



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

9.5.14

APRIL 8, 2024

EFFECTIVE DATE

(04-08-2024)

PURPOSE

- (1) This transmits revised IRM 9.5.14, Closing Procedures.

MATERIAL CHANGES

- (1) Added Internal Controls to be compliant with IRM 1.1.2.2.4, Address Management and Internal Controls and IRM 1.4.2, Resource Guide for Managers, Monitoring and Improving Internal Control.
- (2) Throughout the IRM added location of Unified Checklist, “found on CI connections”.
- (3) Section 9.5.14.2 took the “Note” from paragraph one and created paragraph two.
- (4) Section 9.5.14.7.1.2(2) reworded to state “When possible, SAs should make every effort to include relevant grand jury information in public documents and courtroom proceedings. Public documents such as plea agreements should include the amount of unreported income and outstanding tax liability for each tax period. For cases involving return preparers, every effort should be made to include client information, including outstanding tax liability for each tax period. This information is critical for the civil assessment.”
- (5) Section 9.5.14.8(5) reworded to state “SAs should use the formula below to calculate the COP expiration date. This date is subject to change at any time, therefore, SAs and COP Coordinators should periodically check this date may also use the LENS and BOP databases to periodically check the COP expiration. An example of calculating the COP expiration date is:”
- (6) Section 9.5.14.8.1 added paragraph 3 “The 910 controls can be removed prior to the end of the probation term but only if all IRS conditions of probation have been satisfied. For example, defendant A has a probation term of 24 months. The J&C orders restitution to be paid and amended returns filed. If the restitution is paid and the amended returns are filed prior to the end of the 24 months, the 910 controls can be removed.”
- (7) Section 9.5.14.9(1)(Note) updated IRM reference “IRM 5.8.4.24.1, Offers in Compromise Submitted that Include Restitution”.
- (8) Section 9.5.14.9(3) updated IRM reference “IRM 5.8.7 and IRM 5.8.8”.
- (9) Section 9.5.14.12.1(4) added verbiage “of the investigation closing”.
- (10) Section 9.5.14.16 added paragraph 2 “Primary Investigations (PI) and Subject Criminal Investigations (SCI) closing packages should be mailed to the Whistleblower’s Office at the following address: Internal Revenue Service Whistleblower Office-ICE, 1973 Rulon White Blvd M/S 4110, Ogden, UT 84404”.
- (11) Section 9.5.14.16(2)(a) added a note “**Note:** The completed Form 11369 and all relevant documents must be emailed to the Financial Crimes lead whistleblower analyst within 10 business day of the PI closing.”

- (12) Section 9.5.14.16(2)(b)(1) reworded to state “For the purposes of processing and evaluating whistleblower claims for award, the investigation is considered closed when it is either discontinued or fully adjudicated. If the SCI is sentenced or discontinued, prepare SCI closing documents using normal procedures.”
- (13) Section 9.5.14.16(2)(b)(2) updated note to state “**Note:** The completed Form 11369 and all relevant documents must be emailed to the Financial Crimes lead whistleblower analyst and assigned whistleblower analyst within 10 business days of the discontinued or SCI closing.”
- (14) Updated return address on all exhibits to state 150 M Street, NE, 4 Constitution Square, Mail Stop: 1.1505, Washington, DC 20002.
- (15) Exhibit 9.5.14-1 added “(See Unified Checklist found on CI Connections)” to the title.
- (16) Updated information needed on exhibit letters.
- (17) Additional revisions, deletions, grammatical changes were made throughout the section which did not result in substantive changes but contributed to procedural clarity.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 9.5.14, dated October 07, 2021.

AUDIENCE

Criminal Investigation (CI)

Guy A. Ficco
Deputy Chief, Criminal Investigation
for
James C. Lee
Chief, Criminal Investigation

9.5.14
Closing Procedures

Table of Contents

- 9.5.14.1 Program Scope and Objectives
 - 9.5.14.1.1 Background
 - 9.5.14.1.2 Authority
 - 9.5.14.1.3 Roles and Responsibilities
 - 9.5.14.1.4 Program Management and Review
 - 9.5.14.1.5 Program Controls
 - 9.5.14.1.6 Acronyms
 - 9.5.14.1.7 Related Resources
- 9.5.14.2 Procedures for Closing Fully Adjudicated Administrative Investigations:
- 9.5.14.3 Procedures for Closing Fully Adjudicated Tax and Tax-Related Grand Jury Investigations:
- 9.5.14.4 Procedures for Closing Fully Adjudicated Non-Tax Related Directly Referred Investigations
- 9.5.14.5 CI Closing Report and Closing Package
 - 9.5.14.5.1 Special Agent's Responsibilities in Criminal Restitution Orders
- 9.5.14.6 Reporting Derogatory Information to the Office of Professional Responsibility
- 9.5.14.7 Civil Penalties
 - 9.5.14.7.1 Information to be used in Civil Assessment
 - 9.5.14.7.1.1 Information Available for Civil Assessment from an Administrative Investigation
 - 9.5.14.7.1.1.1 Information Developed After the Investigation is Submitted for Prosecution
 - 9.5.14.7.1.2 Information Available for Civil Assessment from a Grand Jury Investigation
- 9.5.14.8 Condition of Probation Relative to Civil Tax Matters
 - 9.5.14.8.1 Completion of Conditions of Probation
- 9.5.14.9 Offers in Compromise in Closed Criminal Investigations
- 9.5.14.10 Disputed Civil Assessments and Collections
 - 9.5.14.10.1 US Tax Court
 - 9.5.14.10.2 Coordination of Answers in Investigations Docketed in the Court
- 9.5.14.11 Reports for Civil Penalty Recommendations for Title 31
- 9.5.14.12 Procedures For Closing Discontinued Investigations
 - 9.5.14.12.1 Discontinued Administrative Investigation
 - 9.5.14.12.2 Discontinued Grand Jury Investigation
 - 9.5.14.12.3 Discontinued Simultaneous Criminal Investigation Program Investigations (International)
- 9.5.14.13 Notification to Subjects When an Investigation is Discontinued
- 9.5.14.14 Post Closing Activities
- 9.5.14.15 Reserved
- 9.5.14.16 Closing Primary and Subject Criminal Investigation related to Whistleblower Claims.

-
- 9.5.14.17 Procedures for Closing the Administrative, Discontinued, Grand Jury and Direct Referral Investigation on Criminal Investigation Management Information System Database

Exhibits

- 9.5.14-1 CLOSING ADMINISTRATIVE INVESTIGATION LETTER (See Unified Checklist found on CI Connections) (Use Appropriate Letterhead)
- 9.5.14-2 CLOSING TAX GRAND JURY INVESTIGATION LETTER (Use Appropriate Letterhead)
- 9.5.14-3 CLOSING DIRECT REFERRAL LETTER The Honorable (Name) United States Attorney
(Judicial District) Attn: (Name of AUSA) Street Address City, State, ZIP Re: CLOSING OF
TAX GRAND JURY INVESTIGATION Taxpayer City, State, Zip Code Your Ref. #
- 9.5.14-4 CLOSING OF DISCONTINUED TAX GRAND JURY INVESTIGATION LETTER

9.5.14.1
(04-08-2024)
Program Scope and Objectives

- (1) Purpose:
 - When a Criminal Investigation (CI) investigation has closed either by discontinuance, declination or the case has reached final adjudication (defined below), CI must notify the civil functions/ Business Operating Divisions (BOD) of the case closing. This notification is done by sending the CI Closing Package (detailed below) to the civil BODs.
 - The Small Business/Self-Employed (SBSE), Wage and Investment (W&I) and other BODs rely heavily on the accuracy and timeliness of the closing package to perform their statutory duties. It is imperative that special agents take care when completing the documents required in the closing package because inaccuracies or incompleteness delay the assessment and/or collection of taxes due and owing.
- (2) Audience: All CI employees.
- (3) Policy Owner: Director, Global Financial Crimes & Policy.
- (4) Program Owner: Director, Global Financial Crimes & Policy.
- (5) Primary Stakeholders: All CI employees.
- (6) Contact Information: To make changes or make suggestions to this IRM section, contact the Financial Crimes office by emailing CIHQIRM@ci.irs.gov.
- (7) Goal: To provide actionable instructions to assist Special Agents (SA), Supervisory Special Agents (SSA), Assistant Special Agent in Charge (ASAC), and Special Agent in Charge (SAC) in proper closing procedures for discontinued, declines, and fully adjudicated criminal investigations.

