



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

5.9.5

NOVEMBER 1, 2022

## EFFECTIVE DATE

(11-01-2022)

## PURPOSE

- (1) This transmits a revised IRM 5.9.5, Bankruptcy and Other Insolvencies, Opening a Bankruptcy Case.

## MATERIAL CHANGES

- (1) IPU 21U1039 issued 08-16-2021 IRM 5.9.5.1.7(8) - Updates TBOR content based on guidance from the Division Counsel/Associate Chief Counsel (National Taxpayer Advocate Program) and Branch 3 of the Associate Chief Counsel (Procedure and Administration).
- (2) IPU 21U1039 issued 08-16-2021 IRM 5.9.5.4.1(1) - Case Classification, changes 7A<10K to 7A<20K Classification which identifies Chapter 7A Streamlined case with liability #less than \$20,000#.
- (3) IPU 21U1039 issued 08-16-2021 IRM 5.9.5.4.1(1) - Case Classification, updates case classification "ACA CD36" does not prevent closure and removes "Mirroring must be processed manually when IDRS permits mirroring of the modules in 2016" from the identification.
- (4) IPU 20U1193 issued 11-02-2020 IRM 5.9.5.4(1) - Updates IRM to Exhibit 5.9.1-2.
- (5) IPU 20U1193 issued 11-02-2020 IRM 5.9.5.4.1(1) - Updates IRM to Exhibit 5.9.1-2.
- (6) IPU 20U1193 issued 11-02-2020 IRM 5.9.5.4(4) - Corrects dead link to IRM 5.9.8.17.1(4)(d).
- (7) IPU 20U1193 issued 11-02-2020 IRM 5.9.5.4.2(1) - Updates IRM to Exhibit 5.9.17-2, Exhibit 5.9.17-5 and Exhibit 5.9.5-3.
- (8) IPU 20U1193 issued 11-02-2020 IRM 5.9.5.4.3(4) - Removes Chapter 13 Streamlined Cases from Chapter 13 Summary Histories to provide clarity about the content of the summary history by eliminating the impression that a summary history for streamline case is different from a regular case, to cross-reference and fall in line with IRM 5.9.10.6.1(4).
- (9) IPU 21U1039 issued 08-16-2021 IRM 5.9.5.5.1 - Adds new subsection - Timely Follow-up Actions.
- (10) IPU 21U1039 issued 08-16-2021 IRM 5.9.5.7(6) - Removes the old debt limit, dollar criteria for a Small Business Chapter 11 case.
- (11) IPU 21U1039 issued 08-16-2021 IRM 5.9.5.7.1(2) - Clarifies Caseworker Actions during Systemic Identification in Serial Filer Cases.
- (12) IPU 21U1039 issued 08-16-2021 IRM 5.9.5.7.1(6) - Adds to Case Classification to document the AIS case history why the "SERIAL" classification was added.
- (13) IPU 21U1039 issued 08-16-2021 Exhibit 5.9.5-4 - Clarifies the 45-day, follow-up review and adds requirement to document the case history of actions taken.
- (14) IPU 21U1039 issued 08-16-2021 Exhibit 5.9.5-5 - Adds 1 cycle delay for Step 3; adds to reverse TC 520 cc 84 using the confirmation date with a 1 cycle delay to input TC 520 cc 6X for Step 7; and adds TC 521 (from TC 520 cc 84) to the Freeze Screen on AIS for Step 8.
- (15) IPU 21U1039 issued 08-16-2021 Exhibit 5.9.5-6 - Adds 1 cycle delay for Step 3; adds to reverse TC

520 cc 84 using the confirmation date with a 1 cycle delay to input TC 520 cc 6X for Step 7; and adds TC 521 (from TC 520 cc 84) to the Freeze Screen on AIS for Step 8.

(16) Editorial changes were made throughout this section to add clarity.

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

This material supersedes IRM 5.9.5, dated April 15, 2020 and incorporates IPU 20U1193 issued on November 2, 2020 and IPU 21U1039 issued on August 16, 2021.

#### **AUDIENCE**

All operating divisions

Kareem Williams Director, Collection Policy Small Business Self  
Employed

5.9.5

Opening a Bankruptcy Case

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5.9.5.1  
(04-15-2020)  
**Program Scope and Objectives**

- (1) **Purpose.** This section provides instructions for initial case processing in bankruptcy court cases within Specialty Collection - Insolvency (SCI), comprised of Field Insolvency (FI) and the Centralized Insolvency Operation (CIO). Some procedures contained in this IRM section may be modified to coincide with a jurisdiction's local rules and court-issued standing orders.
- (2) **Audience.** This IRM section is used primarily by Insolvency caseworkers in FI and at the CIO. It may be referred to by other Small Business/Self Employed (SB/SE), Specialty Collection - Insolvency employees; such as revenue officers (ROs) and advisors. However, employees in functions other than SB/SE may refer to this section when dealing with a taxpayer that has filed bankruptcy.
- (3) **Policy Owner.** Director, Collection Policy, SB/SE.
- (4) **Program Owner.** Collection Policy, SB/SE, Insolvency is the program owner of this IRM.
- (5) **Primary Stakeholders.** The primary stakeholders are Specialty Collection - Insolvency (SCI), Small Business/Self Employed (SB/SE) Collection, and Counsel.
- (6) **Program Goals.** The goal is to provide fundamental knowledge and procedural guidance for opening and working insolvency cases. Following the guidance in this IRM will ensure cases are worked in accordance with bankruptcy laws and regulations.

5.9.5.1.1  
(04-15-2020)  
**Background**

- (1) Internal Revenue Manual (IRM) 5.9, Bankruptcy and Other Insolvencies, contains the Service's position, procedures, information, instructions, guidance, and references concerning bankruptcy cases, stockbroker insolvencies, receiverships, assignments for the benefit of creditors, corporate dissolutions, and bulk sales.

5.9.5.1.2  
(04-15-2020)  
**Authority**

- (1) The Insolvency program operates within the guidelines of the US Bankruptcy Code (11 USC) and the Federal Rules of Bankruptcy Procedure.
- (2) IRM 5.9.3.1.2, Authority, and IRM 5.9.3.1.3, Responsibilities, also contain Insolvency caseworkers' authority and responsibilities in the Insolvency program.

5.9.5.1.3  
(04-15-2020)  
**Responsibilities**

- (1) IRM 5.9.1, Overview of Bankruptcy, provides a list of titles and responsibilities with an explanation of their roles and authority within the Insolvency program.
- (2) The Director, Specialty Collection - Insolvency (SCI) is responsible for program oversight.

5.9.5.1.4  
(11-01-2022)  
**Program Management and Review**

- (1) IRM 1.4.51.8.3, Case Management Tools, IRM 5.9.12, Insolvency Automated Processes, and IRM 5.9.16, Insolvency Case Monitoring, contain a list of required reports for caseworkers and managers to utilize for inventory management and review of case inventories. These sections also include the frequency and purpose of each report.
- (2) National quality reviews and consistency reviews are conducted on a consistent basis. See IRM 1.4.51.16.1, NQRS, IRM 5.13.1.4, Embedded Quality - Field Quality Review Process, and IRM 21.10.1, Quality Assurance - Embedded Quality (EQ) Program for Accounts Management, Compliance,

Field Assistance, Tax Exempt/Government Entities, Return Integrity and Compliance Services (RICS), and Electronic Products and Services Support. See also IRM 1.4.51.16.2, EQ Consistency Reviews, for more information.

- (3) Operational and program reviews are conducted on a yearly basis. See IRM 1.4.51.17.2, Operational Review, and IRM 1.4.51.17.5, Program Reviews, for more information.

5.9.5.1.5  
(04-15-2020)

#### Program Controls

- (1) Managers are required to follow program management procedures and controls addressed in IRM 1.4.51.5.2, Reviews (Overview), IRM 1.4.51.15, Controls, and IRM 1.4.51.16, Quality.
- (2) Caseworkers and managers utilize the Automated Insolvency System (AIS) for case management, assignment, and documentation of all insolvency and non-bankruptcy insolvency cases. Access and permissions to AIS are restricted. See IRM 5.9.3.2, Automated Insolvency System (AIS).

5.9.5.1.6  
(11-01-2022)

#### Terms/Definitions/ Acronyms

- (1) A glossary of terms used by Insolvency can be found in Exhibit 5.9.1-1, Glossary of Common Insolvency Terms.
- (2) Common acronyms acceptable for use in the Automated Insolvency systems (AIS) history are listed Exhibit 5.9.1-2, Acronyms and Abbreviations.
- (3) Additional acceptable acronyms and abbreviations are found in the ReferenceNet Acronym Database, which may be viewed at: <http://rnet.web.irs.gov/Resources/Acronymdb.aspx>.
- (4) Some acronyms used specifically in this IRM sections are listed below:

Acronym	Definition
AIS	Automated Insolvency System
ACA	Affordable Care Act
ASED	Assessment Statute Expiration Date
BAPCPA	Bankruptcy Abuse Prevention and Consumer Protection Act
CIO	Centralized Insolvency Operation
CSED	Collection Statute Expiration Date
CDP	Collection Due Process
EAEP	Exempt Abandoned Excluded Property
ESRP	Employer Shared Responsibility Payment
FI	Field Insolvency
IA	Installment Agreement
IDT	Identity Theft
NFTL	Notice of Federal Tax Lien
SRP	Shared Responsibility Payment

Acronym	Definition
TC	Transaction Code
WFTP	Willful Failure to Pay

5.9.5.1.7  
(08-16-2021)

#### Related Resources

- (1) Procedural guidance on insolvencies can be found throughout IRM 5.9, Bankruptcy and Other Insolvencies.
- (2) The US Bankruptcy Code (11 USC).
- (3) Bankruptcy Rules (Federal Rules of Bankruptcy Procedure).
- (4) Local Bankruptcy Court Rules.
- (5) Applicable Case Law.
- (6) Document 13219 , AIS User Guide.
- (7) My SB/SE Insolvency/Bankruptcy page: <http://mysbse.web.irs.gov/collection/insolvency/default.aspx>.
- (8) 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 accordance with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see : <https://www.irs.gov/taxpayer-bill-of-rights>
- (9) Certain issues in a bankruptcy case may be referred to Associate Area Counsel or directly to the U.S. Attorney's Office (USAO). Within this IRM, the term "Counsel" refers to Associate Area Counsel or the USAO, whichever is appropriate. For more information on referrals, see the following subsections in IRM 5.9.4, Common Bankruptcy Issues:
  - IRM 5.9.4.15, Referrals - Representing IRS in Bankruptcy Court
  - IRM 5.9.4.15.1, Direct Referrals
  - IRM 5.9.4.15.2, Referrals to Counsel (Non-Direct Referrals)
  - IRM 5.9.4.15.3, Significant Bankruptcy Case Referrals

5.9.5.2  
(11-01-2022)

#### Notification of Bankruptcy Filing

- (1) **Notification.** The Insolvency function may be informed of a new bankruptcy filing in the following ways:
  - a. Paper copies of petitions, notices, or other documents provided by the court, the debtor, or debtor's counsel;
  - b. Oral notification by the debtor or the debtor's attorney;
  - c. Notification from revenue officers or other Service personnel; or
  - d. Electronic notification from the bankruptcy court through the Electronic Noticing System (ENS) or by an e-mail from the Bankruptcy Noticing Center (BNC).
- (2) **Centralized Insolvency Operation (CIO) Duties.** Generally, the CIO is charged with loading all new bankruptcy cases to the Automated Insolvency System (AIS). CIO is also charged with ensuring the bankruptcy freeze is input on the Integrated Data Retrieval System (IDRS) through the Insolvency

Interface Program (IIP) or through the manual input of the TC 520. However, when a case is in jeopardy of an automatic stay violation and initial notification of the bankruptcy has been received by FI, the FI caseworker has an option of either loading the case to AIS him/herself or forwarding the petition information to the CIO to load the case on AIS.

**Note:** If the Insolvency caseworker manually inputs the bankruptcy freeze to IDRS, the caseworker must add the TC 520 information to the Freeze Screen on AIS.

- (3) **Field Insolvency (FI) Requests for CIO to Add a Case to Automated Insolvency System (AIS).** FI must complete and fax Form 14522, New Case Request Checklist for Chapter 7, 11, 12, or 13, to the CIO at (855) 235-6787 to request that the CIO add a case to AIS. A copy of the 341 notice, first page of the docket report, or other written notification of the filing must accompany the form. Unless an urgent situation exists, FI must wait three days before asking the CIO to add the case to AIS when IRS is listed as a creditor in the case per Public Access to Court Electronic Records (PACER). This will allow time for the notice to be transmitted via electronic means and eliminate the need for the case to be added manually to AIS. See Form 14522 for additional instructions.
- (4) **Other Requests for CIO to Add a Case to AIS.** The debtor, attorney for the debtor, or bankruptcy trustee may contact the CIO by phone to notify the IRS of the filing of a bankruptcy petition. Other IRS functions outside SCI may submit Form 4442, Inquiry Referral, to the CIO to notify Insolvency that a debtor has filed a bankruptcy petition. (See IRM 5.9.3.3, Taxpayer/Debtor Contacts.) In either instance, if the case is not on AIS, the CIO must add the case to AIS when pre-petition or post-petition liabilities exist, regardless of the bankruptcy chapter filed. It does not matter if the debtor included IRS on the creditor matrix or if IRS was scheduled in the bankruptcy. The automatic stay protects the taxpayer and IRS must ensure that there are no violations of the stay. (See IRM 5.9.3.5, Automatic Stay.)
- (5) **Notice of Specific Chapters.** Requirements to provide notice to the IRS depend on the bankruptcy chapter filed and local rules regarding refund distribution.
  - a. Chapters 7, 12, 13, and 15. The IRS receives notice when the Service is listed as a creditor on the debtor's bankruptcy schedules. Notice is also received when IRS has agreed that the trustee has rights to a debtor's tax refunds as part of the bankruptcy estate.
  - b. Chapter 11. Notice to IRS is required on all cases. It does not matter if the Service is listed as a creditor in the case.

5.9.5.2.1  
(04-15-2020)  
**Notices Not Received**

- (1) **Lack of Notice.** If the Service is not receiving timely notice of bankruptcy filings, FI should determine the reason notices are not being received. The issue should be resolved by FI at the local level with the court or with debtors' attorneys. Counsel's involvement may be required. In rare instances, the matter might justify elevation through proper channels to the National Office for contact with the Administrative Office of the United States Courts, when the problem lies with the court.



- a. Field Insolvency (FI). If FI groups identify a problem with notices not being timely loaded onto AIS, they should contact the CIO to determine if the delay lies with the Service, with the courts, or with the debtors' attorneys.
  - b. Centralized Insolvency Operation (CIO). If CIO units identify a noticing problem, the unit lead should contact the leads of the CIO units responsible for loading new cases to AIS. If the delay lies with the courts or debtors' attorneys and not with CIO processing, the lead should determine the jurisdictions involved and alert the appropriate FI group so remedies can be initiated at the local level.
- (2) **Unnoticed Chapter 7 No Asset Cases.** IRM 5.9.17.10(4), Chapter 7 Discharge Actions, Lack of Notice in Chapter 7 No Asset Cases, explains proper actions to take when the Service is not noticed in a discharged Chapter 7 No Asset case and the debtor has dischargeable liabilities.
- (3) **No Notice or Late Notice in Asset Cases.** In the individual or joint asset case, taxes are not discharged when the Service did not receive notice of the bankruptcy filing within sufficient time to file a timely proof of claim before the expiration of the bar date. Additionally, taxes are not discharged when the Service did not receive notice of the bankruptcy filing because the debtor failed to include IRS on the bankruptcy schedules and statements (11 USC 523(a)(3)). The provision in Bankruptcy Code 523(a)(3) does not apply if the Service otherwise had timely notice or actual knowledge of the bankruptcy filing. Based on the procedures used by the IRS to create and file a proof of

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Chapter 7 Asset cases, individual or joint Chapter 11 and Chapter 12 cases, as well as Chapter 13 cases. See IRM 5.9.17.8.9, Procedures for Processing Bankruptcy Discharges when the IRS Received No Notice or Late Notice in the Asset Case, and IRM 5.9.13.7.1, Bar Dates, Late Filed Claims, for additional information.

5.9.5.2.2  
(11-01-2022)  
**Mailing Matrix**

- (1) **Correct IRS Mailing Address.** Each bankruptcy court's mailing matrix must list the correct mailing address for the Internal Revenue Service.
- a. One National Address for the Mailing Matrix. With few exceptions, correspondence from debtors or attorneys should be directed to the mailing address of the CIO for correspondence "without remittance." The mailing address is:  
  
**Note:** Internal Revenue Service P.O. Box 7346 Philadelphia, PA 19101-7346
  - b. Trustee Checks. Trustees should mail all Chapter 13 and Chapter 7 checks to the CIO at:  
  
**Note:** Internal Revenue Service P.O. Box 7317 Philadelphia, PA 19101-7317 Checks from Chapter 9, 11, or 12 trustees or debtors-in-possession should be sent to the FI group handling the account.
  - c. Checks Mailed from FI to CIO. Chapter 13 or 7 trustee checks received in FI offices should be shipped by overnight courier to the CIO street address accompanied by Form 3210, Document Transmittal. The Form

3210 must list each check separately by the check number and the trustee's last name. The street address for the CIO is:

**Note:** Internal Revenue Service Mail Stop 5-Q30-1332970 Market Street  
Philadelphia, PA 19104-5016 Attention: Payment Team

- d. Checks from Non-Debtor Spouses. Non-debtor spouses should be directed to send their remittances to the Campus assigned to their geographic location. When checks from non-debtor spouses are received at a FI office, the FI caseworker must complete a Form 3244, Payment Posting Voucher, for each payment and send the vouchers along with the remittances to the appropriate Campus Support group via overnight courier. The CIO will provide payment posting information to the Campus Support function in accordance with local guidelines.

**Note:** Form 3210, Document Transmittal, listing all payments separately by TIN must accompany remittances forwarded to the Campuses. The "Who/Where" tab on SERP provides Campus addresses for payment processing.

5.9.5.3  
(08-17-2016)  
**Asset/No Asset Cases**

- (1) **Asset Cases.** All cases filed under Chapter 9 and Chapter 11 are treated as asset cases by Insolvency. All Chapter 12 and Chapter 13 cases, for which notification has been received, are treated as asset cases.
- (2) **Asset/No Asset Determination.** In cases filed under Chapter 7, Insolvency must determine if the bankruptcy is an asset or a no asset case.
  - a. Many bankruptcy courts follow a policy that all Chapter 7 cases are no asset cases unless the court issues a notice of possible dividends and sets a bar date.
  - b. Other bankruptcy courts issue an initial notice identifying a case as an asset or a no asset case.

5.9.5.3.1  
(04-15-2020)  
**Chapter 7 and Chapter 11 Liquidating Partnerships**

- (1) **No Discharge.** Discharges are not granted to partnerships in Chapter 7 cases or to partnerships that liquidate in Chapter 11 cases. So, initial case reviews and actions taken during the pendency of these bankruptcies may vary from the treatment taken on other entities that file under these chapters.
- (2) **Types of Partnerships.** Partnerships are one of two types: general or limited. General partnerships are comprised of members who are all general partners. Limited partnerships are comprised of one or more general partners and one or more limited partners.
- (3) **General Partnerships.** General partners may be individuals, corporations, limited liability companies (LLCs), or other partnerships. General partners are individually responsible for any federal tax liabilities or penalties related to federal taxes incurred by the partnership. Assets of general partners are not part of the bankruptcy estate. In most cases, collection can proceed against the assets of the general partner(s) without violating the automatic stay while the partnership itself is under bankruptcy protection. It is the position of the Service that IRS will not proceed with collection against the general partners during the pendency of the bankruptcy case unless extenuating circumstances exist, such as a jeopardy situation or an imminent CSED. Guidance from Counsel should be sought before taking collection action against assets of the general partners while the partnership bankruptcy case is still open.

**Note:** If the decision is made to pursue collection from general partners during the pendency of a partnership's Chapter 7 or liquidating Chapter 11 bankruptcy case, the TC 520 closing code should be changed to 84. When the bankruptcy case is closed by dismissal, discharge, or non-discharge, a TC 550 must be input on the account to extend the CSED manually.

- (4) **Limited Partnerships.** A limited partnership has at least one general partner and any number of limited partners. As mentioned above, general partners are responsible for the federal tax liabilities and federal tax related penalties incurred by the partnership. Generally, limited partners are not responsible for tax liabilities and tax related penalties of the partnership. Thus, collection actions cannot be taken against assets of the limited partners for application to the tax obligations of the partnership, whether or not that partnership is in bankruptcy.
- (5) **Exception for Limited Partners.** A limited partner can still be liable to a third party for conduct that has injured that third party. Therefore, if the Service establishes a basis for assessing a TFRP against the limited partner, the Service may be able to collect from the limited partner through that assessed TFRP. The Insolvency caseworker must determine whether a limited partner is liable for the TFRP, keeping in mind the ASER for the TFRP is not suspended while the partnership is in bankruptcy. For additional information see:
- IRM 5.17.7, Legal Reference Guide for Revenue Officers, Liability of Third Parties for Unpaid Employment Taxes,
  - IRM 5.7.3, Trust Fund Compliance, Establishing Responsibility and Willfulness for the Trust Fund Recovery Penalty (TFRP),
  - IRM 5.7.4, Trust Fund Compliance, Investigation and Recommendation of the TFRP, and
  - IRM 5.9.3.10, Debtors' Delinquent Accounts, Trust Fund Recovery Penalty, and subsections.

**Note:** Counsel must be included in any decision to pursue collection from a limited partner.

- (6) **Closing Actions.** IRM 5.9.17.11, Closing Chapter 7 or Liquidating Chapter 11 Partnerships, provides procedures for closing partnerships that filed Chapter 7 or Chapter 11 liquidating bankruptcies.

5.9.5.4  
(11-01-2022)  
**Automated Insolvency  
System (AIS)  
Documentation**

- (1) **Case Histories.** The Automated Insolvency System (AIS) is the repository for documenting entity information and events and actions affecting case progression. Some documentation is entered systemically while other documentation is manually input.

**Example:** Documentation may be entered systemically in the AIS history by the Integrated Data Retrieval System (IDRS), the Automated Proof of Claim (APOC) system, or the court's Electronic Noticing System (ENS).

**Example:** Insolvency may be contacted by debtors, attorneys for the debtor, the Department of Justice (DOJ), or another party. Insolvency documents the contact manually in the AIS history.

In either instance, all case related actions must be thoroughly, factually, and timely documented in the AIS history. The AIS history documentation must

provide sufficient information to allow the reader an understanding of case actions past, present, and prospective. This includes documenting the reason for delays in case processing and deadline follow-up actions. To ensure AIS histories are understandable to all readers, caseworkers must not use abbreviations or acronyms in the AIS history unless they are listed in Exhibit 5.9.1-2, Acronyms and Abbreviations, or in the ReferenceNet Acronym Database. The database may be viewed at <http://rnet.web.irs.gov/Resources/Acronymdb.aspx>.

- (2) **History Documentation.** Caseworkers are not required to manually enter information in the AIS history which repeats content systemically entered in the AIS history by ENS, IIP, APOC, or any other automated program. Case histories must include the information in the list below when it applies to the case under review and is appropriate for proper case handling. The list is not all inclusive and cannot include all issues that may be pertinent to a specific case.

**Note:** When a Chapter 13 or 7A case meets the “streamlined” criteria established by the Director, Specialty Collection - Insolvency (SCI), the Director may establish limited AIS history documentation requirements.

Case History Documentation:
a) Compliance and cross-compliance data including filing requirements, balances due, unfiled returns, credit balances, FTDs, estimated tax payments, and cross reference TINs which may indicate liability;
b) Issues to be addressed during the 11 USC 341 hearing or a statement that no 341 issues exist;
c) A summary of claim information (modules, tax due, penalty and interest, INTST to the petition date, classifications, estimated periods, etc.) each time a claim is filed or amended
d) Type and terms of installment agreements suspended by the filing of the bankruptcy case;
e) Summary of asset valuations when a claim is secured;
f) Actions taken to resolve docket flags and period flags on the Automated Proof of Claim (APOC) system;
g) Annotation of unfiled returns including tax periods, credit balance periods (and how the credit is to be addressed), and a plan of action for securing unfiled returns;
h) Previous bankruptcy filings that affect claim classification, limitation or non-imposition of the automatic stay, or dischargeability, and actions taken to advise Counsel, if appropriate;
i) TFRP information including the names, SSNs, or TINs of responsible parties and applicable ASERs;
j) Cash collateral issues addressed;
k) NFTL refile date(s), if appropriate;

<b>Case History Documentation:</b>
l) Summary of adequate protection agreements and subsequent monitoring;
m) Fast track Chapter 11 issues, such as, inadequate disclosure statement or plan;
n) Plan terms and feasibility;
o) Amended plan terms;
p) Chapter 11 post-petition taxes and filing of actual or potential administrative claims;
q) Handling of Chapter 13 post-petition liabilities;
r) Annotation that the plan has been properly loaded on the AIS payment monitoring screen;
s) Date of any follow-up actions not systemically entered by AIS;
t) Summary of contacts with other IRS functions in regard to a particular case;
u) Correspondence sent and responses received;
v) Conversations or meetings with the debtor, the debtor's representative, or third parties;
w) Pertinent facts from the bankruptcy schedules or the Statement of Financial Affairs (SOFA), such as exempt assets that might be considered for collection post discharge, if a valid NFTL is on file;
x) Pertinent facts from IDRS, the bankruptcy schedules, or the SOFA that identify excluded assets that might be considered for collection post-discharge due to the Service's statutory lien, such as, a 401K or ERISA qualified pension plan;
y) Assets that have been abandoned by the trustee, the debtor-in-possession, or the bankruptcy estate which may be considered for collection after the bankruptcy discharge due to the Service's statutory lien;
z) Stay violations and their resolutions;
aa) Trustee refund turnover requests;
ab) Issuance of manual refunds;
ac) Current status of discharged, dismissed, or converted cases that may require processing by another unit or group prior to claim preparation;
ad) Conversion information;
ae) Nature and type of legal action referred to Counsel and/or the USAO;
af) Monitoring of plan payments in Chapter 11 and Chapter 12 cases;
ag) Actions taken when a debtor defaults;

Case History Documentation:
ah) Actions taken at the time of confirmation;
ai) Manual dismissal actions including the caseworker's determination to refer, or not to refer, a case to Counsel for a motion for dismissal for failure to file delinquent tax returns;
aj) Manual discharge determinations;
ak) Non-debtor spouse issues; such as, mirroring of accounts and community property issues;
al) When FI asks CIO to complete up-front mirroring of an account, the reason for the mirroring should be stated clearly in the history; as well as, the modules to be mirrored;
am) The date Pub 1, Your Rights as a Taxpayer, was issued to the debtor prior to taxpayer contact or a statement that Pub 1 was not required; <b>Note:</b> See IRM 5.9.3.12.1, Third-Party Contacts, updated after 08/15/2019.
an) A statement that the proof of claim has been reviewed and that EPOC has been requested (or that the proof of claim has been mailed in locations that do not accept electronic proof of claim filing); <b>Example:</b> POC reviewed and EPOCd. <b>Example:</b> POC reviewed and mailed to the court.
ao) Resolution of Automated Discharge System (ADS) discharge determination reports (DDR);
ap) Any special instructions to be considered by caseworkers when a case is transferred from one insolvency function to another or from one caseworker to another caseworker; and <b>Example:</b> Case transferred to CIO to monitor for confirmation of the plan.
aq) Actions taken when a LTS transcript was reviewed or documenting that the LTS transcript was reviewed and no action was required.

- (3) **Chapter 13 Plan Documentation.** The Director, SCI, may establish streamlined criteria for processing Chapter 13 cases. Caseworkers must add the correct case classification to the case on AIS so "streamlined" cases can be

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streamlined cases. When Chapter 13 streamlined case criteria is met, FI caseworkers follow the procedures for the plan review as required by the Director, SCI. In all other cases, the Chapter 13 plan review must include the following information in the order below:



- Length of plan X monthly payment to trustee = \$ [total amount to be paid to all creditors]
- Amount or percentage to be paid on the Service's secured claim(s)
- Amount or percentage to be paid on the Service's unsecured priority claim(s)
- Percentage to be paid on the Service's unsecured general claim(s)
- Accrued interest rate to be paid on secured claims; as well as, unsecured priority and unsecured general claims (11 USC 1325(a)(4))

**Note:** See IRM 5.9.10.5.2.1, Interest in the Post-BAPCPA Case, for information regarding interest in the Chapter 13 case.

- Plan adequate: [yes or no]
- Remarks [including, but not limited to, the following: a) If the plan is not adequate, why it is not adequate b) What actions have been taken to resolve the plan deficiency c) If payments are to be applied in a manner other than the systemic allocation program for AIS automatic allocations, how should the payments be manually applied? See Exhibit 5.9.15-4, Payments in Bankruptcy, AIS Automatic Allocation, for information on systemic allocation. d) If a secured claim is not provided for because of local practices, how will payment of the secured period be addressed?

**Example:** PLAN REVIEW: 60 months X \$360 = \$21,600 total to be paid to all creditors; IRS secured claim: 100%; IRS unsecured priority claim: 100%; IRS unsecured general claim: 1%; 3% daily compounded interest on secured claim; 0% interest on priority claim; plan is adequate. Remarks: NA.

**Example:** PLAN REVIEW: 60 months X \$360 = \$21,600 total to be paid to all creditors; IRS secured claim: not provided for; IRS unsecured priority claim: 100%; IRS unsecured general claim: 1%; no interest to be paid on secured or priority claim; plan is NOT adequate. Remarks: Plan inadequate because secured claim will not be paid through the bankruptcy. Contacted debtor's attorney who agreed to amend plan within 10 days to provide for secured claim. Set 14 day follow-up to check PACER for amended plan. If amended plan not filed, next action: referral to Counsel to object to plan.

