EFFECTIVE DATE

(10-24-2024)

PURPOSE

(1)   This transmits revised IRM 5.19.11, Liability Collection, Withholding Compliance Program.

MATERIAL CHANGES

(1)   IRM 5.19.11.1.6 Acronyms - added Integrated Collection System (ICS) and Individual Online Account (IOLA) to acronym list

(2)   IRM 5.19.11.3.1(2) Telephone Contact Procedures - added e-Guide link and instructions

(3)   IRM 5.19.11.3.1(7) Telephone Contact Procedures - updated IRM references

(4)   IRM 5.19.11.3.1(12) Telephone Contact Procedures - exception out scope

(5)   IRM 5.19.11.3.1(13) Telephone Contact Procedures - out of scope

(6)   IRM 5.19.11.3.2 updated format because it can't read correctly on SERP IRM in present format

(7)   IRM 5.19.11.3.6 Referrals to Taxpayer Advocate Service - update IRM reference

(8)   IRM 5.19.11.3.7.(3) Installment Agreement (IA) or Balance Due Taxpayers - update information

(9)   IRM 5.19.11.3.7.(4) Installment Agreement (IA) or Balance Due Taxpayers - update information

(10)   IRM 5.19.11.3.7.(5) Installment Agreement (IA) or Balance Due Taxpayers - update IRM reference

(11)   IRM 5.19.11.7 Responses and Redeterminations - update IRM reference. Add information about WHC Self Help Portal, Chatbot, and manual lock-in letters issued by Field through ICS.

(12)   IRM 5.19.11 7.1.2.2 (2) Common Law Marriage - update IRM reference

(13)   IRM 5.19.11.10.9(4) Offer in Compromise (OIC) Taxpayers - update SERP information

(14)   IRM 5.19.11.10.14 Identity Theft - update IRM reference

(15)   IRM 5.19.11.10.17 Native American Tribal Income- update IRM references

(16)   IRM 5.19.11.10.20 Disaster Relief Cases DIS) - update title and IRM reference

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 5.19.11 dated August 15, 2023

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AUDIENCE

Small Business/Self-Employed (SB/SE) employees in Collection Campus Operation working withholding compliance issues.

Erick Martinez
Director, Collection Inventory Delivery & Selection
Small Business/Self Employed

5.19.11
Withholding Compliance Program

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5.19.11.1 (10-24-2024) **Program Scope and Objectives**	(1) **Purpose**: This IRM provides instructional procedures relating to the **Withholding Compliance Program**.
	(2) **Audience**: Small Business/Self-Employed (SB/SE) employees working withholding compliance issues.
	(3) **Policy Owner**: Director, Collection Inventory Delivery & Selection, Small Business/Self Employed(SB/SE).
	(4) **Program Owner**: NonFiler Inventory and Delivery Section (NIA), Small Business/Self Employed (SB/SE).
	(5) **Primary Stakeholders**: NonFiler Inventory and Delivery Section (NIA), Small Business/Self Employed (SB/SE).
	(6) **Program Goals**: The goal is to correct withholding to ensure that taxpayers have enough income tax withheld to meet their withholding tax obligations.

5.19.11.1.1 (10-24-2024) **Background**	(1) This IRM 5.19.11, Liability Collection, Withholding Compliance Program, provides guidelines for working the Withholding Compliance Program.
	(2) The IRS Mission statement includes "enforcing the tax law with integrity and fairness to all". A "fair and just tax system" is a cornerstone in the *Taxpayer Bill of Rights (TBOR)*. As IRS employees, we are expected to carry out our duties with integrity and fairness . Fairness and integrity therefore apply to how IRS administers tax laws to all taxpayers, as well as how IRS employees interact with each taxpayer and with tax professionals. Employees must exercise their professional judgement, not personal opinions, in conducting their enforcement responsibilities. There are three parts to enforcing the law with integrity and fairness:

- Ensure fairness to the taxpaying public
- Ensure an equitable process for all taxpayers
- Ensure fairness to each taxpayer

Note: For additional information, refer to Policy 1-236.

5.19.11.1.2 (12-14-2018) **Authority**	(1) Internal Revenue Code (IRC) Section 3402 and IRC Section 3403 provide the legal authority for the withholding of federal income tax from wages and other forms of income. IRC Section 3402 specifies the general form and content of withholding certificates and outlines the basis for claiming reductions or exemption from withholding.
	(2) Regulations in 26 CFR Part 31, Employment Taxes and Collection of Income Tax at Source, provide guidance for implementation of IRC Section 3402.
	(3) Section 31.3402(f)(2)–1(a) requires each employee to furnish his or her employer with a signed withholding certificate on or before starting employment. The maximum withholding rate to which an employee is entitled depends upon the following:

- Filing status
- Number of dependents
- Reduction to withholding claimed by a spouse (if any) on a Form W-4
- Estimated itemized deductions, tax credits, and other deductions from income

Note: Regulations permit taxpayers to claim only the withholding rate to which they are entitled. **Withholding tax cannot be construed as a hardship.**

(4)   The requirement for employers to routinely submit copies of questionable Form W-4, Employee's Withholding Certificate to the IRS has been eliminated. Regulations, as set forth in Section 31.3402(f)(2)–1(g), require employers to submit copies of any currently effective withholding certificates only if directed to do so in a written notice to the employer or if directed to do so under any published guidance.

(5)   An employer must honor a **valid** withholding certificate furnished by an employee until the IRS provides the employer with written notice to disregard it (a lock-in letter). The IRS may issue such a notice after it determines that an employee's withholding claim is unjustified based on IRS records **without** first obtaining a copy of the Form W-4 from the employer.

   a.   The employer is required to withhold at the status and rate specified in our notice. However, if the status and rate claimed on the employee's current Form W-4 or a new Form W-4 will result in **MORE** income tax withholding than at the status and rate specified in our notice, the employer must honor the Form W-4.
   b.   If an employee disagrees with our determination, he or she must contact the Withholding Compliance Unit and provide information supporting a change to the status and rate specified in our notice.

(6)   Section 31.3402(m)–1 of the Employment Tax Regulations specifies items used to compute withholding . Estimated amounts of deductions, losses, and credits used to compute withholding reductions may not be more than:

   a.   The amount claimed on the prior year tax return (or, if not yet filed, the tax return for the preceding taxable year) which the employee reasonably expects to show on the current year tax return, plus
   b.   Additional amounts that are demonstrably attributable to identifiable events.

(7)   An employee may claim exempt from withholding by furnishing the employer with a valid exempt Form W-4 certifying that they:

   a.   Had no tax liability for the preceding taxable year, and
   b.   Expects no tax liability for the current taxable year.

(8)   Exempt W-4 forms , generally expire on February 15th of the year after they were furnished by the employee. If an employee fails to furnish a new W–4, the employer is required to withhold as if no valid W-4 was in effect, withholding as if employee had checked the box for "Single" or "Married filing separately" in Step 1 (c) and made no entries in Step 2, Step 3, or Step 4 of the Form W-4. If, however, a prior Form W-4 is in effect for the employee, the employer must continue to withhold based on the prior Form W-4. Refer to Pub 15, (Circular E), Employer's Tax Guide, and Pub 15-T, Federal Income Tax Withholding Methods additional guidance.

(9)   IRC Section 6682 and the related tax regulations allow the assessment of a $500 civil penalty on an individual for furnishing a false W–4 if:

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     a.   The statement made on the Form W-4 results in less income tax withheld than would have been withheld if the Form W-4 had been correctly completed, and

     b.   There was no reasonable basis for such a statement at the time that the statement was made.

(10) IRC Section 3403 makes an employer liable for tax imposed under IRC Section 3402 and the related tax regulations:

     a.   The employer is liable for the appropriate amount of withholding whether or not it is actually deducted from the employee's pay. This liability includes tax computed according to the withholding instructions we give the employer in a lock-in letter.

     b.   Assessments under IRC Section 3403 are made by Employment tax examiners in the Technical Services in the Examination function.

5.19.11.1.3
(12-14-2018)
Roles and Responsibilities

(1) The Director, Collection Inventory Delivery & Selection, is responsible for overseeing program coordination for automated Nonfiler system and Campus procedures related to Compliance Nonfiler programs.

(2) The Operations manager is responsible for managing remote Collection activities including telephone and correspondence transactions. Oversees department, team and employee responses to Balance Due accounts and Withholding Compliance Program.

(3) The Department manager is responsible for overseeing team and employee responses to taxpayer inquiries with regard to the Withholding Compliance Program inquiries.

(4) The Team manager is responsible for overseeing telephone scheduling and employee responses to Balance Due accounts and Withholding Compliance Program inquiries.

5.19.11.1.4
(12-14-2018)
Program Management and Review

(1) **Program Reports**: Work Planning & Control (WP&C) reports are used to monitor rates, receipts and closures to determine if cases are being received and subsequently closed. WP&C reports are located on the Business Objects platform. Account Management Services (AMS) reports also provide information on inventory and inventory age. Case Control Activity System (CCA) reports detail the cases assigned to an operation, department, team or employee; they are located on Control D.

(2) **Program Effectiveness**: the program goals and results are housed on the Collection Program and Campus Reports SharePoint site in the Monthly Monitoring Report (MMR). The MMR captures NQRS results to show monthly and cumulative stats. Case reviews are performed by front line mangers, operational reviews performed by senior managers, and program reviews conducted by the program office to ensure procedures are being followed and are effective.

5.19.11.1.5
(12-14-2018)
Program Controls

(1) Taxpayer responses and other inventory are loaded to AMS and then distributed to tax examiners. AMS tracks employee actions and is monitored by Operation, Department, and Front-Line managers along with Collection HQ employees.

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5.19.11.1.5

5.19.11.1.6
(10-24-2024)
Acronyms

(1) Below is a list of abbreviations commonly used throughout the IRM.

Acronym	Definition
ACS	Automated Collections System
AMS	Account Management Services
CSCO	Compliance Services Collection Operations
DUT	Document Upload Tool
IAT	Integrated Automation Technologies
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IOLA	Individual Online Account
IRC	Internal Revenue Code
MF	Master File
OUO	Official Use Only
POA	Power of Attorney
TDA	Taxpayer Delinquent Account
TDI	Taxpayer Delinquent Investigation
TS	Taxpayer Services
WHC	Withholding Compliance
WHCS	Withholding Compliance System (Database)

5.19.11.1.7
(10-24-2024)
Related Resources

(1) *Withholding Compliance E-Guide (irs.gov)*.

(2) Pub 505, Tax Withholding and Estimated Tax, Page 3.

5.19.11.2
(05-01-2006)
Overview of Withholding Compliance Processing

(1) This IRM section explains the Withholding Compliance process.

5.19.11.2.1
(10-11-2016)
Withholding Compliance Case Creation Using Forms W–2, Wage and Tax Statement

(1) Employers are required to give Form W-2, Wage and Tax Statement, to their employees by January 31st of the year following the year in which the wages were paid. A copy of Form W-2 must also be filed with the Social Security Administration (SSA) by January 31st of the following year. W-2 records filed with the SSA are subsequently transmitted to the IRS and loaded into the Information Returns Master File (IRMF).

5.19.11.1.6

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(2)   Application of the WHC business rules results in three potential outcomes:

- **Outcome 1**: No tax compliance problem is indicated. A WHC case is not created.
- **Outcome 2**: Withholding compliance problem was identified; lock-in letter systemically issued. Taxpayer has 60 days to respond to the letter before the case proceeds to the next step.
- **Outcome 3**: Withholding compliance problem was identified; manual review required prior to the lock-in letter issuance. Withholding Compliance (WHC) will no longer generate Outcome 3 cases after June 2016.

(3)   WHC cases are created in June. Each calendar year, the Enterprise Computing Center (ECC) will update all tax year dates to correspond to the current calendar year.

(4)   W-2 forms received from SSA after the initial case creation are considered "Additional Forms W-2" (AW2) and are processed by WHC at the end of each calendar year following the year in which the wages were paid.

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(6)   The Form W-2 records are then sorted by Social Security Number (SSN) and Name Control.

(7)   Additional business rules are applied to filter records to:

a.   Determine whether the SSN is valid or invalid.
b.   Match SSN's against Master File (MF). If a record is found in the valid or invalid segments of MF, proceed with the compliance check. If there is no record on MF, select regardless of compliance check.
c.   Current year return was filed and not full paid.
d.   Current year return was not filed. Prior year return was not filed or was filed with a balance due.

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(9)   Taxpayers in the following statuses are excluded:

- Combat Zone
- Killed in Terrorist Action (KITA)
- Offer in Compromise (OIC)

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- Bankruptcy (BNK)
- Criminal Investigation Case (CID)
- Disaster Relief Case (DIS)
- Date of Death (DOD) is less than 24 months

5.19.11.2.2
(09-08-2014)
**Campus Case
Processing Overview**

(1) WHC cases will be worked by the Withholding Compliance Unit at the Andover & Austin Compliance Campuses.

(2) Organization Function Program (OFP) codes have been established for WHC.

Program Code	Description
61707	WHC Employer UD Mail
61710	WHC Referral
61730	WHC Phone Call
61740	WHC Correspondence
61750	WHC Special Projects

(3) The following 97X transaction codes (TC) have been designated to identify actions on WHC cases:

TC 97X	Action Code	Manual/ Systemic	Description
971	146	Manual/ Systemic	• Lock-in Letter issued
972	146	Manual/ Systemic	• Lock-in released • Lock-in issued in error
971	147	Systemic	• Outcome 3 case; Reserved
971	148	Manual	• Lock-in rate modified • Lock-in rate reviewed with no change
971/972	149	Manual/ Systemic	• Reserved

(4) Taxpayers with unreversed TC 971 AC 146 transactions are identified by the following IMF entity indicator codes:

- CC ENMOD screen: WHCCI>1
- CC IMFOLE screen: WHC

Note: The entity indicator will be set when the TC 971 AC 146 transaction posts.

(5) TC 971 AC 147 will be used to generate listings of Outcome 3 cases to the site to be worked. The miscellaneous field shows the reason code for Outcome 3 selection.

(6) TC 971 AC 146 will post to Master File to identify Outcome 2 cases where a lock-in letter has been systemically issued. The transaction will appear on the year in which the taxpayer was locked in and will provide the following information:

- TC 971 transaction date
- Employer Identification Number (EIN) of taxpayer's employer(s)
- Lock-in status and the number of allowances (prior to May 2020)
- Lock-in status (filing status) and withholding rate (May 2020 forward)

(7) Subsequent transactions will be posted to the year in which the taxpayer was locked in.

(8) WHC case inventory will come from two sources:

- Telephone calls and
- Taxpayer correspondence

(9) Cases will be batched through Account Management Services (AMS) and assigned to a tax examiner. AMS will open an IDRS control base using the year in which the lock-in letter was issued.

(10) Tax examiners will,

- Reconsider previous lock-in determinations based on information supplied by the taxpayer
- Make spousal lock-in determinations and issue lock-in letters
- Assess and abate Form W-4 civil penalties
- Address the entire taxpayer account including all balance due and/or unfiled return issues
- Update IDRS, Withholding Compliance System (WHCS) and AMS as applicable

5.19.11.2.3
(10-24-2024)
WHC Letters and References

(1) WHC outgoing correspondence consists of the Correspondex generated letters shown below. Current versions of the letters are available on Servicewide Electronic Research Project (SERP) using the Forms/Letters/Pubs tab.

WHC Letter	Letter Title
Letter 2800-C	WHC Lock-in Letter to Employer. WHC Lock-in Letter (To Employer)
Letter 2801-C	WHC Lock-in Letter to Employee. WHC Lock-in Letter (To Employee)
Letter 2802-C	WHC Compliance Letter (Self Correct Notice)
Letter 2804-C	Civil Penalty Abatement Denied. Form W-4 Penalty Abatement Denied (To Employee)
Letter 2805-C	WHC Lock-in Letter to Employee (Spousal Consent letter)

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WHC Letter	Letter Title
Letter 2808-C	WHC Modified Lock-in to Employer. WHC Modified Lock-in (To Employer)
Letter 2809-C	WHC Release of Lock-in (To Employer). WHC Release of Lock-in (To Employer)
Letter 2810-C	WHC No Change (To Employee). WHC No Change (To Employee).
Letter 2811-C	WHC Penalty Abatement Accepted (To Employee). Form W-4 Penalty Abatement Accepted (To Employee)
Letter 2812-C	WHC Modified Lock-in to Employee. WHC Modified Lock-in (To Employee)
Letter 2813-C	WHC Release of Lock-In (To Employee).. WHC Release of Lock-in (To Employee)
Letter 3042-C	Regulatory Authority Information Letter. Information on the Legal Authority for the IRS Withholding Compliance Program (To Employee)
Letter 4074-C	WHC - Reply to Employer Inability to Change Automated W-4 System. WHC - Reply to Employer Inability to Change Automated W-4 System
Letter 4243-C	Withholding Compliance Additional Information Request. Withholding Compliance Additional Information Request

(2)   The following forms and publications are also used:

Additional forms and publications
•   Pub 17, Your Federal Income Tax (For Individuals) •   Pub 5, Your Appeal Rights and How To Prepare A Protest If You Don't Agree •   Pub 54, Tax Guide for U.S. Citizens and Resident Aliens Abroad •   Pub 505, Tax Withholding and Estimated Tax •   Pub 514, Foreign Tax Credit For Individuals •   Pub 515 Withholding of Tax on Nonresident Aliens and Foreign Entities •   Pub 2105, Why Do I Have to Pay Taxes? •   Pub 15 (Circular E), Employer's Tax Guide •   Pub 15-T, Federal Income Tax Withholding Methods •   Pub 972, Child Tax Credit •   Pub 1915, Understanding Your IRS Individual Taxpayer Identification Number (ITIN) •   WHC Withholding Estimator (2020) •   WHC Employer Withholding Assistant (2020) •   Form W-4, Employee's Withholding Certificate

5.19.11.3
(05-01-2006)
General Case
Processing

(1) This section contains procedures for working withholding compliance cases.

