



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

5.20.8

AUGUST 23, 2019

## EFFECTIVE DATE

(08-23-2019)

## PURPOSE

- (1) This transmits revised IRM 5.20.8, Abusive Tax Avoidance Transactions, Promoter/Preparer Investigations.

## MATERIAL CHANGES

- (1) IRM 5.20.8.1 updated to include internal controls under Program Scope and Objectives.
- (2) IRM 5.20.8.2(1) updated delegation order to SB/SE Delegation Order 1-23-50.
- (3) IRM 5.20.8.2(3) updated link to SB/SE Lead Development Center.
- (4) IRM 5.20.8.2(5) added to inform revenue officers that they are permitted to share information with other Service employees to develop referrals to the SB/SE Lead Development Center.
- (5) IRM 5.20.8.2(6) updated to include additional factors considered when determining whether the SB/SE Lead Development Center authorizes an IRC 6700 or IRC 6701 investigation.
- (6) IRM 5.20.8.3(1) removed reference to Field Collection and combined guidance from IRM 5.20.8.3(2) into IRM 5.20.8.3(1).
- (7) IRM 5.20.8.3(3) renumbered as IRM 5.20.8.3(2).
- (8) IRM 5.20.8.3(3) added to provide additional guidance to the Collection ATAT Coordinator when determining whether to assign a promoter/preparer investigation to a revenue officer.
- (9) IRM 5.20.8.5.1(3) updated IRM citations.
- (10) IRM 5.20.8.5.2(1) updated IRM citation.
- (11) IRM 5.20.8.6(1) updated to add that penalties asserted under IRC 6694(b) require examiner to notify the local Collection ATAT Coordinator.
- (12) IRM 5.20.8.6.1(2) updated to add that when penalties are asserted under 6694(b) examiner should not consider current collectibility when determining whether to assert a penalty.
- (13) IRM 5.20.8.6.1(3) updated to have examiner notify assigned revenue officer if promoter/preparer investigation is discontinued. Approval of recommendation for non-assertion by Examination Group Manager and written notification to SB/SE Lead Development Center is no longer required.
- (14) IRM 5.20.8.6.2 updated to add penalties asserted under IRC 6694(b).
- (15) IRM 5.20.8.8(1) updated IRM citation.
- (16) IRM 5.20.8.8(2) updated from SB/SE Lead Development Center to SB/SE examiner.
- (17) IRM 5.20.8.10(1) updated to include that application of penalties to more than one specific individual should be discussed with Counsel.

- (18) IRM Exhibit 5.20.8-1 updated to clarify questions when interviewing an informant or client in an abusive promotion. Questions have been renumbered.
- (19) IRM 5.20.8 revised to make minor editorial corrections throughout the IRM.

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

This material supersedes IRM 5.20.8, Promoter/Preparer Investigations, dated 9-10-2014.

#### **AUDIENCE**

SB/SE Collection Employees

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5.20.8

Promoter/Preparer Investigations

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5.20.8.1  
(08-23-2019)  
**Program Scope and Objectives**

- (1) **Purpose.** This IRM provides guidance to Field Collection employees for referring potential Abusive Tax Avoidance Transactions (ATAT) promoter and preparer leads and outlines procedures on working promoter/preparer investigations.
- (2) **Audience.** The audience is revenue officers in Small Business/Self-Employed (SB/SE) Field Collection.
- (3) **Policy Owner.** The Director of Collection Policy is responsible for issuing policy for the ATAT Collection program.
- (4) **Program Owner.** The program owner is Collection Policy, Global Strategic Compliance, an organization within SB/SE Division.
- (5) **Primary Stakeholders.** The primary stakeholders are SB/SE Collection, SB/SE Lead Development Center (LDC) and Return Integrity & Compliance Services (RICS) in the Wage & Investment (W&I) Division.
- (6) **Program Goals.** Promoter/preparer investigations are some of the highest priority cases for Collection ATAT. By following the procedures in this IRM, users will understand the process for making a referral to the LDC and will know the appropriate case actions when working promoter/preparer investigations.