9.5.14.1.1
(10-07-2021)
Background

- (1) On July 12, 2000, criminal referral authority was transferred from the Office of Chief Counsel to IRS-CI. It is now CI's responsibility to ensure that criminal tax and/or tax related investigations are properly closed in order to allow civil tax enforcement procedures to begin or resume. IRS operating divisions may not proceed civilly until the criminal tax and/or tax related investigation is closed and any referral to the Department of Justice (DOJ) is terminated. Generally, termination of the referral is accomplished by a letter from DOJ. However, DOJ has delegated preparation of the letter terminating the referral from the IRS by way of the automatic closing procedures.
- (2) DOJ has agreed to immediate and automatic closing of the following tax and tax-related criminal investigations (both administrative and grand jury), without express written DOJ authorization:
 - a. Acquittals,
 - b. Dismissals,
 - c. Investigations where sentencing occurred following conviction and no appeals or motions for a new trial are pending,
 - d. Investigations where sentencing has occurred following the entry of a guilty plea,
 - e. Investigations where appeals are exhausted without any remands,
- (3) Where investigations are closed pursuant to the automatic closing procedures, the SAC will notify DOJ, Tax Division.
- (4) In order to close a criminal tax or tax-related investigation that was referred to DOJ, Tax Division which fails to come within the automatic closing procedures,

CI must receive formal notice from DOJ, Tax Division that the department's file is closed. The special agent or the SSA will be responsible for requesting the closing letter from DOJ, Tax Division.

- (5) The CIMIS closing procedures are also found in this section.
- (6) This section covers procedures for the following types of investigations that fall within the automatic closing procedures:
 - a. Fully adjudicated administrative investigations,
 - b. Fully adjudicated tax and/or tax-related grand jury investigations,
 - c. Fully adjudicated directly referred non-tax investigations.
- (7) This section covers procedures for forwarding the tax information to the appropriate operating division for assessment or collection where the criminal aspects of an investigation are concluded.
- (8) This section deals with post-closing civil and administrative activities.
- (9) This section also covers closing procedures on discontinued administrative and grand jury investigations.

9.5.14.1.2
(10-07-2021)
Authority

- (1) See IRM 9.1.2, Authority for delegated authority relating to 9.5.14, Closing Procedures.

9.5.14.1.3
(04-08-2024)
Roles and Responsibilities

- (1) Global Ops Executive Director and/or the Director, Financial Crimes (FC) is responsible for providing policy and guidance for Criminal Investigation employees and ensuring consistent application of policy and closing procedures for the business unit and in accordance with DOJ policies.
- (2) The Director, Global Financial Crimes & Policy is responsible for developing, maintaining, and overseeing this IRM and ensuring compliance with current policies and procedures.
- (3) The Director, Advanced Analytics & Innovation is responsible for the delivery of policy and guidance that impacts CIMIS processes.

9.5.14.1.4
(04-08-2024)
Program Management and Review

- (1) Program Goals -
 - a. The information explained in this IRM describes CI closing procedures that special agents must understand and apply in the performance of their job duties to prepare timely and accurate closing procedures, including notifying our civil and law enforcement partners of investigation outcomes.
 - b. Program Reports – Information regarding the reporting of program objectives, specifically as it relates to closing reports with conditions of probation and criminal restitution forwarded to our civil partners, are included in, but not limited to, monthly reconciliation reports, CIMIS reports and Business Performance Reviews. These reports provide reliable and timely information. Periodic program reviews are conducted to:
 - Determine if procedures are being followed,
 - Validate the policies and procedures,
 - Identify and share best practices.

- c. Program Effectiveness – Program effectiveness is measured by the Financial Crimes program manager that leads the Conditions of Probation/Criminal Restitution Coordinators across the various field offices and monitors case closing timeliness and accuracy, specifically as it relates to cases with conditions of probation and criminal restitution.
- (2) The Director, Global Financial Crimes & Policy and Director, Advanced Analytics & Innovation will:
- a. Review the IRM manually.
 - b. Update the IRM when content is no longer accurate and reliable to ensure employees correctly complete their work assignments and for consistent administration of the tax laws.
 - c. Incorporate all permanent interim content into the next revision of the IRM section prior to the expiration date.

9.5.14.1.5
(04-08-2024)
Program Controls

- (1) CI Headquarters (HQ) FC provides recommendations and best practices for the various field offices. The SAC of the field office determines which recommendations and best practices will be adopted for each particular field office.
- (2) The Director, Global Financial Crimes & Policy will review the instructions and guidelines relating to the investigation of tax returns and other IRS documents for procedural, operational, and editorial changes.

9.5.14.1.6
(10-07-2021)
Acronyms

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

Acronym	Definition
ASAC	Assistant Special Agent in Charge
AUSA	Assistant United States Attorney
BSA	Bank Secrecy Act
BOD	Business Operating Division
BOP	Bureau of Prisons
CI	Criminal Investigation
CIMIS	Criminal Investigation Management Information System
CPA	Certified Public Accountant
COP	Conditions of Probation
CT	Criminal Tax
DOJ	Department of Justice
DFO	Director, Field Operations
Rule 6(e)	Federal Rules of Criminal Procedure, Rule 6 (e)
IRM	Internal Revenue Manual
IRS	Internal Revenue Service

J&C	Judgement and Commitment Order
LB&I	Large Business and International
OIC	Offer in Compromise
QRP	Questionable Refund Program
SA	Special Agent
SAC	Special Agent in Charge
SBSE	Small Business/Self-Employed
SCI	Subject Criminal Investigation
SSA	Supervisory Special Agent
TE/GE	Tax Exempt Government Entities
TM	Territory Manager
TIMS2	Total Inventory Management System
US	United States
USAO	United States Attorney's Office
USC	United States Code
W&I	Wage and Investment

9.5.14.1.7
(04-08-2024)

Related Resources

- (1) Refer to IRM 9.1.2, Authority, for guidance about the basic responsibilities related to taxpayer rights, employee contact information, oral and written communication, and the authority for conducting criminal investigations that special agents should understand and apply in the performance of their duties.

9.5.14.2
(04-08-2024)

Procedures for Closing Fully Adjudicated Administrative Investigations:

- (1) Fully adjudicated administrative investigations that resulted in final adjudication are closed under the automatic closing procedures. The procedures to accomplish this are outlined in the following paragraphs. The investigative files in these types of investigations should be stored in TIMS2 and can be made available to the other operating divisions for tax assessment or collection.
- (2) The first step to closing an investigation is to ensure the case has been fully adjudicated. The date of final adjudication depends on one of the three circumstances below:
 - a. For cases where there is a waiver of appeal (i.e. plea agreement), final adjudication occurs on the sentencing date. The case closing package may be completed at this time and forwarded to civil.
 - b. For cases without a waiver of appeal (i.e., trial conviction), final adjudication occurs on the day after the period to file an appeal has expired. For example, after a sentencing, the defendant has 14 calendar days in which to file an appeal. If a defendant files an appeal for any reason, CI will not close its case or send any documents to the IRS civil functions until there is final adjudication by the court.