5.19.11.3.1
(10-24-2024)
Telephone Contact
Procedures

(1) In order to deliver quality customer service, take all appropriate actions to correct withholding, address any balance due account(s) and/or solicit unfiled returns while the taxpayer is on the telephone. For additional information, see IRM 5.19.1.4.4.2 Balance Due Taxpayer Education (Cause and Cure).

(2) Use the Electronic Withholding Compliance Guide (e-Guide)to assist you in addressing withholding compliance issues.

(3) If you determine that the taxpayer has obtained the WHC unit toll-free number erroneously and does not have a withholding issue, determine the taxpayer's specific issue and transfer the call following the table in paragraph 13 below.

(4) When you identify the topic of the call:

    a. Advise the caller that you are transferring their call to the area that handles the question (identify the specific area).
    b. Transfer to a specific line by clicking the transfer button
    c. Then, enter the appropriate four-digit extension, in the Direct Dial field, or highlight the desired transfer applicable name,
    d. Then, click the transfer button

(5) If translation is needed for non-English speaking taxpayers, offer the taxpayer Over-the-Phone Interpreter Service (OPI).

(6) The IRS/OPI contract allows the disclosure of tax information to the OPI interpreter. The assistor should limit disclosure to only that information necessary to

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resolve the issue. The interpreters are not employees of IRS so communicate to them exactly as you would advise the taxpayer. To use OPI services, complete the following:

    a.   With the TP already on the line, click the Consult/Conference button.
    b.   Call the toll-free phone number: **888-563-1155**.

(7)   Enter your PIN number (xxxx-xxxxx) - **this is a unique personal PIN number for each employee.** PINS have been distributed to the site management. If an employee doesn't have a PIN, management or local SA will contact coordinator to have one assigned, usually within 1 business day. Select language below:

- Press 1 for Spanish
- Press 2 for Creole
- Press 3 for Mandarin
- Press 4 for Korean
- Press 5 for Vietnamese
- Press 6 for Somali
- Press 7 for Russian
- Press 8 for French
- Press 9 for Arabic
- Press 0 for operator assistance to address any other language needs or concerns

(8)   An interpreter will be added to the call, summarize what you wish to accomplish. Add the Non-English speaking taxpayer to the line by clicking the Consult/Conference button again.

(9)   The following steps should be taken on all calls:

- Greet the taxpayer - Be sure to provide your name and identification number at the beginning of the call. For additional information, see IRM 21.1.1.4, Communication Skills.
- When you receive a call from a taxpayer regarding their tax account information, you are under no obligation to determine if the taxpayer is using an unsecured platform such as a cell phone. However, if you become aware that the taxpayer is using a cell phone (e.g., the taxpayer states they are calling from a cell phone, etc.), you may advise the taxpayer of the disclosure risk of using the cell phone to discuss their account information.
- To contact IRS, hearing impaired callers may choose to use the Federal Relay Service (FRS), a state relay service or any other relay service, or any third party assistant (friend or family). For further instructions concerning Hearing Impaired Calls refer to IRM 21.2.1.56, Deaf/Hard of Hearing (DHOH) Callers and TTY/TDD Equipment and IRM 21.3.8.5.1.2, Hearing Impaired Customers and TDD Equipment
- When contacted by an employer, do **not** authenticate taxpayer information. Ask the caller for the name and Social Security Number (SSN) of the taxpayer to which the call relates, then document the taxpayer case as appropriate. If the employer calls for verification of a modification, provide the employer with the modified withholding status/rate and the amount of any annual reductions to withholding or additional amount to withhold per pay period, **only**. Do **NOT** discuss Form W-4 calculations or case selection criteria. See IRM 5.19.11.7.4, Employer Responses, for additional information.

- If an employer calls with a "general" question regarding WHC or the lock-in letter, document AMS under the EIN. See IRM 5.19.11.7.4, Employer Responses, for additional information.
- Disclosure verification must occur before assisting taxpayer on account related calls. Follow procedures in IRM 21.1.3.2.3, Required Taxpayer Authentication. If talking to the taxpayer's representative follow procedures in IRM 21.1.3.3, Third Party (POA/TIA/F706) Authentication then see IRM 5.19.11.3.4, CAF/POA Requirements .
- Verification of the taxpayer's phone number on ENMOD is required on all account related calls in which disclosure verification has occurred. When necessary, update this information.

  > **Reminder:** If ENMOD or IDRS is currently unavailable, follow-up action will be performed when systems become available.

- Check Case Status - Check SUMRY and/or CC IMFOLI for any filing and/or payment delinquencies. See IRM 5.19.11.7, Responses and Re-determinations, for delinquent return procedures. See IRM 5.19.11.3.7, Installment Agreement (IA) Taxpayers, for installment agreement procedures. See IRM 5.19.11.3.8, Cases Assigned to Field Collection function, for accounts with at least one balance module in status 26.

(10)   Key points for every call:

- Maintain a professional and courteous tone.
- Control the direction of the call, keep focused on resolution of taxpayer's issues.
- Give accurate and complete assistance.
- Place the taxpayer on hold when needed to perform research or complete case actions. Use the hold feature, not the mute feature.

  > **Note:** Advise the taxpayer of the reason for the delay (e.g., additional research needed, etc.), ask for permission to place the taxpayer on hold and wait for a response. Thank him or her for holding.

- Take all appropriate steps to address any delinquencies while the taxpayer is on the telephone.
- Confirm to the taxpayer all the actions taken before closing the call.

(11)   When working balance due accounts, follow procedures in IRM 5.19.11.3.7, Installment Agreements (IA) or Balance Due Taxpayers. When working return delinquency accounts, follow procedures in IRM 5.19.11.7, Responses and Re-determinations. Document AMS with actions taken.

(12)   If all case actions cannot be completed (i.e. breaks, lunch, tour of duty), insert case on AMS as WHC correspondence (WHCC) and complete actions as soon as possible after your scheduled phone time.

(13)   If a call is inadvertently disconnected, employees have the discretion to immediately call the taxpayer back, if appropriate, to complete the resolution.

a.   A callback would be appropriate when speaking with the taxpayer and the call is at the end stages of case resolution when the call inadvertently disconnects.
b.   A callback would not be appropriate when the call is in the beginning stages. This may include disclosure verification, accessing IAT tools or initial analysis of the case.

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    c.   Your discretion should be used to make a callback after speaking with a taxpayer for a while but have not come to the full case resolution. In complex case situations, it may be beneficial to make the callback to finalize the case.

    d.   If you determined a callback is appropriate, insert case on AMS as WHC correspondence and make the callback as soon as possible.

(14)   If the Taxpayer has a tax law question, verify the type of tax law before transferring the call . Taxpayer Services will continue to answer tax law inquiries on a limited number of topics. These topics include:

- Tax Exempt Government Entities (TEGE)
- Special Services: Military or Civilian Combat; Federally Declared Disaster
- Affordable Care Act (ACA)
- International Tax Law (overseas calls only)

(15)   **For all other tax law questions state**: **I'm sorry, but we do not provide live assistance on this topic**. For assistance, you can go to:

- *https://irs.gov* - Select the Help & Resources' tab on the irs.gov home page. Options are listed on the left side of the page
- Interactive Tax Assistant- Enter "ITA" into the Search feature
- IRS Tax Map - Enter "IRS Tax Map" into the Search feature for more detailed information

(16)   All WHC issues should be addressed **before** transferring. The assistor should inform the taxpayer they are being transferred and advise caller of what topic to request after the transfer. The assistor should document AMS history with the reason for the transfer.

Note: Use the SERP *Telephone Transfer Guide (irs.gov)* for the latest comprehensive transfer list

When Issue is	Function	Use the following to resolve the call
Balance Due not meeting streamlined criteria (non Status 22)	**Taxpayer Services Toll Free Lines (AM)** Hours of Operation are Monday through Friday 7:00 a.m. to 7:00 p.m. local time, with the exception of Puerto RIco which is 8:00 a.m. to 8:00 p.m., local time. If outside of the hours of Operation, advise taxpayer of AM hours and call the appropriate AM toll free number 800–829–1040.	**For TS:** # 1075 English # 1071 Spanish **For SB/SE** # 1085 English # 1076 Spanish

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When Issue is	Function	Use the following to resolve the call
Account issues (Refunds and any account issues that do not pertain to the WHC case)	**Taxpayer Services Toll Free Lines (AM)** Hours of Operation are Monday through Friday 7:00 a.m. to 7:00 p.m. local time, with the exception of Puerto RIco which is 8:00 a.m. to 8:00 p.m., local time. If outside of the hours of Operation, advise taxpayer of AM hours and call the appropriate AM toll free number 800–829–1040.	# 1020 - English # 1021 - Spanish
Balance Due (IDRS Status 22) or Balance Due not meeting stream-lined criteria (non Status 22)	**ACS** Hours of Operation are Monday through Friday 8:00 a.m. to 8:00 p.m.local time. If outside of the hours of Operations, advise taxpayer of ACS hours and call for IMF 800-829-7650, or for BMF 800-829-3903.	**For TS** # 1075 - English # 1071 - Spanish **For SB/SE** # 1085 - English # 1076 - Spanish
Open TC 420 or -L Freeze	**Exam** Hours of Operation are **(TS)** 8:00 a.m. to 8:00 p.m. local time. **(SB/SE)** 7:00 a.m. to 7:00 p.m. local time	IRM 21.5.10-2, AIMS STATUS CODE GUIDE CORRE-SPONDENCE EXAM **For TS:** # 1517 - English # 1518 - Spanish **For SB/SE** # 1861 - English # 1862 - Spanish

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When Issue is	Function	Use the following to resolve the call
Accounts with an Open AUR account	**AUR** Hours of Operation are 7:00 am to 8:00 p.m. local time. If outside of the hours of operation or if the caller does not want to be transferred, provide the AUR toll-free number 800–829–8310	IRM 21.3.1.6.57, IMF Underreporter Letters **For SB/SE** #1841 - English #1842 - Spanish
FERDI accounts • "Federal Employee" in the Alerts box of the Account Summary Screen • ACSWEB - "FE" in the Alerts section • IDRS CC ENMOD screen - "FEDEMP>F" • CFOL CC IMFOLE screen - "FEDEMPLOY/ RETIREE"	**ACS (Status 22) FERDI Issues,** IRM 5.19.18.2, Identifying FERDI cases	# 1082 - English/Spanish

5.19.11.3.2
(10-24-2024)
Case Research

(1) In order to make proper case decisions, research and utilize these systems.

5.19.11.3.2.1
(02-09-2011)
WHCS

(1) WHCS provides information on the taxpayer, their employers, lock-in and/or other WHC letters issued, transaction dates, and lock-in rate, if applicable.

(2) See the WHCS User Guide for instructions on adding or updating taxpayer records.

5.19.11.3.2.2
(07-11-2022)
AMS

(1) WHC case actions are documented in the AMS history. WHC histories can be identified by the literal "WHC".

(2) Research AMS history for taxpayer contacts regarding return delinquency, balance due or installment agreement information affecting account.

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5.19.11.3.2.3 (08-15-2023) **IDRS**	(1)	The TC 971 transactions are shown on IDRS.
	(2)	Research account for payment and filing compliance.

      a.   For balance due accounts, follow procedures in IRM 5.19.11.3.7, Install-
ment Agreement (IA) or Balance Due Taxpayers.

      b.   For return delinquency accounts, follow procedures in IRM 5.19.11.7,
Responses and Redeterminations.

(3)   Research account for any special situations. See IRM 5.19.11.10, Special Situ-
ations.IRM 5.19.11.10, Special Situations.

(4)   Case information can be verified through various command codes, including,
but not limited to IRPTR, RTVUE, IMFOL, NAMES, and ENMOD.

5.19.11.3.2.4 (10-24-2024) **IAT**	(1)	IAT is mandatory for Withholding Compliance. IAT tools simplify processing by assisting the user with IDRS research and input to IDRS and WHCS. The tools also reduce the chance of errors and improve productivity. When an action must be taken and an IAT tool is available, Campus Compliance employees with access to IAT tools are required to complete the action using the IAT tool. See IRM 5.19.1.2.8, Mandated IAT Tools, for a list of mandated IAT tools.

Reminder: If an IAT tool is not functioning properly or it is determined not to be
appropriate due to a specific situation, the case should be worked using
IDRS. Document the reason for not using the tool on AMS. For more
information on each tool as well as job aid for each tool, see *Integrated
Automation Technologies (IAT)*

5.19.11.3.2.5 (08-15-2023) **DUT**	(1)	The Document Upload Tool (DUT) is an application on IRS.gov where taxpayers can upload documentation they are requested or required to provide; by using a one-time use only Unique Access Code (10-digit alphanumeric code provided by an IRS employee). The DUT provides employees with an option to receive necessary documentation from taxpayers in real time while on the phone. It also provides taxpayers with an alternative to provide necessary documentation securely to the requesting employee. Wherever fax is referenced as an acceptable means of securing documents throughout IRM **5.19.11,** the DUT will also be acceptable, when available.

(2)   If taxpayers have the necessary documents available while on the telephone,
inform them they may submit the documents to you using the DUT by following
the steps below:

- Generate a Unique Access Code
- Provide the taxpayer the Unique Access Code and URL to the DUT
site, **www.irs.gov/sendmyreply**

Note: **ONLY** documents with the following file extensions can be
uploaded; **.pdf**, **.jpg** and **.png**. Multiple files can be uploaded, up to a
maximum size of **15 mb** per file/document.

- Advise the taxpayer they should read and follow the screen prompts
that will be displayed.
- Files may be retrieved as soon as they are uploaded by the taxpayer.
Files received via the DUT will be labeled with the date and time much
like correspondence received via fax.

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5.19.11.3.3
(10-24-2024)
Case Documentation

(1) Complete and accurate case documentation promotes quality and consistency in working WHC cases.

(2) Document each taxpayer contact and/or action taken on the case in AMS history.

(3) AMS history should contain enough information so that any person subsequently reading the history can easily determine what decisions were made, why those decisions were made, what actions were taken, and what further actions are required to resolve the case.

(4) Complete documentation includes, but is not limited to the following:

Documentation
• A listing of verification documents or information requested from the taxpayer and/or employer
• Taxpayer deadlines and follow-up dates
• Telephone numbers provided in taxpayer contact
• Address source, if other than ENMOD
• Letters issued to the taxpayer and/or employer with EIN
• Letters **not** issued to the taxpayer and/or employer with EIN
• TC 971/972 AC 146/148 codes with appropriate disposition codes
• Summary of information supplied by the taxpayer supporting any change in the lock-in rate
• Line by line summary of Form W-4 Worksheet or WHC Withholding Estimator calculations supporting any change in the lock-in rate
• Summary of WHC IAT or WHC Withholding Estimator withholding calculation including withholding rate and any annual reductions to withholding (Step 3) or additional amounts to withhold per pay period (Step 4(c))
• Step 4(a) and (b) amounts provided to employer using the WHC Withholding Estimator tool

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Documentation
The Specific reason for release of a lock-in letter: •   A listing of verification documents or information requested from the taxpayer and/or employer •   Taxpayer deadlines and follow-up dates •   Telephone numbers provided in taxpayer contact •   Address source, if other than ENMOD •   Letters issued to the taxpayer and/or employer with EIN •   Letters **not** issued to the taxpayer and/or employer with EIN •   TC 971/972 AC 146/148 codes with appropriate disposition codes •   Summary of information supplied by the taxpayer supporting any change in the lock-in rate •   Line by line summary of Form W-4 Worksheet or WHC Withholding Estimator calculations supporting any change in the lock-in rate •   Summary of WHC IAT or WHC Withholding Estimator withholding calculation including withholding rate and any annual reductions to withholding (Step 3) or additional amounts to withhold per pay period (Step 4(c)) •   Step 4(a) and (b) amounts provided to employer using the WHC Withholding Estimator tool

Note: For modifications, it is mandatory to use the narrative(s) from the WHC Withholding Estimator's "Modify History for AMS" when documenting the case. If the taxpayer/spouse have more than 4 jobs, the additional wage income will be captured as "Other Earned Income"

(5)   Add or update case information to WHCS as appropriate. See the WHCS User Guide for instructions. Update IDRS and AMS as appropriate.

5.19.11.3.4
(10-11-2016)
CAF/POA Requirements

(1)   Accountants, attorneys, enrolled agents, or other persons acting as representatives through whom a taxpayer requests assistance from the IRS, must have a valid Power of Attorney (POA). For Centralized Authorization File (CAF) purposes, representative must submit a Form 2848, Power of Attorney and Declaration of Representative. Taxpayers may also authorize the release of their tax information to representatives and others through the use of a Form 8821, Tax Information Authorization. We refer to powers of attorney as "POAs" and tax information authorizations as "TIAs".

Reminder: Form 8821, Tax Information Authorization does not authorize discussion of collection issues.

(2)   Any form used in lieu of these two forms should contain the following information:

   a.   Name, and mailing address of the taxpayer,
   b.   Identification number of the taxpayer (e.g., Social Security Number, Individual Taxpayer Identification Number (ITIN), Employer Identification Number),
   c.   Name and mailing address of the representative(s)/appointee(s),

    d.   The type of tax involved, the federal tax form number, the specific year(s)/period(s) involved (in estate matters the decedent's date of death), and specific tax matter or actions to be performed,

    e.   The taxpayer's signature(s),

    f.   In the case of a Form 2848, Power of Attorney and Declaration of Representative a completed Declaration of Representative (Part 2).