5.20.8.1.1  
(08-23-2019)  
**Background**

- (1) The Service continues to identify new types of tax transactions or promotions that are either abusive or potentially abusive requiring different levels of coordination and varying strategies. This IRM provides assistance to revenue officers who may be involved in one or all stages of a promoter/preparer investigation.
  - a. A revenue officer may be assigned at the start or anytime during the promoter/preparer investigation. The revenue officer will work cooperatively with the revenue agent on the investigation. Any existing balances due or delinquent returns will be assigned to the revenue officer or if there are none, the case will be assigned as a Compliance Initiative Program (CIP).
  - b. At the close of the promoter/preparer investigation by the revenue agent, the revenue officer may be assigned collection of the IRC 6694(b), IRC 6700 or IRC 6701 penalty assessment and/or will monitor for compliance with the injunction. See IRM 5.20.7, *Monitoring of Promoter/Preparer Injunctions (IRC 7407/7408)*, for guidance on working promoter/preparer injunctions cases.
- (2) While working a case, a revenue officer may identify a previously unknown promoter of an abusive scheme or abusive preparer. See IRM 5.20.8.2, *Making a Referral to the SB/SE Lead Development Center (LDC)*, for guidance on making a referral to the SB/SE LDC.

5.20.8.1.2  
(08-23-2019)  
**Authority**

- (1) The IRS has been delegated the responsibility to administer and enforce the Internal Revenue Code.

5.20.8.1.3  
(08-23-2019)  
**Responsibilities**

- (1) The Director, Collection Policy is the executive responsible for the policy and procedures to be employed by Collection personnel.

## 5.20 Abusive Tax Avoidance Transactions (ATAT)

- (2) Field Collection Group Managers and Territory Managers are responsible for ensuring compliance with the guidance and procedures described in this IRM.
- (3) The SB/SE LDC Program Manager is responsible for authorizing all Abusive Transactions investigations for SB/SE and Tax Exempt & Government Entities (TE/GE).

5.20.8.1.4  
(08-23-2019)

### Program Management and Review

- (1) Program Reports:
  - a. The Collection Activity Reports (CAR) report number 5000-23 provides an overview of staff hours expended and workload data for Field Collection.
  - b. The CAR report number 5000-1 provides an overview of common Taxpayer Delinquent Account (TDA) activity such as issuances, dispositions, credits and inventory.
- (2) Reviews:
  - a. Collection Policy conducts ATAT program reviews as necessary to verify compliance with IRM requirements and to address Treasury Inspector General for Tax Administration/General Accounting Office findings.
  - b. Case reviews are conducted by Group Managers to ensure compliance with this IRM.
  - c. Operational reviews are conducted by the Territory Manager and Area Director annually to evaluate program delivery and conformance to administrative and compliance requirements.

5.20.8.1.5  
(08-23-2019)

### Program Controls

- (1) Group Managers, as well as Territory Managers and Area Directors, are required to approve certain revenue officer case actions. The IRM outlines when approval is required and the level of approval necessary.
- (2) The SB/SE LDC reviews and uploads each lead to the LDC Database with an assigned Control Number.

5.20.8.1.6  
(08-23-2019)

### Terms and Acronyms

- (1) This table lists commonly used acronyms and their definitions:

Acronym	Definition
ATAT	Abusive Tax Avoidance Transactions
CAR	Collection Activity Reports
CC	Closing Code
CDP	Collection Due Process
CI	Criminal Investigation
CIP	Compliance Initiative Program
FRP	Frivolous Return Program
LB&I	Large Business & International
LDC	Lead Development Center
NFTL	Notice of Federal Tax Lien

Acronym	Definition
OTSA	Office of Tax Shelter Analysis
RICS	Return Integrity & Compliance Services
SB/SE	Small Business/Self-Employed
TBOR	Taxpayer Bill of Rights
TC	Transaction Code
TDA	Taxpayer Delinquent Account
TE/GE	Tax Exempt and Government Entities
W&I	Wage & Investment