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- (4) **Chapter 11 and Chapter 12 Plan Documentation.** Chapter 11 and Chapter 12 plan reviews must be documented in the AIS history. The history in the Chapter 11 or Chapter 12 business case must state the nature of the debtor's business. This is extremely important when the nature of the debtor's business is seasonal and impacts the terms of the plan and debtor's ability to pay. In all Chapter 11 and Chapter 12 cases, the plan documentation must include the following information in the order below:

- Person responsible for making payments: trustee or debtor-in-possession (DIP).
- When administrative expenses are to be paid.

- Length of plan, frequency of payments, and when the first payment is due (e.g., 30 days after confirmation).
- Dollar amount of periodic payments to IRS and the due date of payments.
- Amount or percentage to be paid on the Service's secured claim(s).
- Amount or percentage to be paid on the Service's unsecured priority claim(s).
- Amount or percentage to be paid on the Service's unsecured general claim(s).
- Amounts to be paid under the plan for criminal restitution assessments and any special instructions for the application of such payments, when there is a criminal restitution assessment present in the case.

**Note:** Cases with a criminal restitution assessment are identified by a "CRIMREST" case classification.

- Accrued interest to be paid on secured claims, as well as accrued interest to be paid on unsecured priority and general unsecured claims, if applicable, under 11 USC 1225(a)(4) and 1129(a)(9)(C) and (D). Unless the plan provides otherwise, the interest rate on underpayments is the IRC 6621 rate in effect during the month in which the plan is confirmed. In general, the underpayment rate is three percentage points above the Federal short-term rate. The underpayment rate for large corporate underpayments is two percentage points above the general underpayment rate, for a total underpayment rate that is five percentage points above the Federal short-term rate. See IRM 5.9.8.17.1(4)(d), The Plan of Reorganization, Plan Provisions, Rate of Interest for Tax Claims, for additional information.
- Default language
- Effect of plan confirmation on the Service's liens
- Plan adequate: [yes or no]
- Remarks [including, but not limited to, the following: a) If the plan is not adequate, why is it inadequate b) What actions have been taken to resolve the plan deficiency. c) If payments are to be applied in a manner other than the systemic allocation program for AIS automatic allocations, how should the payments be manually applied? (See Exhibit 5.9.15-4, for information on systemic allocation. d) If a secured claim is not provided for because of local practices, how will payment of the secured period be addressed?

**Note:** For formatting purposes, examples of plan documentation appear in the paragraph above.

- (5) **Confirmed Plans.** An amended or modified plan may change the treatment of the Service's claim from the terms proposed in the original plan. The terms of the plan may be changed by the court in the confirmation order. The terms of the plan may be changed by the court in a post-confirmation plan modification order. In either instance, document the new plan terms in the AIS history when the modification affects the treatment of the Service's claim. Then, update the CPM Screen with the new plan terms. This may require changing the payment amount, payment due date, interest rate, etc., on the CPM Screen. As an amended or modified plan does not change the original confirmation date, do not change the confirmation date on the Taxpayer Screen or the CPM Screen. For additional information, see IRM 5.9.10.7.1(2), Processing Chapter 13 Bankruptcy Cases, Modification of Plan, Orders Modifying or Amending Plans.



- (6) **Classifications and Summary Histories.** To alert caseworkers to conditions that may affect the final disposition of a Chapter 7 or Chapter 13 case, caseworkers in FI and the CIO will enter case classifications to alert the caseworker closing the case to read the “Summary History” before taking closing actions in the case. (See IRM 5.9.5.4.1, Case Classifications, below, for additional information on case classifications.) The “Summary History” will also alert caseworkers to special actions needed during the pendency of the bankruptcy case. (See IRM 5.9.5.4.2, Summary Histories, through IRM 5.9.5.4.4, Chapter 7 Summary Histories, for additional information.)

**Note:** Case classifications must also be added in a Chapter 11 or Chapter 12 case, when appropriate.

- (7) **Objective Documentation.** AIS documentation must include only facts. The history must not include derogatory statements about any party in interest in the bankruptcy case, any other employees, or any functions within the IRS.

5.9.5.4.1  
(11-01-2022)  
**Case Classifications**

- (1) **Case Classifications that Alert Caseworkers to Actions Needed in a Case.** There are several case classifications on AIS that alert caseworkers to actions that must be addressed during the closure of a bankruptcy case. The case classifications also alert caseworkers to situations that must be addressed during the pendency of the bankruptcy case. When appropriate, case classifications should be added to the case on AIS, regardless of the bankruptcy chapter. Previously, AIS did not allow multiple case classifications. In older cases, the “PDSC ISSUE” case classification alerted caseworkers that multiple issues were present in a case which had to be addressed during case closure. Due to AIS enhancements, there may now be multiple case classifications present in a case. In either situation, caseworkers working or closing a case must look for special guidance in the “Summary History” to work the case. (See IRM 5.9.5.4.2, Summary Histories, through IRM 5.9.5.4.4, Chapter 7 Summary Histories, for additional information.) The chart below lists case classifications which identify issues that must be addressed during case closure or require special actions during the pendency of the bankruptcy case. The chart includes all case classifications currently available on AIS. Refer to Exhibit 5.9.1-2, Acronyms and Abbreviations, for the acronyms used in this chart:

Classification	Prevents Case Closure	Identifies
	No	Chapter 7A streamlined case
7N - NQRS	No	7N case worked by FI.
	No	Chapter 13 streamlined case
	No	Chapter 13 streamlined case
ACA CD36	No	Joint MFT 35 modules are present and only one spouse filed bankruptcy.

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Classification	Prevents Case Closure	Identifies
ACA MFT=35	No	Classification used to track cases with MFT 35 ISRP or MFT 65 ISRP
ADJUSTMENT	No	Adjustment has been requested - awaiting action.
ADS PREDIS	No	Chapter 7NA case with dischargeability determined prior to discharge.
ATAT	Yes	Cases that must be referred to the Collection ATAT Coordinator at closure.
AUTO TC521	No	Automatic Process J processing or pre-conversion.
CID FREEZE	Yes	Cases with an open CID freeze requiring coordination with CID at case closure.
COURT CASE	Yes	Court cases where the payment of damages has been requested which must be resolved prior to closure.
CRIMREST	No	Cases with a criminal restitution assessment that impacts discharge in the case.
DEBT IND	No	The case is open on AIS and there is a Federal Debt Indicator present on IDRS.
DmVacNoSta	Yes	An order vacating dismissal was entered in the case. The order did not reimpose the automatic stay.
DismVacOth	No	An order vacating dismissal was entered in the case. The order did reimpose the automatic stay.
EXAM	Yes	Presence of an Examination issue that must be addressed at closure or coordinated with Examination.
EXCESS	No	Processing payments to URF or Excess Collections.
EXEMPT	Yes	An EAEP investigation is in process or EAEP has been identified for collection after the bankruptcy discharge.

Classification	Prevents Case Closure	Identifies
FDIC	No	The case is that of a bank or other financial institution in a receivership administered by the FDIC.
FULL PAID	Yes	Full paid cases that cannot be closed until dismissal, discharge, or other closure by the court.
IA	No	Identifies a case with modules in installment agreement (IA) status when the bankruptcy was filed. The prior IA must be addressed during case closure.
IA Issues	No	There were modules in IA status when the bankruptcy was filed. In addition to reinstating the IA (when the IA meets reinstatement criteria), other actions may be required during case closure. This may include addressing a TDI (Del Ret) that prevents IA reinstatement or issuance of the Letter 2273-C.
Iden Theft	Yes	There is an open identity theft issue in the case that must be resolved prior to case closure.
INVLNTARY	No	Identifies a case where an involuntary bankruptcy petition was filed by creditors on behalf of the debtor.
LAMS WRKD	No	The case was listed on a LAMS report worked by Insolvency.
LEM CASE	No	The liability is below the tolerance for filing a proof of claim.
LIEN ADDR	No	All tax lien issues have been addressed in the case and there are no tax lien issues that require the case to remain open.
LIEN (ALS)	No	ALS research added a NFTL facsimile to AIS.
LLC	No	The debtor is a LLC and there is special guidance in the "Summary History" for closing the case.

Classification	Prevents Case Closure	Identifies
MAN MIRROR	No	There is an account being manually mirrored.
MIRRORING	No	Mirroring is being completed systemically by IIP or ADS.
NDS	No	There are non-debtor spouse issues that must be addressed during case closure.
NO EAEP	No	There is no EAEP to collect from at case closure. There is no need to reassign the case to FI for an EAEP investigation at closure. Proceed with closing actions.
NO WFTP	No	The willful failure to pay and fraud exceptions to discharge have been investigated. There is no exception to discharge. Proceed with closing actions.
NONCLS	Yes	There are miscellaneous issues that require special closing action at closure and the issue(s) do not fall into the case classifications listed elsewhere in this chart.
NoNotice	Yes	The taxes are non-dischargeable because the Service received late notice or no notice in the case.
OIC PENDING	Yes	An OIC is pending in the case. Actions in the case must be coordinated with COIC or the OIC Specialist.
PDSC ISSUE	Yes	There are multiple issues in the case that must be addressed during case closure. Read the "Summary History" for additional guidance in the case.
POST ISSUE	No	Treatment of any 1305 claims.
PRIOR 520	No	A prior TC 520 exists on the account which may identify a prior bankruptcy.
PUERTORICO	No	The debtor is in Puerto Rico and is not required to file income tax returns.

Classification	Prevents Case Closure	Identifies
RE-ASSESS	Yes	Cases with an unagreed Examination or AUR deficiency that was assessed in violation of the stay. The deficiency must be re-assessed at case closure.
REFERRAL	Yes	The case cannot be closed because there is an open referral to Counsel or the USAO.
SERIAL	No	The taxpayer is a serial filer. There are issues that impact the automatic stay, ASER, CSER, discharge limitations, or tolling in the case.
SIGNIFICANT	No	The case meets significant case referral criteria. See IRM 5.9.4.15.3, Significant Bankruptcy Case Referrals, for additional information.
	No	The case meets Chapter 13 streamlined criteria and the
	No	The case meets Chapter 13 streamlined criteria and the
TFRP	Yes	There are TFRP issues that must be addressed before the case can be closed.
TRUSTEE REFUND	No	There is an open trustee turnover order in a Chapter 7 or Chapter 13 case. In a Chapter 7 case, this also indicates that the Chapter 7 case must remain open during the turnover period even if a discharge has been entered in the case.
URP/IRP	Yes	There are Underreporter issues that must be resolved at case closure that may require coordination with AUR.
WAIT 4 FD	Yes	The case must remain open for distribution due to a NPTL or other issue.

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Classification	Prevents Case Closure	Identifies
WILLFUL	Yes	An investigation has been completed. Taxes are non-dischargeable due to the willful evasion or fraud exceptions to discharge.
ACA MFT=43 ESRP	Yes	Classification used to track ACA MFT 43 ESRP Modules.
SBRA	No	Identifies the Chapter 11 Small Business Reorganization Act of 2019 which streamline existing bankruptcy procedures and provide new tools to increase a small business' ability to achieve a successful restructuring.
11 USC1232	Yes	The case is a Chapter 12 that identifies adjustment of debts of a Family Farmer or Fisherman with regular annual income.
	Yes	Chapter 11 (IMF only) with a total

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#5.9.5.4.2  
(11-01-2022)**Summary Histories**

- (1) **Summary Histories.** Cases are frequently reassigned during the pendency of the bankruptcy case. The reassignment may be from one FI caseworker to another FI caseworker. The reassignment may also be from the CIO to FI or from FI to the CIO. To alert caseworkers in either function to actions that may be required during case closure, or special circumstances in the case, case-workers must enter a "Summary History" when issues are present that affect processing of the case. For easy identification in the AIS history, "\*\*\*\*\*SUMMARY\*\*\*\*\*" must be entered in all capital letters at the beginning of the "Summary History". Issues that may affect final disposition or the processing of the case include, but are not limited to:

- Potential fraud
- Liabilities that are not provided for by the debtor's plan
- Unusual plan provisions that affect discharge
- Reinstatement of an installment agreement (IRM 5.9.4.20, Installment Agreements and Bankruptcy, IRM 5.9.17.24, Addressing Prior Installment Agreements When Closing a Case, and Exhibit 5.9.17-2, Regular Installment Agreement Reinstatements, through Exhibit 5.9.17-5, Installment Agreement Cannot Be Reinstated)
- Refund turnover orders
- Pending Exam or Underreporter deficiency, or re-assessment of a TC 291 or TC 301
- A discharge was entered in a prior bankruptcy case and the time between the filing of the two bankruptcy petitions makes the debtor ineligible for a discharge in the current bankruptcy case per BAPCPA (IRM 5.9.5.7.1(5), Systemic Identification in Serial Filer Cases,

Discharge Limitations, Exhibit 5.9.5-3, Allowable Elapsed Time Between Bankruptcy Filings and Discharges, and IRM 5.9.10.3.2(7), Processing Chapter 13 Bankruptcy Cases, Aspects of the Initial Case Review, Discharge Limitations)

- Issues that impact the ASED, CSED, automatic stay, or tolling in the current case because the debtor is a serial filer
- There is a criminal restitution assessment in a case, a “CRIMREST” case classification is present, and any special instructions regarding discharge or non-dischargeability of liabilities (IRM 5.9.4.22, Criminal Restitution Assessments, IRM 5.9.4.22.1, Working Criminal Restitution Cases, and IRM 5.9.17.8.8, Discharge and Restitution Assessments)
- IRS did not receive notice in an asset case or notice was not timely, a “NoNotice” case classification is present in the case, and instructions regarding dischargeability of the liability (IRM 5.9.17.8.9, Procedures for Processing Bankruptcy Discharges when the IRS Received No Notice or Late Notice in the Asset Case)

**Example:** \*\*\*\*\*SUMMARY\*\*\*\*\* - LIABILITY ON 30-201212 IS NON-DISCHARGEABLE AS IRS WAS NOT NOTICED IN SUFFICIENT TIME TO FILE A PROOF OF CLAIM IN THE CHAPTER 13 CASE. PRIOR INSTALLMENT AGREEMENT. NO ADDITIONAL LIABILITIES INCURRED. INSTRUCTIONS TO CIO - REINSTATE IA.

**Note:** See additional examples of “Summary Histories” in IRM 5.9.17, Bankruptcy and Other Insolvencies, Closing a Bankruptcy Case.

#### 5.9.5.4.3 (11-02-2020) Chapter 13 Summary Histories

- (1) **Summary Histories in Chapter 13 Cases.** Prior to the transfer of the case from FI to the CIO, the FI caseworker must enter a “Summary History” in the case. FI must also enter a “Summary History” in a case when the case must remain in FI because issues in IRM 5.9.1.4(5), The Role of Insolvency, Complex Issues, are present. The “Summary History” allows for the easy identification of issues that must be addressed during case closure and during the pendency of the bankruptcy case. FI must enter \*\*\*\*\*SUMMARY\*\*\*\*\* in upper case letters when entering the “Summary History” on AIS. Sample minimum summaries are included in IRM 5.9.10.6.1(4), Processing Chapter 13 Bankruptcy Cases, Field Insolvency (FI) Actions Prior to Case Transfer. In addition to the items listed in IRM 5.9.10.6.1(4) and in IRM 5.9.5.4.2, Summary Histories, caseworkers must include:

- Issues that impact the ASED, CSED, automatic stay, or tolling because the debtor is a serial filer (IRM 5.9.5.7, Serial Filers, including instructions to input a TC 520 cc 6X using the confirmation date upon confirmation of the plan.
- Instructions for the application of plan payments to criminal restitution assessments, or guidance regarding discharge, when there is a criminal restitution assessment present.

**Note:** Cases with a criminal restitution assessment are identified by a “CRIMREST” case classification.

- Instructions regarding the non-dischargeability of taxes when a determination has been made that the debtor willfully evaded the payment of the taxes and the “WILLFUL” case classification is present in a case.



**Note:** If there are no issues present in a case when it is transferred from FI to the CIO, the “Summary History” should simply state, “\*\*\*\*\*SUMMARY\*\*\*\*\* - Case transferred to CIO - No Issues.”

- (2) **General Transfer Criteria.** FI will transfer a case to the CIO when all proofs of claim have been acknowledged, the CPM Screen on AIS has been loaded and verified, all follow-ups on the AIS Letter Screen have been closed, and there are no complex or non-complex issues that require the case to remain in FI. (See IRM 5.9.1.4, The Role of Insolvency, and IRM 5.9.10.6, Transfer of Chapter 13 Cases from Field Insolvency (FI) to the Centralized Insolvency Operation (CIO), for additional information.) If the case meets Chapter 13

monitor for confirmation of the plan and maintain the case in the CIO inventory until dismissal or discharge unless issues arise that require transfer to FI prior to dismissal or discharge. Upon dismissal or discharge, the CIO will take closing actions on the dismissed or discharged case. If any of the issues listed in IRM 5.9.5.4.2, Summary Histories, or (1) above are present, the issues must be included in the “Summary History” in the Chapter 13 case. Additional issues unique to the Chapter 13 case are addressed below.

**Note:** See IRM 5.9.5.7(7), Case Assignments, for transfer criteria in serial filer cases. See Exhibit 5.9.5-1, Transfer Steps for Cases with No Open Confirmed Plan Monitoring (CPM) “Plan Screen” or No Open Other Investigation Screen and Exhibit 5.9.5-2, Transfer Steps for Cases with an Open Confirmed Plan Monitoring (CPM), for the steps required when transferring a case.

- (3) **Transfer of the Open Chapter 13 Case.** When a Chapter 13 case is transferred from FI to the CIO prior to confirmation, a “Summary History” must be entered in the case prior to the transfer. The issues listed above must be addressed. Additionally, if the case is 180-days old or older at transfer, the FI caseworker must check PACER to determine if the plan is still unconfirmed. The “Summary History” must state, “\*\*\*\*\*SUMMARY\*\*\*\*\* - FI reviewed PACER and the case not yet confirmed. Transferred to CIO to monitor for confirmation.”

- (4) **FI Transfer to CIO After Discharge.** FI will transfer a discharged case to the CIO for closure when the discharge is received while the case is assigned to FI and there are no issues that require the case to remain in FI. FI will ensure that “SI SUP DIS REQUEST - SI” or “RI CH7&HARDSHIPCH13 RI” is entered in the method of closure field on AIS. The method of closure is determined by the type of discharge the debtor received in the Chapter 13 case - a discharge upon completion of the plan or a hardship discharge. FI will also ensure that the date of discharge is entered on AIS. The case may also be transferred for closure when discharge was denied in the case. “DD DISCHARGE DENIED” is the method of closure used when discharge is denied. (See IRM 5.9.17.8.3, Discharge Denied, for additional information.) “No Notice” is entered as the method of closure in the case when the liability is non-dischargeable because the IRS was not noticed timely in the case. (See IRM 5.9.17.8.9, Procedures for Processing Bankruptcy Discharges when the IRS Received No Notice or Late Notice in the Asset Case.)

**Note:** FI should not enter a closure date in the “On AIS” field on the Taxpayer Screen when transferring the discharged case to CIO.



5.9.5.4.4  
(11-01-2022)  
**Chapter 7 Summary  
Histories**

- (1) **Summary Histories in Chapter 7 Cases.** The CIO and FI share responsibilities in the processing of Chapter 7 cases. (See IRM 5.9.6.10, Chapter 7 Case Assignments, and subsections, for more information.)
- Chapter 7 No Asset (NA) business cases usually remain at the CIO during the entire pendency of the bankruptcy case. The CIO takes closing actions on the cases without the involvement of FI. As the Chapter 7NA business case remains at the CIO during the pendency of the case, there are no “Summary History” requirements in the Chapter 7NA business case.
  - Chapter 7NA cases of individual or joint debtors may transfer between the CIO and FI for investigations of exempt, abandoned, or excluded property (EAEP). FI may also investigate cases for exceptions to discharge for fraud or willful evasion. (See IRM 5.9.6.10.3, Large Dollar 7NA Case Assignments, and IRM 5.9.17.5, Exempt, Abandoned or Excluded Property (EAEP), and subsections, for additional information.)
  - Certain Chapter 7 Asset (7A) cases are transferred from FI to the CIO for closing actions or to monitor for dismissal or discharge.

Due to shared responsibilities in processing Chapter 7 cases, Summary Histories are necessary when the Chapter 7 case is transferred from FI to the CIO.

- (2) **Chapter 7NA Individual Cases.** When a Chapter 7NA individual or joint case meets the dollar criteria determined by the Director, SCI, the CIO “screens” the case to determine if an EAEP investigation is needed. If there are dischargeable liabilities and EAEP is located during the review, the case is transferred from the CIO to FI for a further investigation. Additionally, if there are dischargeable liabilities, no EAEP is located, and the Unpaid Balance of

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FI. FI determines if there are any exceptions to discharge due to fraud or the willful evasion exception to discharge. (See IRM 5.9.6.10.3, Large Dollar 7NA Case Assignments, and IRM 5.9.17.5, Exempt, Abandoned or Excluded Property (EAEP), through IRM 5.9.17.5.4.1, Thrift Savings Plan (TSP), for additional information.) Upon completion of the investigation by FI, the case is reassigned to the CIO to monitor for dismissal or discharge and for closing actions unless FI determines that there is collection potential from EAEP after the discharge. Cases with collection potential from EAEP remain in FI until the case is discharged and FI has concluded all collection action from the EAEP. For additional information, see the following:

- IRM 5.9.6.10.3(3), Large Dollar 7NA Case Assignments, FI Investigation
- IRM 5.9.17.5.1(4), Pre-discharge Review for Exempt, Abandoned or Excluded Property (EAEP) in Chapter 7 No Asset Cases, Cases Transferred from CIO to Field Insolvency (FI)
- IRM 5.9.17.5.4(2), Insolvency Levy Procedures for Excluded Retirement Plans, Large Dollar Chapter 7 No Asset Cases

Prior to reassignment from FI to the CIO, the FI caseworker must enter the appropriate case classification(s) and a “Summary History” to assist the CIO with actions needed during case closure. Actions taken depend on the result of the EAEP investigation:

- No Collection Potential from EAEP after the Discharge — The FI caseworker must enter “No EAEP” and “7N - NQRS” case classifications on AIS. The “No EAEP” classification alerts the CIO to proceed with closing

actions at discharge. This includes adjusting any dischargeable liabilities. A “Summary History” is required in the case prior to transfer to CIO.

**Example:** \*\*\*\*\*SUMMARY\*\*\*\*\* - EAEP investigation completed. No collection potential from EAEP at case closure. CIO, proceed with closing actions upon discharge.

- There is EAEP Available and Collection Potential after the Discharge — The FI caseworker must enter “Exempt” and “7N - NQRS” case classifications on AIS. The “EXEMPT” classification on AIS lets others know that dischargeable liabilities must not be adjusted until collection is pursued from the EAEP. To assist caseworkers with actions taken at case closure, a “Summary History” must be entered in the case.

**Example:** \*\*\*\*\*SUMMARY\*\*\*\*\* - EAEP investigation completed. Excluded retirement plan located with collection potential after discharge. Plan # 12345, Employee’s Retirement Group, 1234 Anywhere St., Big City, State 11111. Do not discharge any dischargeable liabilities until collection actions have been exhausted.

**Reminder:** These cases remain in FI until all collection actions from EAEP have concluded.

- The FI Caseworker Determined that Taxes are Excepted from Discharge Due to the Willful Evasion Exception to Discharge or Fraud — The FI caseworker must enter “WILLFUL” and “7N - NQRS” case classifications on AIS. The “WILLFUL” classification will let the CIO know that liabilities are non-dischargeable. There is no need to send the case back to FI for a further investigation. The FI caseworker must enter a “Summary History” in the case prior to transfer to the CIO.

**Example:** \*\*\*\*\*SUMMARY\*\*\*\*\* - EAEP investigation completed. Liabilities non-dischargeable. Taxpayer willfully evaded payment of the tax. CIO, do not abate any liabilities when discharge is received.

- The FI Caseworker Determined that there is No Evidence of Fraud or Willful Evasion — The FI caseworker must enter “NO WFTP” and “7N - NQRS” case classifications on AIS. The “NO WFTP” classification will let the CIO know that they can proceed with abatement of dischargeable liabilities when the discharge is received. There is no need to send the case back to FI for a further investigation after the discharge. The FI caseworker must also enter a “Summary History” in the case prior to transfer to the CIO.

**Example:** \*\*\*\*\*SUMMARY\*\*\*\*\* - Current information indicates no

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- (3) **Chapter 7 Asset (7A) Individual Cases.** The Chapter 7 Asset case filed by an individual or joint debtor may be transferred from Field Insolvency (FI) to the CIO once the initial case analysis has been completed, all proofs of claim have been acknowledged, and there are no issues that require the case to remain in FI. The CIO monitors for dismissal or discharge in the case. Once the dismissal or discharge is received, CIO takes closing actions in the case. (See

IRM 5.9.6.10.1(3), Field Insolvency (FI) Case Assignments, Chapter 7A Individual Cases.) Additionally, discharged cases may be transferred from FI to the CIO when the case is discharged while assigned to FI. (See IRM 5.9.17.10, Chapter 7 Discharge Actions, for additional information.)

**Note:** See IRM 5.9.5.7(7), Case Assignments, for transfer criteria in serial filer cases.

In most instances, the same case classifications are used in Chapter 7A individual cases that are used in Chapter 7NA individual cases (see above). “Summary Histories” common to all chapters (IRM 5.9.5.4.2, Summary Histories) are also required in Chapter 7A individual cases transferred from FI to CIO. At minimum;

- When an individual 7A case is transferred from FI to the CIO prior to discharge, the “Summary History” must state, “\*\*\*\*\*SUMMARY\*\*\*\*\* - No issues exist. CIO take action when Dismissal/Discharge Received.”
- When an individual 7A case is transferred from FI to the CIO after discharge, the “Summary History” must state, “\*\*\*\*\*SUMMARY\*\*\*\*\* - Discharge received and RI Input. Reassigned to CIO.”

**Note:** Summary history requirements in a Chapter 7A case may be limited when the case meets Chapter 7A streamlined criteria established by the Director, SCI. These streamlined cases are identified by the FI caseworker adding the

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A unique case classification and “Summary History” is used in the 7A individual case when taxes are excepted from discharge because the Service did not receive notice in sufficient time to file a proof of claim prior to the bar date. (See IRM 5.9.17.8.9, Procedures for Processing Bankruptcy Discharges when the IRS Received No Notice or Late Notice in the Asset Case.) In this situation, the FI caseworker must add a “NoNotice” case classification to AIS prior to transfer of the case to the CIO. Additionally, a “Summary History” must be entered that includes:

- Date notice was received,
- When the bar date expired,
- If notice was received prior to the expiration of the bar date,
- Any opinion received from Counsel on the case, and
- A statement that the liabilities are non-dischargeable for lack of timely notice.

**Example:** \*\*\*\*\*SUMMARY\*\*\*\*\* - IRS received notice of the bankruptcy on 3-15-2012. The government bar date in the case was 3-1-2012. The notice was not received prior to the expiration of the bar date. Referred to Counsel to see if the Service could file a late claim in the case. The trustee filed a final report on 12-01-2012. Per Counsel, it is too late to file a claim in the case. The liabilities are non-dischargeable in the case because IRS was not timely noticed. CIO, do not discharge any liabilities.

- (4) **Chapter 7A Business Cases.** The Chapter 7A business case of a corporation or Limited Liability Company (LLC) is transferred from Field Insolvency (FI) to the CIO for closure. Prior to transfer, the FI caseworker must complete an initial case review and ensure that all proofs of claim have been filed and ac-

knowledge. Additionally, the FI caseworker must ensure that there are no issues, such as an unassessed TFRP, that requires the case to remain open. If the entity is a LLC, the FI caseworker must add a “LLC” case classification to AIS prior to transfer of the case so the CIO can easily identify the LLC. The FI caseworker must also add a “Summary History” that provides closing instructions for the CIO. See the following for additional information:

- IRM 5.9.6.10(2), Chapter 7 Case Assignments, Limited Liability Companies (LLCs)
- IRM 5.9.6.10.1(4), Field Insolvency (FI) Case Assignments, Chapter 7A Business Cases
- IRM 5.9.17.12, Closing Corporate Chapter 7 and Chapter 7 Limited Liability Companies (LLCs)
- IRM 5.9.17.12.1, Chapter 7 Single Member Disregarded Entity LLCs

IRM 5.9.17.12 and subsections contain sample “Summary Histories” that must be used based on the type of business entity.

5.9.5.5  
(11-01-2022)  
**Initial Processing  
Actions**

- (1) **Time Frames.** Initial processing of new cases must be completed within five workdays of receipt. To ensure completion of all needed case actions within the mandated time frame, the CIO must:
  - a. Load new cases on AIS within two business days of receipt (For information on how the IRS receives notice of new bankruptcy filings, see IRM 5.9.12.3, Paper Petitions, and IRM 5.9.12.7, Electronic Noticing System, through IRM 5.9.12.7.2, BNC Electronic Mail Procedures.);
  - b. Run all IIP processes daily (IRM 5.9.12.5, Insolvency Interface Program (IIP));
  - c. Resolve cases on the Potentially Invalid TIN (PIT) report within two business days of generation by initiating the appropriate actions to resolve invalid TINs IRM 5.9.12.5.2, (Potentially Invalid TIN (PIT) List);
  - d. Process cross-referenced taxpayer identification numbers (TINs) including asterisk (\*) accounts or mirrored modules within two business days of generation (Paragraph (4) below); and
  - e. Contact various Collection offices regarding IDRS MF Status 22, 24, 26, 60, and 71 cases from the IIP Process D output within the time limits required in IRM 5.9.12.5.1, IIP Status Reports, so other IRS functions have current information on new bankruptcy filings.
- (2) **Prevention of Violations of the Automatic Stay.** The Service must expeditiously initiate actions to correct violations of the automatic stay upon becoming aware that a collection action violated the stay. By doing so, the Service protects the rights of the debtor and shields the Service from a suit for damages. In the asset case, caseworkers must work APOC flags that identify a potential violation of the stay within five calendar days of APOC identifying the flagged condition. CIO initiates corrective actions on stay violations identified by IIP Status Reports within 2 business days of generation of the IIP report. (See IRM 5.9.14.2.7, APOC Flag Condition Time Frame Requirements, and IRM 5.9.12.5.1, IIP Status Reports, for additional information.)
- (3) **Continuous Levies.** Pre-petition continuous levies must be released immediately. Modules included in a continuous levy are frequently identified by Status 60 on IDRS. However, they are not a true installment agreement. Continuous levies are identified by Installment Agreement Locator Number (ALN) 0208.

