



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

5.20.2

MARCH 11, 2016

## EFFECTIVE DATE

(03-11-2016)

## PURPOSE

- (1) This transmits revised IRM 5.20.2, *Abusive Tax Avoidance Transactions, Abusive Tax Avoidance Transactions Time Reporting*.

## MATERIAL CHANGES

- (1) IRM 5.20.2.1 updated to include Introduction. The following paragraphs have been renumbered.
- (2) IRM 5.20.2.2.1 updated to include new names and definitions for ATAT subcodes.
- (3) IRM 5.20.2.4(3) removed group secretary from the list of those able to initiate input of TC 971 AC 281 on ICS.
- (4) IRM 5.20.2.4(5)(c) updated to remove duplicate information and to reference IRM 5.20.2.2.1(5)(a) for guidance.
- (5) IRM 5.20.2.4(5)(d) updated to delete information on suit development cases and to reference IRM 25.3.2 for guidance.
- (6) IRM 5.20.2.4(6) added to provide guidance on the automatic input of TC 972 AC 281 when last module closes on a case.
- (7) Editorial corrections made throughout IRM 5.20.2.

## EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 5.20.2, Time Reporting, dated 10-1-2012.

## AUDIENCE

The target audience is SB/SE Collection employees.

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5.20.2

Abusive Tax Avoidance Transactions Time Reporting

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5.20.2.1  
(03-11-2016)  
**Introduction**

- (1) This IRM provides guidance on the proper subcodes, timekeeping and maintenance of a case identified as an Abusive Tax Avoidance Transactions (ATAT) case.

5.20.2.2  
(03-11-2016)  
**Abusive Tax Avoidance Transactions Time Reporting**

- (1) There are designated Integrated Collection System (ICS) subcodes and non-case direct time codes that are to be used to capture and report time spent on an ATAT case.
- (2) ATAT cases must be correctly subcoded to accurately capture ATAT time. Per IRM 5.2.1.10(2), *ICS and ENTITY Subcodes (Field Collection Areas only)*, a subcode should be immediately assigned by the revenue officer or group manager before the end of the reporting period in which the case was assigned. Time spent on an assigned ATAT case will be charged to that case.

5.20.2.2.1  
(03-11-2016)  
**Abusive Tax Avoidance Transactions Subcodes**

- (1) The following subcodes are available on ICS to identify ATAT cases.
  - a. **Subcode 309 – ATAT.** Use this code with all Collection ATAT work not defined by codes 310 through 323.
  - b. **Subcode 310 – Collection Strategy (Formerly Offshore Voluntary Compliance Initiative (OVCI)).** This subcode is reserved for future use and will be defined for a specific ATAT project or compliance initiative as it is identified. Do not use this subcode until directed by Headquarters. The update to the title of this subcode will not take place in ICS until FY 18.
  - c. **Subcode 311 – Offshore Voluntary Disclosure Initiative/Program (OVDI/OVDP).** Use this code with all collection work related to OVDI/OVDP applicants.
  - d. **Subcode 312 – Intermediary Transactions.** Use this code for the assignment of Large Business & International (LB&I) examination requests for collection assistance or audit assessments for taxpayer entities participating in an Intermediary Transaction Tax Shelter, including any transferee assessments resulting from audit assessments. This tax shelter is defined in Notice 2001-16 and 2008-111.
  - e. **Subcode 313 – Promoter/Preparer (Formerly Promoter).** Use this code for all promoter/preparer investigations assigned as Bal Dues, Del Rets, or Compliance Initiative Program (CIP). The update to the title of this subcode will not take place in ICS until FY 18.
  - f. **Subcode 314 – Notice 2000-44 (Son of BOSS).** Use this code with all Collection ATAT work related to taxpayers identified under Notice 2000-44, *Loss Deductions, Disallowance of: Artificial Losses: Abusive Tax Shelters: Partnerships: Basis*. The type of transaction, or series of transactions, referred to as the “Son of BOSS” transaction is a “listed” transaction outlined in Notice 2000–44. It generally refers to certain transactions that are marketed to generate tax losses through the taxpayer’s purported creation of artificially high basis in partnership interests. The taxpayer then attempts to recognize deductible losses on the disposition of the partnership interest or assets coming out of the partnership, even though no economic loss is incurred. Several examination project codes are used to identify “Son of BOSS” examinations. All “Son of BOSS” examinations will be identified by tracking code 9767 on the Examination Returns Control System (ERCS).
  - g. **Subcode 315 - Collection Strategy (Formerly Announcement 2005-80 Global Settlement Initiative).** This subcode is reserved for future use and will be defined for a specific ATAT project or compliance initiative as it is

identified. Do not use this subcode until directed by Headquarters. The update to the title of this subcode will not take place in ICS until FY 18.