(2) Internal Revenue Code sections cited in this IRM include the following:

- IRC 6330, *Notice and opportunity for hearing before levy*
- IRC 6694, *Understatement of taxpayer's liability by tax return preparer*
- IRC 6700, *Promoting Abusive Tax Shelters, etc.*
- IRC 6701, *Penalties for Aiding and Abetting Understatement of Tax Liability*
- IRC 6703, *Rules Applicable to Penalties under Sections 6700, 6701, and 6702*
- IRC 7407, *Action to enjoin tax return preparers*
- IRC 7408, *Actions to enjoin specified conduct related to tax shelters and reportable transactions*
- IRC 7803(a)(3), *Execution of Duties in Accord with Taxpayer Rights*

5.20.8.1.7  
(08-23-2019)

#### Related Resources

(1) Additional information and guidance on ATAT collection issues can be found in the following IRM sections.

- a. See IRM 5.20.1 through 5.20.12 for additional information on ATAT collection issues.
- b. See IRM Part 5 for additional information on general collection issues.
- c. See IRM 4.32 for guidance to employees who are examining abusive transactions.

(2) The IRS adopted the Taxpayer Bill of Rights (TBOR) in June 2014. Employees are responsible for being familiar with and acting in accordance with taxpayer rights. See IRC 7803(a)(3), *Execution of Duties in Accord with Taxpayer Rights*. For additional information about the TBOR, see <https://irssource.web.irs.gov/Lists/General%20News/DispItemForm.aspx?ID=126>.

5.20.8.2  
(08-23-2019)  
**Making a Referral to the SB/SE Lead Development Center (LDC)**

- (1) SB/SE Delegation Order 1-23-50, *Functions Related to Potential Promoter, Preparer and Tax Shelter Cases*, delegates authority to approve and refer all SB/SE abusive tax promoter investigations to the SB/SE LDC Program Manager.
- (2) The SB/SE LDC was established to centralize receipt and development of SB/SE ATAT promoter/preparer leads, conduct research, build promoter/

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preparer cases, and authorize the initiation of promoter/preparer investigations in coordination with other Operating Divisions.

- (3) Leads to the SB/SE LDC are submitted using Form 14242, *Report Suspected Abusive Tax Promotions or Preparers*. Additional information on making a referral to the SB/SE LDC as well as an electronic copy of Form 14242 can be found on the Lead Development Center website at <http://mysbse.web.irs.gov/examination/examorg/hq/ecs/ldc/default.aspx>.
- (4) A referral to the SB/SE LDC should be made once the revenue officer has gathered sufficient information to identify the possibility that the promotion of an abusive transaction or frivolous argument may exist. If the name of the promoter/preparer is known, it should be provided in the referral. However, that information is not always available and is not required when making a referral. If the referral is based on informant information or information secured from a client who was affiliated with the promotion, the revenue officer should try to gather as much information as possible during the interview. Secure information such as links to the promoter/preparer's web site and copies of promotional information. See Exhibit 5.20.8-1, *List of Questions That Can Be Used as a Guide When Interviewing an Informant or Client in an Abusive Promotion*.
- (5) Revenue officers can provide assistance to other Service employees who are developing a referral to the LDC. A revenue officer can share information gathered on a promoter/preparer with other Service employees, including revenue agents and the Frivolous Return Program (FRP), to assist them in securing the information needed to make a referral to the LDC.

**Example:** A revenue officer assigned an erroneous refund case summonses records which reveals the identity of the promoter. The revenue officer shares the information with the FRP, and/or the person who is ultimately assigned to the promoter investigation, which enables the FRP to make a referral to the SB/SE LDC. Every additional refund identified as being deposited to the account of the same promoter may be used as evidence of improper conduct and could result in penalty assessments.