See IRM 5.11.5.6.2, Systemic Monitoring of Continuous Levy Payments, and IRM 5.9.12.5.1(8), IIP Status Reports, Stat 60 Notices, for additional information.

- (4) **Initial Processing of Established Mirrored Modules.** Instances will arise when a bankruptcy case is filed and the accounts have been mirrored prior to the filing of the bankruptcy case. Initial case processing for MFT 31 and/or MFT 65 mirrored modules are the same as MFT 30 and MFT 35 processing. IIP will search for both spouse's MFT 31 and/or MFT 65 modules using command code INOLES XREF and match the spouse's TIN with the MFT 31 and/or MFT 65 modules. Beginning in January of 2016, joint Individual Shared Responsibility Payment (SRP) liabilities assessed under MFT 35 may be mirrored as separate SRP MFT 65 liabilities. Similar to MFT 31 modules being treated in the same manner as MFT 30 modules during IIP processing, MFT 65 modules will be treated in the same manner as MFT 35 modules during IIP processing.

IF...	THEN...
A new bankruptcy case is filed, and the tax periods are MFT 31 and/or MFT 65 mirror modules with balances due,	IIP inputs TC 520 on both spouses' MFT 31 and/or MFT 65 module(s). If collection action can be taken on the non-debtor spouse, then a TC 522 can be input on the non-debtor spouse. Collection action can be taken on the non-debtor spouse in locations that are not subject to community property statutes. Collection action cannot be taken against joint assets of the non-debtor spouse in community property locations. (See IRM 5.9.3.5.1.1, Community Property, for additional information.)

IF...	THEN...
<p>An additional tax assessment is made on MFT 30 and/or MFT 35 after the module has been mirrored and another event occurred; such as, bankruptcy,</p>	<p>IIP inputs a TC 520 on the MFT 30 and MFT 31 modules. IIP inputs a TC 520 on the MFT 35 and MFT 65 modules.</p> <p><b>Caution:</b> The Insolvency caseworker must not input another TC 971 AC 100. The MFT 30 and MFT 31 modules already have the TC 971 AC 10X posted that created the modules. The MFT 35 and MFT 65 modules already have the TC 971 AC 10X posted that created the modules.</p> <p>If collection action can be taken on the non-debtor spouse, then the TC 522 can be input on the non-debtor spouse. Collection action can be taken on the non-debtor spouse in locations that are not subject to community property statutes. Collection action cannot be taken against joint assets of the non-debtor spouse in community property locations. (See IRM 5.9.3.5.1.1, Community Property, for additional information.)</p> <p><b>Note:</b> Exam will make a joint additional assessment on the MFT 30 and/or MFT 35 module when the liability is joint. If the liability is deemed to belong to only one spouse, Exam will assess the liability separately on the liable spouse's MFT 31 and/or MFT 65 module.</p>

5.9.5.5.1  
(11-01-2022)  
**Timely Follow-up  
Actions**

- (1) **Internal Follow-Up** - When an internal follow-up date is established, ensure case actions are taken within 30 calendar days of your set follow-up date.

**Note:** Assigned cases should be actively worked and monitored. When there is no follow-up date established, there should be case activity within 90 days.

- (2) **Letter 1714 Follow-Up** - A 15-day, Automated Insolvency System (AIS) follow-up date should be established to coincide with the debtor's response deadline as stated in Letter 1714, Request for Missing Tax Returns. (See Exhibit 5.9.4-1, Inputting Follow-up Dates, for steps in setting a follow-up date.) Upon follow-up, the caseworker must review the case to verify if the requested returns have been filed or if the debtor has provided pertinent information regarding the filing or non-filing of the delinquent returns. See IRM 5.9.13.2, Addressing Unfiled Returns, for more information. In some cases, the debtor will not respond to Letter 1714. In those cases, the caseworker must contact the debtor or debtor's attorney by phone to secure returns or return information. If contact with the debtor or the debtor's attorney by phone does not bring the debtor into compliance, the caseworker should consider the appropriate next action which may include:

- Attendance at 341 hearing to secure the return(s);
- Creating an OI for a revenue officer to collect the return(s);
- Preparation of an IRC 6020(b) return(s);
- Referral to Counsel to dismiss/convert;



- Preparation of an estimated claim or allowing an existing estimated claim to stand.

All actions taken to secure delinquent returns must be documented in the AIS history.

- (3) **Deadline for a Taxpayer** - The deadline given to a taxpayer or representative to comply with a request for information or action should be reasonable with respect to the information or action requested. When setting deadlines and consequences, ensure that sufficient time is calendared to carry out follow-up actions if the deadline is not met. See Exhibit 5.9.4-1, Inputting Follow-Up Dates, on the Automated Insolvency System (AIS).
- (4) **Taxpayer Missed Deadline** - When a taxpayer or representative misses a specific deadline, initiate follow-up action within fifteen (15) calendar days unless special circumstances warrant a delay. Such circumstances should be clearly documented per IRM 5.9.5.4(1), Automated Insolvency System (AIS) Documentation, Case Histories.
- (5) **Extension Request** - If the taxpayer requests an extension, use your discretion in granting it. Document your decision and its basis. See IRM 5.9.5.4(1), Automated Insolvency System (AIS) Documentation, Case Histories.
- (6) Follow-up action should move the case forward. Remember to create and update a plan of action that moves your case toward resolution and to schedule simultaneous case actions where appropriate. Use follow-up reports as required in IRM 5.9.12, Insolvency Automated Processes and IRM 5.9.16, Insolvency Case Monitoring, to assist and guide you to work cases in your inventory. Follow-up actions include, but are not limited to, the following:
  - Securing unfiled returns
  - Plan Filing
  - Post-petition Compliance
  - Plan Monitoring
  - Post-confirmation liabilities
  - Court actions/outcomes
  - Referral for motion to dismiss or convert
  - Adjustment/closing actions
  - Refunds
  - TFRP/ASED
  - Taxpayer deadlines
  - Exam issues
  - NFTL refile
  - Objecting to a plan
  - Amending a claim in response to Letter 1714, Request for Missing Tax Returns
  - Sending a collection letter after discharge as part of EAEP

**Note:** A phone call or letter to the taxpayer or representative to inquire about a missed deadline is not considered an appropriate follow-up action.

- (7) Take follow-up actions simultaneously, as appropriate.

5.9.5.6  
(11-01-2022)  
**Bankruptcy “Freeze”  
Code (TC 520)**

- (1) **Freeze Codes.** A transaction code (TC) 520 with the appropriate bankruptcy closing code (cc) must be input timely when the bankruptcy case is opened. The use of these transaction or “freeze” codes enable the IRS to comply with the automatic stay provisions of the Bankruptcy Code. They “freeze” the pre-petition tax modules so collection actions do not take place on the modules. The “freeze” codes also allow the IRS to observe various standing court orders that are present in several locations. The standing orders may allow assessments not generally permitted by the Bankruptcy Code or the IRC. The standing orders may also allow offsets of refunds to liabilities not provided for by the Bankruptcy Code; i.e., offset of a post-petition income tax refund to a pre-petition income tax liability. Finally, the standing orders may designate if refunds are issued to the debtor or to the bankruptcy trustee, when there is a trustee turnover order present in the case. See Paragraph (3), below, for information about the cc 84 used on some pre-petition modules and on post-petition liabilities.
- (2) **Time Frame.** The bankruptcy freeze code must be input on all pre-petition balance due periods within five workdays from the date the Service first becomes aware of the bankruptcy filing. In most instances, the TC 520 is input systemically by the Insolvency Interface Program (IIP). (See IRM 5.9.12.5, Insolvency Interface Program (IIP), for additional information on IIP.)
- (3) **Transaction Code (TC) 520.** When used in conjunction with a bankruptcy closing code, a TC 520 will:
  - Post to any module whether or not that module is currently on Master File (MF).
  - Generate a Daily Transaction Register (DTR) or Integrated Collection System (ICS) notification when the transaction posts to a module.
  - Prompt the issuance of litigation (LTS) transcripts when any subsequent transaction posts while the TC 520 is present.
  - With the exception of the cc 84, the TC 520 will change the module status on IDRS to Status (ST) 72, for the module to which it was input . The cc 84 is often used in Chapter 7 corporate cases and on post-petition liabilities in all bankruptcy chapters. The cc 84 is also used in certain serial filer cases (see IRM 5.9.5.7, and related exhibits).
  - Prevent all subsequent notices on pre-petition tax periods after one informational notice.
  - Suspend the Collection Statute Expiration Date (CSED) for the specific module(s) on MF where the TC 520 was input when all closing codes except the TC 520 cc 84 are used.

**Note:** If cc 84 is on a module, and the CSED warrants an extension, the CSED must be extended by manual input of a TC 550.
- (4) **Date of TC 520.** The TC 520 transaction date is usually the bankruptcy petition date.

**Exception:** When the bankruptcy stay terminated or never went into place because the debtor is a serial filer, the TC 520 date may be the bankruptcy petition date or the date the bankruptcy plan was confirmed. (See IRM 5.9.5.7, Serial Filers, for additional information.)

- (5) **Collection Statute Expiration Date (CSED).** Master File automatically computes the extended CSED for modules with a TC 520 transaction date



later than July of 1986 and a TC 521 transaction date later than January of 1987, when all bankruptcy closing codes except the cc 84 are used. However, non-master file (NMF) accounts require a manual TC 550 input to extend the CSED.

**Reminder:** When a decision is made to retain a lien against exempt, abandoned, or excluded property (EAEP) after discharge, Insolvency must calculate the CSED on the dischargeable modules and request input of the TC 550 to IDRS. IDRS does not systemically calculate the CSED on these modules because the TC 520 is not reversed until there is no longer any collection potential from EAEP and dischargeable liabilities are abated. See IRM 5.9.17.5.3(13), Addressing Lien Issues, CSEDs and Refiles, for additional information.

(6) **Factors Determining TC 520 Closing Codes.** The closing code input with the TC 520 depends on several factors. These factors include, but are not limited to, the following:

- The type of bankruptcy case the debtor filed; i.e., Chapter 7, 9, 11, 12, 13, or 15,
- The presence of standing orders or local rules,
- If the liability is pre-petition or post-petition,
- If the debtor is a serial filer, and
- The results of bankruptcy research conducted.

The effect of the TC 520 on assessments depends on the date the bankruptcy case was filed.

(7) **Reversing TC 520 and CSEDs.** In most cases, the CSED will be extended by MF when a TC 520 is reversed. However, if the pre-petition CSED on a TC 520 module has expired, or if the CSED is within six months of expiring, a manual computation of the CSED (TC 550) is required prior to input of the TC 521. (See IRM 5.9.17.19, ASSED/CSED Considerations.)

5.9.5.6.1  
(11-01-2022)  
**Closing Codes**

- (1) **Effects of Various Closing Codes.** Bankruptcy closing codes used in conjunction with the TC 520 determine what the bankruptcy freeze will allow or restrict. The closing codes “freeze” the appropriate modules and alert all functions within the Service to cease all collection activity when a bankruptcy petition is filed. An exception is the TC 520 cc 84. The TC 520 cc 84 does not “freeze” modules but it is an indicator that Insolvency should be contacted for guidance prior to proceeding with any enforcement activity in the case.
- (2) **Compliance with Legal Requirements.** Standing court orders and local rules or agreements that are present in some jurisdictions affect the processing of bankruptcy cases. This frequently includes the manner in which refunds and offsets are handled. The implementation of BAPCPA also affects the choice of closing codes for cases filed on or after October 17, 2005. Selection of the appropriate TC 520 closing codes by Insolvency helps the Service comply with the legal requirements of each judicial district and the provisions of BAPCPA.
- (3) **Updated Closing Codes.** In anticipation of the passage of BAPCPA, eight new bankruptcy closing codes became available for use with the TC 520 in January of 2002. These closing codes added options for handling issues systemically. In particular, the new closing codes modified the –V freeze to allow for post-petition offsets of “mutual” pre-petition income tax credits to pre-

petition income tax liabilities, as permitted by 11 USC 362(b)(26), in the post-BAPCPA case. The specific features of each of the updated closing codes are described in the table in paragraph (7), Table 2, below.

- (4) **Retirement of Some Existing Closing Codes.** With the addition of the newer closing codes, some of the older closing codes were retired. IDRS no longer allows TC 520 inputs with closing codes 86, 87, 88, or 89. However, open cases with unreversed TC 520s with these closing codes continue to be processed by MF in accordance with the specifications below. Both sets of closing codes (the old and the new), and their effects and characteristics, are shown in Tables 1 and 2 below.

(5) **TABLE 1 - 8X SERIES CLOSING CODES.**

<b>CC</b>	<b>Assessment Permitted</b>	<b>Offsets Frozen</b>	<b>Refund Frozen</b>
<b>81</b>	YES*	YES	YES
<b>83</b>	NO If TC date is before 10/22/94.  YES* If TC date on or after 10/22/94	YES	NO
<b>84</b>	YES Sends out standard notices and generates LTS transcripts, but does not suspend the balance due account for the module to which it is input. Note: Closing code 84 will not create a dummy module.	NO	NO
<b>85</b>	NO If TC date before 10/22/94.  YES* If TC date on or after 10/22/94.	YES	YES But, only if balance due modules.  NO If no indication of related balance due.
<b>86</b>	YES*	NO	NO
<b>87</b>	YES*	NO	YES
<b>88YES</b>	NO If TC date before 10/22/94.  YES* If TC date on or after 10/22/94.	YES	YES
<b>89</b>	YES*	YES	NO

**Note:** \*Prevents issuance of all balance due notices, except for one informational notice. Closing code (cc) 81 does not prevent notices on post-petition periods that do not have cc 81 on those periods.

(6) **8X SERIES CLOSING CODES – Additional Information.**

- a. CC 81. Does not prevent assessments from posting to any module in the entity and does not affect the subsequent processing of modules that do not contain a TC 520 cc 81. It freezes the entity from all offsets and refunds. Shows alpha freeze of -W and IDRS status (ST) 72. A TC 520 cc 81 on a module extends the CSED on that module on IDRS.
- b. CC 83. Freezes the entity from all offsets. Refunds will not be frozen on pre-petition and post-petition modules. IDRS shows an alpha freeze of -V and IDRS ST 72 on the module(s) where the cc 83 is input. The cc 83 extends the CSED on the module when a TC 520 cc 83 is input to the module on IDRS.
- c. CC 84. Allows assessments, offsets, refunds, sends out standard notices, and generates LTS transcripts. It does not suspend the balance due account for the module to which it is input. IDRS shows an alpha freeze of -W. The IDRS status code does not change to ST 72. The TC 520 cc 84 does not extend the CSED on the module(s) with the cc 84 on IDRS. It alerts all Service employees to contact Insolvency before taking any enforcement action against the taxpayer.
- d. CC 85. Does not prevent refunds when no balance due modules or balance due indicators are present in the entity. Otherwise, refunds and offsets are frozen. Shows alpha freeze of -V and IDRS ST 72. The cc 85 extends the CSED on the module when a TC 520 cc 85 is input to the module on IDRS.
- e. CC 86. Allows assessments of all returns and adjustments but prevents issuance of all balance due notices except for one "information" notice. Refunds and offsets are not frozen. Shows alpha freeze of -V and IDRS ST 72. The cc 86 extends the CSED on the module when a TC 520 cc 86 is input to the module on IDRS.
- f. CC 87. Allows all assessments but prevents the issuance of all balance due notices except one "information" notice. Systemic offsets are unaffected. Refunds are frozen. Shows alpha freeze of -V and IDRS ST 72. The cc 87 extends the CSED on the module when a TC 520 cc 87 is input to the module on IDRS.
- g. CC 88. Freezes the entity from all refunds and offsets. Shows alpha freeze of -V and IDRS ST 72. The cc 88 extends the CSED on the module when a TC 520 cc 88 is input to the module on IDRS.
- h. CC 89. Allows assessments but prevents the issuance of all balance due notices except one "information" notice. Prevents offsets. Refunds will be issued to the taxpayer. Often used in Chapter 13. Shows alpha freeze of -V and IDRS ST 72. The cc 89 extends the CSED on the module when a TC 520 cc 89 is input to the module on IDRS.

**Note:** The freeze indicators used for bankruptcy (alpha -V and -W freezes) affect notices, offsets, refunds, and CSEDs, depending on the closing code used.

(7) **TABLE 2 - 6X SERIES CLOSING CODES.**

CC	Post-petition BalDue Accts Go to Collection Status?	Offsets Prevented or Allowed	Refunds Frozen or Allowed
60	Yes	Prevents pre-petition to pre-petition offsets. Allows post-petition to post-petition offsets.	Freezes pre-petition refunds. Allows post-petition refunds.
61	No	Prevents pre-petition to pre-petition offsets. Allows post-petition to post-petition offsets.	Freezes pre-petition refunds. Allows post-petition refunds.
62	Yes	Prevents pre-petition to pre-petition offsets. Allows post-petition to post-petition offsets.	Freezes pre-petition refunds. Freezes post-petition refunds.
63	No	Prevents pre-petition to pre-petition offsets. Allows post-petition to post-petition offsets.	Freezes pre-petition refunds. Freezes post-petition refunds.
64	Yes	Allows pre-petition to pre-petition income tax offsets. Allows post-petition to post-petition offsets.	Does not freeze pre-petition refunds. Does not freeze post-petition refunds.
65	No	Allows pre-petition to pre-petition income tax offsets. Allows post-petition to post-petition offsets.	Does not freeze pre-petition refunds. Does not freeze post-petition refunds.
66	Yes	Allows pre-petition to pre-petition income tax offsets. Allows post-petition to post-petition offsets.	Freezes pre-petition refunds. Freezes post-petition refunds.
67	No	Allows pre-petition to pre-petition income tax offsets. Allows post-petition to post-petition offsets.	Freezes pre-petition refunds. Freezes post-petition refunds.

- (8) **Freeze Indicator.** All closing codes in the 6X series have the -V freeze indicator. All TC 520 closing codes in the 6X series extend the CSED on the module where the TC 520 cc 6X is input. Section 11 of Document 6209, IRS Processing Codes and Information, gives additional information on closing codes.
- (9) **Prevention of Duplicate Refunds.** Many TC 520 cc 6X closing codes allow for systemic offsets and the systemic generation of refunds. Do **not** prepare a Form 5792, Request for IDRS Generated Refund (GR), without determining which TC 520 closing codes are present on the account. Unless there is a TC 520 cc 81 present, the TC 520 cc 6X may allow for systemic generation of the refund. Preparing and submitting a Form 5792 can result in the issuance of a duplicate refund when the TC 520 cc 6X allows for the issuance of systemic refunds.
- (10) **Bankruptcy Litigation Location Code (BLLC).** During the pendency of a bankruptcy case, caseworkers may need to manually change a TC 520 closing code (cc) on IDRS. This may be necessary due to changes in local court rules, because the taxpayer is a serial filer, etc. When changing a TC 520 closing code on IDRS, caseworkers must input a BLLC.

5.9.5.6.2  
(11-01-2022)  
**Reversing the  
Bankruptcy Indicator**

- (1) **TC 521.** A TC 521 reverses a TC 520 and releases the litigation freeze. All of the TC 520 closing codes operate independently of each other. For example, a TC 521 cc 81 will not reverse a TC 520 cc 83 or a cc 67. A TC 521 with a 999 statistical indicator will reverse all open TC 520s in a module with cc 81, 83, or 85 through 89, and cc 60 through 67.

**Note:** IIP interfaces with IDRS to release all bankruptcy TC 520 closing codes. However, TC 520 cc 84 must be in the AIS transaction code file before IIP will automatically release it. The IIP User's Guide provides additional information.

- (2) **TC 522.** A TC 522 can be used to reverse a TC 520 when:
- The TC 520 was input in error.
  - A mirrored MFT 31 and/or MFT 65 module has been created for a non-debtor spouse, the TC 520 must be reversed to allow correct computation of the CSED, or to prevent incorrect tolling in the event the non-debtor spouse files a bankruptcy petition.
  - The debtor is a serial filer in a case filed post-BAPCPA and the automatic stay never went into effect in the current case because there was no motion and order extending the stay. The TC 520 must be reversed to allow collection and to ensure the correct computation of the CSED. (See IRM 5.9.5.7, Serial Filers, below.)
  - A post-petition period has been protected by the stay due to the bankruptcy "freeze" code and the plan was not modified to provide for payment of that period.

5.9.5.7  
(11-01-2022)  
**Serial Filers**

- (1) **BAPCPA Stay Limitations.** BAPCPA contains provisions specifically designed to discourage debtors from filing sequential bankruptcies. 11 USC 362(c) limits or eliminates the imposition of the automatic stay in the current bankruptcy case of an individual or joint debtor when:

- There were one or more dismissals of prior bankruptcy case(s) that were pending within the year before the current case was filed,
- The dismissals were not for failure to pass the means test in a prior Chapter 7 bankruptcy case (11 USC 702(b)), and
- There is no motion filed or hearing requested by any interested party in the current case for an extension (or imposition) of the automatic stay, or
- There is no order extending (or imposing) the stay in the current case that was entered pursuant to a hearing completed within 30 days of the bankruptcy petition date.

**Caution:** If there is an order extending (or imposing) the stay in the current case, the order must be for all creditors to include IRS. If the order lists only specific creditors, the order must list IRS. Otherwise, the stay is not extended (or imposed) as it relates to IRS.

- (2) **Automatic Stay.** The automatic stay consists of three parts:
- Stay of Acts Against the Debtor — The stay prohibits certain acts against the debtor personally, such as, sending a final notice and intent to levy to the debtor requesting payment of a pre-petition tax liability.

**Note:** IRC 6213 prohibits assessment of an unagreed Examination or AUR deficiency during the time the automatic stay prohibits the taxpayer from filing a Tax Court petition and for 60 days thereafter. If there is no order extending the stay in the current bankruptcy case of a serial filer, the taxpayer is no longer prohibited from filing a Tax Court petition. Thus, assessment under IRC 6213 is no longer prohibited.

- **Stay of Acts Against Property of the Debtor** — The stay prohibits any actions to create, perfect, or enforce a lien against the debtor's property, to the extent such lien secures a pre-petition liability.

**Note:** Property of the debtor includes any property that has been exempted, abandoned, or excluded by/from the bankruptcy estate.

- **Stay of Acts Against Property of the Estate** — The stay prohibits any collection actions against property of the bankruptcy estate. This includes any estate property in control of the court, property (wages or otherwise) used to fund a bankruptcy plan, or property used to earn the income used to fund a plan.

**Example:** The debtor owns real property that he leases to generate rental income. The rental income produces income that is used to fund the bankruptcy plan. The real property is property of the estate.

- (3) **Stay Imposition or Extension.** Any party in interest can request an extension of the stay to apply to any or all creditors when a serial filer under 11 USC 362(c)(3)(A) is facing the termination of the automatic stay 30 days after the petition date, as outlined above. Likewise, any party in interest may request that a stay be put into effect if no stay is due to be imposed under 11 USC 362(c)(4)(A). A motion to extend the stay must be filed so that notice can be given, and the hearing on the motion can be completed, before the expiration of the 30 days. A motion to impose the stay must be made within 30 days after the petition date. In either situation, the party in interest must demonstrate that the filing of the later case is in good faith. 11 USC 362(c)(3)(C) gives examples of bankruptcy filings that are not considered to be in "good faith." BAPCPA does not require the court to enter an order stating a stay with respect to the debtor and the debtor's property that is not property of the bankruptcy estate is terminated. Nor, does BAPCPA require the court to enter an order stating the stay does not arise in regard to either the debtor, debtor's property, or property of the estate.
- (4) **Stay Termination After 30 Days.** Under 11 USC 362(c)(3)(A), if a debtor files an individual Chapter 7, 11, or 13 bankruptcy case (or if an involuntary case is commenced against the debtor) within one year of the previous dismissal of one individual prior bankruptcy case, the assumption is that the case was not filed in good faith. The automatic stay will terminate 30 days after the petition date unless the dismissal was for failure to pass the means test in a Chapter 7 case when there is no order extending the stay in the current case. The stay continues against property of the estate until such property is no longer property of the estate. See Exhibit 5.9.5-4, Common Processing Steps in Serial Filer Cases, and Exhibit 5.9.5-5, Processing the Serial Filer Case When the Stay Terminates After 30 Days, for additional information. Chief Counsel Notice CC-2008-007 establishes the Service's position on 11 USC 362(c)(3).



The Service cannot take enforcement action against property of the estate until such property is no longer property of the estate, even if there is no order extending the stay in the current case. The Service may take enforcement actions against the debtor and the debtor's non-estate property (e.g., exempt, abandoned, or excluded property) after the 30 day period expires and there is no order extending the stay. This includes assessing an unagreed Examination or AUR deficiency as the debtor can petition Tax Court because the automatic stay is no longer in place.

**Caution:** Insolvency should coordinate this issue closely with Counsel when anticipating collection actions, such as a levy or seizure. Coordination with Counsel will ensure that the property being pursued is not under the protection of the bankruptcy court when there is no order extending the stay in the current case.

- (5) **No Stay Arises.** Under 11 USC 362(c)(4)(A), if a debtor files an individual Chapter 7, 11, 12, or Chapter 13 bankruptcy case (or if an involuntary case is commenced against the debtor) within one year of the previous dismissal of two or more individual bankruptcy cases, the assumption is that the case was not filed in good faith. The automatic stay does not go into effect unless the dismissals were for failure to pass the means test in a Chapter 7 case. Alternatively, the automatic stay does not go into effect unless the court enters an order allowing the stay to go into effect. Such order must be entered after a hearing held within 30 days of the filing of the petition. Otherwise, the automatic stay does not go into effect at all. This means there is no stay of collection actions as to the debtor, the debtor's property, or property of the estate. See Exhibit 5.9.5-4, Common Processing Steps in Serial Filer Cases, and Exhibit 5.9.5-6, Processing the Serial Filer Case When No Stay Goes into Effect.
- (6) **Stay for Small Businesses.** Under 11 USC 362(n), the automatic stay will not apply in certain small business debtor cases. Small business debtor cases are typically Chapter 11 cases where the debtor's noncontingent debts do not exceed the debt limit criteria, an Unsecured Creditor's Committee has not been appointed, or the court has determined that the Unsecured Creditor's Committee has not taken an active role in the case (11 USC 101(51C and D)).

**Note:** On April 1, 2019, the debt limit for a small business Chapter 11 case increased to \$2,725,625.

Generally, the stay will not apply when the small business debtor had a previous case that was dismissed or had a plan that was confirmed within two years of the present case. Insolvency should contact Counsel if this Bankruptcy Code section may apply. For additional information on small business Chapter 11 debtor cases, see IRM 5.9.8.18, The Chapter 11 Discharge and the Effects of Confirmation, and IRM 5.17.10.7.2, Legal Reference Guide for Revenue Officers, Chapter 11 Bankruptcy (Reorganization), The Plan Process, Mandatory Small Business Debtor Treatment.

- (7) **Case Assignments.** Due to the complexity of the serial filer case:
- The Chapter 7 Asset case of the individual or joint debtor must remain in FI until FI determines if the automatic stay has been extended (or imposed). Once this determination has been made, FI will transfer the case to the CIO when there are no other issues that require the case to

remain in FI. However, if the stay in the case is not extended (or imposed), FI must first reverse the TC 520 cc 6X and input the TC 520 cc 84, as appropriate.

- The Chapter 13 case of the individual or joint debtor must remain in FI until a determination has been made whether or not the stay is extended (or imposed) in the case. If the stay is extended (or imposed), and there are no issues that require the case to remain in FI, the FI caseworker will transfer the unconfirmed case to the CIO to monitor for confirmation. If the stay is not extended (or imposed), the case must remain in FI until confirmation. At confirmation, FI will input the TC 520 cc 6X using the confirmation date and take the actions required on confirmed plans detailed in IRM 5.9.10.6.1(2), Field Insolvency (FI) Actions Prior to Case Transfer, Older Cases. If there are no issues that require the case to remain in FI, the FI caseworker will transfer the case to the CIO.

5.9.5.7.1  
(08-16-2021)

#### Systemic Identification in Serial Filer Cases

- (1) **Identifying Potential Stay Issues.** The Insolvency Interface Program (IIP) has been programmed to recognize and record previous bankruptcies for both stay issues and non-dischargeability issues. IIP systemically inputs a message on the AIS TIN table to advise Insolvency caseworkers of "Prior Bankruptcy Status". The messages used by IIP on the AIS TIN table are:

- "Prior to 10-17-2005" which denotes a current (case) docket where the petition date was prior to 10-17-2005 (pre-BAPCPA).
- "Prior bankruptcy less than 12 months" which denotes a current docket's petition date was on or after October 17, 2005, and a prior bankruptcy was found that was filed on or less than 365 days before the current docket's petition date.
- "Prior bankruptcy greater than 12 months" which denotes a current docket's petition date was on or after October 17, 2005, and a prior bankruptcy was filed more than 365 days before the current docket's petition date.
- "Prior bankruptcy less & greater than 12 months" which denotes a current docket's petition date was on or after October 17, 2005, prior bankruptcies were found which were filed less than 365 days before the current petition date, and another prior bankruptcy was located that was filed more than 365 days before the current docket.
- "Multiple prior bankruptcies" which denotes that a current docket's petition date was on or after 10-17-2005, and more than one prior bankruptcy case was filed more than 365 days before the current docket.
- "No prior bankruptcy" which denotes no prior bankruptcies were located.
- "Exempt" which denotes the case is exempt from being checked by IIP.

