Program Goals:** In some cases involving repeater and/or pyramiding taxpayers, it may be necessary to consider actions beyond the common administrative collection remedies. Issuance of Letter 903 is required before a taxpayer can be recommended for civil injunction or criminal prosecution. By following the procedures in this IRM, revenue officers will know how and when it is appropriate to issue a L903.
- (8) **Contact Information:** Recommendations and suggested changes to this IRM should be emailed to the content product owner. The owner is indicated on the Product Catalog Information page which is found in the Forms and Publication, IRM Numerical Index of the Media and Publications Electronic Publishing website.

5.7.2.1.1  
(02-08-2021)  
**Background**

- (1) The Letter 903 was previously provided to pyramiding taxpayers prior to the revenue officer requiring the taxpayer to file monthly Form 941 returns or to obtain a special bank account to ensure timely compliance in accordance with IRC 7215.
- (2) Although IRC 7215 remains in the Internal Revenue Code (IRC), Form 941M Monthly Filing and Special Deposit Procedures are no longer required prior to proceeding to the next collection action.

5.7.2.1.2  
(04-05-2024)  
**Authority**

- (1) Letter 903, You Haven't Deposited Federal Employment Taxes, is used by revenue officers to alert taxpayers to the provisions of IRC 7402(a), which provides the Federal district court with the jurisdiction to pursue civil injunctions under Title 26 and Title 18 of the Internal Revenue Code.
- (2) **Fairness Statement:** Inventory Delivery System (IDS) prioritization ensures fairness and integrity through using an equitable process for all taxpayers by using systemic scoring and routing mechanisms to make certain no one individual can control the enforcement selection decision making process, which aligns with Policy Statement P-1-236.

5.7.2.1.3  
(02-08-2021)  
**Responsibilities**

- (1) Revenue officers are responsible for reading and implementing the procedures listed in the IRM.
- (2) Group managers are responsible for reviewing and approving the Letter 903.

- (3) The senior program analyst is responsible for establishing the policy, procedures, standards and controls relating to the Letter 903.
- (4) The office of Employment Tax is responsible for ensuring compliance with policy and procedures regarding the Letter 903 Process.
- (5) The Director, Collection Policy is responsible for approving the official policy, procedures and completed IRM associated with the Letter 903.

5.7.2.1.4  
(02-08-2021)  
**Program Management  
and Review**

- (1) Program Reports: Per IRM 1.4.50.5.2.1, Case Reviews, group managers are required to review for the appropriateness of Letter 903 issued on BMF cases.
- (2) Program Effectiveness: Collection Policy completes periodic program reviews of accounts that were issued Letter 903 to identify trends and opportunities for improvement.

5.7.2.1.5  
(04-05-2024)  
**Program Controls**

- (1) Field collection employees use the Integrated Collection System (ICS) to generate Letter 903 and document case histories regarding how it was issued.
- (2) Managers review and approve Letter 903 prior to issuance.
- (3) ICS uploads Transaction Code 148-09 to IDRS once the delivery method of the Letter 903 is added to ICS.

5.7.2.1.6  
(02-08-2021)  
**Terms/Definitions/  
Acronyms**

- (1) The following table provides a list of defined terms and abbreviations used throughout this IRM section:

**Defined Terms**

Word	Definition	Example of using a word that is open to interpretation
Fair	Provide accurate and professional service to all persons without regard to personal bias.	Treat the customer in a fair, polite and courteous manner when working accounts requiring issuance of Letter 903.
Civil Injunction	An injunction is an order by a court to one or more parties in a civil trial to refrain from doing some specified act or acts.	Consider seeking a civil injunction to stop the taxpayer from pyramiding.

**Acronyms**

Acronym	Definition
BMF	Business Master File
ET	Employment Tax

Acronym	Definition
FEA	Fraud Enforcement Advisor
ICS	Integrated Collection System
IDS	Inventory Delivery System
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
SB/SE	Small Business Self-Employed
TFRP	Trust Fund Recovery Penalty

5.7.2.1.7  
(02-08-2021)

**Related Resources**

- (1) The following resources provide additional information:
  - IRM 5.7.8, In-Business Repeater or Pyramiding Taxpayers
  - IRM 5.17.4.17, Civil Injunctions under IRC 7402(a) to Restrain Pyramiding

5.7.2.2  
(04-05-2024)

