



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

25.1.9

OCTOBER 7, 2022

EFFECTIVE DATE

(10-07-2022)

PURPOSE

- (1) This transmits revised IRM 25.1.9, Fraud Handbook, Tax Exempt/Government Entities (TE/GE).

MATERIAL CHANGES

- (1) This section has been completely realigned and enhanced to ensure all aspects of the TE/GE fraud program have been covered in a logical sequence.
- (2) All references to TE/GE Fraud Specialist (TE/GE FS) were replaced with TE/GE Fraud Specialist (TFS).
- (3) All references to Functional Fraud Coordinator (FFC) were replaced with Functional Fraud Subject Matter Expert (SME) or FFS.
- (4) IRM 25.1.9.1. Added new subsection, Program Scope and Objectives, to provide internal controls information. Subsections added under Program Scope and Objectives include Background; Authority; Roles; Program Management and Review; Program Controls; Acronyms; Terms; and Related Resources. Also rearranged existing IRM content to place information involving internal controls under this subsection.
- (5) IRM 25.1.9.1.1(1). TE/GE is now made up of two functions instead of five, Exempt Organizations/Government Entities (EO/GE) and Employee Plans (EP).
- (6) IRM 25.1.9.2, TE/GE Fraud Personnel, and the subsections that follow, now outlines the different fraud personnel within TE/GE.
- (7) IRM 25.1.9.2(2). All TE/GE functions, including the sub-functions within EO/GE, has it own FFS.
- (8) IRM 25.1.9.2(2).The sub-functions within EO/GE were clarified to include Indian Tribal Government (ITG); Federal, State, and Local Government (FSL/ET); and Tax Exempt Bonds (TEB).
- (9) IRM 25.1.9.2(3). TE/GE functions may also assign Fraud Suspense Coordinators (FSCs) to monitor status 32 and 26 cases and manage status to ensure proper disposition of cases has been added.
- (10) IRM 25.1.9.2(4). Functional Promoter Coordinators (FPCs) may be designated within some functions to coordinate promoter work within a function was added. The FPC is a new position within TE/GE.
- (11) IRM 25.1.9.2(4). A note was added to clarify that TE/GE fraud development cases are assigned to select Office of Fraud Enforcement (OFE) fraud enforcement advisors (FEAs) designated as TE/GE subject matter experts (SMEs) and that a local FEA may be co-assigned.
- (12) IRM 25.1.9.2.1, TE/GE Fraud Specialist Responsibilities are outlined in this subsection.
- (13) IRM 25.1.9.2.2, Functional Fraud SME Responsibilities are outlined in this subsection.
- (14) IRM 25.1.9.2.3, Functional Fraud Suspense Coordinator (FSC) Responsibilities are outlined in this subsection.

- (15) IRM 25.1.9.2.3(6). A note was added to clarify that individual TE/GE functions may be organized differently and may not assign a single FSC based on that function's requirements or may assign different employees to fulfill the listed responsibilities.
- (16) IRM 25.1.9.3, Fraud in TE/GE. This subsection explains fraud in each of the TE/GE business units which addresses a specific taxpayer population that may involve unique indicators of fraud.
- (17) IRM 25.1.9.3.1, Definition of Taxpayer. This subsection describes the term taxpayer for TE/GE purposes.
- (18) IRM 25.1.9.3.2, Exempt Organizations (EO). This subsection explains what exempt organizations are and what they are used for.
- (19) IRM 25.1.9.3.3, Employee Plans (EP). This subsection describes Employee Plans within TE/GE.
- (20) IRM 25.1.9.3.4, Indian Tribal Governments (ITG). This subsection describes Indian Tribal Governments (ITG) within TE/GE.
- (21) IRM 25.1.9.3.5, Tax Exempt Bonds (TEB). This subsection describes Tax Exempt Bonds (TEB) within TE/GE.
- (22) IRM 25.1.9.3.6, Federal, State, and Local Governments (FSL/ET). This subsection describes Federal, State, and Local Governments (FSL/ET) within TE/GE.
- (23) IRM 25.1.9.3.6. The acronym for Federal, State, and Local Governments (FSLG) has changed to FSL/ET.
- (24) IRM 25.1.9.4 TE/GE Fraud Development Procedures. This subsection describes the procedures a TE/GE examiner will take when indicators of fraud are identified. The subsections in this subsection describe case file documentation, civil fraud and criminal fraud for all functions within TE/GE.
- (25) IRM 25.1.9.4.(2). Guidance was added on how and when to contact the fraud enforcement advisor (FEA). The FEA is contacted by submitting a request through the Specialist Referral System (SRS). Website link for the SRS was added.
- (26) IRM 25.1.9.4.(7). Guidance was added to clarify that the FEA will provide a written plan of action on Form 11661 Fraud Development Recommendation - Examination.
- (27) IRM 25.1.9.5, Procedures that Apply to TE/GE Overall. This subsection provides guidelines for the universe of returns and applications under the jurisdiction of the TE/GE Business Operating Division (BOD), including determination letter applications and tax and information returns.
- (28) IRM 25.1.9.5.1, Criminal Provisions. This subsection describes the Internal Revenue Code (IRC) sections that apply to TE/GE cases.
- (29) IRM 25.1.9.5.2, Referrals to Criminal Investigations (CI). This subsection was previously in IRM 25.1.9.2(4).
- (30) IRM 25.1.9.5.2.1, Referral Evaluations. This subsection describes the procedures and timeframes which are required when a case is referred to CI.
- (31) IRM 25.1.9.5.3, Request for Cooperating Agent. The guidance in this subsection details where a request for a TE/GE examiner, as a cooperating agent, should be sent.
- (32) IRM 25.1.9.5.4, Administrative (Non-Grand Jury) Investigations. Procedures and guidance is provided for administrative investigations.