- (6) Once the SB/SE LDC has received a referral and after completing the research and case development, each promoter/preparer lead is evaluated for promoter/preparer investigation potential. Multiple factors are considered when determining whether the SB/SE LDC authorizes an IRC 6700 or IRC 6701 investigation and issues the lead to the field. Some of the factors that are considered are:
  - Type of promotion,
  - Past activity of the promoter,
  - Ongoing activity or likelihood of recurrence,
  - The size of the promotion,
  - Tax impact of the promotion,
  - Possible tax law violations,
  - Favorable public impact or compliance impact,
  - Existing balance due liabilities including an open Collection assignment.



## 5.20.8.3

(08-23-2019)

**Authorized IRC 6700 and 6701 Investigations, Revenue Officer Assignment**

- (1) Authorized investigations will be issued to the Field Examination Area Director and to the Area's Planning & Special Program office for assignment of an examiner. The memorandum will include a request for the examiner to contact the local Collection ATAT Coordinator and provide a link to the website with a current list of coordinator names.
- (2) The promoter/preparer investigation is initiated by the examination function to determine whether an individual aided in the promotion of an abusive tax avoidance transaction. See IRC 6700, *Promoting Abusive Tax Shelters, etc.* and IRC 6701, *Penalties for Aiding and Abetting Understatement of Tax Liability*. The investigation is not an income tax examination. The investigation is carried out to decide if the promoter/preparer is subject to penalties and injunctive action as a result of his involvement in abusive activities. The administrative investigation case file sent to the examination function includes:
  - Investigation Authorization Memorandum describing the promoter/preparer's background and history, description of the promotion, potential First Amendment concerns, summary of products or services, any criminal investigation information, the scope of the promotion and recommendation for investigation, and
  - Any background information and documentation obtained that may assist in the investigation.
- (3) A copy of the Investigation Authorization Memorandum will be forwarded to the Collection ATAT Coordinator where the promoter/preparer resides. If there are balances due, the Collection ATAT Coordinator will determine if assignment to a revenue officer is appropriate. In most instances when there are no balances due, a CIP will not be opened absent a request from the examiner for assistance.

## 5.20.8.4

(08-23-2019)

**Coordination with the Examination Function**

- (1) IRM 4.32.3.4, *Collection*, requires examiners conducting promoter/preparer investigations to contact the Area Collection ATAT Coordinator through their group manager once the lead is approved for an IRC 6700 /IRC 6701 investigation. A list of Collection ATAT Coordinators can be found on the SB/SE Collection ATAT website at <http://mysbse.web.irs.gov/Collection/toolsprocesses/CollATAT/contacts/default.aspx>.
- (2) When contacted by an examiner, Area Collection ATAT Coordinators will determine if an ATAT revenue officer should be assigned to assist in the investigation if one has not already been assigned. If the ATAT revenue officer needing to be assigned the investigation is not under the direct supervisory authority of the Area Collection ATAT Coordinator, the Area Collection ATAT Coordinator will coordinate with the revenue officer's direct supervisor to ensure inventory guideline concerns, etc. are addressed. See IRM 5.20.2, *Abusive Tax Avoidance Transactions Time Reporting*, for revenue officer time charging to an unassigned case.

Factors to consider when determining if a revenue officer should be assigned to assist in the investigation can include:

- The promoter/preparer has existing balance due liabilities.
- The examiner is having difficulty locating the promoter/preparer and is requesting assistance.

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- The examiner has knowledge the promoter/preparer is liquidating assets or otherwise attempting to put them beyond the reach of the government.

**Note:** All IRC 6700/IRC 6701 promoter investigation and penalty cases have been prioritized as high priority cases and will be considered top priority case work for revenue officers. See IRM 5.20.1.10, *Prioritization of ATAT Work*.