**Issuance of Letter 903**

- (1) Once levy sources have been exhausted and the repeater or pyramiding taxpayer has no assets to assist in resolving or offsetting the liability, consider issuing Letter 903 with Notice 931.
- (2) These procedures should be used in egregious cases of noncompliance when all available collection procedures have been exhausted, are unproductive or would be futile to stop or reduce trust fund pyramiding.
- (3) Issuance of Letter 903 is required before a taxpayer can be recommended for civil injunction or criminal prosecution. See IRM 25.1.8.2, Fraud Handbook, Overview, for additional guidance.
- (4) Conditions for Issuing Letter 903:

IF	THEN
The taxpayer is an in-business trust fund violator.	Consider issuing Letter 903.
The levy upon property of the business or its responsible persons would be ineffective to reduce pyramiding behavior.	Consider issuing Letter 903.
The taxpayer is identified as a repeater, no assets exist and/or all levy sources have been exhausted.	Consider issuing Letter 903 along with Letter 1058 during initial contact.
Recommending issuance of Letter 903.	Generate the Letter 903 on ICS and send to the group manager for review and approval.
The manager does not approve the recommendation.	Document the reason in the case history.

- (5) Generally, the revenue officer has made contact with the taxpayer and has made a safety determination prior to issuing the Letter 903.

IF	THEN
There are no safety concerns	The revenue officer should proceed with a scheduled field visit to hand-deliver Letter 903
The revenue officer is not comfortable meeting with the taxpayer at their home or business	The revenue officer should schedule an in person appointment in their post of duty (POD) to hand-deliver the Letter 903 to the taxpayer
At any time the revenue officer feels the environment is not safe when conducting the interview or meeting	The revenue officer should remove themselves from the situation and notify their group manager (GM). The revenue officer should discuss all safety concerns with their GM

- (6) Revenue Officers must hand deliver Letter 903 and Notice 931, Deposit Requirements for Employment Taxes, to the taxpayer during a scheduled appointment.
- (7) The Letter 903 can also be sent to the taxpayer's last known address by certified mail when the revenue officer is unable to hand-deliver the letter during a scheduled appointment because of the following:
- Office space is not available
  - There are safety concerns, or
  - The taxpayer fails to appear for the scheduled appointment.



- (8) If the revenue officer sends the Letter 903 by certified mail, document the ICS history to explain the circumstances supporting this decision.
- (9) Notate the delivery method on ICS. Once the delivery method is selected, ICS will upload TC 148-09 to IDRS. This provides for systemic control and subsequent follow-up. If a subsequent BAL DUE, DEL RET, or FTD Alert is issued, it will be coded with an L and it will be accelerated to the field.
- (10) Associate a copy of Letter 903 with the case file.

**Note:** Criminal charges could be pursued based on the failure to adhere to the reporting and payment requirements mandated under the IRC. Convictions under Title 18 and Title 26 may include substantial fines and terms of imprisonment.

- (11) If the taxpayer has previously abandoned other business ventures, leaving unpaid and uncollectible tax liabilities, consider seeking a civil injunction to stop further pyramiding. See IRM 5.17.4.17, Civil Injunctions under IRC 7402(a) to Restrain Pyramiding. Consult with SB/SE Counsel when dealing with this situation.

5.7.2.2.1  
(04-05-2024)  
**Revenue Officer  
Follow-up After Letter  
903 Issuance**

- (1) Inform the taxpayer that failure to comply may result in:
  - Prompt assessment of unpaid liabilities.
  - Assessment of liabilities based upon a return executed under IRC 6020(b).
  - Possible civil or criminal referral.
- (2) Prior to closing the case, regardless of the closure type, the revenue officer will need to determine if the TC 148-09 should be reversed and document the ICS history. If the TC 148-09 is no longer warranted, it should be reversed using TC 149.
- (3) The revenue officer should consider the taxpayer's current compliance when determining if the TC 148-09 should be reversed.
- (4) When requesting the case closure, in ICS, a pop-up message will be displayed asking if the TC 148-09 should be reversed on the account.
- (5) The revenue officer must answer the question to close the case. Selecting "Yes", will systemically upload the TC 149 to IDRS. Selecting "No", will keep the TC 148-09 on the account and any subsequent delinquencies by the taxpayer will be accelerated to Field Collection for prompt enforcement action.
- (6) In the event the closure requires managerial approval, the TC 148-09 pop-up message will appear when the group manager approves the closure and they must answer the question to close the case.
- (7) Document the ICS history as to the TC 148-09 determination.