- h. **Subcode 316 - ATAT FPLP Contract Vendor.** Use this code on all Federal Payment Levy Program (FPLP) contract vendor cases assigned to an ATAT group. An FPLP case is identified by a TC 971 AC 060 indicating a match between a delinquent account and a Financial Management Service (FMS) payment. The case will be assigned to an ATAT group when the investigation of the taxpayer reveals one or more of the following characteristics:
  - Three or more in-business or out-of-business related entities identified.
  - Any of the responsible parties has outstanding Trust Fund Recovery Penalty assessments from three or more entities.
  - Case has a foreign component.
- i. **Subcode 317 - Collection Strategy (Formerly High Dollar Currently Not Collectible (CNC) Project).** This subcode is reserved for future use and will be defined for a specific ATAT project or compliance initiative as it is identified. Do not use this subcode until directed by Headquarters. The update to the title of this subcode will not take place in ICS until FY 18.
- j. **Subcode 318 - Collection Strategy (Formerly Easement Settlement Offer).** This subcode is reserved for future use and will be defined for a specific ATAT project or compliance initiative as it is identified. Do not use this subcode until directed by Headquarters. The update to the title of this subcode will not take place in ICS until FY 18.
- k. **Subcode 319 — Refund Schemes.** Use this code on cases where the taxpayer(s) claimed false withholding credits (W-2 and Form 1099-OID) or other refundable credits (for example, Form 4136, Credit for Federal Tax Paid on Fuels and Form 2439, Notice to Shareholders of Undistributed Long-Term Capital Gains) which resulted in a fraudulent refund. Subcode 319 should **only** be used when a revenue officer is working in the recovery of a refund. If the refund module is closed due to actions such as a CI referral, suit, offer in compromise, or currently not collectible status and no new refund scheme module is received (e.g. MFT 55 frivolous penalties) then subcode 309 for general ATAT work should be used.
- l. **Subcode 320 - LB&I Distressed Asset Trust (DAT).** Use this code on LB&I DAT cases identified under Notice 2008-34.
- m. **Subcode 321 - IRC § 6707A Penalty Assessments.** Use this code with all IRC § 6707A penalty assessment cases. IRC § 6707A penalty assessments can be identified by MFT code 55, Transaction Code (TC) 240 reference number 648 for individuals and MFT code 13, TC 240 reference number 648 for all other cases.
- n. **Subcode 322 - Offshore Banking (Formerly United Bank of Switzerland (UBS)).** Use this code with all collection work resulting from examinations of taxpayers who did not voluntarily disclose their offshore activity. These cases are referred to as treaty cases by revenue agents involved in the examinations. Do not use subcode 322 for OVDI/OVDP cases. The update to the title of this subcode will not take place in ICS until FY 18.
- o. **Subcode 323 - ATAT Estate and Gift.** Use this code on all ATAT Estate and Gift cases.
- p. **Subcodes 324 - 339. Collection Strategy.** These subcodes have been reserved for future use and will be defined for specific ATAT projects and compliance initiatives as they are identified. Do not use these subcodes until directed by Headquarters.

- (2) Cases must reflect one of the ATAT subcodes to accurately capture collection time spent on ATAT cases.
- (3) Subcode 309 should be used as the default ATAT subcode when none of the other ATAT subcodes apply.
- (4) The creation of a CIP for ATAT Bal Due, ATAT Del Ret, or ATAT Combo cases is not necessary. It is necessary to create a CIP with one of the ATAT subcodes when there is no Bal Due and/or Del Ret available.
- (5) A case that has been correctly subcoded as an ATAT case will retain its ATAT subcode throughout the life of the case.
  - a. Fraud Development cases. Per IRM 25.1.8.8, *Aging of Collection Fraud Cases*, ATAT cases will not be updated to ICS subcode 910 when Fraud Technical Advisor (FTA) assistance is present. In these instances, the ATAT subcode will remain. The group manager or their designee will request upload of TC 971 AC 281 through ICS if it was not previously input. To initiate the TC 971 AC 281, the group manager should access the case in ICS, use the drop down menu "Collection Activities" and select "Generate TC 971/972 AC 281" and input the TC 971 AC 281. With FTA approval documented on Form 11661-A, *Fraud Development Recommendation - Collection*, the revenue officer will input "FRD" for fraud in the location block on ICS. Under Entity Detail select "Name/Address." Select the taxpayer's address and click on view/edit. Enter "FRD" in the location block and save. The TC 971 AC 281 will stop the cycle clock and prevent the taxpayer entity from being included in systemic IDRS/Entity case aging reports. It is important to enter **FRD** in the location block. This is the mechanism for including the case in the Area fraud report. If TC 971 AC 281 and **FRD** are not input, the case will not be counted in the Area fraud report. When the case is no longer in fraud development status or FTA involvement is withdrawn, the revenue officer will delete "FRD" from the location block.
  - b. Offer in Compromise (OIC). The correct ICS subcode must be maintained on the case when an OIC is submitted. Per IRM 5.1.2.5.5.2, *Processing Offer in Compromise (OIC) Receipts*, when an offer is received on an assigned case by a field revenue officer, Form 657, Offer in Compromise Revenue Officer Report, must be completed and attached to the offer package. Form 657 should include any information known about the nature of the scheme and the taxpayer's income and assets. If return of the OIC is recommended, then the ATAT subcode will remain on the case. If an offer is submitted and collection will be suspended and the offer will be worked by the OIC Specialist, then the ICS subcode should be updated to 106, OIC. The time spent completing Form 657 and forwarding the offer to Centralized Offer In Compromise for processing should not be reported to time code 106. The subcode on ICS should only be updated to 106 by an offer group upon receipt of the offer file for investigation after the processability determination has been made.
  - c. Collection Due Process (CDP). CDP cases will retain their ATAT subcode.

