



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

8.21.5

JUNE 16, 2021

## EFFECTIVE DATE

(06-16-2021)

## PURPOSE

- (1) This transmits revised IRM 8.21.5, *Statutes on Collection Cases*.

## BACKGROUND

- (1) This IRM provides guidelines for verifying, updating, and monitoring statutes on collection cases in Appeals.

## MATERIAL CHANGES

- (1) Changes to this IRM are as follows:

IRM Section	Material Changes
IRM 8.21.5.2.1, All Employees Responsibilities - Collection Issues	Incorporated Interim Guidance AP-08-0620-0010, Reissuance of Interim Guidance on Initial Conference Procedures for Liability, Penalty Appeals and Innocent Spouse Cases - 6/26/2020.
IRM 8.21.5.1.3, Related Resources	Added Taxpayer Bill of Rights (TBOR) content based on guidance from the Division Counsel/ Associate Chief Counsel (National Taxpayer Advocate Program) and Branch 3 of the Associate Chief Counsel (Procedure and Administration).
In General	Other corrections to content were made for grammar, formatting and other editorial changes.

## EFFECT ON OTHER DOCUMENTS

This IRM section supersedes IRM 8.21.5, *Statutes on Collection Cases*, dated April 12, 2019.

## AUDIENCE

Appeals

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8.21.5  
Statutes on Collection Cases

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8.21.5.1  
(04-12-2019)  
**Program Scope and Objectives**

- (1) Purpose: This Internal Revenue Manual (IRM) provides an introduction and guidance to Appeals employees on statute issues related to collection sourced case work.
- (2) Audience: These procedures and guidance apply to Appeals employees working collection sourced casework.
- (3) Policy Owner: Policy, Planning, Quality and Analysis is under the Director of Case and Operations Support.
- (4) Program Owner: Appeals Policy is the program office responsible for providing technical and procedural guidance to the Appeals organization is under the Director of Policy, Planning, Quality and Analysis.
- (5) Contact Information: Appeals employees should follow established procedures on *How to Contact an Analyst*. Other employees should contact the Product Content Owner shown on the Product Catalog Information page for this IRM.

8.21.5.1.1  
(04-12-2019)  
**Background and Authority**

- (1) Statutes provide a framework for IRS collection efforts. These include:
  - The Restructuring and Reform Act of 1998, which contains limitations on when the taxpayer and Service can agree to extend the collection statute.
  - The Taxpayer's Bill of Rights 2 (TBOR2) - On July 30, 1996, Congress passed the **Taxpayer Bill of Rights 2**. TBOR2 contains more than 40 provisions.
  - The Tax Increase Prevention and Reconciliation Act of 2005 made significant changes to the Offer in Compromise (OIC) Program. This amended IRC 7122(f) to indicate if there is no determination on a submitted offer within 24 months, it will be deemed accepted.

8.21.5.1.2  
(04-12-2019)  
**Responsibilities**

- (1) The Policy analyst shown on the Product Catalog page as the originator is the assigned author of this IRM.

8.21.5.1.3  
(04-12-2019)  
**Related Resources**

- (1) This IRM is the primary source of guidance on this program. The following list provides additional sources of guidance. Together, this material forms the operating rules and responsibilities for this program.:
  - IRM 5.8, Offer in Compromise
  - IRM 5.14, Installment Agreements
  - IRM 5.19.1, Balance Due
  - IRM 5.1.9, Collection Appeal Rights
  - IRM 25.6.1, Statute of Limitation Processes and Procedures
  - IRC 6501, Limitations on Assessment and Collection
  - IRC 6502, Collection after Assessment
  - IRC 6503, Suspension of Running Period of Limitations
- (2) Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see <https://www.irs.gov/taxpayer-bill-of-rights>.

8.21.5.2  
(04-12-2019)

**General Overview of  
Collection Statutes**

- (1) This section provides guidance to Appeals employees on statute issues for collection workstreams.
- (2) These procedures are the minimum standard that you are expected to follow when handling collection cases in Appeals.
- (3) Collection Function has the principal responsibility for monitoring the statute of limitations on Collection cases.
- (4) When working Collection cases, you are responsible for:
  - Reviewing or determining the appropriate statute controls for cases in your inventory
  - Determining when suspension is applicable
  - Notating short statute cases
  - Updating incorrect statutes on ACDS
- (5) A short statute case is one with 12 months or less remaining on the CSED.

8.21.5.2.1  
(06-16-2021)

**All Employees  
Responsibility -  
Collection Issues**

- (1) You should be alert to problems and scenarios that could impact the statute(s) for each of your cases and to take action, whenever possible, to prevent the lapse of the 24 month TIPRA statute..
- (2) Within 30 calendar days from receipt of any Appeals case (except CAP & TFRP cases), you will review the file to determine that all statute dates are correctly shown on the Appeals Centralized Database System (ACDS).
- (3) Within 45 calendar days of a newly assigned and/or transferred TFRP case, you will complete the statute verification.
- (4) You must make an entry in the Case Activity Record (CAR) to indicate that you verified the statute date. You should also explain any unusual circumstances pertaining to the statute of limitations in the CAR. For specific documentation requirements see IRM 8.22.5.3.2 , Documentation Requirements - CDP Statute Controls and Verifications when working CDP cases, IRM 8.25.2.3 , TFRP Initial Statute Verification Requirements when working TFRP cases and IRM 8.23.2.4 , Initial Case Review and Statute Controls when working non-CDP OIC cases.
- (5) You should always be aware of the statutes on cases in your possession and continue to monitor the statute as long as the case is in your possession.

8.21.5.2.2  
(04-12-2019)

**Collection Statute  
Expiration Date**

- (1) IRC 6502 provides that the length of the period for collection after assessment of a tax liability is 10 years. Each tax assessment has a Collection Statute Expiration Date (CSED).
- (2) Any tax assessed on or after November 6, 1990, is collectible for 10 years from the date of assessment. Previously, the collection statute ran for a 6 year period. Any tax assessed on or before November 5, 1990, on which the former 6 year statute of limitations had not expired on November 6, 1990, is collectible for 10 years from the date of assessment.
- (3) Once a tax liability is assessed, the statute of limitations for collection begins to run. The expiration of the collection statute ends the Government's right to pursue collection of a liability.