Note: Item 2(f) above DOES NOT APPLY TO TIAs.

(3)   The tax year listed on the POA or TIA must match the year in which you are working the withholding issue.

Example: We issued Letters 2800C/2801C on a TY 2014 case in October, 2015. The POA or TIA form should contain the following information: *Form 1040, Income Tax, for Calendar Year 2015.*
In the above example, if the letters were issued in January, 2016 the form should contain the following information: Form 1040, Income Tax, for Calendar Year 2016.

(4)   If the POA or TIA form only includes the current year, you cannot discuss any other years. Ask the taxpayer's representative to submit a new form to cover the years to be discussed. Use general information to explain the Withholding Compliance program.

(5)   If you are speaking to the taxpayer's representative by telephone, follow procedures in IRM 21.1.3.3, Third Party (POA/TIA/F706) Authentication, then research IDRS using CC CFINK to determine if the POA or TIA is already on file. If the POA or TIA is on file, verify that it includes the correct tax period. If it does not include the correct tax period, or there is no record on CC CFINK, advise the taxpayer's representative to submit a new or updated signed form.

(6)   If correspondence is received from a third party and there is no record on CC CFINK, or no Form 2848 or Form 8821 attached, use Letter 0135C to advise the third party that we do not have a POA form on file. Use paragraphs E or F, and H, as part of your response.

(7)   If the Form 2848 is attached to the taxpayer's correspondence, compare the information on the form with the information found on CFINK to verify it is for the same tax period. If there's no information present on CFINK and the form is acceptable, photocopy the form, attach the copy to the correspondence, and then fax the original to the POA functional processing area as specified on Form 2848, instructions for processing.

(8)   If authorization as in (2) above is not attached, before replying to a person other than the taxpayer who states they have a POA or TIA for the taxpayer, research the CAF using CC CFINK. Ensure that we have their POA or TIA on file before sending any information. If there is no POA or TIA, send the information directly to the taxpayer. Notify the taxpayer using Letter 4243-C that a third party inquiry was received from (name), we have no record of a POA or TIA, and without a POA or TIA we are not permitted to furnish information to a third party.

5.19.11.3.5 (05-12-2010) **Invalid Form W-4**	(1)	**DO NOT** initiate a lock-in letter, reconsider or modify any previously issued lock-in letter, or process any referral based on an invalid Form W-4.
	(2)	Any alteration of, or unauthorized addition to a Form W-4 makes it invalid.
	(3)	Invalid W-4 forms can be recognized by

- Deletion of the language of the jurat. For example: crossed out penalty of perjury statement above the signature
- Defacement of the certificate
- Any writing on the Form W-4 other than the entries requested

(4) An employer who receives an invalid Form W-4 from an employee must take the following actions:

    a. Inform the employee that the Form W-4 is invalid
    b. Request another Form W-4 from that employee
    c. Until the employee furnishes a new Form W-4, withhold tax from the employee's wages at withholding (filing) status single, and standard withholding rate with no reductions
    d. If, however, a prior Form W-4 is in effect for the employee, the employer must continue to withhold based on the prior Form W-4

(5) If an invalid Form W-4 is submitted with a referral for assessment of civil penalty, reject the referral. Notify the originator to advise the employer to follow the procedures outlined in (4) above.

(6) If the taxpayer submits an invalid Form W-4 in response to a lock-in letter, or with a request for reconsideration of a previously issued lock-in letter, issue Letter 4243C to advise the taxpayer that the Form W-4 is invalid and ask for a new one. **DO NOT** process any request for reconsideration based on an invalid Form W-4.

| 5.19.11.3.6
(10-24-2024)
Referrals to Taxpayer Advocate Service | (1) | Refer taxpayers to the Taxpayer Advocate Service (TAS) when the contact meets TAS criteria (see IRM 13.1.7.2, Introduction to TAS Case Criteria) and you can't resolve the taxpayer's issue the same day. Refer to IRM 13.1.7.5, Same-Day Resolution by Operations. |

| 5.19.11.3.7
(10-24-2024)
Installment Agreement (IA) or Balance Due Taxpayers | (1) | Check case status on SUMRY. If status is 60, the taxpayer has an approved installment agreement. Work according to general processing procedures unless the taxpayer raises a concern about their ability to meet established IA payments. If status is 26, see IRM 5.19.11.3.8 , Cases Assigned to Collection Field function. |

(2) If the status 60 taxpayer raises this concern and meets streamlined agreement criteria, use the WHC Withholding Estimator Per Pay Period calculator to determine the taxpayer's new estimated withholding take-home pay amount. Subtract the estimated withholding amount from the taxpayers gross pay and advise the taxpayer of the new estimated take home pay. See the Per Pay Period Information tab on the WHC Withholding Estimator. Reinstate or modify the streamlined installment agreement as appropriate.

(3) If after handling any WHC issues, the taxpayer has balance due modules that meet streamlined Installment Agreement criteria as defined in IRM 5.19.1.6.4, Installment Agreement (IA) the Tax Examiner (TE) should request full payment (including full payment up to 180 days per IRM 5.19.1.6.3 , Short Term

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Payment Plan Within 180 Days, of the outstanding balance due. If the taxpayer is unable to full pay (up to 180 days) the TE should review IRM 5.19.1-12 , OPA Referral Criteria, or use IAT Compliance Suite Full Process to determine if they qualify to use Online Payment Agreement (OPA). If the taxpayer appears to qualify for OPA , they should be encouraged to use it to establish their payment arrangement, if possible. If taxpayer qualifies, the TE should advise the taxpayer to visit *Payments / Internal Revenue Service (irs.gov)* to complete an Online Payment Agreement Application. If they do not qualify, the TE should offer to establish, reinstate or modify the streamlined Installment Agreement.

(4) If after handling any WHC issues, the taxpayer has balance due modules that do not meet streamlined criteria and the taxpayer does not have an IA, the Tax Examiner (TE) should request full payment (including full payment up to 180 days per IRM 5.19.1.6.3, Short Term Payment Plan Within 180 Days, of the outstanding balance due. If the taxpayer is unable to full pay (up to 180 days), the TE should offer to transfer according to IRM 5.19.11.3.1(14) , Telephone Contact Procedures.

(5) If after handling any WHC issues, the taxpayer needs to adjust their non-streamlined IA **or** if any of the modules are in ST 22 (Automated Collection System, ACS) or ST 26 (Field), the TE should offer to transfer according to IRM 5.19.11.3.1(14) , Telephone Contact Procedures.

5.19.11.3.8
(10-11-2016)
Cases Assigned to
Collection Field function

(1) When working a WHC case with at least one balance due module in status 26 and/or a Taxpayer Delinquency Investigation (TDI) assigned to Collection Field function (CFf) you must contact the Revenue Officer (RO) assigned the case.

    a.   Research *RO Lookup (irs.gov)* on SERP to identify the assigned RO.

        Exception: There are 2 exceptions where a Status 26 is not assigned to an RO or group. MMIA with an assignment code of "35XX6XXX or ASFR where the last 4 digits of the assignment code is "8000". Do not refer these cases to an RO.

    b.   Before taking any further action on the case, advise the field employee of WHC case actions taken to date. Coordinate any additional WHC case actions with the employee.

(2) If the RO directs you to release the lock-in(s) take the following actions:

    a.   Document the employee's name, employee number, and telephone number in the AMS history along with the actions requested and taken.
    b.   Update WHCS.
    c.   Resolve the case as directed.

(3) If the RO agrees that the lock-in(s) should remain in place and the RO can provide additional information to assist in the resolution of the WHC case, document AMS history with the employee's name and employee number and any additional information provided. Proceed to resolve the WHC case.

(4) If the RO does not respond to your initial contact attempt within one week, make a second call or send email. Each attempted contact must be documented on AMS. AMS will update the status code on IDRS. Use CC ACTON to update the IDRS Control Base and History Information with the appropriate activity.

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- • If you are still unable to reach the RO, leave a message or email requesting a return call within two days.
- • Advise them that you will proceed with general WHC case processing if they do not respond.
- • Document these actions in AMS.

(5)   When working a WHC telephone call where the taxpayer account meets the conditions in (1) above, take the following actions:

   a.   While the taxpayer is on the telephone, secure and document in AMS all necessary information to resolve the WHC case.
   b.   Advise the taxpayer that you will coordinate with the assigned RO to resolve their case and they will be notified by mail of withholding case resolution.
   c.   Follow procedures in (1) through (4) above.

5.19.11.3.9 (03-15-2012) **Lock-In Letters**	(1) Letter 2800C and Letter 2801C, mailed to the employer and the taxpayer, respectively, are commonly known as the "**lock-in letters**". Letter 2800C instructs the employer to disregard Form W-4 submitted by the taxpayer and withhold at the filing status and withholding rate determined by the IRS. Letter 2801-C advises the taxpayer that the employer has been instructed to disregard Form W-4 submitted by the taxpayer and withhold at the withholding status (filing status) and rate specified in Letter 2800C, unless the Form W-4 results in more tax withheld than the lock-in letter.

(2)   Letter 2801C is mailed to the taxpayer's last known address as defined by Treas. Reg. Sec. 301.6212-2. As a general rule, the last known address is the address that appears on the taxpayer's most recently filed tax return or as updated by the National Change of Address (NCOA) database. For further guidance regarding the definition of the last known address see Rev. Proc. 2010-16, 2010-19 IRB.

   a.   If the taxpayer's name and social security number (SSN) do not match, always use the Master File address (including reverse validity) belonging to the case SSN.
   b.   If the last known address cannot be determined (there is no entity on Master File), the IRS may use the address on the most current Form W-2 for mailing the lock-in letter to the taxpayer. If each Form W-2 shows a different address, use the address on the one showing the most wages. **DO NOT** update the taxpayer's address of record on Master File, but add the address information to the AMS history and to WHCS.

(3)   Letter 2800C and Letter 2801C are mailed at the same time.

- • Letter 2801C instructs the taxpayer to respond to us within 30 days if the taxpayer wishes to request a modification.
- • Letter 2800C instructs the employer to lock-in the employee starting with the first pay period ending on or after **60 days** from the date of the letter. This ensures that the taxpayer has ample time to respond to the proposed lock-in.

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5.19.11.4
(05-19-2010)
Outcome 2 Cases

(1) These cases meet lock-in criteria. Cases are systemically loaded into WHCS. They are designated as Outcome 2 on the WHCS Taxpayer Summary screen and WHCCI>1 on ENMOD. The TC 971 AC 146 appears on the tax year that the letter is issued.

(2) Letter 2800C and Letter 2801C are systemically issued.

(3) See IRM 5.19.11.7, Responses and Redeterminations, for guidance in working telephone and/or paper responses to the letters.

5.19.11.5
(07-11-2022)
**Outcome 3 Case
Processing**

(1) Withholding Compliance (WHC) will no longer work Outcome 3 cases after June 2016. For information about Criminal Investigation Cases (CID), Disaster Relief Cases (DIS) or IRS Employees (IRS), see IRM 5.19.11.10, Special Situations.

5.19.11.6
(11-18-2015)
**Referrals and Special
Projects**

(1) Withholding Compliance (WHC) will no longer work referral cases sent after July 11, 2014 except Civil Penalty Cases see IRM 5.19.11.11 Civil penalty Determinations. All cases received after that will be destroyed.

5.19.11.7
(10-24-2024)
**Responses and
Redeterminations**

(1) Responses may result from taxpayers' or employers correspondence, live chatbot, WHC Self Help Portal, or telephone contacts, as a result of the systemic issuance of lock-in letters on Outcome 2 cases, manual issuance of lock-in letters by field employes through ICS, or the manual issuance of spousal lock-in letters. For employer correspondence or telephone contact, see IRM 5.19.11.7.4, Employer Responses.

(2) Taxpayer responses are worked the same way and resolved in one of the following three ways:

- Modify lock-in by changing the withholding (filing) status and/or withholding rate previously specified

  Note: In some instances taxpayers may call in repeatedly. AMS documentation must be accurate and complete so the next assistor answering the call can understand the decisions made and the information previously shared with the taxpayer. **Do not** consider a modification unless there is **new** information supporting a change. Make sure all information is documented according to IRM 5.19.11.3.3, Case Documentation. Once spousal consent is initially obtained, there is no need to request additional spousal consent before changing the withholding arrangement if the taxpayer is married.

- No change
- Release of lock-in (Release the lock-in for both the taxpayer and the taxpayer's spouse if the spouse was added to the program as a result of a modification to the taxpayer's lock-in letter.)

(3) In some instances a Taxpayer or Employer will call and ask us to fax the letter immediately, inform them that the letter has no signature but can be faxed. Tell them we will fax the letter and also send the IDRS letter by mail with the correct signature.

(4) **Do not** use a Quick Note if there is an appropriate C letter available.

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(5)   A taxpayer may request a copy of a 28XX letter because they never received the original. Explain that we can't send the original letter and we will issue a new letter but the dates will be different. Document AMS that a new letter was sent because they did not receive the original.

Note: If the employer requests a copy of the 28XX letter, IRM 5.19.11.7.4, Employer Responses.

(6)   When the taxpayer responds that they no longer work for all of the employers listed who were issued lock-in letters, refer to IRM 5.19.11.7.1.4 (4) to send letters to their new employer(s) Document AMS that taxpayer stated they no longer works for specific company name and EIN.

(7)   Work responses promptly since the employer has been instructed to adjust the taxpayer's withholding starting with the first pay period ending on or after 60 days from the date of the lock-in letter.

(8)   When correspondence is received and contact cannot be made within 30 days from the earliest IRS received date, initiate an interim response using Correspondex Letter 2645C in accordance with Policy Statement P-21-3. For more information see IRM 21.3.3.4.2, Policy Statement P-21-3 (formerly P-6-12) Procedures.

(9)   An interim response must

- Be initiated within 30 days of the earliest IRS received date
- Specify the date when the final determination will be mailed
- Provide the taxpayer with WHC contact information

Note: AMS will not be issuing interim letters on WHC cases.

(10) Look for indicators of fraud and/or frivolous arguments. See IRM 25.1.2.2, Fraud Development Procedures and IRM 5.19.11.10.5, Frivolous Communications, for further information.

Note: If a potential fraud referral exists, **DO NOT** solicit the return. **DO NOT** modify or release the Withholding Compliance lock-in on the account. Complete a fraud indicator check sheet. Forward the check sheet to the Collection Function Fraud Coordinator (CFFC).

(11) If the taxpayer questions the legal authority supporting the Withholding Compliance program, send Letter 3042C. See IRM 5.19.11.10.5, Frivolous Correspondence for more information.

(12) When working requests for modification from a taxpayer who filed jointly on the most recently due return and both the taxpayer and the taxpayer's spouse work, you must get consent from the taxpayer's spouse (x-ref spouse) before you lock-in the x-ref spouse.

a.   If you are unable to acquire verbal consent send Letter 2805C to the spouse for written consent and modify the TP to Married withholding status, standard withholding rate and the annual reduction amount from the WHC Withholding Estimator Tool (Form W-4, Step 3) or the additional amount to withhold per pay period from the WHC Withholding Estimator Tool (Form W-4, Step 4C).

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Note: If the taxpayer's spouse does not agree to be enrolled in the WHC program, the modification will apply 100 percent of the additional withholding to the taxpayer's wages. This would be true even if the non-consenting spouse has withholding from their wages and could result in over-withholding.

b. If the x-ref spouse provides verbal or written consent, add the spouse to WHCS as a separate case and follow the instructions under IRM 5.19.11.7.1.1, Information Required to Modify Lock-In. Include cross-reference SSN on both records.

c. Document AMS history with a cross-reference to the other spouse's account.

d. If you determine that Letter 2800C was issued using an incorrect name, add the taxpayer to WHCS. Add the new case using the correct name by using Source Code **MM**. .

If ...	Then ...
If the taxpayer meets minimum wage require-ments	• Reissue the lock-in letter using the name provided by the employer or the name from the Form W-2. • Update the new record on WHCS with the letter information. • Update AMS. • Input TC 972 AC 146 with Disposition Code "SSN" to the existing WHCS employer record. • Do not update IDRS.
If the taxpayer does not meet minimum wage re-quirements for lock-in letter issuance	• Input TC 972 AC 146 with Disposition Code "SSN" to the existing WHCS employer record and IDRS. • Input TC 972 AC 146 with Disposition Code "LEM" to WHCS on the new case.

(13) In some instances you may need additional information from the taxpayer to make a case determination. Make at least one attempt to contact the taxpayer by telephone at different times of the day/evening before writing to the taxpayer. Each attempt to contact must be documented on AMS.

(14) If you are unable to contact the taxpayer by telephone, send Letter 4243C listing the information required to resolve the case. Document AMS with requested information.

Reminder: Issue an interim response for written responses from the taxpayer on or about the 23rd day if you can't resolve the case within 30 days.

(15) Non-Owner of the SSN communicates with the IRS and claims the lock-In-letter is incorrect.

a. If the individual calling is "inappropriately" using another taxpayer's social security number for purposes of employment and a Lock-In letter was issued on the "borrowed" social security number, do not disclose any of the SSN owners information.

b. The non-owner of the SSN **will not** be released or modified.

    c.   Refer them to the SSA for help in getting an SSN. Any employee who is legally eligible to work in the US and does not have a SSN can get one by completing Form SS-5, Application for a Social Security Card, and submit the necessary documentation. The taxpayer can get this form at SSA office, from the *The United States Social Security Administration | SSA* website, or by calling 800-772-1213.