- (3) A cooperative investigation conducted jointly by Examination and Collection can save time and provide both functions valuable leads. Actions the revenue officer can take during the promoter/preparer investigation include, but are not limited, to:
  - a. participating in initial conference at commencement of promoter/preparer investigation,
  - b. interviewing promoters/clients,
  - c. sharing leads on income and assets identified,
  - d. assisting in possible jeopardy situations,
  - e. researching of ongoing or prior collection activities that could provide important context to the investigation.
- (4) If the case is assigned as a CIP and there is no further action that the revenue officer can take to assist the examiner, the CIP will be closed.
- (5) The Office of Tax Shelter Analysis (OTSA) oversees promoter investigations for Large Business and International (LB&I). Area Collection ATAT Coordinators may be contacted by OTSA, or an LB&I or TE/GE examiner, prior to the assessment of an IRC 6700 or IRC 6701 penalty.

5.20.8.5  
(08-23-2019)

### Parallel Investigations

- (1) The IRC contains both civil and criminal provisions to address ATAT promotions. Examiners may conduct civil investigations before, during, or after criminal investigations of a promoter/preparer.
- (2) Parallel investigations are simultaneous civil and criminal investigations of a common individual or entity. See IRM 5.1.5, *Balancing Civil and Criminal Cases*.
- (3) Parallel investigations are not joint investigations. Each Operating Division conducts a separate investigation. Significant coordination is required throughout the investigation and litigation processes. While regularly scheduled coordination meetings are required, Criminal Investigation (CI) must not direct the examiner's actions in the civil investigation.

5.20.8.5.1  
(08-23-2019)

### Policy Statement

- (1) Policy Statement 4-26, *Criminal and Civil Aspects in Enforcement*, (formerly P-4-84) provides guidance on taking civil enforcement action when the subject is also involved in a criminal investigation. See IRM 1.2.13.1.11, *Policy Statement 4-26 (Formerly P-4-84)*. This statement encourages civil enforcement action in all investigations where the promotion is ongoing and harm to the government is significant. This compliance strategy is intended to quickly stop the promotion, prevent additional loss of tax revenue, and foster voluntary compliance by the clients.
- (2) Most parallel investigations will not result in a penalty assertion recommendation from the investigating examiner or revenue officer assigned the case until after the cessation of the criminal case.

- (3) If criminal and civil Operating Divisions cannot agree on an approach, Policy Statement 4-26 describes the procedures for resolving the matter. Refer to IRM 4.32.2.7.3.3.3, *Resolving Conflicts*, and IRM 5.1.5.4, *Resolving Conflicts Regarding Parallel Investigations*.
- 5.20.8.5.2  
(08-23-2019)  
**Collection Involvement During a Parallel Investigation**
- (1) IRM 4.32.2.7, *Parallel Investigations*, addresses Examination procedures for conducting a promoter/preparer investigation during a pending criminal investigation. IRM 4.32.3.4, *Collection*, requires examiners to notify Collection when a promoter/preparer investigation is assigned. If the promoter/preparer investigation is a parallel investigation, the Collection ATAT Coordinator should determine if there are existing balance due liabilities or other issues associated with the investigation that require Collection involvement. If so, a revenue officer should be assigned.
- 5.20.8.6  
(08-23-2019)  
**IRC 6694(b), IRC 6700 and IRC 6701 Penalty Assessment**
- (1) When the examiner has completed the promoter/preparer investigation and is considering assertion of penalties under IRC 6694(b), IRC 6700, or IRC 6701, IRM 4.32.3.4, *Collection*, requires the examiner to notify the local Collection ATAT Coordinator, who will assign a revenue officer if one has not already been assigned. Follow the guidance in IRM 5.20.1.10, *Prioritization of ATAT Work*. A list of Collection ATAT Coordinators can be found by accessing the Abusive Transactions website at <http://mysbse.web.irs.gov/Collection/toolsprocesses/CollATAT/contacts/default.aspx>.
- 5.20.8.6.1  
(08-23-2019)  
**Non-Assertion of Penalties under IRC 6694(b), IRC 6700 and IRC 6701 Based on Collectibility**
- (1) The examiner may indicate that it appears the promoter/preparer case does not have immediate collection potential and the revenue officer analysis may determine that there is little current collection potential based on known assets. However, experience has shown that promoters/preparers frequently conceal assets and cloud their financial picture, often making it difficult to determine the true collection potential of these accounts. Assets currently concealed or placed beyond reach may well surface during subsequent investigations.
- (2) Therefore current collectibility should not be a consideration when determining whether to assert a penalty under IRC 6694(b), IRC 6700 or IRC 6701. There may be rare situations when it is appropriate to consider collectibility, such as when the promoter/preparer is deceased and there are no assets in the promoter's/preparer's estate. Unless such a rare situation exists, when Collection is contacted in accordance with IRM 4.32.3.4, *Collection*, the examiner should be advised that the penalty should be assessed regardless of current collectibility.
- (3) When the examiner discontinues their promoter/preparer investigation, they will notify the assigned revenue officer of the discontinuance.
- 5.20.8.6.2  
(08-23-2019)  
**Case Actions on IRC 6694(b), IRC 6700 and IRC 6701 Penalty Assessments**
- (1) The revenue officer will document the type of promotion in the case history at the time of assignment.
- (2) The revenue officer will request and review the Examination file and/or contact the revenue agent who pursued the penalty assessment upon case assignment. The file may include information that will eliminate the need for the revenue officer to issue a summons at an additional cost to the government.
- (3) The revenue officer will determine if the promoter/preparer has been enjoined. The revenue officer should secure a copy of the injunction and monitor for