- (2) **Caseworker Actions.** The CIO is responsible for reviewing the Chapter 7 No Asset cases assigned to them when the case requires manual case actions. FI is responsible for reviewing cases assigned to them upon initial case review. When the case is assigned to FI, upon initial case review, if the Prior Bankruptcy Status field on the AIS TIN screen is anything except "No prior bankruptcy," the caseworker must determine if the previous bankruptcy(cies):

- was dismissed within one year of the current bankruptcy petition date under section 707(b) of the Bankruptcy Code.

If the previous dismissal during the prior year was not under section 707(b) of the Bankruptcy Code :



- the caseworker must input a follow-up date for 45 days from the petition date to check the court's electronic records (case will remain in inventory),
- determine the status of the automatic stay (imposed/extended),
- follow the procedures in Exhibit 5.9.5-4, Common Processing Steps in Serial Filer Cases, Exhibit 5.9.5-5, Processing the Serial Filer Case When the Stay Terminates after 30 Days, or Exhibit 5.9.5-6, Processing the Serial Filer Case When No Stay Goes into Effect, and
- document the review and actions taken for effects on the current bankruptcy case.

If the automatic stay is in effect and there are no issues to address upon discharge, the "SERIAL" case classification does not need to be added.

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- (3) **CSED Extension.** IIP will input a TC 520 on master file balance due modules for all new bankruptcies regardless of any previous bankruptcies. If the court did not impose a stay on collection actions, or if the stay terminated on the 30th day in the current case, the caseworker must manually reverse TC 520s and input appropriate TC 520s in the serial filer case, when necessary. This will result in IDRS correctly calculating the CSED in the case. IDRS TC 520 cc 84 will not suspend the CSED. It will alert Service employees to contact Insolvency before taking any collection action because there is a bankruptcy case on the taxpayer and the Service may be limited in the pursuit of collection actions. The TC 520 cc 6X closing codes all extend the CSED on IDRS. In either instance, the case will remain open on AIS until dismissal, discharge, or non-discharge.
- (4) **Impact of the Serial Filer on Statutes.** When the taxpayer is a serial filer and there is no order extending the stay, calculation of the Assessment Statute Expiration Date (ASED) and Collection Statute Expiration Date (CSED) may be impacted. Additionally, when the debtor is a serial filer, the calculation of tolling to determine proof of claim classification in a subsequent case may be impacted. The following chart explains the impact on statutes in the serial filer case.

STATUTE	STAY TERMINATED ON THE 30th DAY	STAY NOT IMPOSED
ASED	<p>The ASED is extended from the petition date to the 30th calendar day from the petition date, plus 60 days, when there is an unagreed Examination or AUR deficiency. The ASED will be tolled by the stay if a Statutory Notice of Deficiency (SNOD) was issued and the time to file a Tax Court petition has not expired.</p> <p>Notify AUR or Exam that they may resume their assessment procedures upon termination of the stay.</p> <p><b>Note:</b> If AUR or Exam contacts CIO to ask if they can proceed in the serial filer case, CIO will provide them with the name and telephone number of the FI contact from SERP.</p>	<p>The ASED is not extended by the current bankruptcy.</p> <p>If there is an unagreed Examination or AUR deficiency, advise AUR or Exam that they may resume their assessment procedures once it has been determined that the stay is not imposed in the case.</p> <p><b>Note:</b> If AUR or Exam contacts CIO to ask if they can proceed in the serial filer case, CIO will provide them with the name and telephone number of the FI contact from SERP.</p>
CSED	<p>The CSED is extended on pre-petition liabilities from the petition date to the 30th calendar day from the petition date, plus 6 months. If a plan is confirmed and there is not 6 months between the day the stay terminated and the confirmation date, the number of days between the day the stay terminated and the confirmation date is added to the CSED, instead of 6 months.</p> <p>If a plan is confirmed in the case, the CSED is extended from the confirmation date to the dismissal, discharge, or denial of discharge date, plus 6 additional months.</p> <p><b>Reminder:</b> If TC 521/TC 522/TC 520(s) are input to IDRS correctly, IDRS will systematically calculate the extended CSED correctly.</p>	<p>The CSED is extended on pre-petition liabilities from the confirmation date to the dismissal, discharge, or discharge denied date, plus 6 months.</p> <p><b>Reminder:</b> If TC 521/TC 522/TC 520(s) are input to IDRS correctly, IDRS will systematically calculate the extended CSED correctly.</p>

STATUTE	STAY TERMINATED ON THE 30th DAY	STAY NOT IMPOSED
Tolling	For determining proof of claim classification in a subsequent bankruptcy case, the tolling period due to the current bankruptcy case is from the petition date to the 30th calendar day from the petition date, plus 90 days. If a plan is confirmed and there is not 90 days between the date the stay terminated and the confirmation date, the number of days between the date the stay terminated and the confirmation date is added to the tolling period. Additionally, if a plan is confirmed, the tolling period is calculated from the confirmation date to the dismissal, discharge, or discharge denied date, plus 90 days.	For determining proof of claim classification in a subsequent bankruptcy case, the tolling period due to the current bankruptcy case is from confirmation date to the dismissal, discharge, or discharge denied date, plus 90 days.

- (5) **Discharge Limitations.** The Bankruptcy Code limits how often a debtor can be discharged from certain chapters in bankruptcy. (See 11 USC 727(a)(9), 11 USC 1328(f), and Exhibit 5.9.5-3, Allowable Elapsed Time Between Bankruptcy Filings and Discharges.) When the prior bankruptcy status determined by IIP, as explained in paragraph (1) above, is anything except “No prior bankruptcy” in the Prior Bankruptcy Status field on the AIS TIN screen, caseworkers must review the prior bankruptcy(ies) to determine if the debtor is disqualified from discharge. If the caseworker determines the elapsed time between filings precludes a discharge upon case closure, the caseworker must input a “SERIAL” case classification on the “Classification” field on the AIS Taxpayer Screen and document the history with the reason the debtor’s liabilities cannot be discharged. Then, the caseworker should consult Counsel to determine if other actions are required, such as court notification, in that jurisdiction. In explaining how to apply 11 USC 1328(f), most courts have held that eligibility for discharge in Chapter 13 cases depends on the petition date of the prior bankruptcy case and the petition date of the current bankruptcy case, as well as the type of prior bankruptcy case filed by the debtor. For additional information, see:

- IRM 5.9.10.3.2(7), Processing Chapter 13 Bankruptcy Cases, Aspects of the Initial Case Review, Discharge Limitations
- In re Sanders, 551 F.3d 397 (6th Cir. 2008)
- In re Bateman, 515 F.3d 272, 280 (4th Cir. 2008)
- In re Gagne, 394 B.R. 219, 230 (1st Cir. BAP 2008)

But, see In re Sidebottom, 430 F.3d 893, 897 n.1 (7th Cir. 2005) (dicta that eligibility depends on discharge date in prior bankruptcy). When an individual or joint debtor in a Chapter 11 case received a discharge in a prior bankruptcy case, eligibility for discharge in the Chapter 11 case follows the same rules for discharge eligibility as those for an individual in a Chapter 7 case when the debtor liquidates in Chapter 11. The limitation **does not** apply when the debtor

reorganizes in Chapter 11. BAPCPA did not restrict discharge eligibility for the individual or joint debtor in a Chapter 12 bankruptcy case.

- (6) **Case Classification.** When the debtor is a serial filer and there are issues in the case that impact the automatic stay, ASER, CSER, dischargeability, or tolling in subsequent cases, caseworkers must add a “SERIAL” case classification to AIS so the case can be easily identified and document the AIS case history why the case classification was added.

**Note:** See the following exhibits within this IRM for additional steps used to work serial filer cases: Exhibit 5.9.5-3, Allowable Elapsed Time Between Bankruptcy Filings and Discharges; Exhibit 5.9.5-4, Common Processing Steps in Serial Filer Cases; Exhibit 5.9.5-5, Processing the Serial Filer Case When the Stay Terminates After 30 Days; and Exhibit 5.9.5-6, Processing the Serial Filer Case When No Stay Goes into Effect.

5.9.5.8  
(11-01-2022)  
**Levies and Bankruptcy**

- (1) **Introduction.** A levy served pre-petition on a taxpayer who subsequently files for bankruptcy protection may lead to a hearing in bankruptcy court. Indeed, an IRS levy may provoke a bankruptcy filing. Both Insolvency and Counsel expend time and resources resolving levy disputes in and out of court. If the issuance of a levy on the assets of a taxpayer who is in bankruptcy is not properly resolved, the Service may be liable for damages if the IRS receives property in violation of the automatic stay.

**Note:** The Service will not levy on property of the taxpayer for the failure to pay the Shared Responsibility Payment (SRP) liability. The Service will not apply levy payments to SRP liabilities. See IRM 5.9.4.5.5, Offsets, Payments, and the Individual Shared Responsibility Payment (SRP), and IRM 5.11.1.4.14, Background, Pre-Levy Actions, Restrictions on Levy & Post-Levy Actions, Restrictions on Levy, Affordable Care Act's (ACA) Individual Shared Responsibility Payment (SRP), for additional information.

- (2) **Levies and Insolvency.** When the IRS levies upon tangible or intangible property before a bankruptcy petition is filed, that property belongs to the bankruptcy estate if it is not transferred to the IRS before the bankruptcy petition is filed. The property becomes subject to turnover. However, the IRS may have a right to adequate protection before turnover. (See paragraph (3) below.) For information on bankruptcy and levy payments received under the Federal Payment Levy Program (FPLP), see IRM 5.9.4.5.4, Common Bankruptcy Issues, Credits, Refunds, and Offsets, Federal Payment Levy Program (FPLP). Use the following list to determine the disposition of levy payments based on when the levy payment was received:

- a. **Levy Funds Not Received by Petition Date .** Accordingly, if an IRS levy on accounts receivable, bank accounts, wages, insurance proceeds, or other intangibles has not resulted in the receipt of funds by the IRS at the time the bankruptcy is filed, the funds are property of the bankruptcy estate. Insolvency must release the levy expeditiously upon identification unless adequate protection is a consideration.

**Note:** See IRM 5.9.5.5(2) for additional information.

- b. **Pre-petition Seizure.** Any tangible property seized pre-petition but not sold pre-petition is property of the bankruptcy estate and subject to turnover.

- c. **Levy Funds Received Pre-petition.** When the IRS has received a levy payment prior to the bankruptcy filing (pre-petition), ownership has transferred to the IRS. The levy payment is not property of the estate.

**Note:** However, such a payment may be subject to recovery by the estate as a preference. See the definition of preference in IRM 5.9.1-1, Glossary of Common Insolvency Terms.

- d. **Levy Payments Received on the Petition Date.** The transfer of levy funds occurs on the date a levy check is honored by the drawee bank. The transfer does not occur on the date of delivery to the IRS. If the taxpayer files bankruptcy before the check is honored, the funds are property of the bankruptcy estate. (Pre-bankruptcy Levies: Turnover, Adequate Protection, and the Automatic Stay, 1997 LGM GL-67, 1997 WL 33106625 and Barnhill v. Johnson, 503 U.S. 393 (1992)) Since a check received by the IRS on the day a taxpayer files bankruptcy will not be honored until a later date, the funds are property of the bankruptcy estate.

**Exception:** When a cashier's check is issued to the IRS in response to a Notice of Levy, the IRS can keep the funds as long as the date on the face of the cashier's check (issued date) is prior to the bankruptcy petition date. Funds transfer from the taxpayer/debtor's account to the payee on the date the cashier's check is issued.

- (3) **Right to Adequate Protection.** The courts generally recognize the Service's right to adequate protection when a levy is issued pre-petition. The levy provides the IRS with an interest in the levied-upon property. If the IRS is entitled to adequate protection, the caseworker should immediately contact Counsel to coordinate a cash collateral agreement, a request for adequate protection, or a request for relief from the automatic stay. Although adequate protection can be requested in other chapters, it is requested most often in Chapter 11 bankruptcies. For additional information on adequate protection, see the following:
- IRM 5.9.8.6, Processing Chapter 11 Bankruptcy Cases, Adequate Protection
  - IRM 5.9.8.8, Processing Chapter 11 Bankruptcy Cases, Cash Collateral/Property Depreciation of the Estate
  - IRM 5.9.9.4, Processing Chapter 12 Bankruptcy Cases, Adequate Protection in the Chapter 12 Case
  - IRM 5.9.10.3.2(5), Processing Chapter 13 Bankruptcy Cases, Aspects of the Initial Case Review, Adequate Protection
  - IRM 5.17.8.11, Legal Reference Guide for Revenue Officers, General Provisions of Bankruptcy, Adequate Protection
- (4) **Pre-petition Levy/Post-petition Levy Payment.** Payment(s) received after a bankruptcy petition has been filed (post-petition) based on a pre-petition levy should be returned to the bankruptcy estate through the trustee or debtor-in-possession, unless the IRS seeks prompt relief from the automatic stay. In most instances, post-petition levy payments are returned to the debtor in Chapter 13 cases. For further clarification, see IRM 5.9.3.5(9), Automatic Stay, Pre-petition Levy Proceeds.
- (5) **Time Frame for Corrective Actions.** Corrective actions must be initiated expeditiously when the Service becomes aware that a levy payment has been

received after the filing of a bankruptcy petition. The payment will be returned expeditiously to either the trustee, debtor, or the debtor-in-possession per local guidelines using Form 5792, Request for IDRS Generated Refund. See IRM 5.9.5.5(2) for additional information.

- (6) **Third-Party Contact - Levy Release.** A release of a levy is considered a third-party contact. When Insolvency handles a release of levy, official recordation of the contact is required unless the taxpayer or taxpayer's representative gives permission for the caseworker to contact the levy source. Form 12175, Third Party Contact Report Form, or ICS electronic recordation, is the source of the third-party contact list provided to the taxpayer/debtor. Multiple contacts with the same third party on different dates require the completion of a separate Form 12175 for each contact. (See IRM 5.9.3.12.1, Third-party Contacts, and IRM 25.27.1.4, Recording and Reporting TPCs, for additional information.)

**Note:** Third Party Contact notification is not required prior to issuing a levy release.

- (7) **Documentation.** All actions taken on a levy matter while the debtor is under the protection of the Bankruptcy Code must be timely and accurately documented in the AIS case history. Documentation added to the AIS case history by Insolvency may be used as evidence in bankruptcy court.

**Note:** Although a new bankruptcy case filing may not be loaded on AIS at the time a levy issue is handled by Insolvency, all documentation on the matter should be transferred to the AIS history screen at the earliest possible date.

- (8) **Counsel Assistance.** Insolvency should contact Counsel for assistance on complex levy issues that arise during the pendency of a bankruptcy case. Levy concerns must be addressed under strict time frames to protect the debtor's rights. The Service may be held liable for damages if violations of the automatic stay imposed by the Bankruptcy Code occur.

5.9.5.9  
(11-01-2022)  
**Liens and Insolvency**

- (1) **Duration of a Lien.** Generally, a statutory federal tax lien exists so long as the period for collection remains open. In most instances, the collection statute expiration date (CSED) is 10 years from the date of the assessment. Certain actions, situations, or events may extend the CSED. These events include, but are not limited to:

- Bankruptcy
- Pending offer in compromise (OIC)
- Military deferment
- Pending installment agreement (IA)

A Notice of Federal Tax Lien (NFTL) is generally effective for ten years after the date of assessment. It expires 30 days after that time unless the NFTL is refilled. If a NFTL is not timely refilled, it will self-release and the statutory lien will be extinguished. While the collection period may be suspended, such as in the case of bankruptcy, no suspension exists with respect to the ten year effective period of filed NFTLs. Thus, it may be necessary in some instances to refile a NFTL to maintain the Service's lien priority. (See IRM 5.9.5.9.2, Refiling Notices of Federal Tax Lien (NFTLs), below.)

**Note:** For more information on Federal Tax Liens see IRM 5.12, Federal Tax Liens and IRM 5.17.2, Federal Tax Liens.



- (2) **Valid Pre-petition Federal Tax Lien.** Under IRC 6321, a federal tax lien attaches to all property and rights to property of the taxpayer, whether real or personal. A NFTL filed prior to bankruptcy may allow the Service a secured status in bankruptcy.
- (3) **Effectiveness of the NFTL.** Exemptions provided by state law, as set forth in 11 USC 522, are ineffective against the execution and the creation of a NFTL filed prior to bankruptcy. A valid NFTL filed pre-petition maintains the lien's effectiveness against those assets after a discharge is granted.
- (4) **Secured Amount Cannot Exceed Equity.** Even with a valid NFTL on file prior to bankruptcy, the Service's secured amount listed on a proof of claim cannot exceed the equity in the debtor's assets, if known. See the following IRM subsections for additional guidance on determining the secured status of the IRS when filing a proof of claim:
  - IRM 5.9.13.19.2, Manual Proofs of Claim and Common Claim Issues, Classifying Claims, Secured Claim
  - IRM 5.9.14.2.9(5)(j), Automated Proofs of Claim (APOC), Period Flags, Period Flag Conditions and Resolutions, Secured Period Flag
  - IRM 5.17.8.14, Legal Reference Guide for Revenue Officers, General Provisions of Bankruptcy, Secured Claims
- (5) **AIS-ALS Interface.** AIS interfaces with the Automated Lien System (ALS) to generate copies of NFTLs. Additional NFTL research, if necessary, should be conducted according to local guidelines.
- (6) **Proof of Claim and NFTL Copies.** If the IRS is a secured creditor in the bankruptcy case because a valid pre-petition NFTL attaches to the debtor's property, a copy of the NFTL should be included as an attachment to the Service's proof of claim. The NFTL is usually available on AIS because of the AIS-ALS Interface. However, if the NFTL is not available on AIS, it will generally be available on ALS. (See IRM 5.9.13.4.1(5), Manual Proofs of Claim and Common Claim Issues, Case Resource Materials, Notices of Federal Tax Lien (NFTL), and IRM 5.9.13.5(2), Claim Forms, Lien Attachment, for additional information on including a copy of the NFTL with the proof of claim.) Case-workers should ensure state or local recording data has been added to the NFTL. If that information is missing, additional research may be required. See IRM 5.9.14.2.9(5)(f), Automated Proofs of Claim (APOC), Period Flags, Period Flag Conditions and Resolutions, Lien Recorded Blank or Greater Than The Petition Date Flag, for additional information.

**Caution:** Make sure NFTL copies provided to the bankruptcy court have redacted Taxpayer Identification Numbers (TINs). If necessary, manually redact the TIN. An AIS generated NFTL should be used whenever possible as AIS systemically redacts the TIN.

5.9.5.9.1  
(11-01-2022)  
**NFTLs Filed after  
Bankruptcy Filing**

- (1) **NFTL Filed in Violation of the Stay.** When FI or CIO identifies that a NFTL was filed in violation of the automatic stay, a withdrawal of the NFTL must be initiated expeditiously. See IRM 5.9.5.5, for additional information.

**Example:** A NFTL was recorded one day after the bankruptcy petition date.

Corrective actions include:



- Securing managerial approval to withdraw the NFTL,
- Requesting issuance of Form 10916, Withdrawal of Filed Notice of Federal Tax Lien,

**Caution:** A Certificate of Release must not be used to withdraw a NFTL.

- Issuing Letter 4026, Notice of Lien Withdrawal, to the taxpayer,
- Issuing Letter 4711-I, Withdrawal Decision - Insolvency, to the taxpayer,
- Reversing the NFTL filing fees (TC 360) on IDRS, and
- Rescission of CDP rights, when appropriate.

**Note:** See IRM 5.12.9, Federal Tax Liens, Withdrawal of Notice of Federal Tax Lien, for additional guidance on NFTL withdrawals.

- (2) **NFTLs After Dismissal and Before an Order Vacating Dismissal.** A NFTL may have been received as filed by the recording office after dismissal of a bankruptcy case. At a later date, the court may enter an order vacating the dismissal. In most instances, an order vacating dismissal does not reinstate the bankruptcy stay. Thus, the filing of the NFTL was not in violation of the stay when the NFTL was received as filed by the recording office after the dismissal. The NFTL should not be withdrawn. However, if the order vacating the dismissal contains language that reinstates the automatic stay, the stay is usually reinstated on the day the order vacating the dismissal is signed and entered on the court's docket. Generally, a withdrawal should only be issued when the NFTL is recorded after an order is entered vacating dismissal and the order specifically reinstates the automatic stay. When it is unclear if the automatic stay is reimposed in a case, or the date of reimposition is unclear, the case should be referred to Counsel for advice. Referrals are subject to the tolerances established by local Counsel. See IRM 5.9.17.6.6, Orders Vacating Dismissal (Reinstatements), for additional information.
- (3) **Withdrawal of NFTL.** After the Insolvency manager has approved withdrawal of the NFTL, Insolvency will request that the Centralized Lien Operation (CLO) process the approved NFTL withdrawal. The withdrawal request can be input manually to ALS when the Insolvency caseworker has appropriate permissions on ALS. If not, the withdrawal can be requested by sending Form 13794 -W, Request for Withdrawal or Partial Withdrawal of Notice of Federal Tax Lien, to the CLO via secure email. (See IRM 5.12.9.6, Withdrawal of Notice of Federal Tax Lien, Approving the Withdrawal Request, for additional information.)
- (4) **Form 10916, Withdrawal of Filed Notice of Federal Tax Lien.** The Form 10916 can be generated through ALS or manually prepared by Insolvency.
  - a. **Systemic Generation:** When Form 10916 is generated through ALS, the CLO prints and mails Part 1 of the Form 10916 to the recording office. The TC 583 and the appropriate definer code (DC) are systemically input to MF. Correspondence Production Services (CPS) prints Part 2 of the Form 10916 and mails Part 2 along with the Letter 4026, Notice of Lien Withdrawal, to the debtor at the most current address of the taxpayer known to ALS. Copies of the documents are not provided to Insolvency by CLO unless Insolvency requests a copy. Copies are available through ALS. (See IRM 5.12.9.6.3, Distribution of the Withdrawal Certificate.)
  - b. **Manual Generation:** If Insolvency manually prepares Form 10916, Insolvency is responsible for mailing the Letter 4026 along with Part 2 of Form

10916 to the debtor. Insolvency is also responsible for manually inputting the TC 583 with the correct DC to MF.

- (5) **Notice to NFTL Originator.** As a courtesy, if a revenue officer (RO) originated the NFTL, the Insolvency caseworker requesting the withdrawal should notify the RO of the NFTL withdrawal. Notification can be through secure email, phone, or fax. If the NFTL was originated by ACS, Insolvency need not notify ACS of the withdrawal.
- (6) **Notice to Creditors.** If the debtor submits a written request for copies of the NFTL withdrawal notice to be forwarded to any creditor or credit reporting agency, the Service must comply promptly with the debtor's request. See IRM 5.12.9.6.4, Notifying Third Parties of Withdrawal, for guidance on processing the taxpayer's request to send a copy of the withdrawal form to a third party.
- (7) **NFTL Fees.** When a NFTL is withdrawn because it was filed in violation of the stay, the NFTL filing fee (TC 360) must be abated. The Insolvency office requesting the withdrawal must request abatement of the NFTL filing fee following their standard procedures for adjustments.
- (8) **Withdrawal Decision Letter.** The Insolvency office approving the withdrawal of the NFTL should send Letter 4711-I, Withdrawal Decision - Insolvency, to the debtor or POA when a NFTL is withdrawn. The letter advises the debtor that the NFTL is being withdrawn and that they will receive a separate copy of the withdrawal notice. The L4711-I is used to rescind the CDP hearing notice (IRM 5.9.5.9.1.1, Rescinding NFTL CDP Rights). It is also used to deny a request for withdrawal of a NFTL when the taxpayer is in bankruptcy and the NFTL does not meet withdrawal criteria.

5.9.5.9.1.1  
(11-01-2022)  
**Rescinding NFTL CDP  
Rights**

- (1) **NFTL CDP Rights.** When a NFTL is filed (Form 668-Y), Letter 3172, Notice of Federal Tax Lien Filing and Your Rights to a Hearing Under IRC 6320, informs the taxpayer of his/her CDP rights regarding the NFTL filing. The letter is sent to the taxpayer's last known address within five business days of the NFTL being filed with the recording office. Under IRC 6320, a taxpayer is entitled to only one hearing with respect to each tax period identified on a NFTL. Even if the NFTL is withdrawn, the original CDP lien notice conveying the taxpayer appeal rights is valid. If a new NFTL is subsequently filed, the Service may not offer the taxpayer any additional opportunity to request a CDP hearing for the same tax period unless the original CDP lien notice has been rescinded. See IRM 5.12.9.6.6, Rescission of CDP Rights for Withdrawals, for additional information.
- (2) **Conditions for Rescinding a CDP Notice.** If a NFTL is being withdrawn because it was filed in violation of the bankruptcy automatic stay, the CDP notice may be rescinded when the following conditions are met:
  - a. Within the 30-day period for requesting a CDP hearing, the Service agrees to withdraw the NFTL;
  - b. The rescission is accomplished by notifying the taxpayer in writing before the expiration of the time period for requesting a hearing; and
  - c. The taxpayer has not requested a CDP hearing.
- (3) **Determining if the CDP Notice should be Rescinded.** Allowing for the filing and mailing processes, the deadline for the time period to request a hearing can generally be calculated as 45 days from the TC 582 date. If the withdrawal is being worked within that time frame, then a decision must be made on the

rescission. Normally, Insolvency becomes aware of NFTL filing in violation of the stay rather quickly after it occurs. Insolvency can determine if the withdrawal of the NFTL is within the time period for requesting a CDP hearing and if a request for hearing has been submitted by:

- Looking at the TC 971 AC 252 date on IDRS. If Insolvency agrees to withdraw the NFTL within 30 days of that date, it is within the period for requesting a CDP hearing.
- If the TC 971 AC 252 has not posted, or if between 30-45 days have passed from the TC 971 AC 252 date, determine the exact deadline by looking at the Letter 3172 or ALS. If access to ALS or the letter is not available, contact the CLO and request a facsimile copy of Letter 3172.

**Note:** The Letter 3172 deadline for requesting a hearing is extended if the taxpayer is in a combat zone, part of a contingency operation away from the taxpayer's permanent duty station, or recuperating during a qualified hospitalization, plus 180 days. Because the time period for requesting a hearing is extended, the time period for rescinding the IRC 6320 notice is also extended. Check IDRS for any TC 500 that may impact the deadline date. (See IRM 5.1.7.9, Accounts of Taxpayers Who Serve in a Combat Zone.)

- Checking IDRS to see if there is a TC 520 cc 76 present on any of the modules included on the NFTL. If there is a TC 520 cc 76 present, the taxpayer has submitted a request for a CDP hearing. If there is no TC 520 cc 76, then contact the employee function that requested the NFTL or check the case history to confirm the taxpayer has not requested a CDP hearing.

(4) **Rescinding the CDP Rights.** If the taxpayer submitted a request for a CDP hearing, the appeal rights cannot be rescinded. If the taxpayer has not submitted a request for a CDP hearing, and the Service agreed to withdraw the NFTL within the 30-day period for the taxpayer to request a CDP hearing, the CDP rights should be rescinded. To rescind CDP rights, Insolvency should check the 2nd block on the Letter 4711-I, Withdrawal Decision - Insolvency, when issued.

(5) **Reversal of CDP Indicator on IDRS.** When the NFTL withdrawal is generated through ALS, a TC 583 is systemically input to the NFTL modules on IDRS. The withdrawal of the NFTL through ALS does not systemically reverse the CDP notice indicator (TC 971 AC 252) present on NFTL modules on IDRS. The Insolvency caseworker requesting the NFTL withdrawal must request reversal of the TC 971 AC 252 through input of a TC 972 AC 252 when the NFTL is withdrawn and CDP rights are rescinded. A TC 972 AC 252 is not required if CDP rights are not rescinded.

5.9.5.9.2  
(11-01-2022)  
**Refiling Notices of  
Federal Tax Lien  
(NFTLs)**

(1) **Timely Refiling of NFTLs.** When the statutory period for collection has been extended or suspended in cases with older secured assessments, Insolvency caseworkers must make a determination if the Notice of Federal Tax Lien (NFTL) should be refiled.

- a. A window of time exists for refiling NFTLs. That window begins nine years and 30 days after the date of the assessment and ends 10 years and 30 days after the date of assessment.
- b. While the secured status of IRS is determined as of the bankruptcy petition date, refiling the NFTL prevents objections to the claim of IRS

and ensures continuity of the priority established by the original NFTL filing when the IRS achieved secured creditor status.

- c. If there is no possibility that a NFTL will expire prior to all activity related to a bankruptcy case being completed (both during the bankruptcy and post-discharge), or if the Service has no NFTLs for pre-petition periods, NFTL refiling need not be considered.
- d. Each assessment shown on the NFTL has its own refile window. These windows may overlap. If the total liability including accruals on the assessment(s) within the refile window is de minimis (IRM 5.9.1-1, Glossary of Common Insolvency Terms), the NFTL should not be refiled. If the total liability is not de minimis, the NFTL should be refiled for the assessments within the refile window.

**Note:** The refiling of a NFTL will not usually be requested in Chapter 13 cases except during the initial case review. See IRM 5.9.10.3.2(8), Processing Chapter 13 Bankruptcy Cases, Aspects of the Initial Case Review, NFTL Refile Determinations.