5.20.2.2.2  
(03-11-2016)  
**Non-Case Direct Time  
Codes**

- (1) Time codes 309 through 339 are available on the ICS pick-list to capture direct case time spent by collection employees on non-assigned ATAT work. For example, these codes should be used when assistance is given to another revenue officer working an ATAT case or a preliminary opinion is provided to Examination and a CIP is not required.

5.20.2.3  
(10-01-2012)  
**Special Compliance  
Program Designation**

- (1) A revenue officer is designated on ICS as Position Type “Special Compliance Program” (SCP) when 65% or more of their monthly total direct time is charged to the ATAT time codes for two consecutive months. The designation should be removed for any employee not meeting the 65% direct time rule for two consecutive months. Managers of employees working ATAT cases should monitor time reporting to ensure revenue officers are properly designated as SCP. Requests to update the designation should be made to the ICS Quality Analyst (IQA). The IQA is responsible for inputting and removing the designation on the ICS employee tables.
- (2) A revenue officer designated as SCP is excluded from targeted inventory measures allowing adjustments to lower inventories.

5.20.2.4  
(03-11-2016)  
**Aging of ATAT and Suit  
Development Cases**

- (1) In addition to potential fraud development cases, TC 971 AC 281 can be input on ATAT and suit development cases to suspend the overage calculation.
- (2) The following cases qualify for suspension of the overage calculation with group manager approval:
  - All cases with an ICS subcode of 309 through 339
  - Complex or fact-intensive cases where additional time is needed to analyze and gather the facts necessary for developing a suit recommendation
- (3) The TC 971 AC 281 is input by selecting “Generate TC 971/972 AC 281” from the Collection Activities menu to initiate the upload of TC 971 AC 281 or TC 972 AC 281. This option is only available to group managers, acting group managers, and IQAs. Group managers must document approval to input the TC 971 AC 281 in the ICS case history.
- (4) “Generate TC 971/972 AC 281” has two sub choices. The first will generate a TC 971 AC 281 to suspend the overage clock. The second will generate a TC 972 AC 281 which turns the overage clock back on. ICS cannot upload these transactions to IDRS unless there is open IDRS Bal Due or Del Ret module, therefore option “Generate TC 971/972 AC 281” is blocked unless an open IDRS Bal Due or Del Ret module is present. Prepare a manual Form 4844 if there are no open modules on ICS.
- (5) Fraud, ATAT, and suit development cases will be marked with a TC 971 AC 281 and distinguished as follows:
  - a. Fraud – Revenue officers will follow the guidance in IRM 25.1.8.8, *Aging of Collection Fraud Cases*. After approval of Form 11661-A by the FTA, the group manager or their designee will input ICS subcode 910 to the case. The ICS subcode 910 will automatically trigger input of IDRS TC 971 AC 281 on the entity.
  - b. ATAT – ATAT cases will retain the appropriate ICS subcode of 309 through 339. Once group manager approval is documented in the ICS case history, the group manager or their designee will request upload of TC 971 AC 281 through the ICS application “Generate TC 971/972 AC 281”. The TC 971 AC 281 can be input at the time of case assignment or at a later point in the case.
  - c. ATAT Fraud – ATAT cases in fraud development status will retain their ATAT ICS subcode. See IRM 5.20.2.2.1(5)(a) for guidance on inputting TC 971 AC 281 and notating “FRD” for fraud in the location block on ICS.



- d. Suit Development – See IRM 25.3.2.6.1, **Aging Suit Development Cases**, for information on suspending the overage calculation on general program suit development cases.
- (6) TC 972 AC 281 will be automatically generated when the last IDRS module is closed. There is no need to manually request input of TC 972 AC 281 at the time of closing a case. If a case will remain open but the overage clock needs to be started, manually request input of TC 972 AC 281 through the ICS application “Generate TC 971/972 AC 281”. To check for an unreversed TC 971 AC 281 take the following steps:
  - From the case summary screen, select “Entity Detail Menu”
  - Select item “View Entity Transactions”
  - A listing of the Entity transactions on the case will appear; scroll through to check for any unreversed TC 971 AC 281.