8.21.5.2.3  
(04-12-2019)  
**Reform and Restructuring Act of 1998 (RRA '98) Section 3461 Procedures Relating to the Extension of Statute of Limitations by Agreement**

- (1) Effective January 1, 2000, the Service and the taxpayer cannot agree to extend the period of limitations on collection except in conjunction with installment agreements and releases of levy. Extensions of the period of limitations on collection in effect on December 31, 1999 not in conjunction with an installment agreement, expired no later than December 31, 2002.
- (2) The IRS will only extend the period of limitations on collection in conjunction with Partial Payment Installment Agreements (PPIA) in limited situations. See IRM 5.14.2, Installment Agreements - Partial Payment Installment Agreements and the Collection Statute Expiration Date (CSED), for limitations and examples of appropriate situations to extend the period of limitations on collection.

8.21.5.3  
(04-12-2019)  
**Collection Cases Not Accepted by Appeals**

- (1) Most Collection cases can now be appealed per statutory provisions. Those provisions may suspend or extend the statute for timely responses, or otherwise have unique provisions. The hearing officer will verify the statute information input by the APS employee during the carding process, and, if appropriate, return the case to Compliance as a premature referral:
  - a. Trust Fund Recovery Penalty (TFRP) cases where the taxpayer failed to file the appeal of the proposed assessment within 60 days after the mailing or delivery of the proposed assessment (75 days if the letter was addressed outside the United States). See IRM 8.25.2, Working Trust Fund Recovery Penalty Cases in Appeals.
  - b. Offer in Compromise (OIC) cases where the taxpayer's appeal was untimely (too late **or** too early).

**Note:** If an appeal request is postmarked more than 30 days after the date of the rejection letter, you should return the case as a premature referral, unless the 30th day is a Saturday, Sunday or legal holiday. In order to be considered timely using the postmark rule or the Saturday/Sunday/Legal Holiday rule, the appeal must be sent by United States Postal Service or by a designated private delivery service using the designated method - See Notice 2016-30. Limitation periods on untimely appeals are not suspended. See IRM 8.23.2, Receipt and Control of Non-Collection Due Process (CDP) Offers for premature referral guidance pertaining to OIC cases.

8.21.5.4  
(04-12-2019)  
**Transaction Codes That Carry Their Own CSED**

- (1) In addition to Transaction Code (TC) 150 – Tax Assessed, there are certain other TCs with specific reference numbers that carry their own CSEDs. As of February 28, 2004, these TC codes will display their own CSEDs on the Integrated Data Retrieval System (IDRS). A table of these TC codes follows:

Transaction Code	Definition of TC
TC 160	Manually Computed Failure to File Penalty
TC 166	Computer Generated Failure to File Penalty
TC 170	Estimated Tax Penalty

Transaction Code	Definition of TC
TC 176	Computer Generated Estimated Tax Penalty
TC 180	Manually Assessed Failure to Deposit (FTD) Penalty
TC 186	Computer Generated Federal Tax Deposit Penalty
TC 234	Daily Delinquency Penalty (if it is the only CSED in the module)
TC 238	Daily Delinquency Penalty
TC 240	<p>Miscellaneous Penalty (all except for Reference Codes 697 and 699)</p> <p><b>Caution:</b> Because of a programming error, TC 240 with penalty reference numbers 680, 681, 682, and 686, posted prior to January 2009, may contain an incorrect CSED on BMF accounts. For collection purposes, TC 240 with reference numbers 680, 681, 682, and 686 has the same CSED as the related tax assessment (TC 290 or TC 300) regardless of the CSED computed on Master File as part of the TC 240</p>
TC 246	Computer Generated Form 8752 or Form 1065 Penalty
TC 290	Additional Tax Assessment
TC 294	Tentative Carryback Disallowance with Interest Computation Date
TC 298	Additional Tax Assessment with Interest Computation Date
TC 300	Additional Tax or Deficiency Assessment by Examination or Appeals

Transaction Code	Definition of TC
TC 304	Tentative Carryback Disallowance by Examination with Interest Computation Date
TC 308	Additional Tax or Deficiency Assessment by Examination or Appeals with Interest Computation Date
TC 320	Fraud Penalty
TC 340	Restricted Interest (with Doc Code 47 and 51 only), as it relates to the additional tax being assessed
TC 350	Negligence Penalty

8.21.5.5  
(04-12-2019)  
**Suspension and Extension of the Statute of Limitations**

- (1) A number of conditions can suspend or extend the general statute of limitations for collection. The following sections discuss the most common conditions that influence the collection statute of limitations.
  - a. Suspension stops the running of the statute for a period of time. The effect of a suspension is to extend the 10-year collection period.
  - b. An extension does not suspend or otherwise affect the general 10 year period. It simply adds additional time to the end of the period. The only legally permissible extensions are ones given in connection with an installment agreement or in exchange for the release of levy made prior to the CSED if release occurs after the CSED and the extension is agreed to before the release.

8.21.5.5.1  
(04-12-2019)  
**Bankruptcy**

- (1) Generally, when a taxpayer files bankruptcy, the CSED is suspended by the length of time the Service is prohibited from collecting by the bankruptcy automatic stay, plus 6 months.
- (2) A TC 520 is input, with the appropriate closing code, using the date the bankruptcy is filed.
- (3) A TC 521 is input as of the date the case is discharged or dismissed from bankruptcy. The CSED is suspended for this period of time plus 6 months in most cases. See IRM 5.9.5.6.1 , Closing Codes and IRM 5.9.5.6.2 , Reversing the Bankruptcy Indicator.

8.21.5.5.2  
(04-20-2012)  
**Judgments and Litigation**

- (1) Per IRC 6502(a), a court action to collect tax liabilities brought against the taxpayer prior to the expiration of the collection statute extends the period to collect until the tax liability or judgment against the taxpayer is satisfied or becomes unenforceable. For example, filing of a suit to reduce the tax liability to judgment will suspend the collection statute during litigation. For more information, see IRM 5.17.4.7, Suit to Reduce Assessments to Judgement
- (2) The CSED is also suspended with respect to any penalty under IRC 6672, IRC 6694, IRC 6700 or IRC 6701 for the period during which the Agency is prohib-

ited from collecting by levy or a proceeding in court. If within 30 days of the notice and demand, the taxpayer pays the amount specified in section 6672(c), 6694(c) or 6703 and files a refund claim, levy and a court proceeding is prohibited and continues until the taxpayer fails to bring a refund suit within the prescribed time period or the district court decision in the refund suit becomes final.