- c. For cases where an appeal is filed, final adjudication occurs on the day after all appeals have been exhausted. Only at this time may the case closing package be completed and forwarded to civil.
- (3) Within 30 days of final adjudication, the SAC will ensure that a closing letter is prepared and sent to the appropriate DOJ, Tax Division, Chief of the Criminal Enforcement Section, and copies are forwarded to the AUSA and CT Counsel. (Exhibit 9.5.14-1. Closing Administrative Investigation Letter- a template for the letter exists in the Unified Checklist found on CI Connections.)
- (4) The closing letter must accurately summarize:
 - a. The date and nature of the indictment or information.
 - b. The date and result of the adjudication.
 - c. The date and nature of the sentence imposed.
 - d. Whether there was appellate action, and if so, the result.
 - e. The closing letter must include the following language: "Pursuant to 26 USC 7602(d)(2)(B)(ii), this action constitutes a termination of the referral and, as such, we will now seek appropriate civil action."
- (5) The SAC is required to forward the Form 13308, Criminal Investigation Closing Report (discussed below) and other required attachments to SBSE Tech Services, the Territory Manager of Technical Services (exam function) and Advisory Technical Services (collection function). Special agents will confirm receipt of the closing report by these civil functions. (See IRM 9.5.14.5 for additional detail).

9.5.14.3
(04-08-2024)

Procedures for Closing Fully Adjudicated Tax and Tax-Related Grand Jury Investigations:

- (1) Fully adjudicated tax and/or tax related grand jury investigations are closed under the automatic closing procedures.
- (2) Within 30 days of final adjudication, the SAC will ensure that a closing letter is prepared and sent to the appropriate DOJ, Tax Division, Chief of the Criminal Enforcement Section, and copies are forwarded to the AUSA and CT Counsel. (Exhibit 9.5.14-2., Closing Tax Grand Jury Investigation Letter- a template for the letter exists in the Unified Checklist found on CI Connections.)
- (3) The closing letter must accurately summarize:
 - a. The date and nature of the indictment or information.
 - b. The date and result of the adjudication.
 - c. The date and nature of the sentence imposed.
 - d. Whether there was appellate action, and if so, the result.
 - e. The closing letter must include the following language: "Pursuant to 26 USC 7602(d)(2)(B)(ii), this action constitutes a termination of the referral and, as such, we will seek appropriate civil action."
- (4) The letter will be prepared in accordance with the secrecy requirements of the Federal Rules of Criminal Procedure Rule 6(e) in that grand jury information will not be disclosed in the letter.
- (5) The SAC will forward the Form 13308, Criminal Investigation Closing Report (discussed below) and required attachments to SBSE Tech Services, the Territory Manager of Technical Services (exam function) and Advisory Technical Services (collection function). The information contained in the closing report will not include Rule 6(e) material. Special agents will confirm receipt of the closing report by these civil functions. (IRM 9.5.14.5. for additional detail).

Note: If the prosecution recommendation report does not recommend prosecution of all the subjects of the grand jury investigation or anyone who has been submitted as the subject of the investigation on the Form 9131, Request for Grand Jury Investigation, or a grand jury expansion request, the special agent must notify the DOJ, Tax Division and CT Counsel that the investigation was concluded without a prosecution recommendation. Failure to do so leaves an open grand jury file for which CI is responsible. (See IRM 9.5.14.12.2 for additional information.)

9.5.14.4
(04-08-2024)

Procedures for Closing Fully Adjudicated Non-Tax Related Directly Referred Investigations

- (1) Within 30 days of final adjudication of a non-tax investigation, the SAC will ensure that a closing letter is prepared. (Exhibit 9.5.14-3.) Since these investigations do not involve tax and/or tax-related violations, no closing notification needs to be sent to DOJ, Tax Division unless a Title 26 grand jury was authorized during the investigation. If a Title 26 grand jury was authorized during the investigation and no tax and/or tax-related charges resulted, then the procedures outlined in IRM 9.5.14.3 will be followed.
- (2) Since these investigations do not involve tax and/or tax-related violations, the SAC will decide whether notification to the other operating divisions is necessary. The decision should be based on whether civil activity would be in furtherance of tax administration and/or in the best interest of IRS, and if the court imposed a sentence that included any conditions of probation relative to tax matters.

9.5.14.5
(10-07-2021)

CI Closing Report and Closing Package

- (1) Every tax and tax-related subject investigation must be closed using the Criminal Investigation Closing Package within 30 days of final adjudication and CIMIS should be noted in accordance with CIMIS guidelines. (See IRM 9.5.14.17 for details relating to CIMIS entries).
- (2) The CI Closing Package consists of:
 - a. Form 13308, Criminal Investigation Closing Report.
 - b. Form 14104 Notification of Court Ordered Criminal Restitution Payable to IRS (if applicable, see Section 9.5.14.5.1 for more info).
 - c. Form 4135 CI Control Notice (see Section 9.5.14.5.1 (4) for special instructions in criminal restitution cases).
 - d. All relevant supporting information (see below paragraph (4)). Different forms are required depending on the type of investigation closing.
- (3) The Form 13308 serves several purposes, including:
 - a. Notice that the subject is no longer under criminal investigation and civil action can resume/proceed,
 - b. Notice of when tax related conditions are imposed by the court,
 - c. To inform the appropriate civil functions of the outcome of the criminal case,
 - d. Transmits documents to be used in the civil process,
 - e. By requesting feedback, it serves as a tool to trace the case through the civil process and to facilitate monitoring for probation purposes when required.

Note: See Form 13308 instructions for specific instructions.

- (4) The following items (as appropriate) make up the CI Closing package and will be attached to the Form 13308 when sending the closing package to the Civil Operating Divisions:
 - a. (Mandatory) Judgment and Commitment Order,
 - b. (Mandatory- If applicable) Form 14104 – Notification of Court Ordered Criminal Restitution Payable to IRS (See IRM 9.5.14.5.1),
 - c. (Optional) Copy of the Special Agent Report (Except for grand jury investigations),
 - d. (Optional) Copy of the Revenue Agent's Report,
 - e. (Optional) Copies of relevant public court records such as plea agreements, search warrant affidavits, information/indictment, statement of facts, pleadings, etc.,
 - f. (Optional) Additional information developed subsequent to the prosecution recommendation. (See subsection 9.5.14.7.1.1.1),
 - g. (Optional) A description and the location of all relevant public information developed during the grand jury investigation that can be used in civil settlement proceedings.
- (5) The SAC (or designee) will forward the closing package and attachments to:
 - a. Territory Manager, Technical Services (or designee/local mailbox), and
 - b. Collection Advisory Probation Liaison (Advisory).