(2) **NFTL Refile Criteria.** Normally, refiling a NFTL by itself is not considered a violation of the automatic stay under 11 USC 362 because a lien is not being created; rather, the lien is being preserved. The following guidance must be followed in cases where the NFTL refile window is after the initial case review, during the pendency of the bankruptcy case, or immediately post-discharge:

- a. No Equity. If the Service has not filed a secured claim, the NFTL should not be refiled unless Insolvency has determined the debtor has exempt, abandoned, or excluded property (EAEP) that will be pursued for collection after the discharge.
- b. Amount Remaining on a Secured Claim. Except as provided in (d) below, if the secured claim has been paid in full, the secured claim will be paid prior to the expiration of the NFTL, or the amount remaining unpaid is de minimis, the NFTL should not be refiled. If the secured claim will not be full paid prior to the expiration of the NFTL (excepting a de minimis remaining balance due), the NFTL should be refiled.
- c. Possible Distribution in Chapter 7 Cases. If a secured claim is filed and the distribution will most likely be after the NFTL expiration date, the NFTL should be refiled to prevent objections to the Service's secured claim. However, if Insolvency inadvertently fails to refile the NFTL before distribution, the secured claim of the IRS should remain classified as secured. If distribution will occur prior to the NFTL expiration date, the NFTL should not be refiled unless the conditions in (d), below, apply.
- d. Dischargeable Periods. If the Service is actively pursuing collection against exempt, abandoned, or excluded property (EAEP) after the discharge, and collection may extend beyond the NFTL expiration date, the NFTL should be refiled. A follow-up date must be input on AIS to coincide with the NFTL refile window to ensure the NFTL is refiled prior to expiration.

**Note:** A NFTL should be refiled if there has been a referral to Counsel for the taxes underlying the lien, unless Counsel agrees otherwise.

(3) **Insolvency NFTL Refile Reviews.** NFTL refile determinations must be made on all Chapter 7 Asset, Chapter 7 No Asset Large Dollar, Chapter 11, Chapter

12, and Chapter 13 bankruptcy cases during initial case reviews. For additional information on NFTL refiling determinations in bankruptcy cases, see the following IRM references:

- IRM 5.9.6.11.1(3)(f), Aspects of the Initial Case Review in the Large Dollar 7NA Case
- IRM 5.9.6.11.2(3)(f), Aspects of the Initial Case Review in the 7A Individual Case, NFTL Refile Determinations
- IRM 5.9.6.11.3(3), Initial Case Review of the 7A Business Case by FI
- IRM 5.9.8.4.2(9), Aspects of the Initial Case Review in the Chapter 11 Case, NFTL Refile and Adequate Protection
- IRM 5.9.9.3.2(4), Processing Chapter 12 Bankruptcy Cases, Aspects of the Initial Case Review, Notice of Federal Tax Lien (NFTL) Refile Determinations
- IRM 5.9.10.3.2(8), Initial Case Review for Chapter 13 Bankruptcy, Aspects of the Initial Case Review, NFTL Refile Determinations
- IRM 5.9.17.5.3, Exempt, Abandoned or Excluded Property (EAEP), Addressing Lien Issues
- The following list summarizes when additional NFTL refile reviews must be conducted:
  - a. Chapter 7 Asset Distributions. NFTL refile reviews must occur the earlier of the notification of the discharge by the court or the NFTL refile window. If a NFTL refile is needed at a future date to protect the Service's secured status, a follow-up date must be input on AIS to coincide with the refile window. The caseworker must ensure that the NFTL is refiled prior to expiration.
  - b. Chapter 11 and Chapter 12 Cases. NFTL refile reviews must be conducted during the refile window time frame. The caseworker must schedule a follow-up to ensure the NFTL is refiled prior to expiration.
  - c. Exempt, Abandoned, or Excluded Property (EAEP). NFTL refile reviews must be conducted during the initial case review by the FI caseworker when the case is being reviewed for collection potential from EAEP. If a NFTL refile is needed, a follow-up date must be input on AIS to coincide with the refile window to ensure the NFTL is refiled prior to expiration.

- (4) **ALS Actions.** After Insolvency has determined that a NFTL must be refiled, the NFTL refile request must be input on ALS by the operation (CIO or FI) that identifies the NFTL refile requirement. Unique circumstances may arise when a NFTL refile is in the best interest of the government and refiling is not covered by the information in paragraph (2) above. Caseworkers may refile NFTLs in those cases after receiving managerial approval.
- (5) **Documentation.** When Insolvency caseworkers complete a NFTL refile review, they must document the AIS history with findings of that review and annotate all actions taken when refiling a NFTL. Such documentation may become important if issues later arise concerning the Service's secured claim, NFTL refiling issues, and possible ensuing litigation.

5.9.5.9.3  
(11-01-2022)  
**Notice of Federal Tax Lien (NFTL) Filing by Insolvency**

- (1) **Notice of Federal Tax Lien (NFTL) Filing by Field Insolvency (FI).** Generally, Field Insolvency (FI) will make NFTL filing decisions on the specific cases in the bullet list below following the instructions in IRM 5.12.2.3, Notice of Federal Tax Lien Filing Determination (Pre-filing Considerations), IRM 5.12.2.3.1.1, Affordable Care Act's (ACA) Shared Responsibility Payment



(SRP) Exception, and IRM 5.12.2.4, Determination Criteria for Do-Not-File or

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#

file a NFTL in:

- Dismissed cases (IRM 5.9.17.6.7, NFTL Filing Determinations after Dismissal).
- Chapter 12 cases of individuals (IRM 5.9.9.10.3(8), Post-petition Liabilities in Chapter 12 — Individual Cases, Notice of Federal Tax Lien (NFTL)).
- Chapter 11 cases of individuals who filed bankruptcy pre-BAPCPA and cases of entities other than individuals who filed Chapter 11 at any time. (IRM 5.9.8.19.4.1(1)), Post-Confirmation Tax Liabilities of the Non-individual Debtor or Individual Debtor (Pre-BAPCPA), Tax Debts Arising After Confirmation). Generally, a NFTL should not be filed for post-confirmation liabilities prior to discharge in the individual bankruptcy case filed post-BAPCPA without consulting Counsel first. (IRM 5.9.8.19.4.2(3)(c), Post-Confirmation Tax Liabilities of the Individual Debtor (Post-BAPCPA), Collection Considerations, Notice of Federal Tax Lien (NFTL))
- When a single member disregarded entity LLC files bankruptcy and the single member is not in bankruptcy. This requirement will generally apply to employment tax liabilities incurred for periods prior to January 1, 2009, and to excise tax liabilities incurred for periods prior to January 1, 2008, where the single member is liable for such tax liabilities of the LLC. (IRM 5.9.17.12.1, Single Member Disregarded Entity LLCs)

**Reminder:** While a NFTL **cannot by law** be filed on Shared Responsibility Payment (SRP) liabilities, the SRP liability amounts are taken into consideration when determining if the aggregate UBA meets the NFTL filing threshold. See IRM 5.12.2.6.1, ACA Shared Responsibility Considerations When filing NFTL. NFTLs **can** be filed on Employer Shared Responsibility Payment (ESRP) liabilities assessed on IDRS under MFT 43. See IRM 5.12.2.6.1, ACA Shared Responsibility Considerations When filing NFTL.

(2) **NFTL Filing Considerations.** In all NFTL filing situations, FI caseworkers should:

- Ensure contact with the taxpayer meeting the criteria in IRM 5.12.2.2, Taxpayer Contact, has been completed. Then, follow the instructions in IRM 5.12.2.3, Notice of Federal Tax Lien Filing Determination (Pre-filing Considerations), through IRM 5.12.2.3.2, Determination Requirements. Caseworkers may still wish to contact the debtor to request full payment and warn of the possible filing of a NFTL in an attempt to resolve the case without the need to file the NFTL.
- Verify that the automatic stay is not in effect for the periods included on the NFTL.
- Verify that the periods included on the NFTL are not otherwise included in a confirmed plan and that the plan does not prohibit taking any collection actions on the periods included.
- Determine whether or not a sound business reason exists to justify filing a NFTL.

- Document the AIS history explaining the decision to file, or to refrain from filing, a NFTL; as well as, a description of all NFTL filing actions taken.

**Note:** If the tax debts are in litigation or have been referred to Counsel, consult with Counsel prior to filing a NFTL.

5.9.5.10  
(11-01-2022)

#### Adjusting Bankruptcy Accounts

- (1) **Centralized Insolvency Operation (CIO).** CIO caseworkers will input adjustments on-line for accounts in their inventory when abatements are needed during the discharge process. CIO management is responsible for ensuring requisite review procedures are in place for on-line adjustments made by their employees. An exception is the request to transfer a case to non-master file (NMF) or to make adjustments to accounts already on NMF. CIO caseworkers will submit the appropriate documents, Form 12810, Account Transfer Checklist, or Form 1331-B, Notice of Adjustment, for these type adjustments. CIO does not input adjustments to NMF. CIO does not make tax account adjustments for any returns received (including amended returns). The original or amended returns are forwarded to the appropriate function for processing. Additionally, CIO does not make any account adjustments for other functions that are not associated with the discharge process. Those adjustments are completed by the function responsible for the adjustment. CIO will contact the area involved to make the adjustments to their case before CIO works the bankruptcy discharge. Contacts are found on SERP for AM, Entity, Statutes, AUR, etc.

**Example:** The debtor responded to an unagreed deficiency notice issued by AUR. The response will result in a tax increase. Upon receipt of the discharge, CIO will contact AUR to make the required adjustment. CIO will make the bankruptcy discharge adjustments after the AUR adjustments have been completed.

CIO routes adjustment documents prepared on accounts involving identity theft per IRM 5.9.5.12.1.3, Routing Form 3870 to Adjust Identity Theft (IDT) Accounts.

- (2) **Field Insolvency (FI).** With the exception of simple account adjustments; such as, input of TC 52Xs, FI prepares and routes adjustment request documents to the appropriate function. This includes sending amended returns to the appropriate function for processing. It includes sending adjustment request on Exam, AUR, or SFR/ASFR deficiencies to the appropriate reconsideration function. Then, FI monitors the requests for posting to IDRS, when cases are assigned to FI inventories. FI sends requests for adjustments on **cases assigned to CIO** to the CIO by fax, secure email, or overnight mail.

**Reminder:** FI caseworkers should not be working any aspect of a case not assigned to them. UNAX prohibits access of a taxpayer record unless required to complete official IRS duties as assigned by management. Cases and duties assigned to CIO and FI are in accordance to management directives. For additional information on access of taxpayer records, see IRM 10.5.5.3(8), Privacy and Information Protection, Servicewide Roles and Responsibilities for Administering the IRS UNAX Program.



With the exception of trust fund recovery penalty (TFRP) adjustments, and adjustments to accounts due to identity theft (IDT), FI caseworkers send most adjustment documents to Collection Centralized Case Processing (CCCP). When possible, FI must send adjustment documents to CCCP via secure email to \*SBSE ccpinslv. If the adjustment documents cannot be sent via secure email, the documents may be mailed to:

IRS - Collection Centralized Case Processing Mail Stop 5-E04.114 2970 Market St.  
Philadelphia, PA 19104

**Note:** TFRP adjustments on assigned FI cases should be routed to the Advisory function per local guidelines. Adjustments on accounts due to IDT are routed per IRM 5.9.5.12.1.3.

(3) **Adjustment Documents.** Adjustment forms and their uses are outlined in the table below.

Form	Purpose
Form 3870, Request for Adjustment	All adjustments and abatements. If a Transaction Code (TC) 470 cc 90 is requested, item 29 must be completed.
Form 4844, Request for Terminal Action, or Form 3177, Notice of Action for Entry on Master File <b>Note:</b> These forms are interchangeable for master file adjustments. F3177 is used for NMF adjustments.	<ul style="list-style-type: none"> <li>• TC 470 cc 90, if the adjustment will fully satisfy the tax period.</li> <li>• TC 470 STAUP 89 for a non-master file period, if adjustment fully satisfies the tax period.</li> <li>• TC 59X cc XX for TDI/Del Ret closures.</li> <li>• TC 971 AC 031 for full abatement due to bankruptcy.</li> <li>• TC 971 AC 033 for partial abatement due to bankruptcy (must be accompanied by a Form 3870).</li> <li>• TC 550 for NMF CSED extensions or for CSED extensions on modules kept open after discharge due to lien retainage and collection potential from EAEP (IRM 5.9.17.5.3(13), Addressing Lien Issues, CSEDs and Refiles).</li> </ul>
Form 2424, Account Adjustment Voucher	Required for credit transfers.
Form 12810, Account Transfer Request Checklist	Transfer to non-master file.
Form 2363, Master File Entity Change	To correct entity information.
Form 1331-B, Notice of Adjustment	Non-master file adjustments.
Form 4159, Payment Tracer Request	Used to trace payments when a payment cannot be located and the taxpayer has submitted a cancelled check or other evidence that the payment was made.

5.9.5.11  
(11-01-2022)  
**Transferring Cases**

- (1) **Reassignment to CIO.** Chapter 7 case assignments and the transfer of cases is discussed in detail in IRM 5.9.6.10, Chapter 7 Case Assignments, and subsections. The transfer of Chapter 13 cases from FI to CIO is discussed in IRM 5.9.10.6, Transfer of Chapter 13 Cases from Field Insolvency (FI) to the Centralized Insolvency Operation. Generally, cases will be transferred from FI to CIO when the criteria listed below is met:
- a. **Chapter 7 Asset Non-Individual Cases** — Generally, the Chapter 7 Asset case filed by a business that is not a partnership entity is transferred to the CIO once the initial case review has been completed, all proofs of claim have been acknowledged, and there are no issues that require the case to remain in FI. (In addition to the IRMs listed above, see IRM 5.9.17.2(4), Closing a Bankruptcy Case, Overview, Chapter 7 Asset Closures; IRM 5.9.17.12, Closing Corporate Chapter 7 and Chapter 7 Limited Liability Companies (LLCs); and IRM 5.9.17.12.1, Chapter 7 Single Member Disregarded Entity LLCs, for additional information.)
  - b. **Chapter 7 Asset Individual Cases** — Like the Chapter 7 Asset case filed by a business, the Chapter 7 Asset case filed by an individual or joint debtor is generally transferred to the CIO once the initial case review has been completed, all proofs of claim have been acknowledged, and there are no issues that require the case to remain in FI. However, if the debtor is an individual or joint debtor, and there was a prior bankruptcy(cies) dismissed within one year of the current bankruptcy petition date, FI must determine if the automatic stay has been extended or went into place in the current case prior to transfer. (See IRM 5.9.5.7(7), Serial Filers, Case Assignments, for additional information.) For information regarding transfer of the Chapter 7 Asset individual case prior to dismissal or discharge, see IRM 5.9.17.10(6), Transfer of the Individual or Joint Chapter 7A Case to the CIO Prior to Dismissal or Discharge. See IRM 5.9.17.10(7), Transfer of the Individual or Joint 7A Case to the CIO After Discharge, for information regarding the transfer of the Chapter 7 Asset individual case after discharge.
  - c. **Large Dollar Chapter 7 No Asset Individual Cases** — After FI completes an exempt, abandoned, or excluded property (EAEP) review, FI will transfer the case back to the CIO once the FI caseworker has determined that there is no fraud or willful evasion and that there is no collection potential from EAEP. If the taxes are excepted from discharge due to the willful evasion or fraud exception to discharge, the case can be transferred to CIO once the exception to discharge is noted in the AIS history. If there is collection potential from EAEP after the discharge, the case must remain in FI until discharge and FI has completed all collection actions on the EAEP. (See IRM 5.9.17.5, Exempt, Abandoned or Excluded Property (EAEP), through IRM 5.9.17.5.4.1, Thrift Savings Plan (TSP), for additional information.)
  - d. **Chapter 13 Cases** — Chapter 13 cases are transferred from FI to CIO once the initial case review has been completed, all proofs of claim have been acknowledged, and there are no issues that require the case to remain in FI. If the debtor had a prior bankruptcy(cies) dismissed within one year of the current bankruptcy petition date, the case must remain in FI until FI determines if there is an order extending the stay in the case. If there is an order extending the stay, FI can transfer the case to the CIO after they have documented the AIS history with the determination that the stay has been extended and that no TC 520 reversals or new TC 520s are needed. If there is no order extending the stay, the case must remain in FI until the Chapter 13 plan is confirmed. At confirmation, FI

will input necessary TC 520s and follow confirmation actions in IRM 5.9.10.6.1(2), Field Insolvency (FI) Actions Prior to Case Transfer, Older Cases, before transferring the case to CIO. (See IRM 5.9.5.7, Serial Filers, through IRM 5.9.5.7.1, Systemic Identification in Serial Filer Cases, for additional information regarding serial filers.)

- e. All Chapters — There are two instances when CIO takes actions on a case for FI, regardless of the chapter, which allow the transfer of the case from FI to CIO: a) Manual MFT 31 and/or MFT 65 mirroring or transfer to non-master file is required at the close of the case — FI transfers the case to CIO for manual mirroring or non-master file creation when needed as a case closing action. Once completed, CIO transfers the case back to the FI caseworker that requested the manual mirroring or non-master file creation for subsequent actions. (See IRM 5.9.17.22, Adjustment Methods for Discharged Liabilities, through IRM 5.9.17.22.6, MFT 31 Splits, and IRM 5.9.17.23, Mirrored and Non-master File Modules.) When a case is assigned to FI and “up-front” mirroring is needed because Exam, Appeals, AUR, etc. requests mirroring before the case is dismissed, discharged, or otherwise closed by the court, FI sends a request for “up-front” mirroring to the *\*CIO Issues* mailbox on Outlook to request mirroring by the CIO. The case is **not** transferred from FI to CIO. (For additional information on up-front mirroring, see IRM 5.9.4.3, Examination and Insolvency, and subsections.) b) Prior installment agreements requiring certain actions at closure — When FI addresses a prior IA at case closure and an IA letter must be issued, a TC 590 or TC 595 needs to be input, or an installment agreement requires reinstatement input to IDRS, FI transfers the case to CIO. CIO takes the necessary action. (See IRM 5.9.17.24, Addressing Prior Installment Agreements When Closing a Case, through IRM 5.9.17.24.1, Installment Agreement Letters Used During Case Closure, and Exhibit 5.9.17–2, Regular Installment Agreement Reinstatements, through Exhibit 5.9.17–5, Installment Agreement Cannot Be Reinstated, for additional information.)

Before transferring a case to CIO, the FI caseworker must ensure:

- Confirmed Plan Monitoring (CPM) screens are properly loaded and verified. (See Exhibit 5.9.5-2 and Document 13219, Automated Insolvency System (AIS) USER GUIDE, for additional information.)
- Referral or OI screens are closed.
- Follow-up dates are removed.
- The court has acknowledged the receipt of all claims submitted by the IRS and acknowledgement dates have been input on AIS, if applicable.
- An AIS “\*\*\*\*\*SUMMARY HISTORY\*\*\*\*\*” has been added in the case. (See IRM 5.9.5.4.2, Summary Histories, through IRM 5.9.5.4.4, Chapter 7 Summary Histories.)
- Case classifications have been added to AIS to alert CIO of actions that must be addressed during case closure or to alert CIO to situations that must be addressed during the pendency of the bankruptcy case, when applicable. (See IRM 5.9.5.4.1, Case Classifications, for additional information.)

**Note:** No paper files will be sent to CIO.

- (2) **Reassignment to Field Insolvency (FI).** When a case is transferred to FI, the assigned caseworker will receive an electronic mail notification from AIS via Microsoft Outlook email. The caseworker must review the case within **five**

**calendar days** of receipt from the CIO to determine the issue requiring action and the acceptable time frame to address the issue. Some issues may require immediate actions. Some reassignment issues may allow the caseworker to schedule a follow-up to take the initial action to resolve the case issue. Caseworkers should adhere to the time frames established in the following table:

If the case is reassigned to Field Insolvency (FI) by the Centralized Insolvency Operation (CIO) to...	Then, the initial case action should be taken no later than...
<ul style="list-style-type: none"> <li>• Address issues requiring telephone contact to taxpayers, representatives, or internal customers (for example, calls concerning complex issues not handled by CIO, injured spouse matters, TAS matters, or calls concerning post-petition liabilities); or,</li> <li>• Address cases assigned to FI by the CIO to work a Taxpayer Assistance Order (TAO) on a complex case issue; or,</li> <li>• Schedule attendance at a 341 for the CIO (particularly to question debtors about TIN validity); or,</li> <li>• Take action to establish entities on IDRS to allow the posting of payments that have been received and appear on the Campus Support error reports; or,</li> <li>• Take action to resolve overpayments or balance dues as a result of trustee or non-debtor payments; or,</li> <li>• Take appropriate action on LTS "After Petition" transcripts that cannot be resolved by the CIO; or,</li> <li>• Take action to resolve an open TDI/Del Ret that is preventing CIO from addressing a prior installment agreement during case closure. (IRM 5.9.17.24.2, Reinstating the IA when All Modules Except a SRP Liability were Included in the Prior IA, and Exhibit 5.9.17-4, Procedures for Reinstating an Installment Agreement (IA) with an Open TDI (Del Ret))</li> </ul>	<p>Five calendar days from receipt of the electronic notification from AIS via Microsoft Outlook email.</p>

If the case is reassigned to Field Insolvency (FI) by the Centralized Insolvency Operation (CIO) to...	Then, the initial case action should be taken no later than...
<ul style="list-style-type: none"> <li>• Take action to address credit offset issues that meet the criteria for a referral to Counsel; or,</li> <li>• Address “new assessment” cases that may require an amended proof of claim; or,</li> <li>• Resolve payment posting errors caused when the case has been dismissed and closed; or,</li> <li>• Resolve “other” payment posting errors that cannot be resolved by the CIO; or,</li> <li>• Address LTS “credit balance” and “other credit balance” reports; or</li> <li>• Conduct research on an account that CIO cannot mirror because the secondary spouse is deceased and CIO needs to know if a NMF account needs to be established (IRM 5.9.17.21.3, Decedent Secondary Spouse); or,</li> <li>• Take action on a DDR generated by the Automated Discharge System (ADS) for exempt, abandoned, or excluded property that has not been worked previously; or, that has unclear or incomplete history documentation that does not provide sufficient information for the CIO to work the DDR; or,</li> <li>• Address Chapter 7 No Asset cases with complex issues (other than cases reassigned per the large dollar 7 No Asset process).</li> </ul> <p><b>Note:</b> The acceptable time frames for FI to make collection determinations regarding collection from EAEP are found in IRM 5.9.6.11.1(2), Initial Case Review of Large Dollar 7 No Asset (7NA) Reassignments by FI, Time Frame for Completion of the Initial Case Review in the Large Dollar 7NA Case, and IRM 5.9.17.5.3(5), Exempt, Abandoned or Excluded Property (EAEP), Addressing Lien Issues, Time Frames.</p>	<p>15 calendar days from receipt of the electronic notification from AIS via Microsoft Outlook email.</p>

If the case is reassigned to Field Insolvency (FI) by the Centralized Insolvency Operation (CIO) to...	Then, the initial case action should be taken no later than...
<ul style="list-style-type: none"> <li>• Address Chapter 13 post-petition assess- determined by the Director, SCl; or,</li> <li>• Address a DDR on the dischargeability of a 1305 claim; or,</li> <li>• Address the ADS DDR for willful failure to pay that has not been addressed in the AIS history: or</li> <li>• Take appropriate action on Litigation Transcript System (LTS) "All Other Transaction Code (TC) 846 Found" transcripts that cannot be resolved by the Centralized Insolvency Operation (CIO). See IRM 5.9.16.2.4(3), <i>All Other TC 846 Found</i>, for guidance.</li> </ul>	30 calendar days from receipt of the electronic notification from AIS via Microsoft Outlook email.

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5.9.5.12  
(11-01-2022)

#### Identity Theft (IDT) - Introduction

- (1) **Servicewide Policy.** As with any other taxpayer, a debtor in bankruptcy may be a victim of identity theft (IDT) or Return Preparer Fraud or Misconduct (RPM) that adversely affects their tax liability. The caseworker should determine if the debtor is a victim of IDT or RPM. Generally, when the taxpayer used a preparer in a previous year, or visited the preparer but decided to go elsewhere to have the return prepared, and did not authorize a return to be prepared for the year in question, this is not RPM. It is identity theft. (IRM 5.9.5.12.2, Return Preparer Fraud or Misconduct (RPM), contains additional information on return preparer fraud.) In addition to the guidance in this IRM, caseworkers must review the following IRM(s) when working a bankruptcy case and the debtor may be a victim of identity theft (IDT):
  - IRM 25.23, Identity Protection and Victim Assistance, used by all divisions, functional units, employees, and contractors within the IRS working identity theft cases.
  - IRM 5.1.28, Field Collection Procedures, Identity Theft for Collection Employees, for revenue officers and all caseworkers in SB/SE Collection who work cases involving IDT.
- (2) **Identity Theft (IDT) Information Available to Taxpayers/Debtors.** The Service has an aggressive strategy in the prevention and detection of identity theft (IDT) and in providing assistance to taxpayers who are victims of IDT. Information on IDT is available to taxpayers on the Identity Protection home page at <https://www.irs.gov/Individuals/Identity-Protection>. The Pub 5027, Identity Theft Information for Taxpayers, is also available to taxpayers/debtors with information on IDT.
- (3) **Debtor Interaction.** When dealing with a debtor that has experienced identity theft, handle the contact with sensitivity and understanding. The debtor is already a victim, either emotionally and/or financially. Treat them with courtesy and educate them about how to protect themselves and where they can find additional information. Advise them to do the following:



- Contact the Federal Trade Commission (FTC) Identity Theft Hotline;
- Contact the Social Security Administration;
- File a report with their local or state police;
- Contact their state Attorney General's office;
- Contact one of the three major credit bureaus: Equifax, Experian, or Transunion;
- File Form 14039, Identity Theft Affidavit, with the IRS; and
- Advise them that IRS has additional information available to them in Pub 4535, Identity Theft Prevention and Victim Assistance.

- (4) **Contact When the Taxpayer is Not in Bankruptcy.** You may be contacted by a taxpayer who is not in bankruptcy but is a victim of identity theft. Whether the taxpayer is a victim of tax-related IDT or non tax-related IDT, refer the taxpayer to the Identity Protection Specialized Unit (IPSU) at 1-800-908-4490.

5.9.5.12.1  
(11-01-2022)  
**Insolvency  
Responsibilities When  
Identity Theft (IDT)  
Issues are Present in a  
Bankruptcy Case**

- (1) **Bankruptcy Functional Responsibilities.** Other operations within the Service have been advised to contact the CIO when they are advised of an identity theft issue on a case that is currently in bankruptcy. CIO caseworkers handle IDT issues for Chapter 7 No Asset cases assigned to their inventory. The CIO will direct all other identity theft issues to FI offices. The FI offices where the cases are assigned are responsible for proper resolution of the identity theft claims. If an IDT issue arises on a Chapter 13 or a Chapter 7 Asset case while the case is assigned to the CIO, the case will be reassigned to FI for resolution.
- (2) **Insolvency Actions.** Insolvency may encounter unique situations when the taxpayer is in bankruptcy. Actions taken on the Insolvency case will depend on whether or not there is a balance due on the debtor's account or if the account in question had a refund or credit balance. Generally, in working possible identity theft cases, caseworkers should:
- a. Ask for IDT substantiation to be provided to Insolvency, unless the debtor has already provided it. Supporting documentation is valid for three years.
  - b. Conduct internal research to see if you can determine if the debtor is a victim of IDT. (See IRM 5.1.28.7, Making an Identity Theft Determination, and subsections.) It does not matter if the debtor, bankruptcy trustee, or debtor's attorney identified the potential IDT. If you can determine that IDT occurred, request any adjustments needed in the case and request input of the IDT indicator codes. Receipt of IDT substantiation documentation is not required. Treat the case as IRS identified IDT.
  - c. Monitor for receipt of the IDT substantiation documentation when you cannot determine through internal research that IDT occurred and IDT substantiation documentation is required..
  - d. Take whatever action is required in the case based on whether IDT occurred and if IDT substantiation documents are received, when required. This includes requesting any adjustments needed on accounts because of IDT and requesting input of the appropriate IDT indicator codes.

**Note:** See IRM 5.9.5.12.1.1 through IRM 5.9.5.12.1.3 for additional information.

The Insolvency caseworker may encounter situations where the debtor states that he/she is a victim of IDT. See Exhibit 5.9.5-7, Debtor States Identity Theft



(IDT), for the actions required of the Insolvency caseworker and step-by-step procedures for requesting the IDT transaction codes. During the normal course of business, a Service employee may identify that a possible IDT has occurred and the case has not been resolved. See Exhibit 5.9.5-8, IRS Identified Identity Theft (IDT), for the steps the Insolvency caseworker must follow when the caseworker or another IRS employee identifies the ID theft. Finally, the bankruptcy trustee or attorney for the debtor may contact an Insolvency caseworker when he/she suspects IDT has occurred. For example, the bankruptcy trustee may contact the caseworker upon receipt of a refund check in a refund turnover case (RTO) when the debtor previously provided information to the trustee that he/she had no income tax filing requirements. In most instances, the caseworker will attempt to secure the IDT substantiation from the debtor. The caseworker may not be able to secure IDT substantiation if:

- The debtor is deceased or
- The debtor is unwilling to provide the substantiation because he/she is receiving the benefit of the refund from the IDT return.

Caseworkers must follow the procedures in Exhibit 5.9.5-9, Trustee or Debtor's Attorney States the Debtor is a Victim of Identity Theft (IDT), in these cases.