- (3) The CSED is suspended during a suit for refund of a divisible tax of employment taxes (subtitle C) and IRC 6672 since levy action is prohibited during the suit, see IRC 6331(i).
  - (4) TC 520 with closing codes 70 through 75 does not suspend the CSED.
  - (5) TC 520 with closing codes 76 through 81 and closing code 84 suspends the CSED, unless a TC 550 (new CSED) is posted with a later transaction date.
- (1) Computing the CSED on an OIC case requires the application of several rules, depending on when the OIC was filed and/or accepted.
  - (2) The Form 656, Offer in Compromise, waiver of the collection statute used prior to January 1, 2000, provided for a CSED suspension for a pending OIC plus 1 year. The CSED was suspended by contract.
  - (3) Several legislative changes have provided or revoked the Service's ability to suspend the statutory period of collection for Offers in Compromise.

8.21.5.5.3  
(04-12-2019)  
**Offer in Compromise  
(OIC)**

Law	Change
The IRS Restructuring and Reform Act of 1998 (RRA '98)	Section 3461 of RRA '98 eliminated the Service's ability to extend the CSED in connection with OICs after December 31, 1999. All statute extensions secured on or before December 31, 1999 and extended beyond December 31, 2002 expired on December 31, 2002 or the original CSED date whichever was longer. For OICs pending or made after December 31, 1999, and before December 21, 2000, the CSED was extended while the offer was pending, during the 30-day period following the rejection of the offer, and during the time an appeal of the offer rejection was under consideration.
Community Renewal Tax Relief Act dated December 21, 2000	The CSED was not suspended for pending offers for the period of December 21, 2000 to March 09, 2002.

Law	Change
The Job Creation and Worker Assistance Act of 2002	Effective March 09, 2002 and forward, input of the TC 480 suspends the CSED period during the time an offer is pending, during the thirty days following rejection of an offer and for any period when a timely filed appeal from the rejection is being considered by Appeals. That is for the period of time between the TC 480 and the TC 481, TC 482 or TC 780 only (do not add a year to this suspension). This law change is not retroactive.

For more information on CSED suspensions on OIC submissions, see IRM 5.1.19.3.4, Offer in Compromise

- (4) By signing the Form 656, the taxpayer waives the statutory period for assessment for periods included in the offer (See Form 656), beginning on the date the offer is deemed pending plus one additional year if the Internal Revenue Service rejects, returns, or terminates (due to the taxpayer’s death before acceptance) the offer or if the taxpayer withdraws the offer. Refer to IRM 5.8.10.8 , Effect of Previous Offers on Assessment Statute Expiration Date, to determine ASSED suspension periods. The taxpayer cannot extend the CSED.
- (5) TC 480 suspends the CSED.
- (6) Refer to the chart located in IRM 5.8.10.7, Effect of Previous Offers on Collection Statute to determine the correct CSED suspense periods.
- (7) If an OIC is submitted during a Collection Due Process hearing, there will be different suspension periods running concurrently. The CSED suspension due to the CDP hearing will be longer. If the OIC is accepted for processing prior to the CDP hearing request, and transferred to Appeals for consideration as part of the CDP hearing, there will be overlapping suspension periods. For more information about CSED suspension during CDP Hearings, see IRM 5.1.9.3.6, Suspension of Collection Statute of Limitations, and IRM 8.21.5.5.5, Collection Due Process (CDP).

8.21.5.5.4  
(04-12-2019)  
**Installment Agreement  
Suspensions**

- (1) Effective March 9, 2002, the CSED is suspended during:
  - a. the time the proposed installment agreement is pending,
  - b. 30 days following the rejection of an installment agreement,
  - c. 30 days following termination of an installment agreement, and,
  - d. any timely appeal of the termination or rejection of the installment agreement.

See IRM 5.1.19.3.5, Installment Agreements for more information.

- (2) Transaction Code 971 Action Code 043 is input on accounts meeting “pending installment agreement” criteria. To meet pending installment agreement criteria, taxpayers’ request must provide specific information including:

- Provide sufficient information to identify the taxpayer
- Identify the tax liability to be covered by the agreement
- Provide a monthly or other periodic payment of a *specific* amount
- Be in compliance with return filing requirements

See IRM 5.14.1.3, Identifying Pending, Approved and Rejected Installment Proposals on IDRS for more information on pending installment agreement requests .

- (3) If a pending installment agreement request, as described above, is submitted during a Collection Due Process hearing, there will be different suspension periods running concurrently. Generally, the CSED suspension due to the CDP hearing will be longer. There will be an overlap in CSED suspension when the installment agreement request is made prior to the CDP Hearing request or when the CDP request is withdrawn but the installment agreement request is not withdrawn. For more information about CSED suspensions during CDP Hearings, see IRM 5.1.9.3.6, Suspension of Collection Statute of Limitations, and IRM 8.21.5.5.5, Collection Due Process (CDP).
- (4) Although the Service can accept agreements to extend the period of limitations on collection in conjunction with installment agreements, the Service will do so only in limited situations. IRM 5.14.2, Installment Agreements - Partial Payment Installment Agreements (PPIA) and the Collection Statute Expiration Date (CSED), provides examples of appropriate situations to accept statute extension requests.
- (5) Although rare, you have the authority to secure a Form 900, Collection Statute Extension, in limited situations in conjunction with a PPIA. The waiver period should be determined based upon the situation, but should not exceed 5 additional years plus 1 year to provide for other administrative actions, and you should follow IRM 5.14.2 in considering whether an extension is appropriate.
  - a. Consider securing a waiver when there is an asset that will come into existence after the CSED and the liquidation of that asset would offer the best case resolution in lieu of liquidating existing assets to partially pay the liability.

**Example 1:** The taxpayer owes individual income tax and is the beneficiary to a trust. The taxpayer will receive a monthly distribution from the trust which is used to fund the PPIA. The taxpayer will not be entitled to the principal of the trust for two more years. The CSED will expire in 1 year. The only other asset is the taxpayer's primary residence. The equity in the property is less than the net value of the trust but is available for immediate collection action. The taxpayer has been unable to secure a loan against the equity of the property due to numerous factors such as limited income and poor credit. The risk analysis was completed by the revenue officer and the taxpayer offered to extend the statute to liquidate the trust in 2 years. The waiver was secured for 2 additional years plus 1 additional year.

**Example 2:** A corporation taxpayer cannot pay its payroll tax liability within the statute. They can make partial payments for the remaining life of the statute. The corporation is current with their federal tax deposits. The corporation has an interest in vacant real property which is under development and will be completed in 2 years. The land once developed would increase significantly in value and will be immediately sold. The CSED will expire in 1 year. Seizing and selling the assets of the business which would include the vacant land and other construction equipment would not significantly reduce the liability and would impact the business' ability to

complete the development of the property. The corporate officers offer to extend the statute to provide the opportunity to complete the development and pay the taxes along with other business debts. The TFRP would be addressed per IRM procedures.