Note: See Form 13308 instructions for additional detailed routing information.
- (6) In cases where restitution is ordered payable to the IRS, Form 13308 and Form 14104 must also be sent to:
 - a. SBSE Technical Services Criminal Restitution Program Unit *SBSE TECH Svs Criminal Restitution, and
 - b. W & I Kansas City Restitution Unit at *W & I Criminal Restitution.
- (7) In all RPP cases, a courtesy copy of the CI Closing Package must be sent to:
 - a. Planning and Special Programs Territory Manager, and
 - b. Return Preparer Office: Compliance & Enforcement office (RPO:C&E) at *Preparer.
- (8) For cases involving Tax Exempt & Government Entities, Abusive Transactions & Technical Issues, Large Business & International and SBSE Fraud BSA, send the complete closing package to the appropriate IRS-Civil functions electronic email box for deconfliction purposes.
- (9) CI should receive feedback from Technical Services and Advisory Technical Services when a copy of the CI Closing Report is returned with Section 9a completed. If this does not occur, the SA should follow up to confirm the receipt of the documents by Technical Services and Advisory Technical Services.
- (10) Once the investigation is assigned to the civil field function, the RA (examination and/or collection) will contact the SA or conditions of probation coordinator to ensure the conditions of probation are understood.
- (11) At sentencing when the court orders an individual convicted of a tax or tax-related crime to perform certain conditions of probation such as filing returns, cooperating with the IRS and/or payment of taxes/restitution as a condition of

probation or supervised release, the special agent will make a note of all terms of incarceration, probation and criminal restitution ordered and notate CIMIS accordingly. Along with their SAC or designee, each field office Conditions of Probation Coordinator will establish a method to monitor probation cases (except Stolen Identity Refund Fraud cases) and ensure CIMIS entries are accurate and timely. (See IRM 9.5.14.17 for details relating to CIMIS entries).

- (12) If the investigation is discontinued by CI or declined by DOJ or the US Attorney's office and is not a joint investigation, consideration should be given to referring the investigation for examination as a Prime Lead. Form 13308, Criminal Investigation Closing Report is still prepared to inform Technical Services and Advisory Technical Services that TC914 controls have been removed. Section 4e of the CI Closing Report is checked to show the item has been forwarded as a Prime Lead. See IRM 9.4.1.5.1.5, Direct Referrals - Prime Leads .

9.5.14.5.1
(10-07-2021)
**Special Agent's
Responsibilities in
Criminal Restitution
Orders**

- (1) The amount of restitution ordered by the Court payable to the IRS creates two separate debts for the same liability. The first debt is the "restitution judgment" which the Department of Justice Financial Litigation Unit is responsible for collecting. The second debt is the "restitution-based assessment" which will be assessed and collected by the IRS in the same manner as if it was a tax. These two separate debts provide two different means for collection, but the liability cannot be collected twice.
- (2) When the court orders an individual convicted of a tax or tax-related crime to perform certain conditions of probation at sentencing, such as payment of taxes/restitution, the special agent should work with the AUSA to get the amounts of restitution ordered by tax year or tax period entered into the court record along with the total amount of criminal restitution. This is particularly important in Grand Jury tax investigations because the special agent report and other documents created cannot be provided to our civil counterparts.
- (3) Within thirty (30) days of final adjudication, for all cases involving an order of criminal restitution payable to the IRS, the special agent will complete Form 14104 as an attachment to the Form 13308, Criminal Investigation Closing Report and send the package forward to the IRS's civil functions. It is the responsibility of the special agent to notify the civil functions of the total amount of restitution attributable to each tax year or period. This is necessary for SBSE Technical Services Criminal Restitution branch to properly create the restitution-based assessment and input the amounts into the tax module. (See the Form 14104 for additional detailed routing information).
- (4) The total amount listed on the Form 14104 MUST equal the EXACT amount listed on the J&C and the amounts must be broken down by tax period. SBSE Tech Services cannot make these determinations on their own. In RPP cases, the client list must be attached to the Form 14104 with amounts broken down by tax year.
- (5) In cases where Criminal Restitution has been ordered, the Form 4135, CI Control Notice should be completed and forwarded to the Centralized mailbox for controls; CI-SDC-CONTROLS@ci.irs.gov with the CI closing package. This should ensure the 91X controls are removed or the proper controls are in place prior to the civil function attempt to institute the restitution-based assessment.

Note: See IRM 25.26.1, Criminal Restitution and Restitution-Based Assessments for additional information regarding Service-wide procedures for court ordered restitution.

- (6) At the time of the case sentencing, CIMIS should be updated. Any months to serve, probation terms, fines, criminal restitution ordered to the IRS ONLY and conditions of probation expiration date should be entered. See IRM 9.5.14.17 for details relating to CIMIS entries.

9.5.14.6
(10-07-2021)
**Reporting Derogatory
Information to the Office
of Professional
Responsibility**

- (1) Criminal investigations involving an attorney, CPA, enrolled agent, or enrolled actuary, that uncover derogatory information should be forwarded to the Office of Professional Responsibility (OPR). (See IRM 9.5.13.7, Civil Considerations).

9.5.14.7
(09-28-2005)
Civil Penalties

- (1) See IRM 9.5.13, Civil Considerations.

9.5.14.7.1
(09-28-2005)
**Information to be used
in Civil Assessment**

- (1) The information available for use by the other operating divisions in the assessment or collection of tax following a criminal investigation depends upon whether an investigation was conducted administratively or through the grand jury process.

9.5.14.7.1.1
(09-28-2005)
**Information Available for
Civil Assessment from
an Administrative
Investigation**

- (1) Information developed in the course of an administrative investigation can be used by other operating divisions in the assessment and collection of a civil tax liability.

9.5.14.7.1.1.1
(10-07-2021)
**Information Developed
After the Investigation is
Submitted for
Prosecution**

- (1) Information developed after the investigation was submitted for prosecution may have a substantial effect on the civil settlement of an investigation. It is possible this information is developed while preparing for or during the trial for the criminal offense. Such information can have an important bearing on the determination of the civil liability and may consist of admissions of liability or relate to the existence of additional records or witnesses. The special agent should make every effort to obtain copies of any exhibits introduced during the trial which may have a significant bearing on the civil liability.
- (2) Special agents will prepare a report summarizing such information as soon as it is received and attach copies of any supporting documents. This report should be included as an attachment in the Criminal Investigation Closing Package with any and all applicable information to include exhibits.
- (3) If the investigation has not been forwarded for civil disposition when the report of additional information is prepared, the special agent will hold the report and forward it with the Criminal Investigation Closing Package when the criminal aspects of the investigation are completed. (IRM 9.5.14.5.)

- (4) If the investigation was forwarded for civil disposition, the report will be forwarded by memorandum from the SAC to his/her counterpart in the other operating division who has control of the file.
- (5) For prosecuted investigations, the report will include a descriptive list of all exhibits introduced on behalf of the defendant.

9.5.14.7.1.2
(04-08-2024)

**Information Available for
Civil Assessment from a
Grand Jury Investigation**

- (1) Grand jury information may not be used in civil purposes unless the IRS obtains the information independent of the grand jury or in accordance with Fed R Crim P R6(e). Any grand jury information included in an indictment/ information or plea agreement filed with the court and any grand jury information presented during any court proceeding becomes public information (unless sealed by the court). This information can be used for civil purposes.
- (2) When possible, SAs should make every effort to include relevant grand jury information in public documents and courtroom proceedings. Public documents such as plea agreements should include the amount of unreported income and outstanding tax liability for each tax period. For cases involving return preparers, every effort should be made to include client information, including outstanding tax liability for each tax period. This information is critical for the civil assessment.
- (3) If courtroom proceedings are conducted, a transcript of the proceeding can be obtained for civil purposes. The special agent must segregate grand jury information from non-grand jury information. (See IRM 9.3.1, Disclosure).

Note: In the case of Grand Jury investigations where restitution has been ordered, the special agent should make every effort to ensure the proper breakdown for the tax periods and/or tax years is available in the public record to allow SBSE Tech Services to create the restitution-based assessments.