- (33) IRM 25.1.9.5.5, Grand Jury Investigations. New subsection has been added to outline the procedures when a Grand Jury (GJ) case is assigned to an examiner.
- (34) IRM 25.1.9.5.6, Fraud Suspense, was previously in IRM 25.1.9.2(6).
- (35) IRM 25.1.9.5.7, Post Prosecution - Criminal Investigation. Guidance was added on where CI forwards Form 13308 and that SB/SE Examination TS is responsible for assessing any court-ordered restitution.
- (36) IRM 25.1.9.5.8, Civil Resolution of Prosecution Cases, was previously in IRM 25.1.9.2(7).
- (37) IRM 25.1.9.5.8. A note was added to comply with IRC 6751. The examiner must obtain the manager's approval and signature prior to notifying the taxpayer of a penalty.
- (38) IRM 25.1.9.5.9, Special Conditions of Probation, was previously in IRM 25.1.9.2(8).
- (39) IRM 25.1.9.5.10, Identifying Penalty File Examination Cases, was previously in IRM 25.1.9.2(9).
- (40) IRM 25.1.9.6, Time Tracking – Fraud / Fraud Related Activities were previously in IRM 25.1.9.3.
- (41) IRM 25.1.9.6(2)(a) & (b). The two broad categories that fraud cases now fall into are a) Exam-Related Cases and b) Non-Exam Related Cases.
- (42) IRM 25.1.9.6.1(2) & (3). Additional guidance added to clarify that the TE/GE Fraud Specialist (TFS) provides the naming convention code to the exam group for use on WebETS, maintains a naming convention code log of information for fraud or fraud-related cases worked within TE/GE, and prepares reports based on the tracked information.
- (43) IRM 25.1.9.6.2, Examiner Responsibilities. This subsection outlines the examiner responsibilities when working a fraud case. Examiner was previously referred to as agent in prior IRM.
- (44) IRM 25.1.9.6.3, Group Manager Responsibilities. This subsection outlines the group manager responsibilities when a fraud case is being worked in the group.
- (45) IRM 25.1.9.6.4, Compliance, Planning and Classification (CP&C), Planning and Monitoring Analyst Responsibilities. No later than five business days, after the close of the monthly WebETS cycle, the CP&C, Planning and Monitoring analyst will forward the AC 155 report to the TFS.
- (46) #
- (47) Exhibit 25.1.9-1 - The titles of TE/GE fraud personnel have been updated in the table.
- (48) Exhibit 25.1.9-2 - This exhibit has changed and now shows a graphic example of how to establish EO Examination Fraud Cases on WebETS.
- (49) Exhibit 25.1.9-3 - This exhibit has changed and now shows a graphic example of how to establish EP Examination Fraud Cases on WebETS.
- (50) Exhibit 25.1.9-4 - This exhibit has changed and now shows a graphic example of how to establish EP Determination Fraud Case on WebETS.
- (51) Exhibit 25.1.9-5 - This exhibit was added to show a graphic example of how to establish ITG Examination Fraud cases on WebETS.
- (52) Exhibit 25.1.9-6 - This exhibit was previously Exhibit 25.1.9-4, Summary of Fraud and Fraud Related Time Tracking.