**Example 3:** The taxpayer cannot pay the liability within the CSED but can make monthly payments. The statute will expire in 12 months. The taxpayer has no dis-trainable assets. The taxpayer owes \$1,800 and it is determined that they can pay \$100 per month. A waiver is not secured. The statute would be allowed to expire.

(6) The processing of Form 900 generates a TC 550 extending the CSED.

8.21.5.5.5  
(04-12-2019)  
**Collection Due Process  
(CDP)**

(1) On timely filed CDP requests, Appeals is responsible for providing the TC 521 date, which is the date the collection statute will start running again. A TC 520 with a closing code of 76 or 77 reflects the date of receipt of a CDP request for hearing, which is the beginning date of the collection statute suspension. The TC 521 is then input when the Appeals determination and any additional appeal period becomes final. For more information on how the TC 521 is determined, see IRM 8.20.7.20.4, Determine the TC 521 Date for CDP Cases.

**Note:** Equivalent Hearing and Retained Jurisdiction cases do not have a TC 520 input and are not subject to statute suspension.

(2) The date the Appeals determination becomes final is determined as follows:

- a. The date the 30-day period within which the taxpayer could appeal to Tax Court expires, if the taxpayer does not exercise his/her right to judicial review.
- b. The date upon which judicial review including any appeals to higher courts is completed (if the taxpayer timely begins the review process to Tax Court). The time to appeal to the Circuit Court of Appeals is 90 days. This period must be added to the decision/dismissal date for the updated statute. Should the taxpayer go to the Court of Appeals, the time to request a writ of certiorari to the Supreme Court is 90 days and that period should be added to any case that went to the Court of Appeals.
- c. For Form 12257, Waiver of Right to Judicial Review, the date the ATM or hearing officer signed the waiver.

For additional information, see IRM 8.20.7.20.4, Determine the TC 521 Date for CDP Cases.

(3) If the re-computed CSED is less than 90 days from the TC 521, the CSED is extended to equal 90 days. The exception to the systemic update of the CSED is IMF accounts involving joint income tax liabilities where only one spouse has requested the hearing. For MFT 30 accounts, input the appropriate CSED indicator with the TC 520. The indicators are as follows:

- a. "P" - CSED suspended only for the primary TIN spouse.
- b. "S" - CSED suspended only for the secondary TIN spouse.
- c. "B" - CSED suspended on both primary and secondary TINs. The CSED is systemically updated when the CSED indicator is "B".

**Note:** If the signature/validation of a non-signing spouse was secured, the CSED TIN indicator should have been corrected to "B" to ensure no levy action was taken on the original non-signing spouse.

- (4) The CSED is still suspended for the particular spouse when the CSED indicator is “P” or “S” However, the module will reflect the earliest CSED.

**Note:** A CDP proceeding concerning a partnership’s liability suspends the CSED for the liability without the need to determine separate CSEDs for the individual partners.

- (5) Because the statute will be computed by the system, it is vital that the correct TC 520 and TC 521 dates are reflected.
- a. The TC 520 date must reflect the beginning date of the statute suspension period, which is the receipt date, unless this date is after the 30 days on a CDP request that is postmarked timely.
  - b. If the receipt date is after the 30 days but the postmark date is before the 30 days, the TC 520 date should be the postmark date. Timely mailed constitutes timely filing if the taxpayer’s request for a CDP hearing is correctly addressed to the IRS office listed on the CDP notice or if the address of that office does not appear on the CDP Notice, the taxpayer should obtain the address of the office to which the written request should be sent or hand delivered by calling, toll-free, 1-800-829-1040 and providing the taxpayer’s identification number (e.g., SSN, ITIN or EIN). For more information and a detailed discussion on how to determine timeliness, see IRM 8.22.5, Collection Due Process, Receipt, Control and Pre-Conference Considerations.

**Note:** In order to be considered timely using the postmark rule or the Saturday/Sunday/Legal Holiday rule, the appeal must be sent by United States Postal Service or by a designated private delivery Service using a designated method - See *Notice 2016-30*.

- c. No TC 520 is entered if both postmark and received date are after 30 days. This is an Equivalent Hearing (EH) case. See IRM 8.22.4.3, Equivalent Hearing (EH).

8.21.5.5.6  
(11-17-2015)  
**Taxpayer Living Outside  
the United States**

- (1) The period of limitations on collection after assessment is suspended while the taxpayer is outside the U.S. if the absence is for a continuous period of at least 6 months pursuant to IRC 6503(c).
- (2) To ensure the Government has an opportunity to collect the tax after the taxpayer’s return, the period of limitations does not expire (where the taxpayer has been out of the country for 6 months or more) until 6 months after the taxpayer’s return to the country.

**Note:** As the application of this provision can result in the CSED being suspended for a very long period of time, policies for the administration of this code section are now established. See IRM 5.1.19.3.7.1, Policies for Adjusting the CSED When Internal Revenue Code (IRC) 6503(c) Applies.

- (3) When a case is in Appeals, you may encounter a situation where a taxpayer has been located outside of the U.S., and as a result a CSED suspension may be applicable. Because a CSED suspension may have a bearing on the particular collection resolution of a matter that is before Appeals, an Appeals Referral Investigation (ARI) should be used to request that Collection make a determination whether a CSED suspension is applicable.

**Note:** You will accept Collection's determination about whether or not to suspend the CSED and change it only to address a computational error. If Collection declines to respond to the ARI, do not take action to suspend the CSED.

8.21.5.5.7  
(11-17-2015)  
**Innocent Spouse - Relief from Joint and Several Liability on Joint Returns**

- (1) Collection activity is suspended for the requesting spouse when he or she makes a qualifying request under IRC 6015(b), IRC 6015(c) and/or IRC 6015(f). Collection activity against the non-requesting spouse is not prohibited.

**Note:** The IRS may rely on the requesting spouse's election on Form 8857, Request for Innocent Spouse Relief, for purposes of determining whether the CSED is suspended even in those circumstances where the requesting spouse's election is improper on its face. If the Service determines that the requesting spouse's Form 8857 is actually a request for reconsideration, the CSED should not be suspended.

- (2) The collection period is suspended from the filing of the claim until a waiver is filed, or until expiration of the 90 day period for petitioning the Tax Court, or if a Tax Court petition is filed, when the Tax Court decision becomes final under IRC 7481, plus 60 days in each instance.