9.5.14.8
(04-08-2024)

**Condition of Probation
Relative to Civil Tax
Matters**

- (1) At sentencing, the court may order incarceration, home confinement or, suspend a sentence or reduce the incarceration time and place the defendant on probation or supervised release. The terms probation and supervised release are sometimes used interchangeably. As a condition of probation, the courts routinely order an individual convicted of tax crimes to comply with the tax laws either by filing returns, cooperating with IRS and/or paying restitution to IRS.
- (2) Criminal Investigation, along with SBSE Field Exam and W&I Collection share responsibility for ensuring compliance with court orders. Failure by the defendant to comply with the terms of probation may result in revocation of probation and a term of incarceration may be imposed.

Note: The probation period does not begin until the subject is released from confinement.

- (3) When the court orders an individual convicted of a tax or tax-related crime to perform certain conditions of probation such as filing returns, cooperating with the IRS and/or payment of taxes/restitution as a condition of probation or supervised release, the special agent will make a note of all these terms and update CIMIS accordingly.

- (4) Along with their SAC or designee, each field office COP Coordinator will establish procedures to monitor probation cases and ensure CIMIS entries are accurate and timely. (See IRM 9.5.14.17 for details relating to CIMIS entries).
- (5) SAs should use the formula below to calculate the COP expiration date. This date is subject to change at any time, therefore, SAs and COP Coordinators may also use the LENS and BOP databases to periodically check the COP expiration. An example of calculating the COP expiration date is:
 - a. Date of Imposition on J & C or Report Date:
+ Months to Serve,
+ Months Probation or Supervised Release,
- 1 day,
= COP Expiration Date.
 - b. Home confinement is not calculated into the COP expiration date.
 - c. If individual is required to report to BOP by a certain date use the report date as the start date (versus date of imposition) to calculate the COP expiration date.
- (6) The special agent will follow procedures defined in 9.5.14.5 and 9.5.14.5.1 relating to the CI Closing Report package.
- (7) Even if payment of a civil liability is not part of a criminal sentence, the information concerning the civil tax liability should be made available for civil tax assessment after the final criminal actions on the investigation are completed.
- (8) To assist the court in imposing a prison sentence or granting probation, the probation office may initiate a pre-sentence investigation and generate a report. (See IRM 9.6.2, Plea Agreements)

Note: Information contained in the presentencing report cannot be forwarded to the other operating divisions.

- (9) Failure to comply with the conditions of probation set forth by the court can result in revocation of probation. The SBSE Tech Services Field Exam and W & I Collection Advisory each have procedures in place to notify the SAC and/or designee by way of a 180-day Compliance memo of any instance in which a defendant fails to comply with the conditions of probation in regard to civil tax matters. Upon notification of the failure to comply with the terms of probation, the SAC (or designee) will review the information and determine if a probation revocation investigation should be initiated. (See IRM 9.5.11, Other Specialized Investigations)

9.5.14.8.1
(04-08-2024)
**Completion of
Conditions of Probation**

- (1) Upon the completion of the defendant's probation term two actions will be taken:
 - a. A Form 4135 should be submitted for approval and forwarded to the centralized mailbox for controls CI-SDC-CONTROLS@ci.irs.gov to remove 910 controls. (See IRM 9.5.14.17 for details relating to CIMIS entries).
 - b. The probation results should be entered into CIMIS, Sentencing Information. Options for the CIMIS entry are (See section 9.5.14.17 for more details on CIMIS entries):
 - Taxpayer has met all the terms of his/her conditions of probation (fulfilled).

- Taxpayer has not met all the terms of his/her probation and the probationary period has expired. CI or one of the IRS operating divisions did not act timely on probation.
- Taxpayer will not meet the terms of his/her conditions of probation beyond CI's control.

(2) The description for these results can be found in the CIMIS reference materials. Note: Justification for a CIMIS entry of "will not be met" will be maintained in the administrative case file.

Note: Justification for a CIMIS entry of "will not be met" will be maintained in the administrative case file.

(3) The 910 controls can be removed prior to the end of the probation term but only if all IRS conditions of probation have been satisfied. For example, defendant A has a probation term of 24 months. The J&C orders restitution to be paid and amended returns filed. If the restitution is paid and the amended returns are filed prior to the end of the 24 months, the 910 controls can be removed.

9.5.14.9
(04-08-2024)

Offers in Compromise in Closed Criminal Investigations

(1) Offers in compromise involving joint investigations where the criminal aspects of the investigation are completed, will be examined solely by the appropriate operating division. Except as noted in (2) below, the TM of the appropriate operating division will, after completion of the civil activity, refer the entire file to the SAC, for concurrence or comment when all of the following conditions exist:

- a. The merits of the fraud or negligence penalty are involved,
- b. The offer in compromise involves an investigation in which the special agent wrote the final report and recommended the assertion of such a penalty,
- c. The other operating division contemplates recommending acceptance of the offer.

Note: Since restitution assessments may not be compromised by the IRS, Form 656, Offer in Compromise, must not include any restitution amounts due. (See IRM 5.8.4.24.1, Offers in Compromise Submitted that Include Restitution.)

(2) If the sole issue presented by the offer in compromise is the ability to pay, referral to CI will not be made.

(3) If the SAC concurs in the recommended disposition of the offer in compromise, the concurrence will be indicated by memorandum and the entire file should be returned to the other operating division for processing. If the SAC does not concur and no agreement can be reached with the other operating division as to the disposition of the offer in compromise, the entire file will be forwarded to the Area Director and Director, Field Operations for resolving any differences. Guidelines concerning the disposition of offers in compromise are in IRM 5.8.7 and IRM 5.8.8, Offers in Compromise, also See IRM 9.5.13.5, Civil Considerations, for more general information.

9.5.14.10
(09-28-2005)
**Disputed Civil
Assessments and
Collections**

- (1) A taxpayer can file a petition in the US Tax Court, US District Court, or the Court of Federal Claims to dispute civil assessments and penalties, which may include information developed by a special agent in the course of a criminal investigation. In those instances, Counsel or other government attorneys may request the assistance of the special agent.
- (2) Special agents are authorized to assist the Office of Chief Counsel and Appeals in any investigation involving the merits of a civil penalty recommended by CI. Further investigation will be made to obtain additional evidence to help sustain the penalty upon written request from Counsel or the Appeals Office. Such information will be forwarded in a supplemental report upon request of the Appeals office; assistance may include participation in any conference with respect to the civil liability in any investigation. The extent of the special agent's participation in any conference will be determined by the Appeals office.

9.5.14.10.1
(10-07-2021)
US Tax Court

- (1) The Tax Reform Act of 1969 changed the name of the Tax Court of the United States to the US Tax Court and established it as a court of record under Article I, Section 8, Clause 9, of the Constitution. It is now part of the Judicial Branch of government. In addition to the powers it already possessed, the US Tax Court has been given the power to punish contempt of its authority, and to enforce its decisions by issuing any writ, etc., which a US District Court can issue (26 USC 7441-7456).
- (2) In a US Tax Court trial, evidence is admitted and excluded much as it would be in a civil non-jury trial in the US District Court. In general, the Commissioner of the IRS' determination of deficiency is presumed to be correct unless the taxpayer produces credible evidence with respect to any factual issue relevant to ascertaining the correct tax liability, or any item of income reconstructed solely through the use of statistical information on unrelated taxpayers. In these investigations, the IRS has the burden of proof with respect to the issue(s) in question (Tax Court Rules of Practice) (26 USC 7491(a) and (b)). If the fraud penalty is asserted, the burden is upon the IRS to prove fraud with intent to evade tax (26 USC 7454(a)). The evidence in that respect must be "clear and convincing," not "beyond a reasonable doubt" as in a criminal investigation, but more than a "mere preponderance." The failure of the IRS to prevail on the fraud issue does not relieve the taxpayer of the burden of overcoming the prima facie correctness of the determination of the deficiencies unless the exceptions noted above are present or the assessment was not made within the applicable statute of limitations.
- (3) Record of the disposition of the criminal investigation against a taxpayer is admissible in the US Tax Court on the issue of fraud. Despite an acquittal in a criminal investigation, the same evidence may be sufficient to prove fraud in the civil investigation.
- (4) A conviction for attempted tax evasion in the US District Court is conclusive in US Tax Court proceedings as to the fraud issue, on the same facts and particularly on the same amounts.
- (5) A plea of guilty can be used as an admission of the taxpayer in a civil matter concerning taxes and penalties against the taxpayer based on the same facts.