- (3) **Consultation with Counsel.** Before attempting to resolve an IDT issue, determine if the trustee or debtor's attorney filed an objection to the claim or a motion to determine tax liability. If the tax period involving the IDT issue is listed on the claim, or is being considered as part of the motion to determine tax liability, do not work the IDT issue without first coordinating with Counsel. Coordination with Counsel is required as the IDT issue is already being raised in a court proceeding.
- (4) **Referral to Taxpayer Advocate Service (TAS).** In cases where the IDT issue is being litigated in the bankruptcy court, it is not appropriate to refer the case to TAS. TAS has no authority to intervene in the litigation. However, taxpayers have a right to a fair and just tax system which means they have the right to seek TAS assistance if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels. Therefore, in all other cases, consider whether the taxpayer should be referred to TAS. If the taxpayer is experiencing a financial hardship under TAS criteria 1 - 4 due to a tax-related IDT issue, prepare and submit Form 911, Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order). Or, the taxpayer may contact TAS directly. (See IRM 13.1.7.2.1, TAS Case Criteria 1—4, Economic Burden.) If the taxpayer meets TAS criteria 5 - 7, you should refer the case to TAS pursuant to IRM 13.1.7.2.2, TAS Case Criteria 5 – 7, Systemic Burden. Systemic burden cases are those for which an IRS process, system, or procedure has failed to operate as intended, and as a result the IRS has failed to timely respond or resolve a taxpayer issue. In either instance, if the taxpayer requests to contact TAS directly, advise the taxpayer to call (877) 777-4778, toll-free, or go to <https://www.taxpayeradvocate.irs.gov/>.
- (5) **AIS History.** In all instances, the caseworker must document the AIS history with all actions taken in the IDT case. Additionally, caseworkers must open an "Iden Theft" case classification on AIS. The case classification must remain open until the IDT issue is resolved.

5.9.5.12.1.1  
(11-01-2022)  
**Identity Theft (IDT)  
Substantiation**

- (1) **General Information.** Identity theft (IDT) substantiation/document requirements depend on whether the debtor is a victim of IMF or BMF identity theft. Documentation requested by Insolvency caseworkers is the same documentation requested by all IRS employees in possible IDT cases. As in other cases, when documentation is required, ask the debtor to submit the documentation within 30 days. If the case is assigned to FI, or the responsibility of FI, the debtor should be directed to submit the IDT documentation to the FI caseworker. If the case is a Chapter 7 No Asset case, and assigned to the CIO, the debtor should be directed to submit the IDT substantiation via fax to the CIO at (855) 235-6787. The debtor may also mail the IDT substantiation to the CIO via U.S. Mail to:

**Note:** Internal Revenue Service Centralized Insolvency Operation P.O. Box 7346  
Philadelphia, PA 19101-7346

- (2) **IMF Identity Theft (IDT) Documentation.** Debtors or third parties, such as the bankruptcy attorney or bankruptcy trustee, will notify IRS when they believe the debtor may be a victim of IDT. In these instances, ask the debtor for authentication of identity as evidence of IDT, if documentation was not previously submitted for the incident. Documentation for an event is good for three years from the date IRS received and processed the documentation for any year in which IDT occurred. If the debtor says they have already submitted the IDT documentation, and the IDT indicator codes are not present on IDRS, the documentation may have been scanned into the Correspondence Imaging System (CIS) viewable on the Document Viewers on the Accounts Management System (AMS). IRS can accept substantiation from the debtor or someone who has power of attorney for the debtor. If IDT documentation is required, request:

- a. **Authentication of Identity** - Secure a copy of a valid U.S. federal or state government issued form of identification to authenticate identity (i.e., driver's license, state identification card, Social Security Card, passport, etc.).

**Note:** The following link provides a list of acceptable primary and secondary forms of identification: <https://www.fedidcard.gov/your-credential>.

- b. **Evidence of Identity Theft** - Secure either a copy of a police report or Form 14039, Identity Theft Affidavit.

For more information see the following:

- IRM 25.23.2.3.2, Identity Theft Supporting Documentation - Overview, and subsections
- IRM 5.1.28.6, Standard IMF Tax Related Identity Theft Documentation Requirements, and subsections

- (3) **BMF Identity Theft (IDT) Documentation.** Request supporting documentation from the debtor only when you cannot make an IDT determination based solely on internal research. Supporting documentation consists of the following three items:

- a. **Evidence of IDT** - Secure a copy of a police report or a signed and notarized Form 14039-B, Business Identity Theft Affidavit.
- b. **Authentication of Identity** - When an individual operated the business as a sole-proprietorship, secure a copy of a valid U.S. federal or state

government form of identification (i.e., driver's license, state identification card, Social Security Card, or passport, etc.). When the business was not operated as a sole-proprietorship, secure a copy of the articles of incorporation, organization, statement from director or officer on business letterhead, trust or estate document.

- c. **Evidence of Business Operation** - Secure a copy of a utility bill, invoice, mortgage/rent receipt, or other documentation.

**Note:** If the claimant did not request an EIN or have knowledge of the EIN, evidence of business operations is not required.

For more information on BMF IDT supporting documentation, see:

- IRM 25.23.9.7, BMF Identity Theft Processing, Form 14039-B, BMF Identity Theft Affidavit
- IRM 25.23.9.7.1, BMF Identity Theft Processing, Complete and Legible Documents
- IRM 5.1.28.15, BMF Taxpayer Identity Theft Documentation

- (4) **Documentation Received When Required.** When the IDT documents have been received and verified as complete and legible, mark the account with a TC 971 AC 522 and the appropriate Tax Administration Source Code. Request input by preparing and submitting Form 4844, Request for Terminal Action, to the Designated Identity Theft Adjustment (DITA) Team. The address for DITA is found in IRM 5.9.5.12.1.3.

- When BMF IDT documentation has been received and verified, a TC 971 AC 522 with the Tax Administration Source Code **IDTDOC** should be requested (IRM 5.1.28.15, BMF Taxpayer Identity Theft Documentation, and IRM 25.23.9.6.2, Taxpayer Supporting Documentation - TC 971 AC 522 IDTDOC).
- See IRM 5.1.28.8.5.3, IMF Identity Theft Indicator Codes, Miscellaneous Fields, for the IMF Tax Administration Source codes. Additional information is also available in IRM 25.23.2.3.7, Marking Taxpayer Accounts When Accepting Identity Theft Supporting Documents, and Exhibit 25.23.2-10, IMF Only TC 971 AC 522 Tax-Related Identity Theft, Case Status (Initial Claim/Suspicion and Supporting Documents).

Local Counsel should be consulted if the debtor provides the requisite documentation, but it appears to be questionable. See the following when handling IDT substantiation documents:

- IRM 25.23.2.3.3, Complete and Legible Documents
- IRM 5.1.28.6.3, Acknowledging and Handling Substantiation Documentation

- (5) **Documentation Not Received When Required and IRS Can Determine IDT Occurred.** If the debtor fails to provide the documentation when required, in most instances, no abatement will be made. However, the Service may treat the case as "IRS Identified Identity Theft". The Service may abate a liability when the Service can determine from conducting internal research that IDT has occurred. In addition to researching the common tools available to Service employees listed in IRM 5.1.28.7.1, Validating Claim of Identity Theft for Fraudulent Filing Purposes, Insolvency caseworkers may research information

available to them on PACER. That information includes, but is not limited to, the bankruptcy petition, the Statement of Financial Affairs (SOFA), and the Bankruptcy Schedules. For additional information on IRS Identified IDT, see Exhibit 5.9.5-8, IRS Identified Identity Theft (IDT), within this IRM. Additional information on IRS Identified IDT can be found in the following:

- IRM 25.23.2.4.4, Initial Allegation or Suspicion of Tax-Related Identity Theft - IMF Identity Theft Indicators
- IRM 25.23.2.4.5, IRS Initiated Suspicion of Identity Theft - TC 971 AC 522 IRSID
- IRM 25.23.2.6.7, TC 971 AC 522 PNDCLM/IRSID - Incorrect Tax Year
- IRM 25.23.2.6.3, Closing IRS Determined Identity Theft Affecting Tax Administration - TC 971 AC 506
- Exhibit 25.23.2-8, IMF Only TC 971 AC 506 — IRS Determined Tax-Related Identity Theft Case Closure
- IRM 5.1.28.8.1, Individual Taxpayer Alleged Identity Theft vs. IRS Identified Identity Theft
- IRM 5.1.28.8.3, IRS Identified Identity Theft

- (6) **Documentation Not Received When Required and IRS Cannot Determine IDT Occurred.** In general, when the debtor does not provide the required documentation by the established deadline, and IRS cannot determine that IDT occurred by conducting internal research, the caseworker closes the IDT case. A Form 4844 is forwarded to DITA to request input of a TC 972 AC 522 with source code “NORPLY”. The caseworker then proceeds with routine case processing procedures. The following subsections and exhibits provide guidance on what to do when the required documentation is not received and you cannot determine that IDT occurred. However, the list is not all inclusive. You may need to conduct additional research in IRM 5.1.28, Identity Theft for Collection Employees, and IRM 25.23, Identity Protection and Victim Assistance.

- IRM 5.1.28.8.2, Individual Taxpayer Alleges Identity Theft
- IRM 5.1.28.8.6, Identity Theft Code TC 971 AC 522 Reversal Procedures (TC 972 AC 522)
- IRM 5.1.28.9, Taxpayer is Not a Victim of Identity Theft
- IRM 5.1.28.14.2, Reversing Pending BMF Identity Theft Indicators
- IRM 25.23.2.6.6, Reversing Unsupported Allegations of Identity Theft
- IRM 25.23.2.6.6.1, No Reply - TC 972 AC 522 NORPLY or IRM 25.23.2.6.6.2, No Identity Theft (NOIDT) Determinations - TC 972 AC 522 NOIDT
- IRM 25.23.2.2, Identity Theft - Overview, and subsections
- Exhibit 25.23.2-9, IMF Only TC 972 AC 506 Tax-Related, Reversal of Identity Theft Case Closure, Taxpayer Provided No or Incomplete Documents
- IRM 25.23.9.6.6, Reversing BMF Identity Theft Indicators - TC 972 AC 522 NORPLY
- IRM 25.23.9.6.7, Reversing BMF Identity Theft Indicators - TC 972 AC 522 NOIDT
- Exhibit 25.23.9-5, Reversing BMF Identity Theft Indicators - TC 972 AC 522

5.9.5.12.1.2  
(11-01-2022)  
**Adjusting the Identity  
Theft (IDT) Account**

- (1) **Form 4844, Request for Terminal Action.** When contacted by the debtor or debtor's representative who allege that the debtor is a victim of identity theft, you must request input of the IDT indicator codes to IDRS, if the codes are not present. When you have completed your investigation, and you have determined that IDT **did** occur, prepare Form 3870, Request for Adjustment, to request an adjustment to the impacted module(s). If the debtor did not submit the required IDT documentation, and you cannot determine through internal research that IDT occurred, request reversal of the IDT indicator codes. To request input of the appropriate TC 971 and TC 972 codes, complete Form 4844 with the appropriate Tax Administration codes. Submit the Form 4844 to DITA at the address in IRM 5.9.5.12.1.3, below. See IRM 5.9.5.12.1.1, above, for additional guidance and cross-references.
- (2) **Form 3870 Preparation.** Preparation and routing of Form 3870 for any account assigned to Insolvency requiring an adjustment due to IDT is the same for all cases. It does not matter if the debtor, a Service employee, or a third party, such as the bankruptcy trustee or attorney, identified the identity theft. Caseworkers should follow the procedures below for preparing and routing Form 3870. Additional guidance on preparing and routing the Form 3870 can be found in IRM 5.1.28.8.4, Form 3870 Preparation and Routing and IRM 25.23, Identity Protection and Victim Assistance.

- a. Prepare Form 3870 and write **Identity Theft** in Item 11, Reason for Adjustment, in bold letters.
- b. A nullity or fraudulent filing is a return that was not filed by the SSN owner. If the assessment is based on a fraudulent return, notate on the Form 3870 that it should be treated as a nullity. For more information on nullity returns, see: • IRM 25.23.2.6.2, Nullifying Returns• IRM 25.23.4.8, Streamline Identity Theft Case Processing (CAT 7), and subsections• IRM 25.23.10.5.1, Identity Theft Determinations, and subsections

**Note:** Form 1040 returns with Schedule C income can only be treated as a nullity post-refund.

- c. Include specific instructions on actions needed to correct the account. For example, state that TC 150 for \$XX is for the return filed by an identity thief. Note any other information that is needed to adjust the account correctly. For example, indicate if there are any estimated tax payments made by the victim-debtor that should remain on the account. Note when a refund generated by the IDT return is offset to another tax liability. These examples are not all inclusive.
- d. If the debtor has been assessed a frivolous return penalty under IRC 6702 based on the return filed under the debtor's SSN by an identity thief, notate on the Form 3870 to abate the frivolous return penalty. The penalty can be identified by MFT 55 with penalty reference code 543. The tax period must be the same as the identity theft return. The penalty must be abated by the Frivolous Return Program (FRP). Send a copy of the Form 3870 to the FRP at:

**Note:** Ogden Compliance Services Attn: FRP, M/S 4450, 1973 N Rulon White Blvd. Ogden, UT 84404

- e. Indicate on Form 3870 if contact is needed when the adjustment is completed or when the adjustments cannot be completed as requested. This will allow the Insolvency caseworker to file an amended proof of claim at the earliest possible time in the bankruptcy case. The function working the adjustments will alert the caseworker when the adjustments



have been completed or when the adjustments cannot be processed, as requested. A confirmation of account corrections will be sent via email. If email confirmation cannot be completed due to an incorrect or missing email address, Form 3870 will be mailed back to the originator as confirmation.

- f. Attach the following documentation to Form 3870:— Copy of IDT substantiation documentation provided by the debtor (evidence of IDT and authentication of identity). Maintain a second copy of the substantiation until all adjustments have posted to IDRS. Once the adjustments have posted to IDRS, destroy the second copy.— NUMIDENT - Obtained by requesting MFTRA type U, if available.— Original return, if secured from victim-debtor. (Maintain a copy with your case.)
- g. Do not attach other IDRS prints.
- h. Request input of TC 971 AC 501 or AC 506 on Form 3870. TC 971 action code will be input when the account is corrected.
- i. Request input of TC 470 cc 90 if the adjustment(s) will result in complete satisfaction of the tax module.
- j. Forward Form 3870 to the appropriate function for adjustment based on the type of assessment. See IRM 5.9.5.12.1.3, below.
- k. To expedite Form 3870, notate "Expedite" at the top of Form 3870 per IRM 25.23.9.5, Post Function DITA Procedures.
- l. Incomplete referrals will be rejected.

#### 5.9.5.12.1.3

(11-01-2022)

#### **Routing Form 3870 to Adjust Identity Theft (IDT) Accounts**

- (1) **Routing of Form 3870.** The routing of Form 3870 is based on the type of assessment that needs to be adjusted:

- Audit Reconsideration of an Examination Assessment — Prepare Form 3870 and route based on IRM 4.13.7-3, Routing of Area Office Reconsideration Requests (as of 10/02/2013), and IRM 4.13.7-4, Central Reconsideration Unit (CRU) Addresses. This includes a return filed under the debtor's SSN by an identity thief and a subsequent audit assessment made by Examination.

**Note:** The Primary Business Code (PBC) and Employee Group Code (ECG) used to route the adjustment document can be found on IDRS cc TXMOD under the TC 420 Document Locator Number (DLN).

- AUR Reconsideration of an Automated Underreporter (AUR) Assessment — Prepare Form 3870 and route based on IRM 4.13.7-6, AUR Reconsideration Requests. This includes a return filed under the debtor's SSN by an identity thief and a subsequent AUR assessment.

**Note:** AUR assessments have a TC 290 preceded by a TC 922 on the module on IDRS cc TXMOD. The originating campus can be determined using the first two digits of the TC 922 DLN.

- SFR/ASFR (Brookhaven/Fresno) Reconsideration of a Substitute For Return (SFR) Assessment — Prepare Form 3870 and route based on IRM 5.1.15.4.4, Substitute for Return (SFR) Reconsiderations, and IRM 5.1.15.4.5, Automated Substitute for Return (ASFR) Reconsiderations. For mailing addresses, see <http://mysbse.web.irs.gov/Collection/toolsprocesses/CaseRes/adj/send/Recon/JobAids/18018.aspx>.

**Note:** Guidance on identifying SFR assessments can be found in IRM 5.1.15.4.4.



- **Identity Theft Return** — This is a return filed under the debtor's SSN by an identity thief. Submit the Form 3870 to the SB/SE Designated Identity Theft Adjustment (DITA) team if there is no subsequent Audit or AUR assessment. The Form 3870 must be mailed, rather than sent electronically by fax or email, if an original return is attached to the Form 3870. DITA accepts Forms 3870 via fax or email when no original return is included in the adjustment package. The contact information for DITA is:

**Note:** Internal Revenue Service DITA Mail Stop 4-G20.500, 2970 Market Street Philadelphia, PA 19104, Fax # (855) 786-6575, The Outlook mailbox for electronic submission is: \*SBSE CCS DITA .

**Exception:** For adjustments to returns assessed under non-master file (NMF), send the Form 3870 to the Accounts Management NMF team at: Philadelphia Campus, PAMC 2970 Market St., Mail Stop BLN 3-J23, Team 408 Philadelphia PA 19104

In cases involving employment related IDT, also prepare Form 9409, IRS/SSA Wages Worksheet, to correct debtor wage records. When completing the Form 9409, select one of the choices in Part B as the reason for the adjustment, unless none of the choices apply. If no choices apply, write in the explanation. Form 9409 includes the Social Security mailing address for the form.

- (2) **Adjustments on IDT Accounts Assessed a Frivolous Return Penalty.** If the debtor has been assessed a frivolous return penalty under IRC 6702 based on a return filed by an identity thief, the penalty must be abated by the Frivolous Return Program (FRP). The penalty can be identified by MFT 55 with penalty reference code 543. The tax period must be the same as the IDT return. A copy of the Form 3870 that was prepared and routed based on the routing instructions in (1) above should be sent to the FRP at the following address:

**Note:** Ogden Compliance Services Attn: FRP, M/S 44501973 N. Rulon White Blvd. Ogden, UT 84404

- (3) **Routing Adjustment Documents on BMF CAWR Assessments (TC 290s), Business Non-Master File (NMF) Accounts, or BMF Audit Assessments (TC 300s).** When working a BMF IDT case, send Form 4844 to DITA to request input of the appropriate TC 971 and TC 972 transaction and Tax Administration codes. The routing of a Form 3870 to request an adjustment on a BMF return with a liability due to IDT depends on the type of assessment: If the balance due is the result of an IRS-CAWR or SSA-CAWR assessment with a TC 290, see IRM 5.1.15.7, Combined Annual Wage Reconciliation (CAWR) Adjustments, for more assessment information. Prepare Form 3870 to request abatement of the TC 290 and attach all information supporting the adjustment, including IDRS research. Forward the Form 3870 and supporting documentation including IDRS research per Exhibit 5.1.15-3, State Mapping for IRS-CAWR and SSA-CAWR. If wages were reported on a Form 941 or Form 944, prepare and submit a Form 3870 to correct the BMF account and forward it to DITA at the address in (1), above.

**Exception:** For non-master file cases, forward the Form 3870 to the Accounts Management NMF team at: Cincinnati Campus, CAMC201 W. Rivercenter Blvd., Stop 6111G, Team C103 Covington, KY 41011

If the balance due on a BMF return involving IDT is due to a TC 300, the Form 3870 is routed as follows:

- BMF balance due with a TC 300 assessment with a Project Code (PC) 0453, Primary Business Code (PBC) 296 - Internal Revenue Service  
Attn: Team 205/Recon 201 W. Rivercenter Blvd., Stop 8202G  
Covington, KY 41011
- For all other TC 300 assessments on BMF accounts, the Form 3870 is sent to the manager of the group handling the PBC, Secondary Business Code (SBC), and Employee Group Code (EGC) listed on the TXMOD for the module. The manager can be located at: <http://mysbse.web.irs.gov/examination/mis/contacts/default.aspx>.

5.9.5.12.2  
(11-01-2022)  
**Return Preparer Fraud  
or Misconduct (RPM)**

(1) **Introduction.** Just as any taxpayer may be a victim of Return Preparer Fraud or Misconduct (RPM), a debtor in bankruptcy may be a victim of RPM. Refer to IRM 25.24, Return Preparer Misconduct Program, in addition to this subsection, when dealing with a case that may involve RPM. When you become aware that a debtor is a victim of RPM, encourage the victim to report the misconduct to other federal, state, and local agencies. See IRM 1.2.24.2, Policy Statement 25-2, Return Preparer Misconduct, for the Service's policy on RPM.

(2) **Return Preparer Fraud or Misconduct (RPM).** A debtor becomes a victim of RPM when a tax return preparer completes a return for the debtor and without the debtor's knowledge, makes changes to the return. The return changed without the debtor's knowledge may result in an improper refund to the preparer or to a third party. In some instances, the debtor may even receive a portion of the improper refund or the improper refund may be issued to the bankruptcy trustee because of a return turnover order. The debtor may not know that there is an issue until the IRS contacts them about the return well after the refunds have been issued. In this instance, the debtor is a victim of RPM regardless of whether the refund was issued to the debtor, the bankruptcy trustee, the preparer, or another third party.

**Note:** The debtor is liable for repayment of any portion of the improper refund they received on the RPM return. If the debtor or trustee receives a portion of the refund, or all of the bad refund, they should be asked to return the refund to the Service. Debtors who claim to be a victim of RPM may submit a complaint and documentation to the IRS to request assistance.

(3) **Example of Return Preparer Fraud or Misconduct (RPM).** An example of RPM is when the debtor visited and/or was in contact with a return preparer. The debtor authorized the preparer to file a return. The tax data on his or her return (exemptions, income, expenses, deductions, credits, etc.) was altered after the debtor signed the return. Or, the return otherwise includes items that the debtor did not authorize.

(4) **Return Preparer Fraud or Misconduct (RPM) Substantiation.** If a debtor or debtor's representative states that the debtor is a victim of RPM, ask the debtor to submit the following substantiation within a reasonable amount of time:

- a. Form 14157, Return Preparer Complaint, completed by the debtor.
- b. Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, completed and signed by the debtor (at least one spouse must sign the form when the return is filed as married filing joint).

- c. Debtor must provide the return preparer name and address.
- d. A signed, valid tax return of the taxpayer (as intended to be filed) submitted with the claim.
- e. For Category 3 and 4 refunds, only, an official report from a law enforcement agency.

**Example:** Police Department, State Attorney General, Criminal Investigation, or Treasury Inspector General for Tax Administration (TIGTA)

For additional information on Category 3 and 4 refunds, see IRM 25.24.1.1.4(1)(i)3, Category 3: Authorized filing, Altered return information and Taxpayer Requesting Additional Refund, and IRM 25.24.1.1.4(1)(i)4, Category 4: Misdirected Refund Only and Taxpayer Requesting Additional Refund. The law enforcement agency report must be signed by a police officer or equivalent, depending on the report received (or otherwise demonstrably show that it was accepted by the law enforcement agency) and must contain:

- Tax year(s) involved,
- Return preparer's first and last name, address, and
- A statement describing the preparer misconduct and theft of refund. The following items are things that can be requested from the taxpayer or the representative. However, the taxpayer should still be assisted even if these items are not received:
  - Cover letter (including the tax return) received from the tax return preparer when the return was prepared.
  - Form 8879, IRS e-file Signature Authorization, with signatures or evidence that it was received from the tax preparer.
  - Copy of the negotiated check the taxpayer gave to the preparer for payment of services.
  - Copy of the "refund" check the taxpayer received from the preparer.
  - Credit card statement reflecting a charge in the preparer's name for the payment of services.
  - Receipt from the preparer, reflecting a fee for the preparation of a tax return for the year in question.
  - Copy of paper check(s) reflecting the amount received by paper check from the preparer or bank, if applicable.
  - E-mail or text messages exchanged between the taxpayer and the preparer concerning the tax return preparation.
  - Affidavit of the person who hosted or sponsored the preparer (e.g., services provided by a preparer in the church basement - the church minister could provide an affidavit with details about when the tax return preparation services were offered and that the taxpayer participated in the event).
  - Copy of bank statement(s) reflecting the refund amount received by direct deposit, if applicable.
  - Bank statement(s) showing that the refund was not deposited into the taxpayer's account.
  - Statement from the bank where the refund was deposited where the taxpayer had no ownership interest in the account.
  - Copies of additional documents to support the claim.

- (5) **Determination.** When a taxpayer is in bankruptcy, the Insolvency caseworker must determine if RPM has occurred. If the debtor states that they are not required to file a return, or that the income on the return was not theirs, check IDRS cc IRPTR to verify the debtor's claim. Actions taken in the case depend on if RPM occurred or did not occur. Be sensitive to the adverse impact that being a victim of RPM may have on the debtor.
- **Denial of RPM Complaint** — If you have determined that RPM did not occur, advise the debtor that you have reviewed their complaint and their account does not support RPM. Advise them

that our records show that the additional information reported on their tax return is valid. DITA will issue the Claim Disallowance Letter until a claim denial letter is developed for use in Field and Specialty Collection. • RPM Confirmed — If you have determined that RPM did occur, take the following actions:

- a. If a Notice of Federal Tax Lien (NFTL) was filed, and the entire balance due covered by NFTL is due to RPM, request a Certificate of Release under IRC 6326, erroneous NFTL provisions pursuant to IRM 5.12.3.9, Erroneously Filed Notice of Federal Tax Lien. These releases contain a statement that the filing was erroneous and are requested through Specialty Collection Advisory. Advisory also issues Letter 544, Letter of Apology - Erroneous Filing of Notice of Federal Tax Lien. At the debtor's written request, a copy of the release and letter of apology may be furnished to creditors or credit bureaus. Instruct the debtor to provide the names, mailing addresses, and permission to disclose the information.
- b. If levies were issued on the affected tax modules, and they were not released during the initial Insolvency Interface Program (IIP) processing of the case, release levies on the affected modules.
- c. Complete and route Form 3870, Request for Adjustment, with specific instructions on actions needed to correct the debtor's account (see below). Do not attach IDRS prints to Form 3870.
- d. Address any Category D erroneous refunds on the Form 3870 sent to DITA. See Step 6 in Exhibit 5.9.5-7, Debtor States Identity Theft (IDT), for additional information.

(6) **Preparing Form 3870 to Adjust Accounts with Return Preparer Misconduct (RPM).** Once the claim is verified, the Insolvency caseworker will complete Form 3870, Request for Adjustment, with specific instructions on actions needed to correct the debtor's account. Do not attach IDRS prints other than TRDBV, if required, to Form 3870. • Preparing Form 3870 — Prepare the Form 3870 to correct the account. Instructions on the Form 3870 must include the following:

- a. "Return Preparer Misconduct" on Form 3870 as the reason for adjustment.
- b. The category number that fits the individual debtor scenario, e.g., Category 1, 2, 3, or 4. (See IRM 25.24.1.1.4, Key RPM Terminology and Acronyms.)
- c. Whether the debtor received the correct refund, no refund, or an amount greater than the refund (include refunds issued to the bankruptcy trustee because of a refund turnover order).
- d. Name and address of the preparer.
- e. Amount of refund to be issued, if applicable.
- f. Applicable penalty and interest assertion.
- g. Erroneous Refund Category D, if applicable.
- h. ASED updated - Include the received date of the signed return as intended to be filed to ensure the correct received date is used for interest and statute of limitation calculations.

• Attachments to Form 3870 — Include the following as attachments to the Form 3870:

- a. Copy of the debtor's original return or TRDBV.
- b. Copy of the signed return intended to be filed annotated "Taxpayer Intended Return".

**Exception:** Note on the Form 3870 if the debtor does not have a filing requirement.

- c. Copy of Form 14157, Return Preparer Complaint, and a copy of Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, signed under penalties of perjury.
- d. Debtor documentation supporting the RPM claim.
- e. If a Claim Disallowance Letter is required:• Whether the complaint is denied in part or full and the appropriate letter.• The applicable paragraphs (See Letter 105-C, Claim Disallowed, or Letter 106-C, Claim Partially Disallowed, for the available paragraphs).• Your contact information for inclusion in the Letter 105-C or Letter 106-C.

**Note:** To request an adjustment of an assessment by Examination, Automated Underreporter (AUR), or SFR, follow reconsideration procedures in IRM 5.1.15.4, Audit, Automated Underreporter (IMF/BMF AUR), Substitute For Return (SFR) and Automated Substitute For Return (ASFR) Reconsideration.

- (7) **Forwarding Form 3870 for Processing.** If there is a balance due on the module due to an Examination or Automated Underreporter (AUR) assessment, route the Form 3870:
- a. For audit reconsideration, forward Form 3870 per Exhibit 4.13.7-3, Routing of Area Office Reconsideration Requests (as of 10/01/2013), and Exhibit 4.13.7-4, Central Reconsideration Unit (CRU) Addresses.
  - b. For AUR reconsideration, forward Form 3870 per Exhibit 4.13.7-6, Addresses for AUR Reconsideration Requests.

Send all other Forms 3870 by mail, fax, or electronic submission to the SB/SE Designated Identity Theft Adjustment Group (DITA) at the Philadelphia Campus:

**Note:** Internal Revenue Service DITA Mail Stop 4-J30.152, 2970 Market St. Philadelphia, PA 19104, Fax # (855) 786-6575, The Outlook mailbox for electronic submission is: \*SBSE CCS:DITA

- (8) **Cases with Criminal Investigation (CI) Involvement.** If the debtor indicates there has been Criminal Investigation (CI) involvement; for example, the debtor states that a CI Agent called or interviewed them, or a Special Agent's card is included in the debtor's documentation, then contact CI to determine:
- a. If the preparer is under investigation for the preparation of tax returns.
  - b. If there is evidence that the debtor's return was prepared by the named preparer.
  - c. If the RPM complaint should be worked, and if not, how it should be closed.