**Note:** Although collection of the liability from the requesting spouse may resume, in the absence of the filing of an appeal bond, on the date the requesting spouse files a notice of appeal of an adverse Tax Court decision, the Service will not resume collection activity **unless the CSED is imminent or collection will be jeopardized by the delay.**

- (3) If a request for relief is made in response to the Collection Due Process procedure, there is also a concurrent suspension of the collection activity during the period provided for by IRC 6330(e), for the pending of any administrative hearing and appeals therein regarding the levy.
- a. The rules for suspension under IRC 6330 differ from IRC 6015. In general, the longest suspension of collection and the collection period should control, which may require analyzing the suspension under both sections where relief from joint and several liability is requested as part of an IRC 6330 hearing.
- (4) If the requesting spouse signs a waiver of the restrictions on collection, the suspension of the period of limitation on collection against the requesting spouse will terminate 60 days after the waiver is filed with the Agency, limiting the CSED extension to the period from when the claim was filed to the time the waiver was signed, plus 60 days.
- (5) A request for a reconsideration is not a qualifying request for relief for purposes of Treasury Regulation §1.6015-1(h)(5), and does not trigger the restrictions on collection pursuant to section 6015(e)(1)(B) or the suspension of the collection period of limitation under section 6015(e)(2).

8.21.5.5.8  
(04-12-2019)  
**Taxpayer Assistance Order (TAO)**

- (1) IRC 7811(d) and the accompanying regulations provide that if a taxpayer submits a Form 911, Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order), or written equivalent defined in IRM 13.1.14, Taxpayer Advocate Procedures - Suspension of the Statutes of Limitation under IRC 7881(d), the statute of limitations on collection and/or assessment may be extended for a certain period.

- (2) Due to system programming limitations, the Commissioner decided in November 2003 that Taxpayer Advocate Service (TAS) does not have to input the appropriate IDRS codes to reflect the suspension of the statute of limitations under IRC 7811(d). The program limitations are still in effect. Therefore, IDRS codes are not input to show the correct suspension periods for IRC 7811(d) at this time. See IRM 13.1.14, Taxpayer Advocate Case Procedures - Suspension of the Statutes of Limitations under IRC 7811(d).

8.21.5.5.9  
(04-12-2019)

#### Military Deferment

- (1) The payment of income tax on the income of a service member falling due before or during military service shall be deferred for a period not more than 180 days after termination of or release from military service, if the service member's ability to pay the income tax is materially impaired by his/her military service. The CSED is suspended during the taxpayer's military service and for an additional 270 days afterward.
- (2) The accrual of interest, penalties, and other additional amounts will resume 180 days after termination of, or release from, military service, but enforcement actions to collect the amounts due may be deferred for an additional 90 days.
- (3) TC 500 with Closing Code 51 suspends the CSED for Military Deferment. See IRM 5.1.7.13.1, Military Deferment Procedures and IRM 5.1.7.10.3, Combat Zone Freeze Codes.

8.21.5.5.10  
(11-17-2015)

#### Accounts of Taxpayers Who Serve in a Combat Zone

- (1) Individuals who serve in an officially designated combat zone will have payment and collection of any federal tax liability suspended during the period of the individual's service in the combat zone, plus any period of continuous hospitalization (limited to 5 years of hospitalization in the United States) as a result of injury received while serving in the combat zone, plus the next 180 days thereafter. See IRM 5.1.19.3.8, Combat Zone or Contingency Operation. For exceptions, see IRC 7508(e).
- (2) The combat zone freeze code suspends the CSED, except in case of hospitalization, and can be set in two ways. See IRM 5.1.7.10.3, Combat Zone Freeze Codes.
- a. Processing of a tax return where the taxpayer has written "Serving in Desert Storm/Shield", "Serving in Bosnia", "Serving in Former Yugoslavia", "Serving in Allied Force", "Serving in Afghanistan", "Serving in Iraqi Freedom", or "Serving in Sinai Peninsula".
  - b. Manual input of TC 500 with Closing Code:
    - 52 for the Desert Storm Operation Joint Endeavor/Haiti/Operation Unified Response
    - 54 for Bosnia/Yugoslavia/ Operation Allied Forces
    - 56 for Iraq/Enduring Freedom/Afghanistan/Iraqi Freedom/New Dawn
    - 58 for combat zone hospitalization

**Note:** For more information, see IRM 5.19.10.6.2, Combat Zone Qualified Individuals and Areas, and IRM 21.6.6.4.54, Sinai Peninsula Claims.

- (3) TC 502 releases hold established by TC 500 and new CSED date is input by TC 550.
- (4) For more information see IRM 5.1.7.10, Accounts of Taxpayers who Serve in a Combat Zone.

- (5) More information on combat zone designations and qualifications may also be found in IRM 5.19.10.6.2, Combat Zone Qualified Individuals and Areas and IRM 5.19.10.6.2.1, Civilian Contractors Working in Support of the Combat Zone.
- 8.21.5.5.11  
(04-12-2019)  
**Wrongful Levy (Seizure)**
- (1) A wrongful levy suspends the running of the period of limitation on collection, See IRC 6503(f)(1). The collection statute is suspended from the date property (including money) of a third party was wrongfully seized or received, to the date the property is administratively returned pursuant to IRC 6343(b), or to the date on which a wrongful levy judgment with respect to such property becomes final, and 30 days thereafter. Additions under this provision can be identified on IDRS as TC 550 with a definer code 08.
- (2) Generally, when the period of limitation is suspended under this provision, it is suspended only for the amount of money or value of specific property which initially has been wrongfully taken from a third party and subsequently returned. This amount or value is determined as of the date the property was returned. See IRM 5.17.3, Levy and Sale, and IRM 5.10.6 , Post Sale Actions and Responsibilities of Advisory.
- 8.21.5.5.12  
(04-12-2019)  
**Wrongful Lien**
- (1) A wrongful lien suspends the running of the period of limitation on collection. See IRC 6503(f) (2). The collection statute is suspended from the date any person becomes entitled to a certificate of discharge of lien under IRC 6325(b)(4) until **the earlier of:**
- a. The earliest date on which the agency no longer holds amount as a deposit or bond under IRC 6325(b)(4) by reason of such deposit or bond being used to satisfy the unpaid tax or being refunded or released or
- b. The date on which a judgment under IRC 7426(b)(5), concerning the amount deposited or used as a bond, becomes final.
- (2) Generally, when the period of limitation is suspended under this provision, it is suspended only for the value of the interest to the United States in the property plus interest, penalties and additions to tax and additional amount attributable thereto. See IRM 5.17.2, Federal Tax Liens.
- 8.21.5.5.13  
(04-12-2019)  
**Estate Tax Lien**
- (1) The general estate tax lien under IRC 6324(a) arises automatically upon the death of a taxpayer. The lien attaches to all assets that are part of the decedent's gross estate and are required to be reported on Form 706, U.S. Estate Tax Return.
- (2) Appeals Technical Employees working estate tax cases should be aware that while the statute for collection based on the assessment and life of the IRC 6321 lien may be extended, the general estate tax lien has an absolute life of 10 years and cannot be extended.
- (3) When payment of the estate tax is deferred under IRC 6166, the executor may grant the Agency a lien under IRC 6324A instead of the bond provided for under IRC 2204 or IRC 6165.
- (4) The IRC 6324A lien attaches specifically to the property designated on Form 13925. The deferral period and subsequent installment payments may last up to 15 years.