- (6) A plea of nolo contendere subjects the defendant to the same punishment as a plea of guilty but does not mean the defendant admits the charges. It cannot be used against him/her as an admission in any civil suit for the same act.
- (7) A guilty plea in a criminal investigation will be received by the US Tax Court as an admission to be given weight according to the circumstances. Without any explanation of the circumstances, it is sufficient to establish fraud. However, such a plea in a failure-to-file investigation may constitute only a willful omission and passive neglect to perform a statutory duty and not render the taxpayer liable for the fraud penalty.
- (8) The Commissioner is not barred from assessing the fraud penalty by the taxpayer's filing correct amended returns and paying additional taxes due after filing fraudulent returns; or the death of the taxpayer, since the penalty is for an offense against property rights and not personal rights.
- (9) It is the special agent's responsibility during a criminal investigation for the development of evidence to sustain the ad valorem additions to the tax (except those concerning tax estimations). Consequently, during a US Tax Court trial where the fraud penalty is at issue, the special agent is often a principal witness for the government.
- (10) It is the duty of the special agent in the preparation for trial and the presentation of the investigation in US Tax Court to consult with and assist the Counsel attorney assigned to the matter.

9.5.14.10.2
(10-07-2021)
**Coordination of Answers
in Investigations
Docketed in the Court**

- (1) Counsel normally will request from the SAC, copies of any reports and supporting data in the investigation which were prepared by the special agent, to be used solely in connection with the preparation of the matter before the US Tax Court. Counsel will not use the information for the purpose of evaluating the merits of the criminal investigation.
- (2) The SAC will identify issues and items in the Criminal Investigation Closing Package which need to be protected from disclosure to the extent possible under the requirements of the US Tax Court.
- (3) Requests relating to grand jury investigations will be referred to CT Counsel.

9.5.14.11
(10-07-2021)
**Reports for Civil Penalty
Recommendations for
Title 31**

- (1) Reports for civil penalty recommendations for Title 31 investigations resulting in an indictment will consist of:
 - a. A summary of the charges in the indictment and the charges on which convicted,
 - b. The scope of the Title 31 crime to include the amount of money involved in the offense,
 - c. The total dollar amount of unreported currency transactions in the indictment,
 - d. The number of Currency Transaction Reports not properly filed,
 - e. The number of improperly reported transactions named in the indictment,
 - f. Copies of any public information such as a copy of the indictment, sentencing memorandum, affidavit for search warrants, arrest warrants, press releases, and news articles.

- 9.5.14.12
(09-28-2005)
Procedures For Closing Discontinued Investigations
- (1) When an investigation is discontinued, the formal closing and associated civil aspects of the investigation are handled differently for an administrative investigation than for a grand jury investigation.
- 9.5.14.12.1
(04-08-2024)
Discontinued Administrative Investigation
- (1) Information developed during the course of an administrative investigation can be used by the other operating divisions in the assessment and collection of a tax liability. The SSA will communicate the withdrawal to the cooperating and/or referring group manager of the other operating division. If a fraud referral prompted the investigation, the SSA will also communicate the withdrawal to the Fraud Referral Specialist, Group Manager.
- (2) The special agent will prepare a report of discontinued investigation. If the investigation was tax or tax-related the appropriate Criminal Investigation Closing Package (See IRM 9.5.14.5) will be prepared.
- (3) The discontinued investigation report will include:
- a. A summary of the evidence developed during the investigation that would support or negate a recommendation of the civil fraud penalty. If appropriate, the report should contain a statement summarizing anything that was discussed or occurred in the investigation which precludes the assertion of the civil fraud penalty.
 - b. In joint investigations, the discontinued investigation report should contain a statement affirming the cooperating officer's group manager was advised of the discontinuation.
- (4) When the SAC approves a final report discontinuing a tax or tax-related administrative investigation, he/she will promptly forward the reports to the TM of Technical Services and Advisory Technical Services and ensure the Form 4135 is completed within five days of the investigation closing.
- 9.5.14.12.2
(10-07-2021)
Discontinued Grand Jury Investigation
- (1) If a grand jury investigation does not result in a prosecution recommendation, the special agent will prepare a discontinued investigation final report similar to the administrative discontinued final report and address it to the AUSA.
- (2) The special agent should prepare separate exhibit folders for information developed during the administrative aspects of the investigation (if there were any) and for documents governed by Rule 6(e). Grand jury information should be clearly labeled, and the SAC should not give copies of documents containing grand jury information to any person not specifically on the grand jury access list.
- (3) Discontinued grand jury investigations do not fall under the automatic closing procedures. Accordingly, it is necessary to obtain concurrence from the AUSA overseeing the grand jury investigation regarding the decision to discontinue the investigation. The special agent or the SSA will be responsible for requesting the closing letter from DOJ, Tax Division. (See IRM 9.5.14.1)
- (4) At the conclusion of a grand jury investigation that does not result in a criminal prosecution, within five workdays the SAC will ensure that a closing letter is prepared. The letter should include the following (see Exhibit 9.5.14-4, Closing of Discontinued Tax Grand Jury Investigation Letter- a template for the letter exists in the Unified Checklist found on CI Connections):

- a. The primary reason the investigation is being discontinued,
 - b. Whether there are any pending investigations on the other subjects under the same grand jury investigation,
 - c. An affirmative statement of the government attorney's concurrence with the decision to discontinue the investigation.
- (5) The SAC will ensure the closing letter is mailed to DOJ, Tax Division, Chief of the Criminal Enforcement Section, and copies to the AUSA and CT Counsel when the grand jury investigation involves tax or tax-related violations.
 - (6) If the investigation was tax or tax-related, the special agent will prepare a Criminal Investigation Closing Package. (See IRM 9.5.14.5)
 - (7) In Grand Jury investigations, the closing report will be prepared in accordance with Rule 6(e) in that matters occurring before the grand jury will not be disclosed.
 - (8) Information developed during the course of a grand jury investigation typically cannot be used by other operating divisions in the assessment and collection of a tax liability unless a Rule 6(e) Order is obtained by the AUSA. (See IRM 9.3.1, Disclosure)

Note: The special agent must notify DOJ, Tax Division and CT Counsel that the investigation was concluded without a prosecution recommendation if the prosecution recommendation report does not recommend prosecution against the subject(s) of the grand jury investigation or anyone who has been submitted as the subject of the investigation on the Form 9131, Request for Grand Jury Investigation, or a grand jury expansion request. Failure to do so leaves an open grand jury file for which CI is responsible.