**Exhibit 5.9.5-1 (04-15-2020)****Transfer Steps for Cases with No Open Confirmed Plan Monitoring (CPM) “Plan Screen” or No Open Other Investigation Screen**

To transfer cases between FI and CIO, cases must be reassigned to the receiving employee. The transferring employee must take the following steps:

1. From the AIS “Case Files Search Screen” select “Case Files.”
2. Type the case number in the “AIS Case Number” field.
3. Type the court in the “Court” field including the state abbreviation and click on “Submit Search” on the top tool bar.
4. Verify that the retrieved case is for the correct debtor and proceed to Step 5. If the incorrect case is shown, repeat Step 3.
5. Click on “(CAG) Assign” in the “Employee” field on the “Taxpayer Screen.”  
**Note:** If the case is being reassigned to the CIO by a FI, the case must be manually assigned to the SEID of the CIO manager of the group responsible for receipts from the specific FI territory per the CIO AIS Inventory Assignment list. The manager’s SEID must be placed in the “SEID” field on the “Taxpayer Screen.” The case is then reassigned by clicking “Save” on the tool bar at the top of the “Taxpayer Screen.”
6. Click on “Save” on the navigation tool bar to save.
7. Check the pop-up message “Update Successful.”

**Note:** For cases with open CPM screens, additional steps must be taken. (See Exhibit 5.9.5-2, Transfer Steps for Cases with an Open Confirmed Plan Monitoring (CPM) **Plan Screen**.)



**Exhibit 5.9.5-2 (11-01-2022)****Transfer Steps for Cases with an Open Confirmed Plan Monitoring (CPM) “Plan Screen”**

Until July of 2013, Chapter 13 cases remained in FI until confirmation. Now, most Chapter 13 cases are transferred from FI to CIO once all proofs of claim are acknowledged and there are no issues present that require the case to remain in FI. The CIO monitors for confirmation of the Chapter 13 bankruptcy plan. AIS will not allow the reassignment of a Chapter 13 case from FI to the CIO unless there is a “confirmation date” present on the AIS Taxpayer Screen and on the CPM “Plan Screen”. To facilitate case transfer to the CIO, if the bankruptcy plan is confirmed before the transfer of the case from FI to CIO, the FI caseworker must enter the actual confirmation date on AIS. If the case is unconfirmed when the case is transferred from FI to CIO, the FI caseworker must enter 02/02/2222 as the confirmation date on AIS. Entry of the 02/02/2222 as the confirmation date will assist CIO in identifying cases that must be monitored for confirmation of the bankruptcy plan. When transferring a Chapter 13 case, the caseworker must:

1. Complete steps 1 through 4 from Exhibit 5.9.5-1, Transfer Steps for Cases with No Open Confirmed Plan Monitoring (CPM) **Plan Screen** or No Open Other Investigation Screen, above.
2. Click on the “CPM” folder under the navigation tool bar to access the confirmed plan screen.
3. Add the actual confirmation date of the plan in the “Effective Date” field and the “Due Date” field on the CPM Screen, if the plan has been confirmed. If the plan is unconfirmed, enter 02/02/2222 as the “Effective Date” and the “Due Date” on the CPM Screen.
4. Enter the plan payment amount, if known. If the plan payment amount is not known, enter \$1.00
5. Input the SEID designation of the receiving employee.
6. Click “Save” on the navigation tool bar to save the data entered.
7. A pop-up will appear which says, “Tax Periods from the Claim Table will now be loaded to the Plan...”. Click “OK”.

**Note:** When required, break down the tax due on the module into the trust fund and non-trust fund amounts. See Document 13219, Automated Insolvency System (AIS) USER GUIDE, for additional information.

8. Check the lower left screen for “Record Saved.”
9. Click “Verified Period” for each tax period listed. The “Plan Verified” button will be systemically checked once all periods have been individually verified.
10. Once again, click “Save” on the navigation tool bar to save the “verified” plan. “Record Saved” should appear on the lower left corner of the Plan Screen.
11. Click on the “Taxpayer” tab at the top of the screen to go back to the “Taxpayer Screen” on AIS.
12. On the “Taxpayer Screen” enter the confirmation date in the “Confirmed” date field, if the plan is confirmed. If the plan is unconfirmed, enter the confirmation date as 02/02/2222.
13. While still on the “Taxpayer Screen,” enter the SEID of the CIO manager of the group responsible for receipts from the specific FI territory per the CIO Assignment Tool on SERP.
14. Select “Save” on the tool bar at the top of the “Taxpayer Screen” to save the confirmation date and the case reassignment.
15. Check the lower left section of the AIS “Taxpayer Screen” to ensure the record has been updated. “Record Updated” will appear if the changes have been successful.
16. Select “Exit” to exit the case.

**Exhibit 5.9.5-3 (08-17-2016)****Allowable Elapsed Time Between Bankruptcy Filings and Discharges**

When an individual or joint debtor files a Chapter 7 case, a liquidating Chapter 11 case, or Chapter 13 bankruptcy case, the debtor may not be eligible to receive a discharge in the current bankruptcy case if they received a discharge in a prior bankruptcy case. The petition date and the chapter each bankruptcy case was filed under determines eligibility for discharge in the current case. Eligibility in the current case is also determined by when the current bankruptcy case was filed, pre-BAPCPA or post-BAPCPA. BAPCPA was enacted on October 17, 2005. It should be noted that BAPCPA did not restrict discharge eligibility for the individual or joint debtor currently in a Chapter 12 bankruptcy case.

The Bankruptcy Code does not prohibit a debtor from filing subsequent bankruptcy cases at shorter intervals. However, if the minimum time between petition dates is not met, and the debtor received a discharge in the prior bankruptcy case, the court will not grant a discharge in the current case.

Use the chart below to determine if the individual or joint debtor is eligible for a discharge in the current Chapter 7 case, liquidating Chapter 11 case, or Chapter 13 bankruptcy case when they received a discharge in a prior bankruptcy case. If the minimum time between the two petition dates has not elapsed, the debtor is not eligible to receive a discharge in the current bankruptcy case. Some circumstances may modify the time intervals. (11 USC 727(a) and 1328(f))

<b>The Debtor Currently Filed a Chapter</b>	<b>The Debtor Previously Filed Chapter(s)</b>	<b>The Petition Date in the Current Bankruptcy is Pre-BAPCPA (Before 10/17/2005)</b>	<b>The Petition Date in the Current Bankruptcy is Under BAPCPA (On or After 10/17/2005)</b>
7 or liquidating 11	7 or 11	Six years must elapse between the two petition dates for the debtor to be eligible for a discharge in pre-BAPCPA cases.	Eight years must elapse between the two petition dates for the debtor to be eligible for a discharge in the current bankruptcy case filed under BAPCPA.

**Exhibit 5.9.5-3 (Cont. 1) (08-17-2016)****Allowable Elapsed Time Between Bankruptcy Filings and Discharges**

<b>The Debtor Currently Filed a Chapter</b>	<b>The Debtor Previously Filed Chapter(s)</b>	<b>The Petition Date in the Current Bankruptcy is Pre-BAPCPA (Before 10/17/2005)</b>	<b>The Petition Date in the Current Bankruptcy is Under BAPCPA (On or After 10/17/2005)</b>
7 or liquidating 11	12 or 13	<p>Six years must elapse between the two petition dates for the debtor to be eligible for a discharge in pre-BAPCPA cases unless payment under the plan in the prior Chapter 12 or 13 case totalled at least:</p> <ul style="list-style-type: none"> <li>• 100% of the allowed unsecured claims in such case; or,</li> <li>• 70% of such claims; and the plan was proposed by the debtor in good faith, and was the debtor's best effort. (See USBC 727(a)(9) for additional information.)</li> </ul>	<p>Six years must elapse between the two petition dates for the debtor to be eligible for a discharge in the current bankruptcy case filed under BAPCPA. The same exceptions apply in the BAPCPA case that applied in the pre-BAPCPA case.</p>
13	13	<p>Zero — In pre-BAPCPA cases, the debtor is eligible for a discharge in the current case regardless of when a previous Chapter 13 case was filed.</p>	<p>Two years must elapse between the current Chapter 13 petition date and the previous Chapter 13 petition date for the debtor to be eligible for a discharge in the current bankruptcy case filed under BAPCPA.</p>
13	7, 11, or 12	<p>Zero — In pre-BAPCPA cases, the debtor is eligible for a discharge in the current case regardless of when a previous Chapter 7, 11, or 12 case was filed.</p>	<p>Four years must elapse between the current Chapter 13 case and the previous Chapter 7, 11, or 12 case.</p>

**Exhibit 5.9.5-4 (08-16-2021)****Common Processing Steps in Serial Filer Cases**

1. CIO runs IIP daily.
2. IIP updates the AIS TIN screen with the codes that identify serial filers.
3. The caseworker researches AIS to determine:

IF...	THEN...
The current bankruptcy case is for a corporate filer,	No action or AIS history is warranted. Do not proceed further within this chart.
The current bankruptcy case is for an individual or joint filer and IIP has determined that there is no outstanding balance on IDRS,	No action or AIS history is warranted. Do not proceed further within this chart.
The current bankruptcy case is for an individual or joint filer,	The caseworker locates the previous bankruptcy(ies) on AIS and determines if the case(s) was dismissed or discharged. Proceed to the next steps within this chart based on whether the case(s) was discharged, dismissed for means testing, or dismissed for abusive filing(s).
The previous case(s) was discharged,	<p>The caseworker updates the AIS history stating the debtor has received a previous discharge and notates if the debtor is eligible for another discharge in the current case. See Exhibit 5.9.5-3, Allowable Elapsed Time Between Bankruptcy Filings and Discharges, for additional information. When the debtor is not eligible to receive a discharge in the current case due to a previous discharge, the caseworker must add a "SERIAL" case classification to AIS and document the case history.</p> <p><b>Note:</b> The caseworker must attempt to verify through the court's electronic records if the previous case was truly discharged and not dismissed. (S)he must also check the court's electronic records on the current case to see if the docket shows the court is aware of the previous discharge. If the electronic records give no indication that the court had knowledge of a previous discharge, the caseworker should prepare a referral to Counsel to alert the court of the previous discharge, subject to referral tolerances (IRM 5.9.4.15.4, Referral Tolerances). If the case is assigned to the CIO, the caseworker should transfer the case to FI so the case can be referred to Counsel.</p>

**Exhibit 5.9.5-4 (Cont. 1) (08-16-2021)****Common Processing Steps in Serial Filer Cases**

IF...	THEN...
<p>Only one previous case was found and it was dismissed for means testing,</p> <p><b>Note:</b> It may be necessary to check the court's electronic records to determine the cause of the dismissal in the prior case when the reason for dismissal is not documented in the AIS history of the prior case.</p>	<p>If the case was dismissed for failure to pass the means test, the caseworker must ensure that the method of closure on AIS for the prior case is "D2 DISMISSED FOR FMT-D2". If the method of closure on AIS is not correct, it should be corrected. The caseworker updates the AIS history with the information that the previous dismissal was due to means testing. Further action on the case is not warranted.</p>
<p>Previous cases were found and were dismissed for abusive filing,</p> <p><b>Note:</b> Previous cases that were dismissed for reasons other than the means test are presumed to be dismissed for abusive filing.</p>	<p>The caseworker must check the court's electronic records, or PACER, to determine:</p> <ul style="list-style-type: none"> <li>• If the presumption of abuse has been successfully challenged by a party in interest; and;</li> <li>• If the court has determined not to impose a stay.</li> </ul> <p>The caseworker must schedule a follow-up on AIS for 45 days from the petition date to see if there is an order extending the stay in the case. Do not reassign the case to CIO. The caseworker must add a "SERIAL" case classification to AIS and document the case history. Continue to the next step in this chart.</p>
<p>The caseworker works the 45 day follow-up and determines that the presumption of abuse has been successfully challenged by a party in interest, and the stay remains in effect, or there is an order extending the stay which includes IRS,</p>	<p>The caseworker updates the AIS history with the information that the stay remains in effect. Further action is not warranted. The caseworker must close the "SERIAL" case classification on AIS. There is no need to proceed further in this chart. Proceed to next step if the stay no longer remains in effect.</p>

**Exhibit 5.9.5-4 (Cont. 2) (08-16-2021)****Common Processing Steps in Serial Filer Cases**

IF...	THEN...
<p>The caseworker works the 45 day follow-up. The caseworker checked PACER and found that there is no order extending the stay or that there is an order listing only specific creditors but not the IRS. The presumption of abuse stands. The stay has not been extended.</p>	<p>The caseworker must follow procedures for the serial filer case with no stay extension and document the case history.</p> <ul style="list-style-type: none"> <li>See Exhibit 5.9.5-5, Processing the Serial Filer Case When the Stay Terminates After 30 Days, for the procedures to follow when there was one prior bankruptcy case dismissed within 365 days of the petition date in the current case.</li> <li>See Exhibit 5.9.5-6, Processing the Serial Filer Case When No Stay Goes into Effect, for the procedures to follow when there was more than one prior bankruptcy case dismissed within 365 days of the petition date in the current case.</li> </ul> <p><b>Caution:</b> Do not close the “SERIAL” case classification on AIS.</p>
<p>The 45 day follow-up is worked and the caseworker cannot determine if the stay is in effect,</p>	<p>If the review is conducted less than 45 days from the petition date:</p> <ul style="list-style-type: none"> <li>add “SERIAL” to the classification screen</li> <li>and schedule a follow up on AIS 45 days from the petition date to see if there is an order extending the stay.</li> </ul> <p><b>Example:</b> The petition date is 03/15/2021 and the review is conducted on 03/25/2021, then the scheduled follow up should be for 35 days.</p> <p>If the review is conducted more than 45 days from the petition date:</p> <ul style="list-style-type: none"> <li>add “SERIAL” to the classification screen <ul style="list-style-type: none"> <li>the caseworker should refer the case to Counsel to request a court order confirming the status of the stay, subject to tolerances, IRM 5.9.4.15.4, Referral Tolerances.</li> </ul> </li> </ul> <p><b>Note:</b> If the case is at the CIO, the case must be transferred to FI for a referral to Counsel.</p> <p><b>Caution:</b> Do not close the “SERIAL” case classification on AIS unless there is an order confirming that the stay has been extended in the case.</p> <ul style="list-style-type: none"> <li>Document the case history of actions taken.</li> </ul>



**Exhibit 5.9.5-5 (11-01-2022)****Processing the Serial Filer Case When the Stay Terminates After 30 Days**

The caseworker must follow the table below when processing a serial filer case, the presumption of abuse stands, and there was one prior dismissal within 365 days of the current bankruptcy case. When the appropriate bankruptcy freeze codes are input and reversed on IDRS as directed below, IDRS will systemically calculate the CSED correctly. Adding the TC 520 and TC 521 transactions to the AIS Freeze Screen will allow for systemic reversal of bankruptcy freezes on IDRS at case closure.

STEP	THE CURRENT CASE IS A CHAPTER 11 OR 13	THE CURRENT CASE IS A CHAPTER 7
1	Reverse the bankruptcy TC 520 cc 6X on IDRS using a TC 521 with the date that is the 30th calendar day from the petition date. Add a 1-cycle delay for Step 3. <b>Example:</b> If the bankruptcy was filed on 3/1/2013, input a TC 521 using 3/31/2013 as the TC 521 date.	Reverse the bankruptcy TC 520 cc 6X on IDRS using a TC 521 with the date that is the 30th calendar day from the petition date. Add a 1-cycle delay for Step 3. <b>Example:</b> If the bankruptcy was filed on 3/1/2013, input a TC 521 using 3/31/2013 as the TC 521 date.
2	Add the TC 521s manually input to IDRS to the Freeze Screen on AIS.	Add the TC 521s manually input to IDRS to the Freeze Screen on AIS.
3	Input a TC 520 cc 84 on each pre-petition module on IDRS using the petition date as the TC 520 date.	Input a TC 520 cc 84 on each pre-petition module on IDRS using the petition date as the TC 520 date.
4	Add the TC 520 cc 84 input manually to IDRS to the Freeze Screen on AIS.	Add the TC 520 cc 84 input manually to IDRS to the Freeze Screen on AIS.
5	For assessment purposes, the automatic stay that prohibited the debtor from petitioning Tax Court to challenge an unagreed deficiency terminated on the 30th day after the petition was filed in the current case. If there are any unagreed Examination or unagreed AUR deficiencies, the AIS history must be documented to state, "Automatic stay against the debtor terminated on MM-DD-YYYY. Exam/AUR can proceed with assessment procedures on the unagreed deficiency. Taxpayer can petition Tax Court."	For assessment purposes, the automatic stay that prohibited the debtor from petitioning Tax Court to challenge an unagreed deficiency terminated on the 30th day after the petition was filed in the current case. If there are any unagreed Examination or unagreed AUR deficiencies, the AIS history must be documented to state, "Automatic stay against the debtor terminated on MM-DD-YYYY. Exam/AUR can proceed with assessment procedures on the unagreed deficiency. Taxpayer can petition Tax Court."

## Exhibit 5.9.5-5 (Cont. 1) (11-01-2022)

## Processing the Serial Filer Case When the Stay Terminates After 30 Days

STEP	THE CURRENT CASE IS A CHAPTER 11 OR 13	THE CURRENT CASE IS A CHAPTER 7
6	<p>Schedule a follow-up on AIS for confirmation of the bankruptcy plan. The case needs to stay assigned to FI until the case is confirmed.</p> <p><b>Note:</b> When the automatic stay is affected, the CSED needs to be reviewed and documented for necessary action. If the CSED is imminent or approaching, consult local field Counsel to determine if other actions are required.</p>	Document all actions in the AIS history.
7	When the plan is confirmed, reverse the TC 520 cc 84 using the confirmation date (TC 521) with a 1-cycle delay to input a TC 520 cc 6X (based on the closing code used in your location) to IDRS using the <b>confirmation date</b> as the TC 520 date.	Proceed with routine case processing. Unless there are issues in the case that require the case to remain in FI, routine case processing will allow transfer of the case from FI to CIO.
8	Add the TC 521 (from TC 520 cc 84) and the TC 520 cc 6X manually input to IDRS to the Freeze Screen on AIS.	Intentionally left blank.
9	Document all actions in the AIS history.	Intentionally left blank.
10	Proceed with routine case processing. In the Chapter 13 case, if there are no issues in the case that require the case to remain in FI, routine case processing will allow transfer of the case from FI to CIO upon completion of confirmation actions in the case. (See IRM 5.9.10.6.1(2), Field Insolvency (FI) Actions Prior to Case Transfer, Older Cases, for confirmation actions.)	Intentionally left blank.

**Exhibit 5.9.5-6 (11-01-2022)****Processing the Serial Filer Case When No Stay Goes into Effect**

The caseworker must follow the table below when processing a serial filer case, the presumption of abuse stands, and there was more than one dismissal within 365 days of the current bankruptcy case. When the appropriate bankruptcy freeze codes are input and reversed on IDRS as directed below, IDRS will systemically calculate the CSED correctly. Adding the TC 520, TC 521, and TC 522 transactions to the AIS Freeze Screen will allow for systemic reversal of bankruptcy freezes on IDRS at case closure.

STEP	THE CURRENT CASE IS A CHAPTER 11, 12, OR 13	THE CURRENT CASE IS A CHAPTER 7
1	Reverse the bankruptcy TC 520 cc 6X on IDRS using a TC 522 cc 6X. No date is required to input a TC 522. Add a 1-cycle delay for Step 3.	Reverse the bankruptcy TC 520 cc 6X on IDRS using a TC 522 cc 6X. No date is required to input a TC 522. Add a 1-cycle delay for Step 3.
2	Add the TC 522s manually input to IDRS to the Freeze Screen on AIS.	Add the TC 522s manually input to IDRS to the Freeze Screen on AIS.
3	Input a TC 520 cc 84 on each pre-petition module on IDRS using the petition date as the TC 520 date.	Input a TC 520 cc 84 on each pre-petition module on IDRS using the petition date as the TC 520 date.
4	Add the TC 520 cc 84 input manually to IDRS to the Freeze Screen on AIS.	Add the TC 520 cc 84 input manually to IDRS to the Freeze Screen on AIS.
5	For assessment purposes, the automatic stay that prohibited the debtor from petitioning Tax Court to challenge an unagreed deficiency never went into place in the current case. If there are any unagreed Examination or unagreed AUR deficiencies, the AIS history must be documented to state, "Automatic stay against the debtor never went into place in the current case. Exam/AUR can proceed with assessment procedures on the unagreed deficiency. Taxpayer can petition Tax Court."	For assessment purposes, the automatic stay that prohibited the debtor from petitioning Tax Court to challenge an unagreed deficiency never went into place in the current case. If there are any unagreed Examination or unagreed AUR deficiencies, the AIS history must be documented to state, "Automatic stay against the debtor never went into place in the current case. Exam/AUR can proceed with assessment procedures on the unagreed deficiency. Taxpayer can petition Tax Court."
6	Schedule a follow-up on AIS for confirmation of the bankruptcy plan. The case needs to stay assigned to FI until the case is confirmed. <b>Note:</b> When the automatic stay is affected, the CSED needs to be reviewed and documented for necessary actions. If the CSED is imminent or approaching, consult local field Counsel to determine if other actions are required.	Document all actions in the AIS history.

**Exhibit 5.9.5-6 (Cont. 1) (11-01-2022)****Processing the Serial Filer Case When No Stay Goes into Effect**

<b>STEP</b>	<b>THE CURRENT CASE IS A CHAPTER 11, 12, OR 13</b>	<b>THE CURRENT CASE IS A CHAPTER 7</b>
7	When the plan is confirmed, reverse the TC 520 cc 84 using the confirmation date (TC 521) with a 1-cycle delay to input a TC 520 cc 6X (based on the closing code used in your location) to IDRS using the confirmation date as the TC 520 date.	Proceed with routine case processing. Unless there are issues in the case that require the case to remain in FI, routine case processing will allow transfer of the case from FI to CIO.
8	Add the TC 521 (from TC 520 cc 84) and the TC 520 cc 6X manually input to IDRS to the Freeze Screen on AIS.	Intentionally left blank.
9	Document all actions in the AIS history.	Intentionally left blank.
10	Proceed with routine case processing. In the Chapter 13 case, if there are no issues in the case that require the case to remain in FI, routine case processing will allow transfer of the case from FI to CIO upon completion of confirmation actions in the case. (See IRM 5.9.10.6.1(2), Field Insolvency (FI) Actions Prior to Case Transfer, Older Cases, for confirmation actions.)	Intentionally left blank.

**Exhibit 5.9.5-7 (11-01-2022)****Debtor States Identity Theft (IDT)**

Follow the steps in the table below when the debtor alleges that they are a victim of identity theft. For additional information, see IRM 25.23.2, Identity Protection and Victim Assistance - General Case Processing, IRM 25.23.9, BMF Identity Theft Processing, and IRM 5.1.28, Identity Theft for Collection Employees.

Step	TC 971 Action Code	Employee Actions	Notes
1	Intentionally left blank.	<p>The debtor in a bankruptcy case may state that s(he) did not earn income during a specific tax year or that a return in question was not filed by him/her. Determine if the debtor has previously submitted an IDT claim. Review IDRS cc ENMOD and determine if the following conditions exist:</p> <ol style="list-style-type: none"> <li>There is a posted/unreversed TC 971 AC 501/506 or TC 971 AC 522 Source Code INCOME, MULTFL, INCMUL, NOFR, NODCRQ, or OTHER, <b>AND</b></li> <li>The posted transaction falls within the three year period described in IRM 25.23.2.4.4.1(1), <b>AND</b></li> <li>The allegation relates to a previously reported incident as described in IRM 25.23.2.4.4(3).</li> </ol> <p>If there was a previous claim within the three-year period described in IRM 25.23.2.4.4(3), do not mark the incident again.</p> <p><b>Note:</b> DO NOT request IDT supporting documentation if it has already been submitted for an incident.</p> <p>If there was no previous claim, request input of the TC 971 AC 522 Source Code PNDCLM (see step 2) and request IDT supporting documentation (see Step 3).</p> <p>If the return filed by an ID thief resulted in issuance of a refund to the debtor, the bankruptcy estate, or trustee, ask the debtor or trustee to return the refund to IRS. See Step 6 for actions to take when the refund is not returned to IRS, or for posting the returned refund or replacement check.</p>	<p>To prevent systemic issuance of the refund on the potential IDT account:</p> <ul style="list-style-type: none"> <li>Input TC 520 cc 81 to the refund module on IDRS.</li> <li>Write in the AIS history in all capital letters, POTENTIAL IDT CASE. DO NOT ISSUE REFUND ON 30-20XX12.</li> <li>Add an "Iden Theft" case classification to the classification screen on AIS to alert users of the AIS system that there is an open IDT issue in the case.</li> </ul>

**Exhibit 5.9.5-7 (Cont. 1) (11-01-2022)**  
**Debtor States Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
2	TC 971 AC 522 Source Code PNDCLM (IMF IDT) or TC 971 AC 522 Source Code IDTCLM (BMF IDT)	<p>When a debtor states that s(he) is a victim of identity theft and the account was not previously marked for identity theft:</p> <ul style="list-style-type: none"> <li>Request input of a TC 971 AC 522 with Source Code PNDCLM, if the account has not already been marked for identity theft. (See IRM 25.23.2.4.4, Initial Allegation or Suspicion of Tax-Related Identity Theft - IMF Identity Theft Indicators, and subsections. Additional information can also be found in IRM 5.1.28.8.2, Individual Taxpayer Alleges Identity Theft.</li> </ul> <p><b>Caution:</b> Prior to marking an account with TC 971 AC 522 PNDCLM or IRSID, research IDRS command code (cc) ENMOD or IMFOLE to ensure the account has not already been marked for the IDT incident. <b>Do not input a second code for the same incident.</b></p> <ul style="list-style-type: none"> <li>If the IDT incident involved multiple years, input the IDT indicator on each year affected by IDT. There is no need to enter any history items on ENMOD/IMFOLE.</li> </ul> <p><b>Note:</b> See IRM 25.23.9.6.1, Allegation or Suspicion of BMF Identity Theft TC 971 AC 522 IDTCLM, and IRM 5.1.28.14, BMF Identity Theft Code Input Procedures, and subsections, for information on marking BMF cases when the business debtor states they are a victim of IDT.</p>	<p>Input of the TC 971 AC 522 Source Code PNDCLM:</p> <ul style="list-style-type: none"> <li>Caseworkers may input the TC 971 AC 522 Source Code PNDCLM directly to IDRS. For additional information, see Exhibit 25.23.2-10, IMF Only TC 971 AC 522 Tax-Related Identity Theft, Case Status (Initial Claim/Suspicion and Supporting Documents).</li> <li>Caseworkers may request input of the TC 971 AC 522 PNDCLM by completing Form 4844, Request for Terminal Action, and submitting the form to the Designated Identity Theft Adjustment (DITA) team. Contact information for DITA is included in IRM 5.9.5.12.1.3, Routing Form 3870 to Adjust Identity Theft (IDT) Accounts. For additional information on completing the Form 4844, see IRM 5.1.28.8.5, IMF Identity Theft Indicator Codes, through IRM 5.1.28.8.5.5, Remarks Block, and Exhibit 5.1.28-1, IMF Form 4844 Example Input of TC 971 AC 522 Pending Claim.</li> </ul> <p><b>Note:</b> For information on preparing Form 4844 in the BMF IDT case see Exhibit 5.1.28-3, BMF Form 4844 Example Input of TC 971 AC 522 Initial Allegation or Suspicion of Identity Theft.</p> <p><b>Reminder:</b> Document all actions taken in the case in the AIS case history.</p>



## Exhibit 5.9.5-7 (Cont. 2) (11-01-2022)

## Debtor States Identity Theft (IDT)

Step	TC 971 Action Code	Employee Actions	Notes
3	Intentionally left blank.	<p>If a review of IDRS cc ENMOD/ IMFOLE does not show that the debtor has previously submitted the IDT supporting documentation:</p> <ul style="list-style-type: none"> <li>• Ask the debtor to submit the IDT substantiation to the CIO or FI caseworker within 30 days.</li> <li>• Set a follow-up on AIS for 45 days for receipt of the supporting documentation.</li> <li>• If the debtor has not filed a tax return for the tax year in question, has an income tax filing requirement, and the return due date has passed, ask the debtor to file their delinquent tax return with Insolvency by the 30 day deadline.</li> <li>• Document all actions and deadlines in the AIS case history.</li> </ul>	<p>See IRM 5.9.5.12.1.1, Identity Theft (IDT) Substantiation, for additional information. Generally, substantiation includes:</p> <ol style="list-style-type: none"> <li>a. Authentication of Identity - A copy of a valid U.S. federal or state government issued form of identification; such as, driver's license, state identification card, Social Security Card, passport, etc.,</li> <li>b. Evidence of Identity Theft - A copy of a police report, Form 14039, Identity Theft Affidavit, or Form 14039-B, Business Identity Theft Affidavit, and</li> <li>c. Evidence of Business Operation (for business IDT cases ONLY) - A copy of a utility bill, invoice, mortgage/rent receipt or other documentation.</li> </ol> <p><b>Exception:</b> Evidence of business operation is not needed if the taxpayer never requested or has no knowledge of an EIN.</p> <p><b>Note:</b> For Source Codes used in BMF identity theft cases see IRM 5.1.28.14, BMF Identity Theft Code Input Procedures.</p> <p>For additional information on IMF IDT substantiation documentation see:</p> <ul style="list-style-type: none"> <li>• IRM 5.1.28.6, Standard IMF Tax Related Identity Theft Documentation Requirements, and subsections</li> <li>• IRM 5.1.28.8.2, Individual Taxpayer Alleges Identity Theft</li> <li>• IRM 25.23.2.3.3, Identity Theft Supporting Documentation - Overview, and subsections</li> </ul>

**Exhibit 5.9.5-7 (Cont. 3) (11-01-2022)**  
**Debtor States Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
			<p>For information on BMF IDT substantiation documentation see:</p> <ul style="list-style-type: none"><li>• IRM 5.1.28.15, BMF Taxpayer Identity Theft Documentation</li><li>• IRM 25.23.9.5, Identity Theft Case Building - BMF, and sub-sections</li><li>• IRM 25.23.9.7, Form 14039-B, BMF Identity Theft Affidavit</li><li>• IRM 25.23.9.7.1, Complete and Legible Documents</li></ul> <p><b>Note:</b> To facilitate processing of the potential IDT case, the Insolvency caseworker must complete research to determine if s(he) agrees that the taxpayer is a victim of IDT while waiting for the debtor to submit the requested IDT substantiation. (See Step 4, below.)</p>

**Exhibit 5.9.5-7 (Cont. 4) (11-01-2022)**  
**Debtor States Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
4	Intentionally left blank.	<p>The caseworker must conduct research to determine if (in his/her judgment), IDT occurred. If internal research confirms that IDT did occur, the caseworker does not have to wait for the debtor to submit the IDT substantiation documents to request adjustments to the account and to request input of the IDT indicator codes.</p> <p>For example, review:</p> <ul style="list-style-type: none"> <li>• Accurint</li> <li>• IRPTR</li> <li>• PACER (petition, Statement of Financial Affairs, and Bankruptcy Schedules</li> <li>• IDRS (INOLES, ENMOD, RTVUE, etc.)</li> <li>• If a paper return was filed, compare the signature on the tax return to the signature on the Form 14039, the Form 14039-B, the bankruptcy petition, etc.</li> <li>• To obtain a copy of the paper refund check, see <a href="http://mysbse.web.irs.gov/Collection/toolsprocesses/CollATAT/TechProc/1099OID/JobAids/27522.aspx">http://mysbse.web.irs.gov/Collection/toolsprocesses/CollATAT/TechProc/1099OID/JobAids/27522.aspx</a>.</li> </ul> <p>For additional information see:</p> <ul style="list-style-type: none"> <li>• IRM 5.1.28.7, Making an Identity Theft Determination, and sub-sections</li> <li>• Step 4 of the chart in IRM 5.1.28.8.2, Individual Taxpayer Alleges Identity Theft</li> <li>• IRM 5.1.28.13.2, Research to Substantiate BMF Identity Theft</li> <li>• IRM 25.23.2.2, Identity Theft Case Building</li> <li>• IRM 25.23.2.2.2, Identity Theft Case Building - IMF</li> <li>• IRM 25.23.9.5, Identity Theft Case Building - BMF</li> </ul>	Intentionally left blank.