- (5) The statute of limitations for collection of estate tax is suspended for the period of any extension of time to pay granted under IRC 6166 (for the amount of extension only).

**Note:** IRC 6503(d) also provides for the suspension of the statute of limitations on collection for any extension of time for payment granted under IRC 6161(a)(2), IRC 6161(b)(2) or IRC 6163.

- a. All parties having an interest in the property subject to the lien must agree, in writing on Form 13925, to the filing of the IRC 6324A lien.
- b. The estate is permitted to substitute an IRC 6324A lien for the performance bond otherwise required prior to approving the IRC 6166 extension. See IRM 5.5.6.2, IRC Section 6166.
- c. Compliance Area Technical Support files Form 668-J, Notice of Federal Estate Tax Lien Under Internal Revenue Laws, for IRC 6324A cases when all required signatures have been secured agreeing to the lien. See IRM 5.5.6, Decedent Estates and Estate Taxes - Collection on Accounts with Special Estate Tax Elections, IRM 5.5.8, Advisory Responsibility for Processing Estate Tax Liens and IRM 5.5.7, Collecting Estate and Gift Tax Accounts.

8.21.5.5.14  
(04-12-2019)

**Pending, Rejected,  
Terminated or Appeal of  
Installment Agreements**

- (1) The CSED is suspended during:

- The time the proposed installment agreement is pending (TC 971 Action Code 043),
- Thirty days following the rejection of a proposed installment agreement (TC 972 Action Code 043),
- Thirty days following the termination of an installment agreement (TC 971 Action Code 163),
- Any timely appeal of the termination or rejection of the installment agreement until a closing letter is issued.

For more information, see IRC 6159(a), IRC 6331(k)(2)(A) through (D), IRC 6502(a), IRM 5.14.2.3, Collection Statute Expiration Date (CSED): Law, Policy and Procedures, IRM 5.14.1.3, Identifying Pending, Approved and Rejected Installment Agreement Proposals on IDRS, and IRM 5.14.1-1, Input of Transaction Code 971 Action Codes 043 and 063 for Pending and Active Installment Agreements.

- (2) The CSED is not suspended while an installment agreement is in effect.

8.21.5.6  
(04-12-2019)

**Effects of Taxpayer's Bill  
of Rights 2 (TBOR2) on  
Assessment of Trust  
Fund Recovery Penalties  
(TFRP)**

- (1) On July 30, 1996, Congress passed the "Taxpayer Bill of Rights 2". TBOR2 contains more than 40 provisions. Title IX – Modifications to Penalty and Failure to Collect and Pay Over Tax (IRC 6672), Section 901, Preliminary Notice Requirement, requires the Agency to:

- a. Notify the taxpayer, in writing by mail or by personal delivery, when proposing an assessment under IRC 6672. Letter 1153 (DO) is used by Collection for this purpose. See IRM 5.7.4.7, Notification of Proposed Assessment for guidance. The notice must be sent to an address as determined under IRC 6212(b)
- b. The notice must precede any notice and demand by at least 60 days.
- c. If notice ) is mailed before the expiration of Assessment Statute Expiration Date the new ASSED will be the later of the following:

- the date 90 days after the date on which such notice was mailed, or
- if the taxpayer timely protests the assessment, the date 30 days after Appeals makes a final administrative determination with respect to such protest.

**Note:** A protest of a proposed TFRP assessment is timely if it is mailed within 60 days after the Letter 1153 (DO) is mailed or delivered in person (75 days if the letter was addressed outside of the United States). See also IRC 7503 regarding timely mailing.

- (2) If the Agency deems the collection of the TFRP to be in jeopardy, then Section 901 will not apply.

**Note:** For a more comprehensive discussion see IRM 5.7.6.1, Taxpayer's Response to Letter 1153 (DO).

- (3) You have the responsibility of verifying and protecting the ASED(s) in each TFRP Case. For more information, including ACDS documentation requirements, see IRM 8.25.2.3, TFRP Initial Statute Verification Requirements.
- (4) A quick assessment of the sustained TFRP assessment is necessary if the normal ASED, determined without regard to TBOR2, expires during Appeals' consideration of the case. The thirty day ASED begins when the Form 5402, Appeals Transmittal and Case Memo, Form 866, Closing Agreement, or Form 906, Closing Agreement on Final Determination Covering Specific Matters is signed by the Appeals Team Manager (ATM).
- a. If the ATM and APS are not co-located, the ATM will ensure the TFRP assessment documents (Form 5402 and Form 2749) are immediately provided to Collection Function, Technical Services for a timely assessment. In these cases, the ATM will advise APS in writing of the actions taken to protect the assessment.
- (5) Where a taxpayer appeals a proposed TFRP beyond the 60 or 75 day period, the normal ASED is applicable and TBOR2 provisions do not apply. The ASED on untimely appeals is not suspended.
- a. When counting the 60 days, do not include the date on the Letter 1153 (DO) or the delivery date, if the letter was delivered in person. Appeals will not accept pre-assessed TFRP cases unless a timely protest is filed.
- b. In determining the timeliness of the protest, the guidelines in IRC 7503 should be followed, which state, in part: "When the last day prescribed under authority of the Internal Revenue laws for performing any act falls on Saturday, Sunday, or a legal holiday, the performance of such act shall be considered timely if it is preformed on the next succeeding day which is not a Saturday, Sunday, or a legal holiday."
- c. If the protest was not timely, the case will be returned to the Collection Technical Services Advisory control point monitor for assessment. To receive an appeal of the TFRP, the taxpayer will be required to file a Form 843, Claim for Refund and Request for Abatement, to appeal the TFRP.
- (6) The law does not impose a maximum limit on the time period the assessment limitation period for the TFRP may be extended by a potentially responsible person and the Service.