9.5.14.12.3
(10-07-2021)

**Discontinued
Simultaneous Criminal
Investigation Program
Investigations
(International)**

- (1) If a field office decides to withdraw from a SCIP investigation, (See IRM 9.4.2.6.3.1, Sources of Information):
 - a. The SAC will submit a memorandum through the Director, Field Operations to the Executive Director, SE:CI:GO stating the reasons for the withdrawal. The field office will also discuss the withdrawal with the treaty counterpart designated SSA and document this in the memorandum.
 - b. The Executive Director, SE:CI:GO will advise the Competent Authority (Division Commissioner, Large Business and International) by letter.
 - c. The field office will proceed with the investigation under normal guidelines and make subsequent requests for information by collateral assistance request.

9.5.14.13
(10-07-2021)

**Notification to Subjects
When an Investigation is
Discontinued**

- (1) When an administrative investigation is discontinued, a letter will be prepared by the SAC and sent to the subject and/or representative by mail. The letter will state that CI is no longer investigating the subject. If appropriate, it should also state that the matter has been referred to the civil operating division.
- (2) If the SAC decides not to notify the subject, a memorandum setting forth the reasons will be prepared. Generally, letters will not be sent in a grand jury investigation, nor investigations involving Stolen Identity Refund Fraud Investigations, multiple filers or individuals related to other prosecution investigations.

- (3) In investigations where a prosecution recommendation has been made, but declined by DOJ, Tax Division, letters of notification will not be sent by the IRS.

9.5.14.14
(10-07-2021)
Post Closing Activities

- (1) Information developed during a criminal investigation that has civil tax potential should be forwarded to the other operating divisions when possible. If the information is covered by grand jury Rule 6(e) disclosure restrictions, a Rule (6) Order is required for release of the information to the other operating divisions. (See IRM 9.3.1, Disclosure)
- (2) Records obtained during a criminal investigation should be disposed of in accordance with established policy and procedure. (See IRM 9.5.14.3)

9.5.14.15
(10-07-2021)
Reserved

- (1) This section is reserved.

9.5.14.16
(04-08-2024)
Closing Primary and Subject Criminal Investigation related to Whistleblower Claims.

- (1) In all investigations where a Form 211, Application for Reward for Original Information was filed and it is determined that the investigation does not have criminal potential, a Form 11369 with attachments and Transmittal Closing Memo must be prepared and forward to the Whistleblower's Office within 90 days of receipt of the Form 211.
- (2) Primary Investigations (PI) and Subject Criminal Investigations (SCI) closing packages should be mailed to the Whistleblower's Office at the following address:
Internal Revenue Service Whistleblower Office-ICE
1973 Rulon White Blvd M/S 4110
Ogden, UT 84404
 - a. Closing a PI:
 - 1. If the information does not warrant further investigation, prepare a Primary Evaluation Memorandum, and close the PI using normal procedures.
 - 2. Prepare Form 11369 and the transmittal closing memo and include additional documents as indicated on the forms for mailing to the Whistleblower's Office.
 - Note:** The completed Form 11369 and all relevant documents must be emailed to the Financial Crimes lead whistleblower analyst within 10 business day of the PI closing.
 - b. Closing a discontinued SCI:
 - 1. For the purposes of processing and evaluating whistleblower claims for award, the investigation is considered closed when it is either discontinued or fully adjudicated. If the SCI is sentenced or discontinued, prepare SCI closing documents using normal procedures.
 - 2. Prepare Form 11369 and the transmittal closing memo, and include additional documents as indicated on the forms. (SAR, Form 13308, Form 14104, Form 211, additional information provided by the whistleblower). If this is a Grand Jury investigation, see special instructions below.

Note: The completed Form 11369 and all relevant documents must be emailed to the Financial Crimes lead whistleblower analyst and assigned whistleblower

analyst within 10 business days of the discontinued or SCI closing. Internal Revenue Service Whistleblower Office - ICE1973 N. Rulon White Blvd. M/S 4110 Ogden, UT 84404

- (3) Special Instructions for Grand Jury Whistleblower-related Investigations:
- a. Whether whistleblower information is received in the field or by the Whistleblower's Office, Grand Jury Information must not be shared with the Whistleblower's Office. The following items, however, are not considered grand jury information; therefore, Criminal Investigation employees are required to provide the following items to the Whistleblower's Office:
 - i. The original whistleblower information.
 - ii. Completed and approved Form 11369 signed by your SSA.
 - iii. Copies of all relevant work papers and reports that are not covered under Rule 6(e).
 - iv. Copies of Plea and Sentencing Agreements.
 - v. A written explanation summarizing the special agent's actions taken based on the information and/or cooperation of the whistleblower.
 - vi. Any additional information that would assist the Director of the Whistleblower's Office in making an award determination.

Note: Any requests for information from the Whistleblower's Office, other than the items listed above should be directed to the Headquarters Financial Crimes Analyst listed on the Financial Crimes CI Connections webpage.

9.5.14.17
(10-07-2021)
Procedures for Closing the Administrative, Discontinued, Grand Jury and Direct Referral Investigation on Criminal Investigation Management Information System Database

- (1) At the conclusion of a criminal investigation, a CIMIS entry is required in the status field to include an entry for "civil actions" and the reason closed field within five workdays.
- (2) If applicable, the sentencing information fields should also be completed. The data is based solely on information contained in the court issued J&C.
 - a. Months to Serve - Enter months to serve and months of confinement (if applicable).
 - b. Months' Probation - Enter months of probation or supervised release.
 - Fines – Enter fines only, not assessments. The amount in Item 66 "Fines to Pay" should represent only amounts imposed by the courts as a "penalty" for the illegal activity. Tax and/or restitution of any kind ordered by the court should NOT be reflected in Item 66.
 - c. Restitution:
 - Only enter dollar (\$) amount of restitution ordered payable to the IRS.
 - For any restitution ordered payable to entity other than IRS, leave the restitution field blank (i.e., Do not enter \$0 or any other amount).
 - Joint and Several Restitution – In some cases the court may order the payment of criminal restitution to the IRS as a joint and several liability of two or more defendants. The total restitution amount should be entered in CIMIS for the lead subject only. A "\$0.00" amount should be placed in the restitution field in CIMIS for all secondary subjects. A note should be added in the Conditional Probation Terms field for the Lead and each Secondary Subject that is ordered by the court to pay joint and several restitutions.
 - An example of a Note is:

a. Restitution for this individual is joint and several with (investigation name/number). For CIMIS purposes, restitution amount is shown on (investigation name/number).

- (3) The probation period does not begin until the subject is released from confinement, therefore, the date may need to be updated during the monitoring period.

Note: This section should only be completed if the sentence imposed by the court includes conditions of probation relative to tax or tax related matters. COP Probation Expiration Date

i. COP Probation Expiration Date:

1. If there are IRS COP and/or criminal restitution ordered to the IRS in tax or tax related investigations, enter estimated date of COP expiration.

An example of calculating the COP expiration date is:

- a. Date of Imposition on J & C or Report Date
+ Months to Serve
+ Months Probation or Supervised Release
- 1 day
=COP Expiration Date
- b. Home confinement is not calculated into the COP expiration date.
- c. If individual is required to report to BOPs by a certain date use the report date as the start date (versus date of imposition) to calculate the COP expiration date.

2. Conditional Probation Terms:

• Only enter IRS related conditions of probation as shown on Judgement.

- a. Cooperate with the IRS.
- b. Restitution to the IRS.
- c. Cooperate by paying all taxes, penalties, and interest and timely file tax returns.
- d. Include other pertinent information: early release info, payments made to date, revocation for reasons other than non-compliance with IRS conditions, tax arrearages, etc.

Note: See FAQ document located on the COP page of CI Connections for more info.