> ***Note:*** For further guidance on ID Theft information refer to IRM 25.23, Identity Protection and Victim Assistance.

(16)   If the taxpayer has a valid SSN but filed under a different TIN (such as an ITIN, Temporary TIN, other SSN) verify that the wages shown on the W-2 form(s) were reported. If the wages were reported, follow procedures in the table below:

> ***Note:*** If the taxpayer has obtained both a valid SSN and an ITIN, encourage the taxpayer to contact the ITIN Unit to have their valid SSN credited for returns filed under the ITIN. Explain and encourage the taxpayer to report all wages and file all future returns using their valid SSN.

If	Then
The taxpayer has a valid SSN to work and has filed and paid the most current return due under a valid ITIN	Release the lock-in • Issue Letter 2809C and Letter 2813C • Input TC 972 AC 146 with TC 972 Disposition Code "CPL" • Update the WHCS Taxpayer Detail screen with the TIN the taxpayer files under • Update AMS on both TIN's that the taxpayer files under and the actions taken ***Note:*** Advise the taxpayer that if future W-2 forms and TIN's do not match, they may be locked in again.
If the taxpayer has a valid SSN and filed the most current return due but has a balance due under a valid ITIN	• Follow general procedures • Determine withholding status (S, M, HOH) • Compute withholding rate • Issue modification letters as appropriate ***Note:*** Advise the taxpayer that if future Forms W-2 and TINS do not match, they may be locked in again.

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If	Then
The non-owner of the SSN filed a return under ITIN	• The individual calling is inappropriately using another taxpayer's SSN for purposes of employment and a Lock-In letter was issued on the borrowed SSN, do not disclose any of the SSN owner information. • The non owner of the SSN **will not** be released or modified. *Note:* Refer them to the SSA for help in getting an SSN. Any employee who is legally eligible to work in the US and does not have a SSN can get one by completing Form SS-5, Application for a Social Security Card, and submit the necessary documentation. The taxpayer can get this form at SSA office, from the *The United States Social Security Administration / SSA* website, or by calling 800-772-1213 • For further guidance on ID Theft information refer to IRM 25.23, Identity Protection and Victim Assistance.

(17)   If the taxpayer has not filed

    a.   Advise the taxpayer that all income must be reported on a tax return.

    b.   Refer them to the Social Security Administration (SSA) for help in getting an SSN.

       Note: Any employee who is legally eligible to work in the United States and does not have a social security number can get one by completing Form SS-5, Application for a Social Security Card, and submitting the necessary documentation. The taxpayer can get this form at SSA offices, by calling 1-800-772-1213, or from the *The United States Social Security Administration / SSA* website. If the taxpayer is not eligible to obtain an SSN, refer the taxpayer to the IRS toll-free number or *Application for IRS Individual Taxpayer Identification Number / Internal Revenue Service* website for information about getting an ITIN. See Pub 1915 , Understanding Your IRS Individual Taxpayer Identification Number (ITIN) for additional information.

    c.   Set 30 day deadline for filing.

    d.   Follow general procedures to compute withholding rate and issue modification letters as appropriate.

(18)   When speaking to the taxpayer, use SUMRY and IMFOLI to determine if there are delinquent returns and/or balances due.

    a.   For delinquent returns, instruct the taxpayer to file and set a deadline of 30 days.

      b.   Advise the taxpayer that failure to file by the deadline could result in substitute for return processing, referral to Examination, or summons. Enter deadline date in AMS history.

      c.   See IRM 5.19.11.3.7., Installment Agreement (IA) or Balance Due Taxpayers for installment agreement requests and revisions procedures.

(19)   "-S" freeze is a disaster Indicator for taxpayers in a minor disaster area. This freeze does not stop WHC processing. If the taxpayer self-identifies and qualifies for the "-S" freeze, verify that the taxpayer's zip code is among those of the affected areas during the disaster period. See *IRS Disaster Assistance Program* for affected zip codes. See IRM 25.16.1.7.1, -S Freeze for instructions on manually setting the "-S" freeze.

(20)   If the taxpayer calls after modification has been processed and says that the employer will not honor the Form W-4 submitted by the taxpayer that results in MORE income tax withholding than was specified in the modification letter, send Letter 4074C to the employer.

(21)   Correspondence, live chatbot, or telephone calls received from IRS employees can be worked by any WHC employee if they don't know the IRS employee. See IRM 5.19.11.10.18., IRS Employees (IRS)

5.19.11.7.1
(08-15-2023)
Modify Lock-in

(1)   Taxpayers may call in or send the IRS additional information and request that we reconsider our proposed or previous lock-in determination.

Note: Documentation received via Fax or DUT is acceptable to process additional information requested. If the taxpayer faxes, or sends by DUT, an unfiled return send for processing.

(2)   Look for special situations. Research IDRS for freeze codes associated with Criminal Investigation or Disaster Relief cases. See IRM 5.19.11.10, Special Situations and follow instructions contained therein.

(3)   In many instances the taxpayer's correspondence will contain a new Form W-4 and completed worksheet.

      a.   Review the Form W-4 and worksheet for accuracy. **DO NOT** take any action based on an invalid Form W-4. See IRM 5.19.11.3.5, Invalid Form W-4 for more information.

      b.   If the taxpayer did not submit a Form W-4 worksheet, prepare one based on current taxpayer information confirmed by taxpayer communication and/or your research. Use judgement in determining credibility and the need for verification. Follow guidelines in See IRM 5.19.11.7.1.2., Calculating Withholding Rate, for calculating withholding.

Reminder: Base the withholding calculation on the taxpayer's **current** situation.

Example: If the taxpayer's most recently filed return showed they itemized deductions in lieu of using the standard deduction, confirm with the taxpayer that they project the same amount for the current year before using this amount for the withholding calculation.

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(4) If the taxpayer calls, complete the WHC Withholding Estimator while the taxpayer is on the telephone. Try to resolve the entire case by phone. Oral testimony is acceptable. Use judgement in determining credibility and the need for verification.

(5) If the taxpayer response states that they furnished a new Form W-4 to their employer, work the response as a modification.

(6) When verification is required for dependent information, attempt to validate the information from internal sources before contacting the taxpayer.

(7) When verification is required on the Deductions tab of the WHC Withholding Estimator, allow only those amounts that can verified on the most recent return due, including RTVUE/TRDBV for returns in processing; **or** the immediate prior year return when the most recent return due is not available.

Reminder: An Automated Substitute for Return (ASFR) return is not considered to be a return for verification purposes.

(8) When working correspondence, check the most recent IRPTR and WHCS to identify all current employers. When talking to the taxpayer on the telephone ask them for the names and addresses of all current employers.

    a. If not already listed, add these employers to WHCS and document the AMS history.
    b. If the taxpayer indicate they no longer work for an employer listed on the most current IRPTR, document AMS history.

(9) See IRM 5.19.11.7, Responses and Redeterminations, for procedures regarding modifying the lock-in if the taxpayer is married and wants to change the withholding rate.

5.19.11.7.1.1
(09-08-2014)
Information Required to Modify Lock-in

(1) If the taxpayer has not filed the most recent return due or the information they provide does not match return or internal source information, the taxpayer must provide documentation, as applicable, to support the request for modification. See the table below for required documentation:

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If the taxpayer	and	then request
Is married and previously filed "Single" status	Intentionally left blank	X-ref spouse's SSN and current year filing status. You will need spousal consent to add the x-ref spouse in order to modify the withholding rate proportionately. If unable to get verbal consent on the phone send Letter 2805C for written consent and modify TP to the Married standard rate, and include any withholding adjustments. **Note:** If the taxpayer's spouse does not agree to be enrolled in the Withholding Compliance Program, the modification will apply 100% of the additional withholding to the taxpayer's wages. However, dependents will be taken into consideration. This would be true even if the non-consenting spouse has withholding from their wages and could result in over-withholding.
Can supply SSN(s) of all dependent(s) he or she wants us to consider when computing his or her withholding rate	The SSN(s) can be verified through internal sources	No further action is necessary
Has not supplied the SSN(s) of any dependent(s) he or she wants us to consider when computing his or her withholding rate	We are unable to verify SSN(s) and dependent status through internal sources	Copies of birth certificate(s) and social security card(s)

(2)   The following deductions and adjustments must be verified by the most recent return due, including RTVUE/TRDBV for returns in processing; **or** the immediate prior year return when the most recent return due **is not** available:

- Child or dependent care expenses, from Form 2441
- Schedule A deductions (including home mortgage interest, charitable contributions, real estate, state and local taxes, medical and miscellaneous expenses)
- Adjustments which decrease adjusted gross income such as alimony payments, student loan interest and Individual Retirement Account (IRA) contributions

(3)   If the correspondence is insufficient to complete the WHC Withholding Estimator, contact the taxpayer by telephone to secure the missing information.

(4)   If you are unable to talk to the taxpayer and resolve the issue, send Letter 4243C requesting the required information.

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Reminder: Give the taxpayer a two week deadline to respond.

(5)   Document AMS with the deadline set and specific information requested to complete the modification. When the taxpayer responds, any tax examiner can then complete the case.

5.19.11.7.1.2 **(08-15-2023)** **Calculating Withholding** **Rate**	(1) The WHC Withholding Estimator and, if required, the worksheets and tables in Publication 15-T, Federal Income Tax Withholding Methods, will be used to figure the correct withholding status and withholding rate for the taxpayer.

(2)   Secure the information necessary to complete the calculations from the taxpayer or their authorized representative.

If ...	Then ...
Working correspondence and the information submitted by the taxpayer is insufficient to figure the correct with-holding rate	• Contact the taxpayer or their autho-rized representative by telephone to obtain the additional information. • Make at least one attempt to reach the taxpayer by telephone before initiating correspondence.
You are speaking to the taxpayer	• Complete the calculation at that time. • It is not necessary for the taxpayer to submit the form in writing.
The taxpayer is current in filing	• Compare the taxpayer's information regarding filing status, dependents, income, deductions and credits to the last return filed. • Research using CC RTVUE and CC IRPTR. • Discuss and resolve any significant discrepancies with the taxpayer. • Document the explanation in the history.
The taxpayer is a nonfiler	Explain to them that submission of the tax return will provide sufficient verification. *Note:* Ask the taxpayer to file the original return(s) according to the instruc-tions on the Form 1040, **U.S. Individual Income Tax Return** or any notices they have received and fax, send by Document Upload Tool (DUT), or mail the Withholding Compliance Unit a copy.

(3)   When appropriate, written verification should be requested . Examples are listed below but are not all inclusive.

    a.   Current income has decreased more than 20% from the preceding year.

Example: According to IRPTR, the taxpayer had wages of $75,000 last year. The taxpayer tells you his wages have decreased to $55,000. Request a recent pay stub from the taxpayer to verify. Destroy the documents once the information is added to AMS. Per IRM 1.4.6 management has responsibility for proper records management.

b. Schedule A expenses have increased more than 20% from the preceding year.

Example: The taxpayer tells you that his mortgage interest expense is currently $18,000 per year. According to IRPTR, the taxpayer paid $10,000 in the preceding year. Request verification (e.g. A current copy of their bill showing interest and multiply by 12) of the mortgage interest amount. Destroy the documents once the information is added to AMS. Per IRM 1.4.6 management has responsibility for proper records management.

c. Changes in filing status and/or number of dependents.

Example: The taxpayer currently claims a different filing status and/or number of dependents from the preceding year. Verify the filing status of secondary spouse, if applicable. Ask the taxpayer for the SSN's and birth dates of dependents.

Reminder: Child tax credits can only be claimed for dependents under age 17.

(4) APO/FPO addresses **may** indicate that the taxpayer is either in the military or works for the federal government. If the taxpayer is in the military or works for the federal government, they do not qualify for the foreign earned income or foreign housing exclusion (reported on Form 2555, Foreign Earned Income). If the taxpayer has an APO/FPO address, you must determine if they are in the military or working for the federal government through research or contact.

a. If you determine that the taxpayer is **not** in the military or working for the federal government, the Form 2555 can be used for calculating the withholding rate.

b. If you determine that the taxpayer **is** in the military or working for the federal government, Form 2555 should not be considered in calculating the withholding rate.

Note: For joint filers, one spouse may qualify while the other does not. The qualifying spouse may complete a separate Form 2555. Disregard any erroneously filed Forms 2555 attached to the return when calculating the withholding rate.

Example: Taxpayer A has an APO address. Research and contact confirms his employer is neither military nor federal government. Taxpayer filed Form 2555 which can be used to calculate appropriate withholding rate based on current situation.

(5) After calculating the correct withholding rate, inform the taxpayer that we will send their employer(s) a letter revising the withholding status (filing status) and withholding rate previously specified in Letter 2800C.

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(6) If the taxpayer requests MORE withholding, advise the taxpayer to submit Form W-4 claiming the additional amount to be withheld per pay period (line 4c) to his employer.

    a.   Advise the taxpayer that our letters instruct the employer to honor the Form W-4, if the withholding status (filing status), withholding rate, and any additional amount claimed on the employee's current Form W-4 or a new Form W-4 will result in MORE income tax withheld than at the withholding status and withholding rate specified in the letter.

    b.   Offer to send the employer Letter 4074C.

5.19.11.7.1.2.1
(07-11-2022)
Calculating Withholding Rate for Married Taxpayers or Taxpayers with More Than One Job

(1) You **must** use the WHC Withholding Estimator to determine the correct withholding rate. If there are more than four jobs, see the "Multiple Jobs" tabs in the WHC Withholding Estimator.

Caution: If the taxpayer states they used the Tax Withholding Estimator on IRS.GOV, advise them that it calculates withholding to "catch up" the taxpayer's withholding, depending on time of year of input and previous withholding up to that point.

(2) Modifications must always occur so the taxpayer can be changed from the higher checkbox withholding to the more accurate standard rate (with adjustments). All jobs must be modified from the Step 2 checkbox withholding (higher withholding rate) to the standard withholding rate **unless** taxpayer is presenting a frivolous tax argument, IRM 5.19.11.10.5, Frivolous Communications.

(3) For jobs where the WHC Withholding Estimator shows zero (0) annual withholding, a modification must be done in the event the wages of the taxpayer increase, the standard withholding rate will increase proportionately.

(4) Verbal or written consent (Letter 2805C) is necessary to lock-in the taxpayer's spouse (x-ref spouse).

(5) Either the taxpayer or spouse may provide the information necessary to calculate the withholding arrangement once the x-ref spouse has given consent. Under IRC 6103(h)(4) you may make disclosures regarding withholding rate of a spouse to the other spouse.

(6) The Letter 2805C instructs the taxpayer to provide what percentage of withholding arrangement they want applied to each spouse. The withholding arrangement can be 100% of the withholding adjustment applied to either spouse or 50/50 percentage split, proportionate to wages, between the taxpayer and their spouse.

(7) If consent is given by the x-ref spouse, the WHC Withholding Estimator will calculate the withholding for all jobs and provide the annual credit or additional withholding per pay period for each job proportionate to wages. When there is a significant difference in wages, the WHC Withholding Estimator will apply all of the withholding adjustments to the highest paying job, to provide a more accurate withholding arrangement. However, the taxpayers may elect to split the withholding adjustment 50/50, proportionate to wages or have 100% applied to one spouse or the other. Withholding usually will be most accurate when all of the additional amount to be withheld is applied to the Form W-4 for the highest paying job.

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(8) If no verbal or written consent is received from the x-ref spouse, advise the taxpayer that until the x-ref spouse provides the required consent, the taxpayer's lock-in will be modified to Married-Standard Rate with all withholding adjustments applied to their wage income.

Note: In this scenario, if the non-consenting spouse has proper withholding, they will be over-withheld on a joint return.

(9) Advise the taxpayers that they may elect to have additional withholding by completing a new Form W-4, Employee's Withholding Certificate, and give it to their employer. If the taxpayer states their employer will not honor the additional amount claimed, offer to send the employer the Letter 4074C.

(10) After calculating the correct withholding arrangement, inform the taxpayer that we will send their employer(s) a letter revising the filing status and withholding rate previously specified in Letter 2800C.

  a. Issue Letter 2808C to the employer(s) and Letter 2812C to the taxpayer.
  b. Input TC 971 AC 148 with the modified lock-in arrangement and cross-reference the employer EIN.
  c. Notate your actions on AMS and update WHCS.

(11) Send Letter 2801C to the x-ref spouse and Letter 2800C to the x-ref spouse's employer(s) to lock-in their withholding as previously determined. Input TC 971 AC 146 with the lock-in rate and cross-reference the employer EIN. Notate your actions on AMS and update WHCS.

Note: Regulations provide that the earliest the lock-in letter may be effective is 45 calendar days after the date of the letter. Letter 2800C requires that the employer(s) wait 60 days before adjusting the employee's withholding to the filing status and withholding rate specified in Letter 2800C.

(12) AMS documentation should include the basis for the WHC Withholding Estimator calculation, the specific information and/or all documentation requested from the taxpayer.

5.19.11.7.1.2.2
(10-24-2024)
Common Law Marriage

(1) The taxpayer may claim that they are common law married. In order to have a valid common law marriage, the taxpayer and common law spouse must

  • Live together for a significant period of time
  • Hold themselves out as a married couple
  • Intend to be married

(2) Not all states permit and/or recognize common law marriage. In order to be common law married, the taxpayers must live in a state where common law marriage is recognized or in the state where the common law marriage began. See IRM 4.19.14.6.4(2), EITC - Filing Status for a list of states where common law marriage is recognized.

(3) If the taxpayer meets all three conditions in (1) above **and** lives in a state that recognizes common law marriage, ask the taxpayer to provide at least two of the following types of documentation to substantiate a claim of common law marriage. Advise the taxpayer that the documents they provide to substantiate their claim of common law marriage will be destroyed after use.