- (53) Exhibit 25.1.9-7 - New exhibit added to show a graphic example of the TE/GE Fraud Process Flowchart.
- (54) Editorial changes were made throughout the IRM; website links and program names were updated. All references to Fraud Technical Advisor (FTA) were replaced with Fraud Enforcement Advisor (FEA).

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 25.1.9, dated July 18, 2016.

AUDIENCE

Criminal Investigation (CI), Large Business & International (LB&I), Small Business Self-Employed (SB/SE), Tax Exempt and Government Entities (TE/GE), Wage and Investment (W&I), and Counsel

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25.1.9

Tax Exempt and Government Entities (TE/GE)

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- 25.1.9-1 ATAT & Fraud Related Project Codes Compatible with Activity Code 155
- 25.1.9-2 Example of How to Establish EO Examination Fraud Cases on WebETS
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- 25.1.9-6 Summary of Fraud and Fraud Related Time Tracking
- 25.1.9-7 TE/GE Fraud Process Flowchart

25.1.9.1
(10-07-2022)
Program Scope and Objectives

- (1) **Mission.** The mission of the Office of Fraud Enforcement (OFE) is to promote compliance by strengthening the IRS' response to fraud and by mitigating emerging threats. This includes:
 - Improving fraud detection and development to address areas of high fraud risk noncompliance.
 - Cultivating internal and external partnerships to identify new treatment streams to enhance enforcement.
 - Pursuing civil fraud penalties and recommending criminal cases that will lead to prosecutions, where appropriate.
- (2) The OFE builds strong internal and external partnerships and serves as the primary civil liaison to IRS-Criminal Investigation. By supporting cases throughout the life cycle and through full consideration of available treatments, OFE facilitates optimal disposition of cases with civil fraud potential and refers cases with criminal fraud potential to IRS-Criminal Investigation. By supporting cases throughout the life cycle and through full consideration of available treatments, OFE facilitates optimal disposition of cases with civil fraud potential and refers cases with criminal fraud potential to IRS-Criminal Investigation.
- (3) **Purpose.** This section outlines guidelines for the universe of returns and applications under the jurisdiction of the Tax Exempt/Government Entities (TE/GE), business operating division (BOD), including determination letter applications and tax and information returns. Specific subsections provide procedures that apply to each TE/GE function.
- (4) **Audience.** IRS employees Servicewide including CI.
- (5) **Policy Owner.** Director, OFE, SB/SE.
- (6) **Program Owner.** OFE, Policy, SB/SE.
- (7) **Primary Stakeholders.** The primary stakeholders are IRS civil compliance and CI.

25.1.9.1.1
(10-07-2022)
Background

- (1) TE/GE consists of two functions - Exempt Organizations/Government Entities (EO/GE) and Employee Plans (EP).
- (2) Issues with certain types of tax liabilities require coordination with another BOD's Examination function.
- (3) This handbook is a comprehensive guide for IRS employees Servicewide in the recognition and development of potential fraud issues; referrals for criminal fraud; duties and responsibilities in joint investigations; civil fraud cases; and other related fraud issues.

25.1.9.1.2
(10-07-2022)

Authority

- (1) TE/GE has the authority to conduct examinations under Title 26, Internal Revenue Code, Subtitle F - Procedure and Administrations and to respond to determination requests for matters relating to qualified plans, exempt organizations, and governmental entities, which includes but is not limited to:

| Cite | Specific authority |
|--|--|
| IRC Section 7602, Examination of books and witnesses, which falls under Chapter 78 - Discovery of Liability and Enforcement of Title | <ul style="list-style-type: none"> • Examine books, papers, records or other data necessary to complete an examination. • Take testimony under oath to get additional information needed. • Issue summons for information necessary to complete an examination. • Ask about any offense connected to the administering or enforcing the Internal Revenue laws. |
| IRC Section 6201, Assessment authority, which falls under Chapter 63 - Assessment | Resolve issues based on authority to make determinations of tax liability under IRC 6201. |
| IRC Section 7803(a)(3), Execution of duties in accord with taxpayer rights | Become familiar with and act in accord with taxpayer rights as afforded by the Taxpayer Bills of Rights. Every employee must consider these rights in carrying out their duties. |

25.1.9.1.3
(10-07-2022)

Roles

- (1) The Director, Office of Fraud Enforcement, is the executive responsible for providing fraud policy and guidance for civil compliance employees and ensuring consistent application of policies and procedures in this IRM.
- (2) The fraud enforcement advisor (FEA) serves as a resource and liaison to civil compliance employees in all operating divisions. The FEA is available to assist in civil fraud investigations and offer advice on matters concerning tax fraud.
- (3) Employees who work potential fraud cases are responsible for following the procedures in this IRM. All examiners and their managers working potential fraud cases should familiarize themselves with the information contained in this IRM.