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compliance with the injunction. See IRM 5.20.7.3, *Working an Enjoined Promoter/Preparer Case*, for additional guidance.

- (4) If the revenue officer has taken all collection actions and is closing the penalty balances due as currently not collectible, the revenue officer will input a mandatory two-year follow-up in certain cases. Follow the procedures for mandatory follow-up in IRM 5.16.1.6, *Mandatory Follow-Up*. The follow-up will provide an opportunity to determine if there is any change in collection potential or if the promoter/preparer is in violation of the injunction order. A mandatory follow up will be input in the following cases:

#  
#  
#  
#

### 5.20.8.7 (09-10-2014) **Jeopardy Assessments**

- (1) In cases where a promoter/preparer investigation is being conducted by an examiner and collection of the assessment could be jeopardized if delayed, the examiner will contact the Collection ATAT coordinator and a revenue officer will be immediately assigned to assist in the jeopardy assessment. The Area Director and the local Area Counsel will approve all jeopardy assessments. Follow jeopardy assessment procedures outlined in IRM 5.1.4, *Jeopardy, Termination, Quick and Prompt Assessments*, and IRM 5.17.15, *Termination and Jeopardy Assessments and Jeopardy Collection*. If the jeopardy situation is not discovered until after the assessment, see IRM 5.11.3, *Jeopardy Levy without a Jeopardy Assessment*.

### 5.20.8.8 (08-23-2019) **Appealing IRC 6700 and IRC 6701 Penalty Assessments**

- (1) There are no pre-assessment appeal rights for IRC 6700 and IRC 6701 penalties. IRC 6700 and IRC 6701 penalties may be challenged by following the special claim for refund procedures of IRC 6703, *Rules Applicable to Penalties under Sections 6700, 6701, and 6702*. When an IRC 6700/6701 penalty is assessed, the promoter/preparer is billed for the amount(s) due. The billing notice advises the promoter/preparer that if 15% of the penalty is paid within 30 days, a claim for refund may be filed on Form 6118, *Claim for Refund of Tax Return Preparer and Promoter Penalties*, or Form 843, *Claim for Refund and Request for Abatement*. Under IRC 6703(c), collection action and the running of the statute of limitations on collection are suspended until the claim is resolved. Refer to IRC 6703, as well as IRM 4.32.2.12.9.1.1, *Special Claim Procedures for Penalties Under IRC 6694(b), IRC 6700 and IRC 6701*, for a full explanation of appeal rights for promoter/preparer penalties.
- (2) The SB/SE examiner will verify that the Campus has input transaction code (TC) 470 closing code (CC) 95 on the applicable modules. If a TC 470 CC 95 has not been input on an applicable module, SB/SE examiner will request input.
- (3) When a promoter/preparer indicates that a claim has been filed appealing assessment of a penalty, the revenue officer should notify the SB/SE LDC of the filing.
- (4) A taxpayer may challenge the existence or amount of an IRC 6700 or IRC 6701 penalty in Collection Due Process (CDP) but only if the taxpayer did not receive a "prior opportunity" to contest the assessment. See IRC 6330(c)(2)(B). The taxpayer's receipt of notice and demand, providing specific procedures for requesting an abatement and obtaining judicial review under IRC 6703(c), con-