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- Deeds showing title to property held jointly by both parties to the common law marriage
- Bank statements and voided checks showing joint ownership of the accounts
- Insurance policies naming the other party as beneficiary
- Birth certificates naming the taxpayer and the common law spouse as parents of their children
- Employment records listing the common law spouse as an immediate family member
- School records listing the names of both common law spouses as parents
- Joint credit card accounts
- Loan documents, mortgages, and promissory notes evidencing joint financial obligations
- Mail addressed to the taxpayer and common law spouse.
- Any documents showing that one spouse has assumed the surname of the other spouse

(4) Destroy the documents once the information is added to AMS. Per IRM 1.4.6 management has responsibility for proper records management.

Note: Verbal or written consent (Letter 2805C) is necessary to lock-in the taxpayer's spouse (x-ref spouse/common law x-ref spouse).

(5) If the taxpayer meets the above criteria, treat the taxpayer as married when calculating withholding status (filing status) and withholding rate. See IRM 5.19.11.7.1.2.1., Calculating Withholding Rate for Married Taxpayers or Taxpayers with More Than One Job for married taxpayer procedures.

(6) If the taxpayer does not meet the above criteria, treat them as single or head of household, if applicable, when calculating their withholding status (filing status and withholding rate.

5.19.11.7.1.3
(02-09-2011)
Procedures for QW-4
Program Cases

(1) When contacted by the taxpayer add the case to WHCS.

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(3) Cases where lock-in letters were issued by the QW-4 program will not have a TC 971 AC 146/147 transaction on Master File. You must input a TC 971 AC 146 to IDRS, using the current date on the current year, **before** inputting a modification or release transaction. It is not necessary to input the TC 971 AC 146 to WHCS, only the subsequent TC 97X AC 14X.

(4) When modifying a QW-4 lock-in, input TC 971 AC 148 with posting delay (1) on the current year to WHCS and IDRS.

(5) Update AMS history.

5.19.11.7.1.4
(10-11-2016)
Processing the Lock-in
Modification

(1) All jobs must be modified from the Step 2 checkbox withholding (higher withholding) to the standard withholding rate **UNLESS** the taxpayer is presenting a frivolous tax argument. See IRM 5.19.11.10.5, Frivolous Communications.

(2) Use the WHC Withholding Estimator to compute the amount of annual credit or additional tax that will be withheld per pay period from the taxpayer's wages.

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(3)   When processing a modification to the lock-in rate, inform both the taxpayer and employer. Send Letter 2808C to all employers considered in the Modification and send Letter 2812C to the taxpayer.

(4)   **Caution** If the taxpayer has more than one employer, verify the amount shown as an annual credit or additional tax is correct for each employer based on the WHC Withholding Estimator results for each.

Note: If the additional information does not justify changing our previous modification determination, notify only the taxpayer using Letter 2810C. Input TC 971 AC 148 to IDRS with the unmodified lock-in rate. Cross-reference the employer's EIN. Update WHCS. IRM 5.19.11.7.2, No Change.

(5)   Input TC 971 AC 148 with the modified lock-in rate to IDRS and include the dollar amount of annual credit or additional withholding in the remarks, update WHCS. Cross-reference the employer's EIN. If the taxpayer has more than one employer, input TC 971 AC 148 with the modified lock-in rate and cross-reference the EIN, for each employer sent a letter.

(6)   Ensure that all employers are considered when processing the taxpayer's request. Issue letters as shown in the table below:

If	Then
Employer **has** received Letter 2800C previously	1. Send Letter 2808C to the employer. 2. Send the taxpayer Letter 2812C using paragraph "C" for multiple employers, if needed. 3. Input TC 971 AC 148 with employer's EIN and modified lock-in rate to IDRS. 4. Document the AMS history with the facts and data used to calculate the modified withholding rate. 5. Update WHCS.
Employer has **not** received Letter 2800C previously or received 2800C and responded NLW more than 12 months ago.	1. Send Letter 2800C to employer with the modified lock-in rate. 2. Send the taxpayer Letter 2812C instead of Letter 2801C using paragraph "C" for multiple employers. 3. Conduct research necessary to complete the letters. 4. Input TC 971 AC 146 with employer's EIN and modified lock-in rate to IDRS on the current year. 5. Document the AMS history with names and EIN's of the additional employers and with the facts and data used to calculate the modified withholding rate. 6. Add new employer(s) to WHCS and update letters and transaction codes.

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(7)   If the taxpayer informs you that they have returned to work for an employer who received Letter 2800C and that employer had previously responded that the taxpayer "no longer works" within 12 months of the modification request, take the following actions:

1.   Send Letter 2808C to employer with the modified lock-in rate.
2.   Send the taxpayer Letter 2812C using paragraph "C" for multiple employers.
3.   Research WHCS for the original Letter 2800C transaction date. If there is a TC 972 AC 146 on the account for the employer, Input TC 971 AC 146 using the original Letter 2800C transaction date, EIN and lock-in rate to IDRS.
4.   Input TC 971 AC 148, posting delay (1) with employer's EIN, current date and modified lock-in rate to IDRS.
5.   Document the AMS history with names and EIN's of all current employers and with the facts and data used to calculate the modified withholding rate.
6.   Update WHCS with the 2808C letter, transaction code, current transaction date and modification rate.

> *Note:* Regulations require that the employer furnish an employee that is not performing services for the employer as of the date of the notice with the "Employee's Copy" of the lock in letter if the employer reasonably expects the employee to resume the performance of services for the employer within 12 months of the date of the notice (Lock-in letter).

5.19.11.7.2
(12-04-2009)
No Change

(1)   If you determine that the taxpayer's information does not support a change to the withholding status (filing status) and/or withholding rate:

a.   Mail Letter 2810C to the taxpayer.
b.   Input TC 971 AC 148 to IDRS with the unchanged lock-in rate.
c.   Document the AMS history with the reasons the request for change was denied and update WHCS.

(2)   All jobs must be modified from Step 2 checkbox withholding (higher withholding) to the standard withholding rate **UNLESS** the taxpayer is presenting a frivolous argument, see IRM 5.19.11.10.5, Frivolous Communications.

5.19.11.7.3
(10-11-2016)
Release of Lock-in

(1)   Release the lock-in in the following situations:

If	Then	
Taxpayer meets compli- or IRM 5.19.11.7.3.2, Release of Lock-in After Period of Continued Compliance	a. Input TC 972 AC 146 and enter Disposition Code "CPL " b. Cross-reference the employer's EIN c. Issue Letter 2809C to employer and Letter 2813C to taxpayer d. Document the AMS history with the reason for the release(s) and close the case on the WHCS	# # # #

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If	Then
Taxpayer was erroneously locked in	a. Input TC 972 AC 146 and enter Disposition Code "ERR" b. Cross-reference the employer's EIN c. Issue Letter 2809C to employer and Letter 2813C to taxpayer d. Document the AMS history with the reason for the release(s) and close the case on the WHCS
Insolvency Unit has instructed you to release the lock-in	a. Input TC 972 AC 146 and enter Disposition Code "BNK" b. Cross-reference the employer's EIN c. Issue Letter 2809C to employer and Letter 2813C to taxpayer d. Document the AMS history with the reason for the release(s) and close the case on the WHCS
Taxpayer filed bankruptcy, other than Chapter 7, between the date that the Outcome 2 case was selected for the program and the date that the lock-in letter was issued. See IRM 5.19.11.10.2., Bankruptcy	a. Input TC 972 AC 146 and enter Disposition Code "BNK" b. Cross-reference the employer's EIN c. Issue Letter 2809C to employer and Letter 2813C to taxpayer d. Document the AMS history with the reason for the release(s) and close the case on the WHCS
Taxpayer has a pending or approved Offer in Compromise (OIC) and OIC Unit has instructed you to release the lock-in. See IRM 5.19.11.10.9., Offer in Compromise (OIC) Taxpayers	a. Input TC 972 AC 146 and enter Disposition Code "OIC" b. Cross-reference the employer's EIN c. Issue Letter 2809C to employer and Letter 2813C to taxpayer d. Document the AMS history with the reason for the release(s) and close the case on the WHCS
Taxpayer is **not** subject to withholding	a. Input TC 972 AC 146 and enter Disposition Code "NSW" b. Cross-reference the employer's EIN c. Issue Letter 2809C to employer and Letter 2813C to taxpayer d. Document the AMS history with the reason for the release(s) and close the case on the WHCS

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If	Then
Taxpayer is in Combat Zone with active freeze code. See IRM 5.19.11.10.3., Combat Zone	a. Input TC 972 AC 146 and enter Disposition Code "COM " b. Cross-reference the employer's EIN c. Issue Letter 2809C to employer and Letter 2813C to taxpayer d. Document the AMS history with the reason for the release(s) and close the case on the WHCS

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5.19.11.7.3.1

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5.19.11.7.3.2
(10-11-2016)
Release of Lock-in After Period of Continued Compliance

(1) When contacted by the taxpayer, offer release of lock-in to those taxpayers who are tax compliant with all filing and payment requirements for the three tax years ending with the most recent return due. For withholding compliance purposes, a tax compliant taxpayer is defined as one who has filed all required returns and full paid all tax (i.e., Form 1040 liability), penalties, and interest on time.

Note: If the taxpayer declines release, follow general case processing procedures to modify.

- Determination of the "most recent return due" is illustrated by the following example: Between January 2, 2016 and April 15, 2016, TY 2014 is the most recent return due unless TY 2015 has been filed by the taxpayer. In that case, TY 2015 becomes the most recent return due. After April 15, 2016 , if the taxpayer filed an extension for TY 2015,

the most recent return due is still TY 2014 until the extension expires. If no extension was filed, TY 2015 is the most recent return due.

- "On time" is defined as all tax, penalties and interest paid by the due date of the return. If the taxpayer filed an extension, all tax, penalties and interest must be paid by the regular due date of the return. A late filed refund return will be considered as filed "on time" because the taxpayer is credited with his withholding on the due date of the return. A late filed return that was full paid after the due date or extended due date does not meet the "on time" definition. Additional assessments and/or adjustments to the return which were full paid will be considered as paid on time.

(2)   For taxpayers meeting the conditions in (1) above, follow procedures in the table below:

Note: Case records for lock-in letters issued after September 30, 2005 can be found in WHCS. If the taxpayer was locked in before October 1, 2005, the lock-in letter was issued by the defunct Fresno QW-4 program.

If	And	Then
Taxpayer requests release	Lock in record is on WHCS	• Release lock-in; see IRM 5.19.11.7.3(1), Release of Lock-in • Document AMS; • Update WHCS and IDRS
Taxpayer requests release	Lock in record is not on WHCS	• Add case to WHCS using source code "FR" • Release lock-in; see IRM 5.19.11.7.3(1),Release of Lock-in • Document AMS; • Update WHCS and IDRS

(3)   The following examples illustrate when the lock-in should be released.

Example: Taxpayer "A" requests a release of lock-in on 5/15/16. They were locked in on 6/15/12 and did not file an extension for TY 2015. The most recent return due is TY 2015. Research shows they filed and full paid his 2013, 2014 and 2015 returns on time. **Release the lock-in**.

Example: Taxpayer "B" requests a release of lock-in on 5/15/16. They were locked in on 6/15/12 and filed an extension for TY 2015. The most recent return due is TY 2014. Research shows that they filed and full paid their 2013 and 2014 returns on time, but there is a balance due on 2012. **Do not release the lock-in. Modify, if appropriate.**

Example: Taxpayer "B" calls back on 11/15/16. The most recent return due is now TY 2015 and research shows that they filed a refund return for TY 2015. Tax years 2013, 2014 and 2015 were filed and full paid on time. **Release the lock-in**.

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Example: Taxpayer "C" requests a release of lock-in on 3/15/16. They were locked in on 2/16/2012 and filed a refund return for TY 2015 on 2/15/16. The most recent return due is TY 2015. Although they were under-withheld in TY 2013, they filed and full paid (tax and penalties) their TY 2013 return on 4/15/2014. They filed a refund return for TY 2014 late and meet the three-year compliance rule. **Release the lock-in**.

Example: Taxpayer "D" requests a release of lock-in on 7/15/16. They were locked in on 2/16/2012 and did not file a return or extension for TY 2015 return. The most recent return due is TY 2015. They filed refund returns for TY 201 3 and TY 2014 and tells you that TY 2015 will be a refund return when they file. They do not meet the three-year compliance rule because TY 2015 is unfiled. **Do not release the lock-in. Modify if appropriate**.

Example: Taxpayer "D" calls back on 9/1/16. Research shows that they filed a refund return for TY 2015 on 8/1/16. He now meets the three-year compliance rule. **Release the lock-in**.

Example: Taxpayer "E" has their TY 2013 balance due and TY 2014 balance due satisfied by TY 2015 refund. They have not met the three year rule for filing and payment compliance, since TY 2015 has been their only compliant return. **Do not release the lock-in. Modify if appropriate**

5.19.11.7.4
(07-11-2022)
Employer Responses

(1) When contact is made by an employer on the telephone, do **not** authenticate taxpayer information. Ask the caller for the name and Social Security Number (SSN) of the taxpayer to which the call relates, then document the taxpayer case as appropriate.

(2) If the employer calls for verification of a modification, provide the employer with the modified withholding status/rate and the amount of any annual reductions to withholding (Step 3, Form W-4) or additional amount to withhold per pay period (Step 4(c), Form W-4), **only**. Do **NOT** discuss Form W-4 calculations or case selection criteria.

(3) If the employer calls with a "general" question regarding WHC or the lock-in letter, document AMS under the EIN.

(4) If the employer is calling for a copy of the Letter 2800C, Lock-in Letter, determine if the lock-in has occurred and/or if they just lost the original and need a copy for their records. If they have not received the original and they are inquiring because the employee notified them, send a new lock-in letter and ensure appropriate timeframes are followed.

(5) If an employer responds that a taxpayer no longer works there and the case was batched as correspondence, take no action and destroy unsolicited correspondence. Per IRM 1.4.20.16.4, Security management has responsibility for proper records management.

Note: To close the AMS/IDRS control, select "No Action" for the narrative. Do not update IDRS or WHCS. All "no longer works here" information sheets from previous revisions of Letter 2800, will be destroyed with no further action.

(6) If the employer responds stating they have no record of the taxpayer ever working there,

- Call the employer to verify to whom the Form W-2 was issued
- Make one attempt to call the employer
- If unable to contact the employer, close the case
- If you determine that the taxpayer is still employed advise the employer to honor the lock-in letter
- Document AMS

5.19.11.8
(12-04-2009)
Unpostable Transactions

(1) Each area is responsible for resolving its own unpostables.

(2) Unpostables are voided by the Unpostable function at the campuses and forwarded with a computer generated Form 5147, IMF–IDRS Transaction Record, and Form 4227, Intra-SC Reject or Routing Slip, or A computer-generated Form 4251, Return Charge Out.

Note: Every unpostable on a 4251 is assigned a "category code." These two digit alpha numeric codes identify the area that will work the unpostable case.

(3) Only one unpostable code at a time can be indicated on Form 5147 or Form 4227.

Reminder: Correct any other conditions which could cause the record to not post.

(4) See IRM 3.12.32, General Unpostables for a list of unpostable codes (UPC) and detailed processing instructions. Document 6209 also provides a brief description of each unpostable code.

(5) If a nullified unpostable penalty assessment or abatement is received with unpostable code 183, **do not** attempt to reinput the adjustment. Check IDRS for open CID activity and route case to the lead. The lead will contact CID for further processing instructions.

5.19.11.9
(12-14-2018)
Processing Undelivered Mail

(1) Undelivered mail is any letter, notice or other correspondence sent to an individual or business taxpayer and returned to the IRS with an indication that the individual no longer resides, or the business is no longer located at the address where the mail was sent.

(2) The following sections contain instructions for handling the various kinds of letters returned by the United States Postal Service as undeliverable.

(3) Undeliverable mail is received in Receipt and Control Branch. For the Withholding Compliance program, this mail may include but is not limited to:

WHC Letter
Letter 2800-C
Letter 2801-C
Letter 2802-C
Letter 2804-C

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WHC Letter
Letter 2805-C
Letter 2808-C
Letter 2809-C
Letter 2810-C
Letter 2811-C
Letter 2812-C
Letter 2813-C
Letter 3042-C
Letter 2645-C
Letter 4074-C
Letter 4243-C

(4)   Undelivered mail may contain a "yellow" forwarding label from the United States Postal Service (USPS) or a note indicating the party no longer resides there.

(5)   All undelivered Withholding Compliance mail will be batched as undeliverable and reviewed except 2801, 2802, 2811, 2812, 2813 and 3042. If these letters do not have a forwarding address they will be **destroyed and not batched**. Per IRM 1.4.6 management has responsibility for proper records management.

　　a.　 If a third party (practitioner, new occupant, ex-spouse) provides a new address, **DO NOT** update Master File. The address must be verified by the taxpayer or Power of Attorney before Master File can be updated.

(6)   Undelivered mail will be processed as shown in the table below:

Reminder: When required to input TC 972 AC 146 to IDRS, check IDRS to see if the TC 971 AC 146 corresponding to the transaction being reversed has posted. If there is no TC 971 AC 146, the TC 972 will unpost. To prevent this, input the TC 971 AC 146, then input the TC 972 with a posting delay of 1, then input the new TC 971 AC 146 with a posting delay of 2.