- a. Unless there are unusual circumstances, the Service ordinarily should not seek extension dates of the TFRP assessment period beyond December 31st of the year following the year in which the statutory period will expire (e.g., 1 year and 260 days after the April 15th statutory due date of the Form 941 returns for statute of limitation period purposes).

8.21.5.7  
(04-12-2019)

**Offer in Compromise  
Mandatory Acceptance**

- (1) The *Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA)* was enacted on May 17, 2006, and became effective July 16, 2006. The TIPRA law created IRC 7122(f) which applies to all Offers in Compromise (OIC) received on or after July 16, 2006. The law provides for an OIC to be deemed accepted if the IRS does not make a determination within 24 months. This 24 month period begins on the date the Offer in Compromise is **received** by the IRS. Neither the postmark date nor the processability date is applicable for establishing this 24 month period.
- (2) This 24 month period cannot be voluntarily extended by the taxpayer. IRC 7122(f) states the only way the 24 month period is extended is if one of the periods included in the offer is before a court.
- (3) An Offer in Compromise is deemed to have been accepted after 24 months of the received date, unless the Offer in Compromise has been:
- Rejected by the IRS.
  - Returned by the IRS to the taxpayer as not processable or no longer processable.
  - Withdrawn by the taxpayer.
  - Deemed withdrawn under IRC 7122(c)(1)(B) because the taxpayer failed to make the second or subsequent installment due on a periodic payment Offer in Compromise.

**Note:** The issuance of a determination letter stops the 24 month mandatory acceptance period defined in IRC 7122(f), even if the letter is deemed in error and/or offer is subsequently reopened.

- (4) The OIC mandatory acceptance provisions **do not** apply to Offers in Compromise the taxpayer has appealed when Compliance rejected the OIC.
- (5) The OIC mandatory acceptance provisions **do** apply to:
- a. Offers received in Appeals as a collection alternative in a Collection Due Process (CDP) or Equivalent Hearing (EH) case.
  - b. Offers received in Appeals as a challenge to the underlying liability (Doubt as to Liability Offer) in a CDP or EH case **and** the underlying liability is not precluded as an issue in the hearing.
  - c. Offers received in Compliance while a CDP or EH case is open in Appeals and forwarded to Appeals for association with the open case.
  - d. Related offers transferred directly from Compliance where a determination has not been made by SBSE.
  - e. An offer submitted by a taxpayer which is related to a rejected offer in Appeals. See IRM 8.23.3.4, Amended Offers.

8.21.5.7.1  
(04-12-2019)  
**Determining if an OIC  
Mandatory Acceptance  
May Apply**

- (1) You must first determine if the any of the mandatory acceptance provisions, as described in IRM 8.21.5.7 apply to the offer by following the instructions below.
- (2) If the OIC meets one of these criteria you must determine the IRS received date.
  - Review the Form 656 or Form 656-L for the IRS received date.  
**Note:** If there are multiple date stamps, use the earliest date stamp when determining the TIPRA date.
  - Use this date as the IRS received date for the 24 month period unless a history entry or other information in the file indicates the Form 656 was received earlier than this date.  
**Note:** The IRS received date is the starting date for determining the 24 month period.
  - Add 24 months to the IRS received date. This is the date the offer will be deemed to be accepted under IRC 7122(f). It is also the date which is used in the STATDATE field on ACDS.
  - Confirm this date matches the date in the ACDS STATDATE field for the years on the Form 656. If the date is not correct make an entry in ACDS addressing why the STATDATE is incorrect and update ACDS to reflect the correct STATDATE
- (3) If the STATDATE is within the next six months, expedite resolution of the case.
- (4) If the 24 month period has expired follow the procedures in IRM 8.21.5.7.2.
- (5) If there are any questions about the whether the 24 month period has expired, contact Area Counsel.
- (6) See IRM 8.23.2 for situations where a TIPRA statute case is open and fewer than 120 days remain on the IRC 7122(f) period.

8.21.5.7.2  
(04-12-2019)  
**Reporting the 24 Month  
Mandatory Acceptance  
of an Offer in  
Compromise**

- (1) If it appears the 24 month period may have expired, the hearing officer or Tax Examiner should:
  - Make a history entry into ACDS explaining the circumstances. Be sure to fully explain what happened including any unusual or mitigating circumstances.
  - Notify your manager of the potential mandatory acceptance of the Offer in Compromise.
  - Assist the manager in the completion of the preliminary memorandum reporting the lapse of the 24 month period and the mandatory acceptance.

**Note:** Preparation of the memorandum as described below will be the responsibility of the manager of the discovering employee. See IRM 8.21.5.7.3, Preparing the Memoranda When Multiple Appeal Teams and Functions are Involved, when more than one employee handled the case that contributed to the mandatory acceptance.
- (2) The Appeals Team Manager (ATM) or Processing Team Manager (PTM) should:

- Review the CAR, case file, and case documentation as well as all other relevant information to determine if further administrative action or disciplinary action is warranted.
  - Immediately notify their Area Director or Area Manager of the potential 24 month mandatory acceptance. The Area Director will notify their respective Director and the Area Manager will notify the Director, APS, who in turn will notify the Director, Case and Operations Support.
  - Within ten (10) workdays of the discovery of the lapse of the 24 month period the ATM will prepare a preliminary memorandum to their Area Director or Area Manager. The ATM should ensure the responsible employee(s) provide input to the completion of the memorandum. At the same time a copy of the memo should be forwarded to the Program Analyst responsible for IRM 8.21.5, Collection Statutes, and the Executive Assistant to the Chief, Appeals. The Program Analyst will ensure the information is included on the appropriate reports.
  - This memorandum should, with the facts known at the time it is prepared, explain the reason(s) the 24 month period expired without a decision being made on the OIC.
  - The ATM, or PTM, should ensure Counsel review of the 24 month expiration has been requested, when appropriate.
- (3) Within thirty (30) workdays from the preliminary memorandum, the ATM should prepare a final memorandum to the appropriate Director, through their Area Director. The PTM should prepare a final memorandum to the Director, APS, through their Area Manager. This memorandum should explain the reason(s) the 24 month period expired without a decision being made on the OIC, why further administrative action is or is not warranted, and include any proposed disciplinary action(s). The final memorandum prepared by the ATM or PTM should include the following information.
- a. IRS received date.
  - b. The site of original receipt, i.e. Appeals or Compliance office.
  - c. Date the OIC was assigned to a hearing officer.
  - d. The date the current employee who discovered the expiration of the 24 month period was assigned the case.
  - e. The date and type of any proposed recommendations on the disposition of the OIC made by Appeals.
  - f. The dates of discussion between the ATM and the hearing officer relative to the 24 month TIPRA issue beginning 18 months after the OIC was received by the IRS.
  - g. All unusual and mitigating circumstances.
  - h. What further administrative action is necessary
  - i. Justification for any proposed disciplinary actions