stitutes a "prior opportunity" and would preclude the taxpayer from raising an issue challenging the liability in CDP. If a taxpayer requests a CDP hearing, forward any available documents establishing the taxpayer received notice and demand to Appeals. The taxpayer may raise other relevant issues in CDP when a challenge to the liability is precluded.

5.20.8.9  
(08-23-2019)

**Collection Action  
Considerations During a  
Special Claim for Refund  
Appeal**

- (1) A Notice of Federal Tax Lien (NFTL) may be filed in accordance with IRM 5.12, *Federal Tax Liens*. Even when the taxpayer has paid 15% of the penalty and submitted a timely claim for refund, IRC 6703 does not prohibit filing an NFTL. The revenue officer can also proceed with a special condition (i.e. nominee/alter ego/transferee) NFTL investigation but other collection actions should be suspended during the course of the appeal. This includes levying on property of the promoter/preparer or a nominee. The Service can not bring any type of collection suit until after the final resolution of the claim for refund in district court. (See IRM 5.12.7.6, *Special Condition NFTLs (Nominee, Alter Ego, Transferee, Successor in Interest)*.)

5.20.8.10  
(08-23-2019)

**Collecting the  
Promoter/Preparer  
Penalty Assessment**

- (1) A promoter or preparer penalty may be assessed for the same conduct against more than one entity or individual. Application of penalties to more than one specific individual should be discussed with Counsel. The collection of the penalty amounts against all entities or individuals assessed should be collected in full. Unlike the trust fund recovery penalty, it is not necessary to coordinate the funds collected from one entity and reduce the penalty amount of the corresponding entity or individual.
- (2) Although it is not necessary to coordinate the collection of the funds from the separate, yet somewhat related entities, it is important to coordinate with examination to ensure all promoter/preparer penalties that were assessed on an investigation are addressed as a whole when assigned for collection.

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**Exhibit 5.20.8-1 (08-23-2019)****List of Questions That Can Be Used as a Guide When Interviewing an Informant or Client in an Abusive Promotion**

Questions for Collection Taxpayers:

Taxpayer Name:

Taxpayer Address:

Taxpayer Telephone Number:

1. When did you first become aware of the transaction?
2. From whom did you receive the information?
  - a. Did you receive it in person, or by e-mail, telephone or other method?
  - b. If you attended a meeting, how many others were there?
  - c. When and where did the meeting occur?
  - d. Do you have any literature from these meetings?
  - e. How did you learn of the meeting? (radio, book, internet, another person, etc.)
3. What did they tell you about their transaction?
4. Were you ever told that your tax liability could be reduced or eliminated?
5. How much did the information cost you? What was the method of payment - cash, check, wire, money order, or some other method? Can you provide a copy of the method of payment?
6. Did the person(s) only provide **you** with the information or did they have other clients? Do you know how many? Do you believe they work with others nationwide or only locally?
7. Are you still in contact with the individual(s) or organization that provided the information to you? If yes, is the contact by telephone, e-mail or meeting? If no, why not?
8. If you are still in contact with them, are they providing any additional advice or information to help you? Do you have their current address, telephone number, e-mail address and/or website address?
9. How has the information helped you resolve the tax liability?
10. Did you seek legal opinions from tax attorneys or CPAs regarding the issues in the materials provided? If so, from whom did you seek assistance?
11. Have you ever been involved in any reportable transactions or tax shelter transactions? If so, when and in what transaction?
12. Have you ever been charged criminally for any illegal conduct? If yes, what was the nature of those charges.