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If	Then
Letter 2800C is returned with yellow forwarding address label from the USPS	• Submit request to Lead or Manager to update IDRS and WHCS with the forwarding address from the yellow label after verifying that the undelivered letter and yellow label is for the same employer • Input TC 972 AC 146 to IDRS with Disposition Code "UND", cross-referencing the Employer Identification Number (EIN) • Update WHCS (Letters and Transactions section of the Employer Detail screen) with TC 972 AC 146, disposition code "UND" • Reissue letter to address indicated using current date • Input TC 971 AC 146 to IDRS using current date with posting delay of 1 • Notate AMS history with "REISSUED" indicating letter number, EIN, new address and source of new address • Add reissued letter to WHCS • Destroy the letter
Letter 2800C is returned with yellow forwarding address label from the USPS **and** research indicates Letter 2808C or Letter 2809C has been issued	• **Resend** original letter to the new address • Extract contents of original envelope, **highlight the issue date on the 2800C letter**, staple envelope vertically to front of letter showing yellow sticker; fold letter and remail in an envelope labeled with new address • Notate AMS history with "REMAILED." Include letter number, original issue date and new address in AMS history. • Submit request to Lead or Manager to update IDRS and WHCS with the forwarding address from the yellow label after verifying that the undelivered letter and yellow label is for the same employer *Note:* This ensures employer has original lock-in letter for their files.

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If	Then
Letter 2800C is returned with no forwarding address Research Command Codes (CC) BMFOL/ ENMOD and the most recent Information Returns Processing Transcripts (IRPTR) available to see if employer is still in business.	If employer **is out** of business: • Input TC 972 AC 146 to IDRS and WHCS with Disposition Code "OOB", cross-referencing the employer's EIN • Notate the AMS history with actions taken and destroy letter
Letter 2800C is returned with no forwarding address Research Command Codes (CC) BMFOL/ ENMOD and the most recent Information Returns Processing Transcripts (IRPTR) available to see if employer is still in business.	If employer **is still in** business and a new address is found: • Input TC 972 AC 146 to IDRS and WHCS with Disposition Code "UND", cross-referencing the employer's EIN • Reissue letter to address indicated using current date • Input TC 971 AC 146 to IDRS using current date with posting delay of 1 • Notate AMS history with "REISSUED" indicating letter number, EIN, and new address • Add reissued letter to WHCS and destroy letter • **DO NOT** update the address on IDRS or WHCS

If	Then
Letter 2800C is returned with no forwarding address Research Command Codes (CC) BMFOL/ ENMOD and the most recent Information Returns Processing Transcripts (IRPTR) available to see if employer is still in business.	If no new address is found • Input TC 972 AC 146 to IDRS and WHCS with Disposition Code "UND", cross-referencing the employer's EIN • Notate the AMS history with actions taken and destroy letter
Letter 2800C is returned with no forwarding address **and** research indicates Letter 2808C or Letter 2809C has been issued	• If the telephone number is on Master File, research to get the current address • If unable to find a telephone number, research Command Codes (CC) BMFOL/ENMOD and the most recent Information Returns Processing Transcripts (IRPTR) available to find another address • Resend original letter to the new address • Extract contents of original envelope, **highlight the issue date on the 2800C letter**, staple envelope vertically to front of letter; fold letter and **remail** in an envelope labeled with new address • Notate AMS history with "REMAILED." Include letter number, original issue date and new address in AMS history. • **DO NOT** update the address on IDRS or WHCS • If no new valid address is found, update AMS history with actions taken and destroy letter
Letter 2801C is returned with yellow forwarding address label from the USPS	• Notate on AMS "UNDELIVERED 2801C", cross- referencing the EIN • Update IDRS and WHCS with the forwarding address from the yellow label after verifying that the undelivered letter and yellow label is for the same taxpayer • Destroy letter

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If	Then
Letter 2801C or Letter 2802C is returned with no forwarding address	• Destroy letter
Letter 2802C is returned with a forwarding address	• Destroy letter
Letter 2804C, Letter 2805C, Letter 2810C, Letter 2811C, Letter 2812C, Letter 2813C, Letter 3042C, or Letter 4243C are returned with yellow forwarding address label from the USPS	• Resend letter to the new address • Extract contents of original envelope, staple envelope vertically to front of letter showing yellow sticker, fold letter and remail in an envelope labeled with new address • Notate AMS history with "REMAILED" with letter number and new address • Update IDRS and WHCS with the forwarding address from the yellow label after verifying that the undelivered letter and yellow label is for the same taxpayer
Letter 2804C, Letter 2805C, Letter 2810C or Letter 4243C are returned with no forwarding address	• Notate on AMS "UNDELIVERED XXXXC" • Research Command Codes (CC) IMFOLE/ ENMOD and the most recent Information Returns Processing Transcripts (IRPTR) available and remail the letter to any new addresses found • Notate AMS history with "REMAILED" indicating letter number and new address • If no new address is found, notate the AMS history and destroy letter
Letter 2811C, Letter 2812C, Letter 2813C or Letter 3042C are returned with no forwarding address	• Destroy letter

If	Then
Letter 2808C ,Letter 2809C or Letter 4074C is returned **with** yellow forwarding address label from the USPS	• Resend letter to the new address. • Extract contents of original envelope, staple envelope vertically to front of letter showing yellow sticker, fold letter and remail in an envelope labeled with new address • Notate AMS history with "REMAILED" with letter number and new address • Update IDRS and WHCS with the forwarding address from the yellow label after verifying that the undelivered letter and yellow label is for the same employer
Letter 2808C Letter 2809C or Letter 4074C is returned **with no** forwarding address	• If the telephone number is on Master File, research to get the current address • If unable to find a telephone number, research Masterfile to find another address • Remail original letter to employer's current address • Notate AMS history with "REMAILED" indicating letter number, EIN, and new address • **DO NOT** update the address on IDRS or WHCS • If no new valid address is found, update AMS history with actions taken and destroy letter

5.19.11.10
(12-04-2009)
Special Situations

(1) While working correspondence or speaking to the taxpayer by telephone, special situations will arise which may require additional research and actions to resolve the case.

5.19.11.10.1
(08-15-2023)
Payer Agent List (PAL)

(1) If the taxpayer claims that the wage and/or withholding amounts on the Form W-2 are incorrect, check the employer information against the Payer Agent List (PAL).

(2) If the information on the PAL confirms the taxpayer's claim, then redetermine the lock-in decision by calculating the correct withholding arrangement to which the taxpayer is entitled, based on the correct Form W-2 wage amount(s).

(3) If the calculation reveals that the taxpayer's current withholding rate is correct, take the following actions to release the lock-in:

   a. Issue Letter 2809C to the employer and Letter 2813C to the taxpayer.
   b. Input TC 972 AC 146 to IDRS with Disposition Code "ERR", cross-referencing the employer's EIN.
   c. Update WHCS (Letters and Transactions section of the Employer Detail screen) with TC 972 AC 146, disposition code "ERR".
   d. Notate AMS history with actions taken.

(4) If the taxpayer's current withholding rate is incorrect, take the following actions to modify the lock-in:

   a. Issue Letter 2808C to the employer and Letter 2812C to the taxpayer.

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      b.   Input TC 971 AC 148 to IDRS, cross-referencing the employer's EIN and entering the modified lock-in rate.

      c.   Update WHCS (Letters and Transactions section of the Employer Detail screen) with TC 971 AC 148 and the modified lock-in rate.

      d.   Notate AMS history with actions taken.

(5)   If the information is not on the PAL then

      a.   Request taxpayer fax, send by Document Upload Tool (DUT), or mail written verification from the employer as to the correct wages and with-holding, including a copy of the corrected Form W-2c , Corrected Wage and Tax Statement.

      b.   If a Form W -2c is received, follow the instructions above to release or modify the lock-in based on the new amounts.

      c.   Refer the Form W -2c information to the WHC PAL coordinator for inclusion in the PAL.

      d.   If the requested documentation is not received, follow normal case pro-cessing procedures to modify the taxpayer based on the Form W-2 reported on CC IRPTR.

5.19.11.10.2 (10-24-2024) **Bankruptcy**	(1) IRS holds that withholding is not part of the bankruptcy estate. Issuance of the lock-in letter is not considered a violation of the automatic stay.

(2)   If you are contacted by Insolvency, follow their instructions.

(3)   If you are directed to release or modify the lock-in, follow general case pro-cessing procedures. Document the AMS history with the name and contact information of the employee providing the direction.

(4)   When working the Outcome 3 case listing, **DO NOT** issue a lock-in letter for a taxpayer in bankruptcy unless you have been previously directed to do so by a field bankruptcy specialist. Check IMFOLI for an open bankruptcy, identified by a literal "-V". If present, document AMS and close the case.

(5)   When working correspondence or incoming calls on Outcome 2 cases, if the taxpayer says that he or she is in bankruptcy and the bankruptcy was filed between the date that the Outcome 2 case was selected for the program and the date that the lock-in letter was issued, ask the taxpayer the chapter number of the bankruptcy proceeding and follow the instructions below:

      a.   **Chapter 7:** Follow general case processing to determine whether lock-in should be modified or released.

      b.   **All other Chapters, or taxpayer doesn't know:** Release lock-in. See IRM 5.19.11.7., Responses and Redeterminations for release procedures.

Reminder: If you receive a request for reconsideration or release from a taxpayer in bankruptcy who was locked in prior to filing bankruptcy, **DO NOT** release the lock-in. Follow general case processing procedures as outlined in IRM 5.19.11.3, General Case Processing.

5.19.11.10.3 (12-31-2010) **Combat Zone**	(1)	Combat Zone cases are identified by a "-C" freeze code on IMFOLI. See IRM 5.19.10.6.3, Combat Zone Freeze Code for additional information. If you see this freeze code, check the Combat Zone indicator field on IMFOLE to determine if the freeze code is still active: 1 = active and 2 = not active.

a. If the indicator = 1, **do not** lock in. Take the following actions.
b. Issue Letter 2809C to the employer(s) and Letter 2813C to the taxpayer, to release the lock-in.
c. Input TC 972 AC 146 with disposition code "COM"
d. Document the history and close the case.
e. If the indicator = 2, then the taxpayer is no longer in Combat Zone status. Document the history and continue to work the case.

5.19.11.10.3.1 (12-04-2009) **Civilians Working in a Combat Zone**	(1)	Civilian employees (including civilian defense contractors) serving in a combat zone or qualified hazardous duty area in support of the U.S. Armed Forces, are not exempt from withholding and filing requirements.
	(2)	However, they may be entitled to relief under IRC section 7508A. If the taxpayer meets the criteria specified in IRM 5.19.10.6.2 , Combat Zone Qualified Individuals and Areas, do not lock him or her in and release any lock-in letters already issued.

5.19.11.10.3.2 (12-04-2009) **Spouses of Taxpayers Entitled to IRC Section 7508 Relief**	(1)	The spouses of taxpayers entitled to IRC Section 7508 relief are entitled to the same relief with two exceptions:

- The relief does not apply to a spouse for any tax year beginning more than 2 years after the date the area ceases to be a combat zone, the operation ceases to be a contingency operation, or the operation ceases to be a qualified hazardous duty area.
- The relief does not apply to a spouse for any period the qualifying individual is hospitalized in the United States for injuries incurred in a combat zone, a contingency operation, or a qualified hazardous duty area.

5.19.11.10.4 (12-04-2009) **Foreign Income Issues**	(1)	This section contains guidance and procedures for working foreign income issues.

5.19.11.10.4.1 (12-04-2009) **U.S. Citizens Working Abroad**	(1)	U.S. citizens working abroad may be exempt from or reduce the amount of their U.S. income tax withholding on wages if:

a. The taxpayer reasonably expects to exclude the income under either the foreign earned income exclusion or the foreign housing exclusion.
b. The taxpayer plans to take a foreign tax credit, they may be eligible for and claim additional withholding on Form W-4.

> ***Note:*** Using RTVUE, verify if Form 2555, Foreign Earned Income, was filed. In some instances a taxpayer may submit a Form 2555 without a return. Tell the taxpayer that they must file a return before we can use the Form 2555 in the withholding calculation.

(2) The tests that must be met and amounts are covered in Pub 54, Tax Guide for U.S. Citizens and Resident Aliens Abroad.

(3)   The foreign earned income exclusion and foreign housing exclusion do not apply to wages received by employees of the U.S. Government or an agency thereof working in a foreign country.

5.19.11.10.4.2
(10-11-2016)
Nonresident Aliens

(1)   Resident aliens are subject to income tax withholding the same as U.S. citizens on their salaries, wages, bonuses, or other pay for personal services ("wages"). Special rules apply to wages received by nonresident aliens. See Pub 901, U.S. Tax Treaties,and Pub 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

(2)   The residency status assigned to an alien individual by the IRS for income tax purposes is not always the same as the status assigned by the U.S. Citizenship and Immigration Services (USCIS) for immigration purposes. Under the Internal Revenue Code, an individual is considered a resident alien for U.S. tax purposes if they are not a citizen or national of the United States and meet either the "green card test" or the "substantial presence test" for the calendar year (January 1 - December 31).

   a.   An individual will meet the green card test if they are a lawful permanent resident of the United States at any time during the calendar year.
   b.   An individual will meet the substantial presence test if they have been physically present in the United States for at least 31 days during the current calendar year, **AND** for at least "183 days" (as specifically described below) during the three-year period that includes the current year and the two immediately preceding years.

      Note: For purposes of this "183 day" test, each day of presence in the current year is counted as a full day, while each day of presence in the first preceding year is counted as one-third of a day and each day of presence in the second preceding year is counted as one-sixth of a day.

   c.   For certain classes of individuals (e.g., teachers and students who enter the U.S. with F, J, M, or Q visas) special rules apply where the days may not be counted. See Pub 519, U.S. Tax Guide for Aliens, for further information.

(3)   Taxpayers may not owe U.S. income tax based on a tax treaty between the U.S. and a foreign country. Research Pub 901, U.S. Tax Treaties, for the applicable treaty article.

   •   If the taxpayer's Form W-4 is correct as furnished, send the taxpayer closing Letter 2813C , input appropriate case remarks and close the case. The taxpayer must file a Form 1040NR to claim the treaty benefits.
   •   If the taxpayer's Form W-4 is incorrect, adjust the taxpayer's withholding accordingly and send lock-in Letter 2800C and Letter 2801C. Input the appropriate case remarks and close the case.

5.19.11.10.4.3
(11-18-2013)
**Wages Subject to
Mandatory Withholding
of Income Taxes of a
Foreign Country**

(1)   Wages paid to U.S. citizens or resident aliens are not subject to the withholding of U.S. federal income taxes to the extent that such wages are already subject to the mandatory withholding of income taxes of a foreign country or U.S. possession. This exception does not apply if the recipient is a U.S. citizen who is a federal employee.

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(2) If the taxpayer and/or representative states that he or she is subject to mandatory withholding of a foreign country, accept his or her word and take the following actions:

   a.   Issue Letter 2809C to the appropriate employer and Letter 2813C to the taxpayer to release the lock-in.
   b.   Input TC 972 AC 146 to IDRS with Disposition Code "NSW".
   c.   Update WHCS with letters sent and transaction codes input.
   d.   Document in the AMS history that the taxpayer is subject to mandatory withholding, specifying the country. Also document the employer's name and EIN, that the appropriate letters were sent, and TC 972 AC 146 (NSW) was input.

Reminder: If there are other wages which should be subject to income tax with-holding, work those issues according to general procedures.

(3) If the taxpayer's and/or representative's response is that the taxpayer paid income taxes in a foreign country and there is no mention of the wages being subject to mandatory withholding, leave the lock-in in place and advise the taxpayer and/or representative that we need to see a copy of the return with Form 1116, Foreign Tax Credit, attached to modify the lock-in.

5.19.11.10.5
(09-08-2014)
Frivolous
Communications

(1) If the taxpayer's response contains frivolous arguments work the case according to general procedures. **DO NOT** modify or release the lock-in.

(2) Frivolous arguments may include:

   •   Language objecting to Form W-4 requirements
   •   Comments on the unconstitutionality of the tax law
   •   Quotes or references to the IRC which indicate that the taxpayer is free of any obligation to pay income tax liabilities
   •   Statements that the taxpayer is a citizen of an independent entity within the U.S. and not liable for Federal taxes
   •   Statements, often in pseudo-legalistic language, that the taxpayer is not subject to appropriate legal action for the accuracy of their responses

(3) See IRM 21.5.3.4.16.7, Identifying Frivolous Returns/Correspondence and Re-sponding to Frivolous Arguments for additional information on identifying frivolous arguments.

(4) If the taxpayer is questioning the IRS authority to issue a lock-in letter, send Letter 3042C to the taxpayer. Update AMS and WHCS.

(5) If the taxpayer requests a release or modification without any valid substantia-tion, send Letter 2810C. Update IDRS with TC 971 AC 148 (unchanged rate), AMS and WHCS.

(6) If both (4) and (5) above apply, send both letters. Update IDRS, AMS and WHCS.

Reminder: When documenting AMS, do not use the term, Illegal Tax Protester (ITP), Fraudulent or similar designation. If you identify any such reference, immediately inform your manager. Terms such as "frivolous argument" or "tax avoidance argument" are acceptable terms to use.

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(7)   Upon completion of case processing, forward a **copy** of the correspondence to the Ogden Frivolous Filer Unit.

   •   Prepare Form 3210 and

   Use address: Ogden Compliance Campus
   1973 N Rulon White Blvd
   M/S 4450, Attention: Frivolous Return Program
   Ogden, UT 84404
   •   Note in the remarks section of Form 3210 that the attached is being sent for information purposes.
   •   Forward the **original** with a fraud indicator check sheet to the Collection Function Fraud Coordinator (CFFC) for review.