**Note:** The final memorandum should not contain the names of the involved employees.

- (4) The final memorandum from the ATM should be processed as follows:
- a. Once it has been determined that the decision was not made timely on the OIC within 24 months of receipt and a mandatory acceptance of an offer has occurred under TIPRA, the taxpayer must be issued an acceptance letter, and the appropriate periods can be closed on ACDS. The reason for the acceptance of the offer is, "Your offer was accepted under

- Internal Revenue Code section 7122(f) because we did not make a determination within 24 months of receiving your offer.”
- b. The Area Director should review the final memorandum and, if acceptable, sign the memorandum next to their name.
  - c. If they wish to add additional information, or change the administrative or disciplinary actions they should add a cover memorandum to the appropriate Appeals Director (Collection Operations, Examination Operations or Specialty Examination Programs and Referrals) and forward it with the ATM's memorandum within ten (10) work days of receipt.
  - d. The Appeals Director is responsible for final review and approval, and will sign the appropriate memorandum. If they wish to add additional information, or change the administrative or disciplinary actions, a cover memorandum should be added.
  - e. The Appeals Director (or designee) will send a copy of the approved memorandum(s) to the Program Analyst responsible for IRM 8.21.5, Collection Statutes, and the Executive Assistant to the Chief, Appeals.
  - f. The Program Analyst will ensure the information from the final memorandum(s) is included in the appropriate reports.
- (5) The final memorandum from the PTM should be processed as follows:
- a. Once it has been determined that the decision was not made timely on the OIC within 24 months of receipt and a mandatory acceptance of an offer has occurred under TIPRA, the taxpayer must be issued an acceptance letter, and the appropriate periods can be closed on ACDS. The reason for the offer's acceptance is “Your offer was accepted under Internal Revenue Code section 7122(f) because we did not make a determination within 24 months of receiving your offer.”
  - b. The Area Manager should review the final memorandum and, if acceptable, sign the memorandum.
  - c. If they wish to add additional information, or change the administrative or disciplinary actions they should add a cover memorandum to the Director, APS, and forward it to the Director, APS, along with the PTM's memorandum within ten (10) work days.
  - d. The Director, APS, should review the final memorandum and, if acceptable, sign the memorandum next to their name.
  - e. If they wish to add additional information, or change the administrative or disciplinary actions they should add a cover memorandum to the Director, Case and Operations Support, and forward it with the PTM and Area Manager's memoranda within ten (10) work days of receipt to the Director, Policy, Quality and Case Support.
  - f. The Director, Case and Operations Support is responsible for final review and approval. He or she will sign the appropriate memorandum next to his or her name. If they wish to add additional information, or change the administrative or disciplinary actions they should add a cover memorandum.
  - g. The Director, Case and Operations Support, (or designee) will send a copy of the approved memorandum(s) to the Program Analyst responsible for IRM 8.21.5, Collection Statutes, on the staff of the Director, Tax Policy and Procedure (Collection and Processing programs) and the Executive Assistant to the Chief, Appeals.
  - h. The Program Analyst will ensure the information from the final memorandum(s) is included in the appropriate reports and shared with the Program Analyst responsible for the Offer in Compromise program.

8.21.5.7.3  
(11-17-2015)

**Preparing the Memorandum When Multiple Appeals Teams and Functions are Involved**

(6) The final memorandum should include an explanation of the recommended disciplinary action against each employee deemed responsible. However, the report should never contain the names of the employees involved.

(1) It is possible for more than one Appeals employee to have handled the case and contributed to the 24 month mandatory acceptance of the OIC.

(2) The manager of the employee who last handled the case will be responsible for contacting the managers of the other employees involved. All of the managers impacted should discuss how the back-up documentation will be gathered and which manager will prepare the final memorandum. The manager of the employee who last handled the case will normally coordinate and be responsible for the preparation of the final memorandum.

(3) After the final memorandum is prepared, the draft will be electronically shared with all managers who had employees who contributed in any way to the mandatory acceptance of the OIC. Each should be allowed an opportunity to review and concur with the memorandum before it is forwarded for approval.

**Note:** This sharing of the report with the other managers does not extend the due date of the final report.

(4) All managers who are given an opportunity to review the report should indicate their concurrence with the memorandum by E-mail to the coordinating manager, who will note in the final memorandum that all managers of employees that contributed to the mandatory acceptance were provided copies of the draft report and have concurred.

8.21.5.7.4  
(11-17-2015)

**Determining the Level of Responsibility for the Mandatory Acceptance of an Offer in Compromise**

(1) As a general rule, all employees who contributed in any way to the mandatory acceptance of an offer in compromise may be subject to some form of disciplinary action. This disciplinary action is for failure to protect the **24 month mandatory acceptance** time frame rather than for any perceived monetary loss to the government. Any discipline will not necessarily be the same for all involved employees.

(2) When determining the level of disciplinary action, the following facts should be considered for each employee:

- a. The severity of the employee's error.
- b. The point in time during the processing and handling of the case where the employee made the error.
- c. The number and position of other employees who handled the case subsequent to the employee.

(3) The facts of each case are different, so the level of each employee's responsibility will be determined on a case-by-case basis.

(4) In most cases involving an offer in compromise's mandatory acceptance, multiple employees may have contributed to the situation which resulted in the mandatory acceptance of an offer in compromise. All factors must be considered when determining the degree of responsibility for each employee.

(5) Depending upon the circumstances it is possible no employees will be found to be subject to some form of disciplinary action.

8.21.5.7.5  
(11-17-2015)  
**Factors that may  
Influence the Level of  
Responsibility**

- (1) Even though an employee has jurisdiction of a case on ACDS, another employee may have actual possession and virtual control over the movement of the case. However, not being able to control the movement of a case does not relieve the employee with jurisdiction from continuing to take every possible action to get the employee with possession and control of movement to act appropriately
  - a. All actions taken by the employee with jurisdiction should be clearly detailed in an activity record so there is documentation to support the attempts made for appropriate action on the case.
- (2) When an employee with possession and control of movement of a case fails to adhere to the employee with jurisdiction's requests to handle the case in a timely manner, the employee with possession and control may be held fully responsible for the lapse of the 24 month period.