**Exhibit 5.9.5-7 (Cont. 5) (11-01-2022)**  
**Debtor States Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
5	TC 971 AC 522 Source Code <ul style="list-style-type: none"> <li>• Income</li> <li>• MULTFL</li> <li>• INCMUL</li> <li>• NOFR</li> <li>• OTHER</li> </ul> or IDTDOC, in the BMF case.	Request or input the TC 971 AC 522 with the appropriate source code when complete and legible substantiation documentation is received from the debtor. See the following for additional information: <ul style="list-style-type: none"> <li>• IRM 5.1.28.8.2(2), Step 4, Individual Taxpayer Alleges Identity Theft</li> <li>• IRM 5.1.28.8.5, IMF Identity Theft Indicator Codes, and sub-sections</li> <li>• IRM 5.1.28.14, BMF Identity Theft Input Procedures, and sub-sections</li> <li>• IRM 25.23.2.3.7, Marking Taxpayer Accounts When Accepting Identity Theft Supporting Documents</li> <li>• IRM 25.23.9.6.2, Taxpayer Supporting Documentation - TC 971 AC 522 IDTDOC</li> </ul>	Caseworkers may input the TC 971 AC 522 with the required Source Code directly to IDRS or may request input by submitting Form 4844 to DITA.

**Exhibit 5.9.5-7 (Cont. 6) (11-01-2022)**  
**Debtor States Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
6	Intentionally left blank.	Once the caseworker has determined that IDT has occurred, take actions specific to the bankruptcy case.	<p>If the debtor's account had a balance due because of an IDT return, the caseworker will need to:</p> <ul style="list-style-type: none"> <li>• Amend the proof of claim so that it reflects the debtor's correct liability as a result of the IDT investigation. The liability could be increased or decreased, depending upon the result of the investigation.</li> <li>• If the amendment will increase the amount of tax the debtor must pay, consult with Counsel before proceeding.</li> <li>• If an objection to claim or motion to determine tax liability is pending, consult with Counsel before amending the claim.</li> <li>• Determine if the Service received any payments on the proof of claim for a liability resulting from IDT. If there are no outstanding tax liabilities, the bankruptcy payments applied to the IDT liability should be returned to the bankruptcy estate.</li> <li>• If there are remaining liabilities, the caseworker should consult with Counsel to determine whether the payments should be applied to those liabilities, returned to the bankruptcy estate, or refunded to the debtor.</li> <li>• Document all actions in the AIS history.</li> </ul> <p>If the return prepared by an ID thief resulted in a <b>refund return</b>, and the refund was manually issued to the debtor or issued to the bankruptcy trustee due to a trustee refund turnover order (both are generally detected by the presence of a TC 840 on IDRS), the caseworker should ask the debtor or trustee to return the erroneous refund to the IRS.</p>

**Exhibit 5.9.5-7 (Cont. 7) (11-01-2022)**  
**Debtor States Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
			<ul style="list-style-type: none"> <li>• Upon receipt of the refund check, post the refund check using Form 3913, Acknowledgment of Return Refund Check. If the refund check was negotiated by the trustee or debtor, and a replacement check is received from the trustee or debtor, post the replacement check using Form 3244, Payment Posting Voucher.</li> <li>• If the money is not returned to the Service, consider referring the case to Counsel to request lifting of the stay to pursue collection of the erroneous refund. The Service may recover the erroneous refund by: <ul style="list-style-type: none"> <li>a) An erroneous refund suit authorized by IRC 6405, subject to the refund referral tolerance</li> <li>b) Common law right to offset (Category D erroneous refund) - within two years from the date that the refund was sent out.</li> </ul> </li> <li>• When the refund cannot be recovered, the debtor's account is corrected and no further action is taken.</li> </ul>

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**Exhibit 5.9.5-7 (Cont. 8) (11-01-2022)**  
**Debtor States Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
			<p>If the refund on the IDT return offset to another tax debt owed to the Service by the debtor, request transfer of credit from that module back to the IDT module. Once the credit transfer posts to IDRS, prepare and submit Form 3870 to DITA with instructions to remove the transactions from the IDT return from the debtor's account. There should be no balance due on the IDT victim's account after DITA properly adjusts the account.</p> <p>Any refunds offset through the Treasury Offset Program (TOP) will be recovered through the TOP reversal process so no other remedies need be pursued.</p> <p>See the following subsections and cross-references within the subsections for additional information:</p> <ul style="list-style-type: none"> <li>• IRM 5.1.28.12, Erroneous Identity Theft Refund Issued to Victim</li> <li>• IRM 5.1.8.7.1, Recovery of Un-assessable Erroneous Refunds, and subsections</li> <li>• IRM 21.4.5.11, How to Repay an Erroneous Refund or Return an Erroneous Refund Check or Direct Deposit</li> </ul>

**Exhibit 5.9.5-7 (Cont. 9) (11-01-2022)**  
**Debtor States Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
7	Request TC 971 AC 501 (IMF IDT) or TC 971 AC 522 (BMF IDT)	<p>If the debtor submitted the IDT substantiation, or the substantiation was not required, and the caseworker has determined that in his/her judgment IDT has occurred:</p> <ul style="list-style-type: none"> <li>• Contact the debtor. Advise that we have determined that s(he) is a victim of IDT and will be adjusting his/her account accordingly.</li> <li>• Prepare Form 3870 to correct the debtor's account.</li> <li>• Write, "Input the TC 971 AC 501 (or TC 971 AC 522) once all adjustments have been input" on the Form 3870.</li> <li>• Route the Form 3870 to the appropriate function for input.</li> <li>• Document all actions in the AIS case history.</li> <li>• Schedule a follow-up on AIS to ensure that all adjustments were processed and the TC 971 AC 501 (or TC 971 AC 522) has been input to IDRS.</li> </ul> <p><b>Note:</b> If the address on ENMOD/IMFOLE for the debtor is incorrect, include instructions for an address change on the Form 3870.</p> <p>For additional information see:</p> <ul style="list-style-type: none"> <li>• IRM 5.1.28.8, Identity Theft Case Resolution, and subsections</li> <li>• IRM 5.1.28.14, BMF Identity Theft Code Input Procedures, and subsections</li> <li>• IRM 25.23.2.3.6, When to Update the Victim's Address</li> <li>• IRM 25.23.2.4.1, Tracking and Reporting Identity Theft Cases - Identity Theft Indicators, and subsections</li> <li>• IRM 25.23.2.6, Closing Identity Theft Issues, and subsections</li> <li>• IRM 25.23.9.6, BMF Identity Theft Tracking Indicators, and subsections</li> </ul>	<p>See IRM 5.9.5.12.1.2, Adjusting the Identity Theft (IDT) Account, and IRM 5.9.5.12.1.3, Routing Form 3870 to Adjust Identity Theft (IDT) Accounts, for additional information on preparing and routing of the Form 3870.</p> <p><b>Note:</b> See Exhibit 5.9.5-8, IRS Identified Identity Theft (IDT), for guidance on cases where IDT substantiation was not received but the caseworker determined that IDT did occur.</p>

**Exhibit 5.9.5-7 (Cont. 10) (11-01-2022)**  
**Debtor States Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
8	TC 972 AC 522 Source Code NOIDT	<p>If the debtor has provided ID Theft Substantiation or if substantiation is not required because it was previously submitted (see Step 1), and the caseworker has determined that in his/her judgment that IDT <b>did not occur</b>, the caseworker should:</p> <ul style="list-style-type: none"> <li>• Contact the debtor. Advise the debtor that we have determined that identity theft did not occur and that we are closing the identity theft issue.</li> <li>• Request input of a TC 972 AC 522 Source Code NOIDT unless the debtor states they have additional information they would like for the caseworker to consider.</li> <li>• If the debtor advises that they have additional information that they would like for IRS to consider, ask the debtor to submit the additional information to the caseworker by an established deadline. Advise the debtor that if the information is not received by the deadline, we are closing the IDT issue.</li> <li>• If the debtor was to submit additional information and did not submit the information by the established deadline, request input of a TC 972 AC 522 Source Code NOIDT.</li> <li>• Document all actions in the AIS history.</li> <li>• Close the "Iden Theft" case classification on AIS.</li> </ul>	<p>Caseworkers may input the TC 972 AC 522 with Source Code NOIDT directly to IDRS or may request input by submitting Form 4844 to DITA. Continue with routine case processing using established bankruptcy procedures.</p> <p><b>Do not proceed further in this chart.</b></p>

**Exhibit 5.9.5-7 (Cont. 11) (11-01-2022)****Debtor States Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
		<p>See the following for additional information:</p> <ul style="list-style-type: none"><li>• IRM 5.1.28.8.6, Identity Theft Code TC 971 AC 522 Reversal Procedures (TC 972 AC 522)</li><li>• IRM 5.1.28.9, Taxpayer is Not a Victim of Identity Theft</li><li>• IRM 5.1.28.14.2, Reversing Pending BMF Identity Theft Indicators</li><li>• IRM 25.23.2.6.6, TC 972 AC 522 NORPLY or NOIDT</li><li>• IRM 25.23.9.6.7, Reversing BMF Identity Theft Indicators - TC 972 AC 522 NOIDT</li></ul>	

## Exhibit 5.9.5-7 (Cont. 12) (11-01-2022)

## Debtor States Identity Theft (IDT)

Step	TC 971 Action Code	Employee Actions	Notes
9	TC 972 AC 522 Source Code NORPLY	<p>If the debtor stated s(he) is a victim of IDT, does not provide the required ID Theft substantiation by the established deadline, and you cannot determine through internal research that IDT occurred:</p> <ul style="list-style-type: none"> <li>• Contact the debtor and advise the debtor that the IRS is not going to work the IDT issue because IDT substantiation was not received by the established deadline.</li> <li>• If the debtor states that the documentation was previously submitted to the IRS and there is no information on IDRS to support the debtor's claim, ask him/her to submit a duplicate copy of the documentation by a mutually agreed upon date. Advise the debtor that the IRS will not work the IDT issue if the substantiation is not received by that date.</li> </ul> <p><b>Reminder:</b> If the debtor says the IDT substantiation documentation has already been submitted, and the IDT indicator codes are not present on IDRS, check AMS to see if the documents have been scanned into CIS.</p> <ul style="list-style-type: none"> <li>• If the debtor does not indicate that the substantiation was previously submitted, reverse the IDT indicator on IDRS by requesting a TC 972 AC 522 with Source Code NORPLY.</li> </ul>	<ul style="list-style-type: none"> <li>• Caseworkers may request input of the TC 972 AC 522 Source Code NORPLY directly to IDRS. (See Exhibit 25.23.2-11, IMF Only TC 972 AC 522 - Reversal of TC 971 AC 522, and Exhibit 25.23.9-5, Reversing BMF Identity Theft Indicators - TC 972 AC 522, for additional information).</li> <li>• Caseworkers may also submit Form 4844, Request for Terminal Action, to DITA to request input of the TC 972 AC 522 Source Code NORPLY. See IRM 5.9.5.12.1.2, Adjusting the Identity Theft (IDT) Account, IRM 5.9.5.12.1.3, Routing Form 3870 to Adjust Identity Theft (IDT) Accounts, and IRM 5.1.28.8.5.5, Remarks Block, for additional information.</li> <li>• Continue with routine case processing using established bankruptcy procedures.</li> <li>• Notate all actions in the AIS history.</li> </ul>

**Exhibit 5.9.5-7 (Cont. 13) (11-01-2022)**  
**Debtor States Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
		<p>For additional information see the following subsections:</p> <ul style="list-style-type: none"> <li>• IRM 5.1.28.8.6, Identity Theft Code TC 971 AC 522 Reversal Procedures (TC 972 AC 522)</li> <li>• IRM 5.1.28.14.2, Reversing Pending BMF Identity Theft Indicators</li> <li>• IRM 25.23.2.6.6, TC 972 AC 522 NORPLY or NOIDT</li> <li>• IRM 25.23.9.6.6, Reversing BMF Identity Theft Indicators - TC 972 AC 522 NORPLY</li> </ul> <p>See Exhibit 5.9.5-8, IRS Identified Identity Theft (IDT), and Exhibit 5.9.5-9, Trustee or Debtor's Attorney States Debtor is a Victim of Identity Theft (IDT), for instructions in cases where the bankruptcy trustee stated that the debtor is a victim of IDT or the IRS identified that the debtor is a victim of IDT.</p>	
10	Intentionally left blank.	Close the "Iden Theft" case classification on AIS once all actions in the case involving IDT have been completed.	Intentionally left blank.

**Note:** Functions with on-line IDRS input capabilities should follow instructions for inputting the TC 971 and TC 972 in IRM 25.23, Identity Protection and Victim Assistance. Functions that do not have on-line input capabilities should follow instructions in IRM 5.1.28, Field Collection Procedures, Identity Theft for Collection Employees.



**Exhibit 5.9.5-8 (11-01-2022)****IRS Identified Identity Theft (IDT)**

IRS may identify that the debtor is a victim of identity theft. Use the chart below when IRS identifies that the debtor is a victim of identity theft. Additional information on IRS identified IDT can be found in IRM 5.1.28, Identity Theft for Collection Employees, and in IRM 25.23, Identity Protection and Victim Assistance. Guidance can be found in, but is not limited to:

- IRM 5.1.28.8.3, IRS Identified Identity Theft
- IRM 25.23.2.4.5, IRS Initiated Suspicion of Identity Theft - TC 971 AC 522 IRSID
- IRM 25.23.2.6.3, Closing IRS Determined Identity Theft Affecting Tax Administration - TC 971 AC 506
- Exhibit 25.23.2-8, IMF Only TC 971 AC 506 — IRS Determined Tax-Related Identity Theft Case Closure
- IRM 25.23.9.4.2, Individual Taxpayers Reporting to be Victims of Business-Related Identity Theft
- IRM 25.23.9.6.1, Allegation or Suspicion of BMF Identity Theft TC 971 AC 522 IDTCLM
- IRM 25.23.9.6.3, Closing BMF Identity Theft Issues - TC 971 AC 522 CLSIDT
- Exhibit 25.23.9-2, BMF IDT Indicators - TC 971 AC 522 IDTCLM - Initial Allegation or Suspicion of BMF IDT
- Exhibit 25.23.9-4, BMF IDT Indicators - TC 971 AC 522 CLSIDT - Closed and Confirmed as BMF ID Theft
- Exhibit 25.23.9-7, BMF Identity Theft Research Requirement

**Exhibit 5.9.5-8 (Cont. 1) (11-01-2022)**  
**IRS Identified Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
1	TC 971 AC 522 Secondary Code IRSID	<p>If you determine that the debtor is a victim of IDT and the account has not already been marked for IDT:</p> <ul style="list-style-type: none"> <li>• Input TC 971 AC 522 with Secondary Code IRSID, or</li> <li>• Request input of TC 971 AC 522 with Secondary Code IRSID using Form 4844.</li> </ul> <p><b>Caution:</b> Prior to marking an account with TC 971 AC 522 PNDCLM or IRSID, research ENMOD/IMFOLE to ensure the account has not already been marked for the same tax year/incident. If the coding already exists, do not input a second code for the same tax year/incident.</p> <ul style="list-style-type: none"> <li>• If the IDT incident involved more than one tax year, enter an IDT indicator on IDRS for each tax year impacted by IDT. There is no need to enter a history item on ENMOD/IMFOLE.</li> <li>• Add the case classification "Iden Theft" to the case classification screen on AIS to alert users of the AIS system that there is an open IDT issue in the case.</li> <li>• If the return filed by an ID thief resulted in issuance of a refund to the debtor, the bankruptcy estate, or trustee, ask the debtor or trustee to return the refund to the IRS. See Step 6 of Exhibit 5.9.5-7, Debtor States Identity Theft (IDT), for actions to take when the refund is not returned to IRS or for posting the returned refund or replacement check.</li> <li>• Document all actions in the AIS case history.</li> </ul>	Use Form 4844 to request input of the TC 971 AC 522 with Source Code IRSID. Forward the Form 4844 to DITA for input.

**Exhibit 5.9.5-8 (Cont. 2) (11-01-2022)**  
**IRS Identified Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
2	Intentionally left blank.	In all instances, the caseworker must conduct research to determine if (in his/her judgment), identity theft occurred. See Step 4 in Exhibit 5.9.5-7, <i>Debtor States Identity Theft (IDT)</i> , for additional information.	Intentionally left blank.
3	TC 972 AC 522 Source Code NOIDT	If the caseworker has determined that in his/her judgment IDT did not occur, the caseworker should request input of a TC 972 AC 522 Source Code NOIDT. See Step 8 in Exhibit 5.9.5-7, <i>Debtor States Identity Theft (IDT)</i> , for additional information.	<ul style="list-style-type: none"> <li>Reverse the TC 971 AC 522 with TC 972 AC 522 Source Code NOIDT. Use Form 4844 to request input. Forward the Form 4844 to DITA for input.</li> <li>Continue with routine case processing using established bankruptcy procedures.</li> <li>Document all actions in the AIS history.</li> <li>Close the "Iden Theft" case classification on AIS.</li> </ul> <b>Do not proceed further in the chart.</b>
4	Intentionally left blank.	Once the caseworker has determined that IDT has occurred, take actions specific to the bankruptcy case.	See Step 6 in Exhibit 5.9.5-7, <i>Debtor States Identity Theft (IDT)</i> , for additional information.

**Exhibit 5.9.5-8 (Cont. 3) (11-01-2022)**  
**IRS Identified Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
5	TC 971 AC 506	<ul style="list-style-type: none"> <li>Prepare Form 3870 to correct taxpayer's account when the caseworker has determined that identity theft has occurred.</li> <li>Write "Input TC 971 AC 506 when all adjustments have been input" on the Form 3870.</li> <li>Contact the debtor. Advise the debtor that we have determined that s(he) is a victim of identity theft and will be adjusting their account accordingly.</li> <li>Schedule a follow-up on AIS to ensure that all adjustments were processed and that the TC 971 AC 506 has been input.</li> <li>Document all actions in the AIS case history</li> </ul> <p><b>Note:</b> If the address on ENMOD/IMFOLE for the taxpayer is incorrect, include instructions for an address change on the Form 3870. (IRM 25.23.2.3.6, When to Update the Victim's Address)</p> <p>See Exhibit 25.23.2-8, IMF Only TC 971 AC 506 — IRS-Determined Tax-Related Identity Theft Case Closure, for additional information.</p>	<p>See IRM 5.9.5.12.1.2, Adjusting the Identity Theft (IDT) Account, for information on adjusting the debtor's account. See IRM 5.9.5.12.1.3, Routing Form 3870 to Adjust Identity Theft (IDT) Accounts, for routing of Form 3870.</p> <p><b>Note:</b> Close the "Iden Theft" case classification on AIS once all the IDT issues have been resolved. See Step 6 in Exhibit 5.9.5-7, Debtor States Identity Theft (IDT), for instructions on addressing modules with a refund due to a return prepared by an ID thief.</p>
6	Intentionally left blank.	Close the "Iden Theft" case classification on AIS once all actions in the case involving IDT have been completed.	Intentionally left blank.

**Note:** Functions with on-line IDRS input capabilities should follow instructions for inputting the TC 971 and TC 972 in IRM 25.23, Identity Protection and Victim Assistance. Functions that do not have on-line IDRS input capabilities should follow instructions in IRM 5.1.28, Field Collection Procedures, Identity Theft for Collection Employees.

**Exhibit 5.9.5-9 (11-01-2022)****Trustee or Debtor's Attorney States Debtor is a Victim of Identity Theft (IDT)**

Insolvency may be contacted by a third-party, such as the debtor's attorney or the bankruptcy trustee. The third-party may state that the debtor is a victim of IDT. Follow the steps in the chart below for processing these cases.

Step	TC 971 Action Code	Employee Actions	Notes
1	Intentionally left blank.	<p>A person other than the debtor in the debtor's bankruptcy case, such as the debtor's attorney or bankruptcy trustee, contacts Insolvency. They suspect the debtor may be a victim of identity theft because:</p> <ul style="list-style-type: none"> <li>• The debtor previously gave the trustee an affidavit stating they did not file tax returns because s(he) had no taxable income. Yet, the trustee received a refund for a tax period covered in a refund turnover order.</li> <li>• The debtor contacted the trustee or bankruptcy attorney about a letter s(he) received from the Service saying that their tax refund had offset to child support, a student loan, or some other debt. S(he) does not remember filing a tax return.</li> <li>• The debtor told the trustee that s(he) is required to file tax returns. S(he) attempted to file his/her tax return electronically. The tax return was rejected because there was already a tax return filed for the tax year in question under his/her SSN.</li> </ul> <p>Follow Step 1 in Exhibit 5.9.5-7, Debtor States Identity Theft (IDT). Do not request IDT substantiation if the debtor has previously submitted the substantiation.</p>	Follow Step 1 in Exhibit 5.9.5-7, Debtor States Identity Theft (IDT).

**Exhibit 5.9.5-9 (Cont. 1) (11-01-2022)****Trustee or Debtor's Attorney States Debtor is a Victim of Identity Theft (IDT)**

<b>Step</b>	<b>TC 971 Action Code</b>	<b>Employee Actions</b>	<b>Notes</b>
2	TC 971 AC 522 Source Code PNDCLM	When a third-party, such as the bankruptcy attorney or bankruptcy trustee identifies that the debtor may have been a victim of IDT, and the account was not previously marked for IDT, follow Step 2 in Exhibit 5.9.5-7, Debtor States Identity Theft (IDT).	Follow Step 2 in Exhibit 5.9.5-7, Debtor States Identity Theft (IDT).
3	Intentionally left blank	If a review of IDRS cc ENMOD/IMFOLE does not show that the debtor has previously submitted IDT supporting documentation, contact the debtor and ask the debtor to provide the IDT supporting documentation. Follow Step 3 in Exhibit 5.9.5-7, Debtor States Identity Theft (IDT).	Intentionally left blank.
4	Intentionally left blank.	The caseworker must conduct research to determine if (in his/her judgment), IDT occurred. Follow Step 4 in Exhibit 5.9.5-7, Debtor States Identity Theft (IDT). Do <b>NOT</b> wait for receipt of IDT substantiation documents to conduct your research.	Follow Step 4 in Exhibit 5.9.5-7, Debtor States Identity Theft (IDT).
5	Intentionally left blank.	Once the caseworker has determined that IDT has occurred, take actions specific to the bankruptcy case. Follow Step 6 in Exhibit 5.9.5-7, Debtor States Identity Theft (IDT).	Intentionally left blank.
6	TC 971 AC 522 with Source code • INCOME • MULTFL • INCMUL • NOFR • OTHER (for IMF IDT), or Source Code IDTDOC (for BMF IDT)	Follow Step 5 in Exhibit 5.9.5-7, Debtor States Identity Theft (IDT), when complete and legible substantiation is received from the debtor.	Follow Step 5 in Exhibit 5.9.5-7, Debtor States Identity Theft (IDT).



**Exhibit 5.9.5-9 (Cont. 2) (11-01-2022)****Trustee or Debtor's Attorney States Debtor is a Victim of Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
7	TC 971 AC 501 (IMF IDT) or TC 971 AC 522 (BMF IDT)	<p>If the debtor submitted IDT substantiation or if ID Theft substantiation was not required because it was previously submitted, and you have determined identity theft occurred:</p> <ul style="list-style-type: none"> <li>• Prepare Form 3870 to correct the debtor's account.</li> <li>• Write "Input the TC 971 AC 501 (or TC 971 AC 522) once all adjustments have been input" on the Form 3870.</li> <li>• Contact the debtor. Advise the debtor that we have determined that s(he) is a victim of identity theft and will be adjusting his/her account accordingly.</li> <li>• Document all actions in the AIS case history.</li> <li>• Schedule a follow-up on AIS to ensure that all adjustments were processed and that the TC 971 AC 501 (or TC 971 AC 522) has been input to IDRS.</li> </ul> <p><b>Note:</b> If the address on ENMOD/IMFOLE for the taxpayer is incorrect, include instructions for an address change on the Form 3870. (IRM 25.23.2.3.6, When to Update the Victim's Address)</p>	See IRM 5.9.5.12.1.2, Adjusting the Identity Theft (IDT) Account, for information on preparing the Form 3870. See IRM 5.9.5.12.1.3, Routing Form 3870 to Adjust Identity Theft (IDT) Accounts, for routing adjustment documents.

**Exhibit 5.9.5-9 (Cont. 3) (11-01-2022)****Trustee or Debtor's Attorney States Debtor is a Victim of Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
8	TC 971 AC 506	<p>If the debtor did not submit IDT substantiation but you have determined that identity theft has occurred, and you are treating the account as IRS identified IDT:</p> <ul style="list-style-type: none"> <li>• Prepare Form 3870 to correct taxpayer's account.</li> <li>• Write "Input TC 971 AC 506 when all adjustments have been input" on the Form 3870.</li> <li>• Contact the debtor. Advise the debtor that we have determined that s(he) is a victim of identity theft and will be adjusting their account accordingly.</li> <li>• Document all actions in the AIS case history.</li> <li>• Schedule a follow-up on AIS to ensure that all adjustments were processed and the TC 971 AC 506 has been input to IDRS.</li> </ul> <p><b>Note:</b> If the address on ENMOD/IMFOLE for the taxpayer is incorrect, include instructions for an address change on the Form 3870. (IRM 25.23.2.3.6, When to Update the Victim's Address)</p>	<p>See IRM 5.9.5.12.1.2, Adjusting the Identity Theft (IDT) Account, for additional information on preparing the Form 3870. See IRM 5.9.5.12.1.3, Routing Form 3870 to Adjust Identity Theft (IDT) Accounts, for routing adjustment documents.</p>

**Exhibit 5.9.5-9 (Cont. 4) (11-01-2022)****Trustee or Debtor's Attorney States Debtor is a Victim of Identity Theft (IDT)**

Step	TC 971 Action Code	Employee Actions	Notes
9	TC 971 AC 522 Source Code IRSID	<p>If the ID Theft substantiation is not received by the established deadline, it may be because the debtor has received the benefit of the refund from the identity theft return.</p> <p>If your research determined that the debtor was a victim of IDT, <b>treat the case as IRS identified Identity Theft.</b></p> <p>Request input of TC 971 AC 522 with Source Code IRSID using Form 4844.</p> <p><b>Caution:</b> Prior to marking an account with TC 971 AC 522 PNDCLM or IRSID, research ENMOD/IMFOLE to ensure the account has not already been marked for the same tax year/incident. If the coding already exists, do not input a second code for the same tax year/incident.</p> <p>If the incident involved multiple tax years, input the IDT indicator to each tax year involved in the IDT incident. There is no need to enter a history item on ENMOD/IMFOLE reflecting the tax years involved.</p>	Document all actions taken in the AIS history.
10	TC 972 AC 522 Source Code NOIDT	<p>If the caseworker has determined that in his/her judgment Identity theft did not occur, the caseworker should request input of a TC 972 AC 522 source code NOIDT.</p> <p>Follow Step 8 in Exhibit 5.9.5-7, Debtor States Identity Theft (IDT).</p>	Follow Step 8 in Exhibit 5.9.5-7, Debtor States Identity Theft (IDT).
11	Intentionally left blank.	Close the "Iden Theft" case classification on AIS once all actions in the case involving IDT have been completed.	Intentionally left blank.

**Exhibit 5.9.5-9 (Cont. 5) (11-01-2022)****Trustee or Debtor's Attorney States Debtor is a Victim of Identity Theft (IDT)**

**Note:** Functions with on-line IDRS input capabilities should follow instructions for inputting the TC 971 and TC 972 in IRM 25.23, Identity Protection and Victim Assistance. Functions that do not have on-line IDRS input capabilities should follow instructions in IRM 5.1.28, Field Collection Procedures, Identity Theft for Collection Employees.