Note: If a communication is from a phone call, forward a copy of the AMS history (document the taxpayer's statements verbatim, if possible) along with the fraud indicator check sheet to the CFFC

(8)   If you continue to receive frivolous correspondence from the taxpayer after the case is closed, send it on Form 3210 to the Ogden Frivolous Filer Unit at the address shown in (7) above. Ogden will document receipt of the correspondence and send Letter 3175-C, if appropriate.

5.19.11.10.6
(12-04-2009)
Household Employees

(1)   Employers are **NOT** required to withhold federal income tax on wages paid to household employees.

(2)   Household employees include, but are not limited to, housekeepers, maids, nannies, baby-sitters, private nurses, gardeners and any similar domestic worker. The work is performed in and around the employer's private home.

(3)   If the taxpayer says they are a household employee and this is the taxpayer's only source of wages, suggest that the taxpayer talk to their employer about voluntary withholding, or offer to send the taxpayer Form 1040-ES Estimated Tax for Individuals.

(4)   If lock-in letters have already been issued and you determine that the taxpayer is a household employee

   a.   Issue Letter 2809C to the employer and Letter 2813C to the taxpayer to release the lock-in.
   b.   Input TC 972 AC 146 with Disposition Code "NSW".
   c.   Document the history and close the case.

(5)   If the household employment is not the only source of wages, subtract the household wages from the total wages and take the following actions:

   a.   Compute the withholding rate based on the lesser amount of wages
   b.   Issue either a 2800C and 2801C , or 2808C and 2812C , as appropriate
   c.   Input the appropriate TC 97X AC 14X
   d.   Document the history and close the case

(6)   If lock-in letters have not been issued, document the history and close the case.

(7)   Follow general lock-in procedures if you determine that the taxpayer is not a household employee.

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5.19.11.10.7
(03-15-2012)
Decedents

(1) WHC cases may be created if wages are reported for the taxpayer's SSN more than 24 months after the date of death. For Outcome 2 and Outcome 3 cases, the date of death is displayed on the WHCS Taxpayer Summary screen. It can also be found using IDRS Command Code INOLES.

(2) Decedents' wages are generally reported on Form 1041, U.S. Income Tax Return for Estates and Trusts.

- If you are contacted by a third party representing the decedent, determine whether the wages reported belong to the decedent.
- If the wages belong to the decedent, input TC 972 with disposition code "ERR" to IDRS and WHCS.

(3) Wages reported more than 24 months after the taxpayer's date of death may be an indication of identity theft.

- If you are contacted by the taxpayer and you determine that they are not the true owner of the SSN,
- follow general procedures for working responses and redeterminations.

5.19.11.10.8
(09-08-2014)
Members of the Clergy and Religious Workers

(1) These taxpayers are generally **NOT** subject to federal income tax withholding if both the following conditions apply:

- The taxpayer is a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, a member of a religious order (who has not taken a vow of poverty), or a Christian Science practitioner, and
- The taxpayer's pay is for qualified services.

(2) Qualified services are defined as services performed by the taxpayer in exercise of their ministry or in carrying out their duties as required by the religious organization.

Exception: Ministerial services performed as an employee of the United States, a state, or U.S. Territory or possession, or a political subdivision of the foregoing, the District of Columbia, or foreign government are **NOT** qualified services and are subject to withholding.

Example: U.S. Army chaplain or a chaplain at a state prison.

(3) Work performed for a nonreligious organization is considered to be qualified services if the services are assigned or designated by the taxpayer's religious organization.

(4) See Pub 517, Social Security and Other Information for Members of the Clergy and Religious Workers, for more information.

(5) If the taxpayer meets the above criteria;

   a. Issue Letter 2809C to the employer and Letter 2813C to the taxpayer to release the lock-in.
   b. Input TC 972 AC 146 with Disposition Code "NSW".
   c. Document the history and close the case.

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5.19.11.10.8.1
(12-04-2009)
Vow of Poverty

(1) When the taxpayer indicates that a significant contribution was made by their employer to a religious order so that they can claim "exempt", you must determine if they qualify for exemption from taxation based on a vow of poverty.

(2) They must meet the qualifications shown below. A taxpayer can legitimately claim exemption from taxation pursuant to a vow of poverty when the taxpayer performs qualified services as an agent of a church or church agency.

Example: The employer looks directly to the religious order, rather than to the individual member/taxpayer, for performance of services.
The taxpayer must show that:

a. a contractual relationship existed between their secular employer and the religious order; and
b. the religious order controlled or restricted use of the money turned over to it pursuant to the taxpayer's vow of poverty.

(3) If the taxpayer meets both of the criteria above, notate the case file and forward the case to the lead.

(4) Absent a qualified agency relationship, a member of a religious order under vow of poverty is subject to tax on income earned or received in their individual capacity. Proceed with general case processing.

(5) If the taxpayer indicates that contributions were made to a non-traditional church, proceed with general case processing unless the taxpayer provides documentation showing the church is exempt.

5.19.11.10.9
(10-24-2024)
Offer in Compromise (OIC) Taxpayers

(1) Do not lock in a taxpayer who has submitted an OIC for consideration or has had an OIC accepted as identified by either an unreversed TC 480 or TC 780 on IDRS.

(2) Check IMFOLI for the OIC indicator: "-Y." If present, take the following actions:

a. Issue Letter 2809C to the employer(s) and Letter 2813C to the taxpayer, to release the lock-in.
b. Advise the taxpayer to adjust their withholding.
c. Input TC 972 AC 146 with disposition code "OIC".
d. Document the history and close the case.

(3) If taxpayer responds that an OIC has been submitted and the OIC indicator is present on IMFOLI, take the actions in (2) above.

(4) If the taxpayer tells you that an OIC has been submitted and there is no evidence of it on IDRS, contact the Compliance Services Offer in Compromise Unit at the campuses. (See *SERP - OIC Compliance Campus Locations for the Monitoring of Accepted Offers - Who/Where (irs.gov)*) and follow their instructions.

(5) If you are instructed to release the lock-in, follow instructions in (2) above; document the history with the name of the employee providing the direction.

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5.19.11.10.10
(09-08-2014)
**Cautious Upon Contact
(CAU)**

(1) The following criteria have been established for determining CAU status:

   a.   Threat of physical harm that is less severe or immediate than necessary to satisfy PDT criteria;

   b.   Suicide threat by the taxpayer; or

   c.   Filing or threatening to file a frivolous lien or a frivolous criminal or civil legal action against an IRS employee or contractor or an IRS employee's or contractor's immediate family member.

(2) A taxpayer who meets any of the above criteria should be approached with caution. See IRM 25.4.2, "Cautious Upon Contact" Taxpayer, for additional information.

5.19.11.10.11
(12-04-2009)
**Potentially Dangerous
Taxpayers (PDT)**

(1) Check IMFOLI for the PDT indicator: the literal "PDT." If present,

- Print the IMFOLI screen,
- Highlight the indicator and
- Route to the lead

(2) The lead will contact the Treasury Inspector General for Tax Administration (TIGTA) for information concerning the PDT prior to making any personal contact.

(3) After making contact, document the history and route to the Tax Examiner (TE) for appropriate action.

5.19.11.10.12
(08-15-2023)
Statutory Employees

(1) Wages received as a statutory employee, under IRC Section 3121(d)(3) are exempt from income tax withholding.

(2) Statutory employees include: agent-drivers or commission drivers, full-time life insurance salespersons, home workers, and traveling or city salespersons. For details on statutory employees, see Pub 15-A, Employer's Supplemental Tax Guide (Supplement to Publication 15 (Circular E), Employer's Tax Guide).

(3) If the taxpayer says they are a statutory employee and there are multiple employers, verify which employer(s) is the statutory employer(s). Check IRPTR for the statutory employee indicator(s) for the tax year in question.

(4) If the indicator is present take the following actions:

   a.   Issue Letter 2809C to the employer and Letter 2813C to the taxpayer to release the lock-in.

   b.   Input TC 972 AC 146 to IDRS with Disposition Code "NSW".

   c.   Document AMS with the employer name and EIN where the taxpayer is not subject to withholding, that appropriate letters were sent, and TC 972 AC 146 (NSW) was input.

   d.   Update WHCS.

Reminder: On Outcome 3 cases, do not issue lock-in letters to statutory employers. Update WHCS with TC 972 AC 146 and disposition code "NSW" and document AMS. Do not update IDRS.

(5) If the indicator is not present, tell the taxpayer that we need written verification from that employer (on employer letterhead) confirming the taxpayer's status as a statutory employee. Provide the taxpayer with the appropriate fax number, mailing address and DUT options to send the documentation.

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(6) If there are additional non-statutory employee Form W-2, Wage and Tax Statement, subtract the statutory employee Form W-2 wage amount from the total Form W-2 wage amount and follow general procedures for the remaining employer(s).

5.19.11.10.13
(11-18-2013)
Third Party Sick Pay

(1) Third party sick pay payments are generally shown on IRPTR by the literal "3RD PARTY SICK PAY IND: YES". Check IRPTR for the indicator. If present, take the actions shown below.

   a. If lock-in Letter 2800C and Letter 2801C have not been issued, document the history and close the case.
   b. If lock-in letters have already been issued then Issue Letter 2809C to payer and Letter 2813C to the taxpayer to release the lock-in, input TC 972 AC 146 with Disposition Code **NSW**, document the history and close the case.

(2) If there is no **3RD PARTY SICK PAY IND** on IRPTR , follow general case processing procedures.

(3) If there are other wages, subtract the 3rd Party Sick Pay amount from the total Form W-2 wages and take the following actions:

   a. Follow procedures in (1) above to release lock-in on the 3rd Party Sick Pay Form W-2
   b. Compute the withholding rate based on the lesser amount of wages
   c. Issue either Letter 2800C and Letter 2801C, or Letter 2808C and Letter 2812C, as appropriate
   d. Input the appropriate TC 97X AC 14X
   e. Document the history and close the case

5.19.11.10.14
(10-24-2024)
Identity Theft

(1) Beginning January 1, 2012, TC 971 AC 522 will include processes to flag accounts at different stages of processing from initial identity theft allegation to closure. Use the following directions when processing Identity theft issues:

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If	And	Then

The taxpayer makes an allegation of identity theft	Has not provided :
	• A copy of the U.S. Federal or State issued form of identification (i.e. driver's license, state identification card, social security card, passport)
	• A copy of a police report or IRS Affidavit Form 14039, Identity Theft Affidavit.
	
	Note: For more information on required documentation see IRM 25.23.2.3, Identity Theft Claims -General Guidelines
		1. Input TC 971 AC 522 containing the miscellaneous field UNWORK). (See IRM25.23.2.4.4, Initial Allegation or Suspicion of Tax-Related identity Theft - Identity Theft Indicators, to determine if input of AC 522 UNWORK is appropriate.)
		2. Request the taxpayer mail the required documentation.
		  • A copy of the U.S. Federal or State issued form of identification (i.e. driver's license, state identification card, social security card, passport)
		  • A copy of a police report or IRS Affidavit Form 14039, Identity Theft Affidavit
		3. If the case remains a balance due issue, provide the address for the CSCO balance due site. See *CSCO - Balance Due Consolidated Programs - CPLG - Who/Where - SERP (irs.gov)*.
		4. If the case is a non-filer issue, provide the address for the CSCO non-filer site. See *5.19.2-2 CSCO Non-Filer Campus Addresses (irs.gov)*.
		5. If the case is assigned to ACS, provide ACSS address. See *SB/SE Consolidated State Mapping for ACS Support and Collection Due Process - CPLG - Who/Where - SERP (irs. gov)*.
		6. For all other situations, refer to tIRM 5.19.21. 2.1IdentityTheft Claim
		7. Paper operations should send a letter to taxpayer and request they provide the required documentation
		8. Document AMS
		
		Note: If IDT documentation is provided by fax, Document Upload Tool (DUT),or correspondence, the documentation must be given to the clerical unit to route to Fresno IDTVA-C ASFR/CSCO per IRM 5.19.16.6.1 , Taxpayer Delinquent Account (TDA) Batching Procedures.

If	And	Then
The taxpayer makes an allegation of identity theft	Has provided documentation: *Note:* There is a TC971 ID theft indicator present. (See IRM 25.23.2.3, Identify Theft Claims - General Guidelines	1. Inform Taxpayer that ID theft is being addressed by another area. 2. Resolve WHC issue. 3. Document AMS of actions taken.

(2) Non-Owner of the SSN communicates with the IRS and claims the Lock-In letter is incorrect.

    a. If the individual calling is "inappropriately" using another taxpayer's social security number for purposes of employment and a Lock-In letter was issued on the "borrowed" social security number, do not disclose any of the SSN owner information.

    b. The lock-in letter on the non-owner of the SSN **will not** be release or modified.

    c. Refer them to the SSA for help in getting an SSN. Any employee who is legally eligible to work in the US and does not have a SSN can get one by completing Form SS-5, Application for a Social Security Card, and submit the necessary documentation. The taxpayer can get this form at SSA office, from the SSA website at www.socialsecurity.gov, or by calling 800-772-1213.

5.19.11.10.15
(09-08-2014)
Taxpayers Employed by International Organizations

(1) Wages paid by international organizations **are not** subject to federal withholding requirements.

(2) The term "international organization" means a public international organization, designated by Executive Order as being entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288-288f). See Exhibit 5.19.11-1, International Organizations Exempt from Federal Withholding Requirements for a list of international organizations.

(3) If the taxpayer or employer responds that the taxpayer works for an international organization and you have confirmed that the organization is listed in Exhibit 5.19.11-1 take the following actions:

    1. Issue Letter 2809C to the employer and Letter 2813C to the taxpayer.
    2. Input TC 972 AC 146 to IDRS with Disposition Code "NSW".
    3. Document in the AMS history that the taxpayer is employed by an international organization (specifying name and EIN) and is not subject to withholding on those wages. Close the case.
    4. Update WHCS with letters sent and transaction codes input.
    5. If the taxpayer has other wages which are subject to withholding, follow general case processing procedures.

(4) If the organization is not listed in Exhibit 5.19.11-1 verify the employer's status as an international organization. Generally, this will be the number of the Executive Order covering the international organization. Route the case to the lead who will forward this information to Headquarters for a final determination.

| | (5) | If the taxpayer or employer does not furnish the above verification, follow general case processing procedures. |

5.19.11.10.16
(12-04-2009)
Litigation

(1) Taxpayers in litigation status are identified by a literal "-W" freeze.

(2) These taxpayers may be locked in if they meet lock-in criteria.

(3) Each "-W" freeze redetermination case will need to be considered on its own merits.

(4) The litigation TC 520 closing codes are 75-81 and 84.

5.19.11.10.17
(10-24-2024)
Native American Tribal Income

(1) IRM 21.3.8.16.6, Publications for Indian Tribal Governments will provide the necessary information and guidance needed for verification or Exempt status or non Exempt status. They will explain what documentation is needed for proof of exemption from federal tax.

(2) If the information received is enough to release TP issue Letter 2809C to the company and Letter 2813C to the taxpayer.

(3) Update WHCS and IDRS with TC 972 AC 146 and document AMS.

5.19.11.10.18
(12-14-2018)
IRS Employees (IRS)

(1) An "IRS" literal can appear on Outcome 2, Outcome 3 (Prior to June 2016) and phone calls.

(2) If you do not know the IRS employee, work the cases using general procedures. Complete Form 11377, *Taxpayer Data Access*, and give to your manager.

(3) If you know the IRS employee, transfer the case to your lead for someone else to work and complete 11377.

5.19.11.10.19
(07-11-2022)
Criminal Investigation Cases (CID)

(1) Verify on IMFOLI and/or ENMOD that the open CI indicators "-Z" or "Z-" are present. If one is present:

- Print the IMFOLI or ENMOD screen
- Highlight the applicable indicator
- Route to the lead

(2) The lead will follow local guidelines for contacting the appropriate CI function.

- If CI fails to respond to lead, close case as TC 972/146, ERR
- If the indicator is not present, follow general processing procedures

5.19.11.10.20
(10-24-2024)
Disaster Relief Cases (DIS)

(1) Check IMFOLI for the "-O" freeze code. If one is present, take the following actions:

a. Check IMFOLI for the most recent TC 971 AC 086 and 087
b. Look for the disaster ending date, identified by the literal "DIS-END-DT": mmddyyyy
c. If the current date is beyond the disaster ending date, then the disaster relief period has ended. Follow general case processing procedures
d. If the disaster relief period has not ended, do not issue lock-in letters. Update WHCS with TC 972 AC 146 and disposition code "ERR". Document AMS. Do not update IDRS.

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(2) If the taxpayer self-identifies and qualifies for an "-O" freeze but no "-O" freeze is present, verify that the taxpayer's zip code is among those of the affected areas during the disaster period, see IRM 25.16.1.7.2, -O Freeze, for additional instructions.

(3) The "-S" freeze is a disaster indicator for taxpayers in minor disaster area. This freeze does not stop WHC processing.

5.19.11.11
(10-04-2017)
Civil Penalty
Determinations

(1) IRC Section 6682 and related tax regulations allow the assessment of a $500 civil penalty for furnishing false information with respect to withholding if

   a. the statement made on the Form W-4, Employee's Withholding Certificate results in less income tax withheld than would have been withheld if the Form W-4 had been correctly completed, and
   b. there was no reasonable basis for such a statement at the time that the statement was made.

(2) You may waive the penalty, in whole or in part, if the individual's income tax for the year is equal to or less than the sum of the credits under IRC Sections 21-54 and the estimated tax payments for that tax.

(3) Civil penalty determinations may be required in cases involving a non-payment history, unfiled return(s), frivolous arguments and repeated underwithholding. Penalties must be assessed for the year that appears on the face of the Form W-4, Employee's Withholding Certificate.