- (4) If all SCIs are closed, then the related PI should also be closed.

Note: In addition to the CI Closing Report and the other required documents to close an investigation, the special agent must make certain entries into the CIMIS database to close an investigation. After the entries are made the appropriate management official must review and approve the pending closing action. Refer to IRM 9.9.4, Criminal Investigation Management Information System Data Fields for details on information required for the entries to CIMIS to close a particular type of investigation.

- (5) Once the probation expiration date has passed and/or the conditions have been met or not met, update CIMIS to reflect probation results.

a. Document reason(s) for closing in CIMIS as a Note. For any question on when to close a COP with “met” or “not met”, please consult with your

SSA, ASAC or COP Coordinator to ensure your choice is consistent within your field office. Some examples of when to use “met” and “not met” are as follows. THESE ARE EXAMPLES ONLY:

- i. Taxpayer has MET all the terms of his/her conditions of probation (fulfilled). Applicable when ordered restitution has been completely met.
- ii. Taxpayer has NOT MET the terms of his/her conditions of probation for reasons beyond CI’s control. Applicable when taxpayer is complying, making court ordered payments but not fully paid at time of COP expiration, inability to pay as determined through financial statements, etc.
- iii. Taxpayer has NOT MET all terms of his/her conditions of probation and the probationary period has expired. CI or one of the IRS operating divisions did not act timely on probation. Applicable when taxpayer did not comply and due diligence was not exercised on IRS and/or CI’s part to ensure compliance (i.e., restitution not assessed, non-payment, non-filing and no follow-up with USAO or PO for revocation.)

Note: Justification for an entry of “will not be met” will be maintained in the administrative case file.

Exhibit 9.5.14-1 (04-08-2024)

**CLOSING ADMINISTRATIVE INVESTIGATION LETTER (See Unified Checklist found on CI Connections)
(Use Appropriate Letterhead)**

The Honorable (Name)
Deputy Assistant Attorney General
Department of Justice, Tax Division
150 M Street, NE
Washington, DC 20001

Attn: (Name), Chief
(Name) Criminal Enforcement Section

CLOSING OF ADMINISTRATIVE INVESTIGATION

Taxpayer Name
City, State, Zip Code
Reference #

Dear (Name of Chief):

By our letter dated (Date), the above referenced matter was referred to your office with our recommendation that (Taxpayer's Name) be prosecuted for (Charges). Our office has been advised by the US Attorney that (Taxpayer's Name) was (Indicted or Information Filed) on (List Charges) and (Legal Action, i.e., Plead Guilty, etc.) on (Date). We have been further advised that on (Date), (Taxpayer's Name) was sentenced to (Sentencing Data).

There are no other related cases in this investigation and there is no outstanding appellate action. Since the criminal prosecution has been concluded, I am closing our files as of this date in accordance with the automatic closing procedures. Pursuant to 26 USC 7602(d)(2)(B)(ii), this action constitutes a termination of the referral and, as such, we will now seek appropriate civil action.

Your assistance in bringing this matter to a successful conclusion has been greatly appreciated.

Sincerely,

(SAC Name)
Special Agent in Charge
XXXXXX Field Office

CC: US Attorney
CT Counsel

Exhibit 9.5.14-2 (04-08-2024)
CLOSING TAX GRAND JURY INVESTIGATION LETTER
(Use Appropriate Letterhead)

The Honorable (Name)
Deputy Assistant Attorney General
Department of Justice, Tax Division
150 M Street, NE
4 Constitution Square
Mail Stop: 1.1505
Washington, DC 20002

(Name), Chief
Criminal Enforcement Section
CLOSING OF TAX GRAND JURY INVESTIGATION
Taxpayer Name
City, State, Zip Code
Reference #

Dear (Name of Chief):

By our letter dated (Date), the above referenced matter was referred to your office with our recommendation that (Taxpayer's Name) be prosecuted for (Charges). Our office has been advised by the US Attorney that (Taxpayer's Name) was (Indicted or Information Filed) on (List Charges) and (Legal Action, i.e., Plead Guilty, etc.) on (Date). We have been further advised that on (Date), (Taxpayer's Name) was sentenced to (Sentencing Data).

There are no other related cases in this investigation and there is no outstanding appellate action. Since the criminal prosecution has been concluded, I am closing our files as of this date in accordance with the automatic closing procedures. Pursuant to 26 USC 7602(d)(2)(B)(ii), this action constitutes a termination of the referral and, as such, we will now seek appropriate civil action as limited by Rule 6(e) of the Federal Rules of Criminal Procedure.

Your assistance in bringing this matter to a successful conclusion has been greatly appreciated.

Sincerely,

(SAC Name)
Special Agent in Charge
XXXXXX Field Office

CC: US Attorney
CT Counsel

**Exhibit 9.5.14-3 (04-08-2024)
CLOSING DIRECT REFERRAL LETTER**

**The Honorable (Name)
United States Attorney (Judicial District)
Attn: (Name of AUSA)
Street Address
City, State, ZIP**

**Re: CLOSING OF TAX GRAND JURY INVESTIGATION
Taxpayer
City, State, Zip Code
Your Ref. #**

Dear (Name US Attorney):

By our letter dated (Date), the above referenced matter was referred to your office with our recommendation that (Subject's Name) be prosecuted for (Charges). The Assistant US Attorney advised my office that (Subject's Name) was (Indicted or Information Filed) on (List Charges) and (Legal Action, i.e., Plead Guilty, etc.) on (Date). I have been further advised that on (Date), (Subject's Name) was sentenced to (Sentencing Data).

There are no other related cases in this investigation and there is no outstanding appellate action. Since the criminal prosecution has been concluded, we are closing our files as of this date in accordance with the automatic closing procedures. Pursuant to 26 USC 7602(d)(2)(B)(ii), this action constitutes a termination of the referral and, as such, we will now seek appropriate civil action as limited by Rule 6(e) of the Federal Rules of Criminal Procedure (if applicable).

Your assistance in bringing this matter to a successful conclusion has been greatly appreciated.

Sincerely,
(SAC Name)
Special Agent in Charge
XXXXXXX Field Office

Exhibit 9.5.14-4 (04-08-2024)

CLOSING OF DISCONTINUED TAX GRAND JURY INVESTIGATION LETTER

The Honorable (Name)
Deputy Assistant Attorney General
Department of Justice, Tax Division
150 M Street, NE
4 Constitution Square
Mail Stop: 1.1505
Washington, DC 20002

Attn: (Name), Chief
(Northern/Southern/Western) Division Criminal Enforcement Section

Re: CLOSING OF DISCONTINUED GRAND JURY INVESTIGATION
Taxpayer
City, State, Zip Code
Your Ref. #

Dear (Name):

Please be advised that the grand jury investigation of the above-referenced individual has been discontinued based on (state primary reason, e.g., lack of evidence, inability to establish responsibility, etc.). Assistant US Attorney (Name) is aware of the investigative findings and concurs with the decision to discontinue the grand jury investigation.

No further investigative action is warranted therefore the above named grand jury matter has been closed. There are no other related cases in this investigation (alternatively, if applicable, state if investigations on other grand jury subjects are still pending). Since the investigation has been concluded, this letter will constitute the termination of the referral and, as such, we will now seek appropriate civil action. The civil action will be sought within the limitations of Rule 6(e) of the Federal Rules of Criminal Procedure.

Your assistance in this matter has been greatly appreciated.

Sincerely,

SAC Name
Special Agent in Charge
XXXXXX Field Office

CC: Assistant US Attorney (or Department of Justice)
CT Counsel