5.7.2.3  
(04-05-2024)  
**Referrals For Civil  
Enforcement**

- (1) **All appropriate administrative collection procedures should be taken before initiating these Trust Fund Compliance procedures. For instance, appropriate levies and Notices of Federal Tax Lien should be considered first, as well as timely and appropriate trust fund recovery penalty investigations. With approval from local counsel, it may also be appropriate to**

**pursue a civil injunction while a taxpayer is exercising its collection due process hearing and appeal rights under IRC 6320 or IRC 6330.**

- (2) Taxpayers could be recommended for civil injunction action pursuant to IRC 7402(a) for repeated failure to comply with the Employment Tax provisions listed in the Internal Revenue Code.

**Note: This action is normally appropriate for taxpayers with minimal or no equity, or where seizure may not resolve the problem.**

- (3) Revenue Officers should be able to establish that the taxpayer is knowledgeable regarding federal tax deposit laws and that further administrative collection effort would be futile.
- (4) Some examples of proof of federal tax deposit law knowledge may include:
- a. The taxpayer received a Letter 903 in the past.
  - b. The taxpayer was previously assessed a Trust Fund Recovery Penalty.
  - c. The taxpayer has/is engaged in multiple entities to avoid the payment of the trust fund taxes.
  - d. The taxpayer has a history of filing bankruptcies to avoid collection of employment taxes and/or pyramids employment taxes while in bankruptcy.
- (5) Ensure the case is properly documented regarding the following:
- a. History of non-compliance (evidence of prior assessments and penalties).
  - b. Verification of the taxpayer's responsibility to withhold taxes.
  - c. Deposit requirements were explained to the taxpayer.
  - d. Prior enforcement actions taken and the results of those actions.
  - e. Review IRM 25.1.8, Fraud Handbook, Field Collection, if appropriate.
- (6) The revenue officer will:
- a. Prepare a civil suit recommendation using Form 4477-D, Civil Suit Package, which contains all the forms needed to complete a recommendation.
  - b. Load the Form 4477-D and appropriate exhibits to the eApproval application.
  - c. eApproval automatically routes the package to the next party in the review and approval chain.
  - d. See IRM 5.17.12.20 The Narrative Report, IRM 25.3.2, Litigation and Judgments, Suits by the United States, the Suit Form User Guides and suit package examples available on the *Knowledge Management Suit Resources and Examples page*.
  - e. Refer to the Legal Reference Guide, IRM 5.17.4.17 et seq., Civil Injunctions under IRC 7402(a) to Restrain Pyramiding and IRM 5.17.12 Legal Reference Guide for Revenue Officers, Investigations and Reports, for guidelines.
  - f. The civil suit recommendation should identify the injunction suit type and discuss instituting civil proceedings under IRC 7401 and IRC 7402 to obtain an injunction against the taxpayer to prohibit the incurrence of future unpaid trust fund tax obligations.

- g. Review the case file for appropriate exhibits providing evidentiary substantiation for the recommendation. Use the eApproval naming conventions for the exhibits, which can be found under document naming in the eApproval Info Center.
- h. Refer to IRM 5.7.2.2(4) Conditions for Issuing Letter 903 in the narrative report.

5.7.2.4  
(02-08-2021)  
**Referrals For Criminal  
Enforcement**

- (1) Criminal charges could be pursued based on the failure to adhere to the reporting and payment requirements mandated by the Internal Revenue Code. When the taxpayer fails to comply with the IRC provisions, do the following:
  - a. Consult your group manager as to the appropriate course of action, which may include a referral to Criminal Investigation.
  - b. Review IRM 25.1.3, Criminal Referrals, and discuss potential fraud indications with the Fraud Enforcement Advisor (FEA) for additional guidance.
  - c. If a criminal referral is appropriate, then prepare Form 2797, Referral Report of Potential Fraud Cases. Refer to IRM 25.1.3.2, Preparation of Form 2797, and submit the report to the FEA.
- (2) If the referral is accepted by Criminal Investigation, the special agent assigned to the case will contact the revenue officer.
- (3) If at any time during the investigative or criminal process the Collection Area Director believes that suspension of the civil aspects will impact the ultimate collection of civil liabilities, bring the matter to the attention of SB/SE Counsel. SB/SE Counsel will coordinate with Criminal Tax Counsel.