Example: If the Form W-4 is for tax year 2008, the year on the face of the Form W-4 is 2008. Assess the penalty on tax year 2008.

(4) If the taxpayer has furnished more than one false Form W-4 for the same year, more than one penalty may be assessed for that year.

Note: **You must have a copy of the Form W-4, that the taxpayer submitted to the employer in order to assert the civil penalty.**

(5) Civil penalty determinations will **only** be made on referrals or special projects. Referring employees may request assertion of the penalty if they have reviewed the original Form W-4 submitted by the employee and the Form W-4 meets the criteria in (1) above. A copy of the Form W-4 must accompany the referral.

(6) **All** Civil Penalty determinations to assess or not-assess require managerial approval.

Note: CP 15 is issued to the taxpayer identifying the specific civil penalty that has been assessed and provides appeal rights. Update the assessed field on the WHCS database with the date.

(7) If the penalty was not processed, notify the referring employee within 30 days of disposition. Document the history on AMS with disposition actions and the date you notified the referring employee. Update the non- assessed field on the WHCS database with the date.

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5.19.11.11.1 (12-04-2009) **Creating Entities or Name Lines for Non-Return Civil Penalties**	(1) This section covers procedures for assessing civil penalties when there is no entity on IMF Master File.

5.19.11.11.1.1
(03-15-2012)
Information on Establishing Entities

(1) If the taxpayer has no entity on IMF (full name and address showing on CC INOLE), you must establish the account on Master File *prior* to manually assessing the Withholding Compliance civil penalty on IDRS.

    a. To establish the account, follow TC 000 procedures. See IRM 3.13.5.115, Establishing a New Account (TC 000), for instructions on establishing a new account.

    b. Wait two (2) weeks for the account to post, then input the applicable tax year name line, only if needed.

       Note: When a tax return posts (TC 150), it creates a name line for that year.

    c. Wait two (2) weeks for the name line to post, then input the civil penalty.

    d. Place the IDRS control base into "M" status pending posting of the name line.

(2) If the taxpayer's account is established but no applicable tax year name line is present, follow the procedures in (1) b) and c) above.

(3) If the civil penalty needs to be assessed against a spouse (filing as secondary taxpayer on a joint 1040 tax return) and the spouse has no entity established on IMF:

    a. Establish their account on the valid SSN using TC 000 procedures. See IRM 3.13.5.115, Establishing a New Account (TC 000), for instructions on establishing a new account.

    b. Wait two (2) weeks for the account to post, then input the applicable tax year name line.

    c. Wait two (2) weeks for the name line to post, then input the civil penalty.

    d. Place the IDRS control base into "M" status pending posting of the name line.

(4) If the taxpayer's account is already established on IMF (module on Master File) and the applicable tax year name line is present, you can assess the civil penalty with no additional actions required.

(5) If the taxpayer's account is already on Master File and has a Civil Penalty (CVPN), the name line may need to be updated on CC ENREQ (INCHG). (*e.g.*, taxpayer's current account name is Mary Bass and the CVPN is Mary Perch).

Example: 1

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5.19.11.11.1.1

Situation	Action
A joint account is on Master File for Bass and Mary Trout (Bass's is the controlling SSN). A penalty is to be assessed against Bass. The account has the applicable tax year name line (TC 150 posted).	The penalty may be assessed immediately.

Example: 2

Situation	Action
On the same joint account as above, the penalty is to be assessed against Mary Trout. Mary has an account on Master File under her own SSN with the name line of Mary Bass because she filed individually before filing jointly with John Trout. There is no CVPN on her account.	Input a name change, address change, (if needed) and applicable tax year name line. Wait two (2) weeks for the updates to post, then assess the penalty.

Example: 3

Situation	Action
On a joint account for John and Mary Trout, the penalty is to be assessed against Mary. However, Mary has no account under her SSN on the Master File.	Establish an account for Mary on Master File using her SSN and TC 000 procedures. Wait two (2) weeks for the account to post, then input the applicable tax year name line. Wait two (2) more weeks for the name line to post, then assess the penalty.

Example: 4

Situation	Action
John Trout has a separate account with the applicable tax year name line (TC 150 posted) and a penalty is to be assessed against John.	No special action is required, the penalty may be assessed and a CVPN will be generated by Master File.

Example: 5

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Situation	Action
John and Mary Trout do not have an account on Master File since they are non-filers. A penalty is to be assessed against John.	Establish the account using TC 000 procedures. Wait two (2) weeks for the account to post, then input the applicable tax year name line. Wait two (2) more weeks for the name line to post, then assess the penalty.

5.19.11.11.2
(12-04-2009)
Assessment Procedures for Penalties

(1) Assess the IRC Section 6682 civil penalty using Master File Transaction (MFT) 55 for the calendar year for which the false Form W-4, Employee's Withholding Certificate was signed. Multiple penalties may be assessed on a given module, one for each false Form W-4.

    a. Use TC 290 with Reference Code 616 to assess the $500 civil penalty. IDRS generates a TC 240, Reference Code 616. The reference number uniquely identifies the penalty being assessed and serves as an indicator for generating the first notice to the taxpayer.

    b. Use IDRS CC ADJ54 to input W–4 civil penalty assessments. Use TC 290 with a zero amount to open the MFT 55 module. Enter the three-digit reference number, 616 for W–4, along with a positive money amount to generate a TC 240, Miscellaneous Penalty Assessment. Enter in the remarks area SD (source document) and the appropriate remarks, e.g., assess the W-4 civil penalty. This informs the Returns Files function that a document will be received for association with the adjustment Document Locator Number (DLN).

    c. The three-digit Reference Number 616 posts to the IMF and appears to the right of the TC 240. The TC 290 is a carrier record only and does not post. Place penalty assessments for each module in the 52X Blocking Series for the first assessment on a module, and in the 53X Blocking Series for subsequent assessments. Source code "0" and Reason Code "00" generate automatically.

(2) When assessing IRC Section 6682 civil penalty, input levy source information (the employer's name, address, and EIN). Remember to update levy source information when a taxpayer informs you of a new or different employer than the one on the W–4.

5.19.11.11.3
(11-18-2015)
Civil Penalty Abatements

(1) The IRC Section 6682 penalty may be abated if the taxpayer demonstrates having a reasonable basis for making the false statement(s) on Form W-4 when it was submitted to the employer. Requests for abatements will be received directly from the taxpayer or may be forwarded from other campuses via Form 3210, Document Transmittal.

(2) If a request for abatement is received, check IDRS for the TSIGN to see if it is assigned to a technical Services in the Examination function, as well as, verifying the penalty was not already abated.

Note: If the penalty has been paid, the taxpayer's request for waiver or "reasonable basis" abatement request is a claim for refund.

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(3)   You may find that there was sufficient withholding and credits at the time the W–4, was furnished to cover the liability for the tax year when the form was in effect.

Example: An employee gives their employer a W–4 in November and the form was in effect until the end of the year. The amount of tax withheld up to the date of the W–4 was greater than the tax shown (TC 150) on the subsequently filed Form 1040, U.S. Individual Income Tax Return. The penalty should be waived if proposed, or abated if assessed.

Note: It may still be appropriate to leave the lock-in in effect unless the employee provides additional information to support a redetermination.

(4)   Penalties may be abated if there is a reasonable basis, which exists if:

a.   The withholding rate is computed in accordance with the form instructions. See Treas. Reg. 31.6682-1(a).
b.   The taxpayer justifies the withholding rate claimed on the W–4.
c.   The taxpayer demonstrates that withholding computed at the adjusted or modified withholding status (filing status) and withholding rate is the same as or less than the withholding on the original W–4.

   Example: A taxpayer furnished an exempt W–4 and is penalized. In a subsequent modification and abatement request, the taxpayer shows they are entitled to Single, standard rate and no adjustments. At the taxpayer's income, no tax would be withheld if withholding were figured at Single, standard rate and no adjustments. Adjust withholding to Single, standard rate and no adjustments, and abate the penalty.

d.   The taxpayer establishes that the W–4 was completed taking into account incorrect information received from a Service employee. See Declaration of Taxpayer Rights at VIII in Pub 1. The assertion that Service error is involved should be verifiable and credible under the circumstances. Misunderstanding publications or the law is not a reasonable basis for furnishing a false W–4.

(5)   The reasonable cause standard, which is applicable to abate some penalties (for example, penalties for late filing or late payment) does not apply to the penalty for furnishing an incorrect Form W-4.

(6)   The taxpayer's reasonable basis for furnishing an incorrect Form W-4 must be related to expected tax liability. The following lists provides examples of reasons taxpayers may offer for furnishing a false Form W-4 that do **NOT** meet the reasonable basis standard:

a.   Illness,
b.   Loss of records,
c.   Overpayment of a tax liability.

(7)   Do not abate or waive the W–4 civil penalty on moral, religious, political, or constitutional arguments.

(8)   Do not abate penalties for reasons relating to personal finances of the taxpayer, either at the time the false W–4 was furnished or in connection with the taxpayer's ability to pay the penalty.

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| | (9) | Penalty abatements **must** be approved by the manager. |

(10) If you decide to abate or waive the penalty, send Letter 2811C to the taxpayer. A notice of adjustment is also automatically generated to notify the taxpayer. If the request is denied, use Letter 2804C and document the case history.

5.19.11.11.3.1
(12-04-2009)
Procedures for Inputting Abatements

(1) To input the abatement on unpaid penalties, use IDRS Command Code ADJ54.

    a.   Use TC 290 with a zero amount to open the MFT 55 module.
    b.   Enter the three-digit reference number, 616 for W–4,
    c.   Place a minus sign (–) after the dollar amount on the ADJ54 screen.
    d.   Enter SD (source document) and appropriate remarks, e.g., abate W–4 civil penalty.
    e.   Forward the source document to files.

(2) Full or part paid penalties cannot be abated. The taxpayer must file a claim for refund using Form 843, Claim for Refund and Request for Abatement.

5.19.11.11.4
(12-04-2009)
Penalty Appeal Procedures

(1) The taxpayer has the right to appeal denied requests for abatement of the civil penalty. Follow the procedures below for preparing and transmitting a case to Appeals for review.

5.19.11.11.4.1
(12-04-2009)
Case File Preparation

(1) Include the following documents:

    •   Form W-4 on which the penalty was based, submitted by the referring Service employee, if available
    •   All taxpayer correspondence, including the request for abatement
    •   All IRS correspondence
    •   IDRS research
    •   WHCS research

5.19.11.11.4.2
(12-04-2009)
Transmittal of Case to Appeals

(1) Prepare Form 3210. Complete all applicable blocks on the form including

    •   Sender's full name, stop number, mailing address and phone number
    •   Full description of item(s) being sent including taxpayer's name, SSN and the tax period on which the penalty was assessed using format 55-yyyy12, where yyyy is the tax year.

(2) Attach Form 3210 to the case file and forward to the appropriate Appeals office. Visit *Appeals Case Routing (sharepoint.com)* to locate the address of the appropriate Appeals office.

5.19.11.11.4.3
(12-04-2009)
Case Processing Procedures

(1) Take the following actions:

    1.   If TXMOD control is still open, close with message "To Appeals ".
    2.   If TXMOD control is closed, input history item, "To Appeals ", on TXMOD.
    3.   Send Letter 86C informing the taxpayer that the case is being transferred to Appeals.
    4.   Update AMS history with "Sent to Appeals" and the date.
    5.   Update WHCS with Letter 86C and the date.

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International Organizations Exempt from Federal Withholding Requirements

International Organization	Executive Order Number and Date
African Development Bank	12403 of February 8, 1983
African Development Fund	11977 of March 14, 1977
African Union (formerly Organization of African Unity)	13377 of April 13, 2005 (revokes 11767 of February 19, 1974)
Asian Development Bank	11334 of March 7, 1967
Border Environmental Cooperation Commission	12904 of March 16, 1994
Caribbean Organization	10983 of December 30, 1961
Commission for Environmental Cooperation	12904 of March 16, 1994
Commission for Labor Cooperation	12904 of March 16, 1994
Commission for the Study of Alternatives to the Panama Canal	12567 of October 2, 1986
Customs Cooperation Council	11596 of June 5, 1971
European Bank for Reconstruction and Development	12766 of June 18, 1991
European Central Bank	13307 of May 29, 2003
European Space Agency (formerly the European Space Research Organization)	11318 of Dec. 5, 1966 and 12766 of June 18, 1991
Food and Agriculture Organization	9698 of February 19, 1946
Global Fund To Fight AIDS, Tuberculosis and Malaria	11395 of January 13, 2006
Great Lakes Fishery Commission	11059 of October 23, 1962
GRECO (Council of Europe in Respect of the Group of States Against Corruption)	13240 of December 18, 2001
Hong Kong Economic and Trade Offices	13052 of June 30, 1997
Inter-American Defense Board	10228 of March 26, 1951
Inter-American Development Bank	10873 of April 8, 1960 and 11019 of April 27, 1962
Inter-American Institute for Cooperation for Agriculture	9751 of July 11, 1946
Inter-American Investment Corporation	12567 of October 2, 1986
Inter-American Statistical Institute	9751 of July 11, 1946
Inter-American Tropical Tuna Commission	11059 of October 23, 1962
International Atomic Energy Agency	10727 of August 31, 1957
International Bank for Reconstruction and Development (World Bank)	9751 of July 11, 1946

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Exhibit 5.19.11-1 (Cont. 1) (08-01-2008)
International Organizations Exempt from Federal Withholding Requirements

International Organization	Executive Order Number and Date
International Boundary and Water Commission - the United States and Mexico	12467 of March 2, 1984
International Centre for Settlement of Investment Disputes	11966 of January 19, 1977
International Civil Aviation Organization	9863 of May 31, 1947
International Coffee Organization	11225 of May 22, 1965
International Committee of the Red Cross	12643 of June 23, 1988
International Cotton Advisory Committee	9911 of December 19, 1947
International Cotton Institute	11283 of May 27, 1966
International Criminal Police Organization (INTERPOL) (Limited Privileges)	12425 of June 16, 1983
International Development Association	11966 of January 19, 1977
International Development Law Institute	12842 of March 29, 1993
International Fertilizer Development Center	11977 of March 14, 1977
International Finance Corporation	10680 of October 2, 1956
International Food Policy Research Institute (Limited Privileges)	12359 of April 22, 1982
International Fund for Agricultural Development	12732 of October 31, 1990
International Hydrographic Bureau	10769 of May 29, 1958
International Joint Commission - the United States and Canada	9972 of June 25, 1948
International Labor Organization	9698 of February 19, 1946
International Maritime Organization (formerly the Intergovernmental Maritime Consultative Organization)	10795 of December 13, 1958
International Maritime Satellite Organization	12238 of September 12, 1980
International Monetary Fund	9751 of July 11, 1946
International Organization for Migration (formerly Provisional Intergovernmental Committee for the Movement of Migrants for Europe and Intergovernmental Committee for European Migration)	10335 of March 28, 1952
International Pacific Halibut Commission	11059 of October 23, 1962
International Secretariat for Volunteer Service	11363 of July 20, 1967
International Telecommunications Satellite Organization (INTELSAT)	11718 of May 14, 1973 and 11966 of January 19, 1977
International Telecommunication Union	9863 of May 31, 1947

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Exhibit 5.19.11-1 (Cont. 2) (08-01-2008)
International Organizations Exempt from Federal Withholding Requirements

International Organization	Executive Order Number and Date
International Union for Conservation of Nature and Natural Resources (Limited Privileges)	12986, January 18, 1966
International Wheat Advisory Committee (International Wheat Council)	9823 of January 24, 1947
Interparliamentary Union	13097 of August 7, 1998
Israel-United States Binational Industrial Research and Development Foundation	12956 of March 13, 1995
ITER International Fusion Energy Organization	13451 of November 19, 2007
Korean Peninsula Energy Development Organization	12997 of April 1, 1996
Multilateral Investment Guarantee Agency	12467 of August 22, 1988
Multinational Force and Observers	12359 of April 22, 1982
North American Development Bank	12904 of March 16, 1994
North Pacific Anadromous Fish Commission	12895 of January 26, 1994
North Pacific Marine Science Organization	12894 of January 26, 1994
Organization for Economic Cooperation and Development (formerly the Organization for European Economic Cooperation)	10133 of June 27, 1950
Organization for the Prohibition of Chemical Weapons	13049 of June 11, 1997
Organization of American States (including Pan American Union)	10533 of June 3, 1954
Organization of Eastern Caribbean States	12669 of February 20, 1989
Pacific Salmon Commission	12567 of October 2, 1986
Pan American Health Organization (including Pan American Sanitary Bureau)	10864 of February 18, 1960
South Pacific Commission	10086 of November 25, 1949
United International Bureau for the Protection of Intellectual Property (BIPRI)	11484 of September 29, 1969
United Nations	9698 of February 19, 1946
United Nations Educational, Scientific, and Cultural Organization (UNESCO)	9863 of May 31, 1947
United Nations Industrial Development Organization	12628 of March 8, 1988
United States-Mexico Border Health Commission	11367 of December 21, 2004
Universal Postal Union	10727 of August 31, 1957
World Bank (see International Bank for Reconstruction and Development)	9751 of July 11, 1946

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Exhibit 5.19.11-1 (Cont. 3) (08-01-2008)
International Organizations Exempt from Federal Withholding Requirements

International Organization	Executive Order Number and Date
World Health Organization	10025 of December 30, 1948
World Intellectual Property Organization	11866 of June 18, 1975
World Meteorological Organization	10676 of September 1, 1959
World Tourism Organization	125087 of March 22, 1985
World Trade Organization	13042 of April 9, 1997

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