25.1.9.1.4
(10-07-2022)

Program Management and Review

- (1) The OFE Policy staff prepares and issues three-year reports to TE/GE prepared using Fraud Information Tracking System (FITS) data.
- (2) OFE Policy staff can create reports by area, territory or group. These reports help manage fraud inventory and provide review information for managerial use:

- Cases on FITS but not on AIMS or ACIS
- Cases on AIMS or ACIS but not on FITS
- Cases in fraud development status
- Cases in criminal fraud status

- (3) Operational reviews of the FEA group managers are completed by the OFE program manager twice a year. These reviews measure program consistency, effectiveness in case actions, and compliance with fraud policy and procedures.
- (4) FEA managers utilize reports generated from FITS to monitor and track FEA inventory assignments.

25.1.9.1.5
(10-07-2022)
Program Controls

- (1) FEA managers verify program and procedural compliance by conducting case consultations, case reviews, performance reviews and security reviews with all FEAs.
- (2) FEAs are required to follow-up on all cases in fraud development status at least every 60 days as required by IRM 25.1.2.2(6)(e), Fraud Development Procedures.
- (3) FEAs are required to monitor accepted criminal referrals each quarter to ensure that CI and compliance are holding productive quarterly meetings as required under IRM 25.1.4.4.3, Required Communications.

25.1.9.1.6
(10-07-2022)
Acronyms

- (1) The following table defines acronyms commonly used throughout this IRM:

| Acronym | Definition |
|----------------|--|
| AC | Activity Code |
| ACIS | AIMS Centralized Information System |
| ADCCI | Assistant Deputy Commissioner Compliance Integration |
| AIMS | Audit Information Management System |
| AM | Area Manager |
| AT | Abusive Tax |
| ATAT | Abusive Tax Avoidance Transaction |
| BOD | Business Operating Division |
| BPR | Business Performance Review |
| BSA | Bank Secrecy Act |
| CA | Cooperating Agent |
| CCR | Case Chronology Record |
| CI | Criminal Investigation |
| CP&C | Compliance, Planning and Classification |
| CRUT | Charitable Remainder Unitrust |
| CTR | Currency Transaction Report |
| DP | Disqualified Person |
| EO | Exempt Organization |
| EP | Employee Plans |
| EP DS | Employee Plans Determinations Specialist |
| EPMF | Employee Plans Master File |
| ERISA | Employee Retirement Income Security Act of 1974 |
| EW | Expert Witness |
| FEA | Fraud Enforcement Advisor |
| FFS | Functional Fraud Subject Matter Expert |
| FinCEN | Financial Crimes Enforcement Network |
| FICA | Federal Insurance Contributions Act |
| FITS | Fraud Information Tracking System |
| FIU | Financial Investigations Unit |
| FM | Foundation Manager |
| FPC | Functional Promoter Coordinator |
| FSC | Fraud Suspense Coordinator |

| Acronym | Definition |
|----------------|---|
| FSL/ET | Federal, State and Local Governments/ Employment Tax |
| GE | Government Entities |
| GJ | Grand Jury |
| IRC | Internal Revenue Code |
| IRM | Internal Revenue Manual |
| IRS | Internal Revenue Service |
| ITG | Indian Tribal Governments |
| JTTF | Joint Terrorism Task Force |
| LB&I | Large Business & International |
| LDC | Lead Development Center |
| MFT | Master File Transaction Code |
| NGO | Non-Governmental Organizations |
| OFAC | Office of Foreign Asset Control |
| OFE | Office of Fraud Enforcement |
| OPI | Office of Promoter Investigations |
| PC | Project Codes |
| POA | Power of Attorney |
| RCCMS | Reporting Compliance Case Management System |
| SA | Special Agent |
| SAC | Special Agent in Charge |
| SB/SE | Small Business/Self Employed |
| SDN | Specially Designated Nationals List |
| SME | Subject Matter Expert |
| SRS | Specialist Referral System |
| TBOR | Taxpayer Bill of Rights |
| TEB | Tax Exempt Bonds |
| TE/GE | Tax Exempt/Government Entities |
| TEGEDC | Tax Exempt and Government Entities Division Counsel |
| TS | Technical Services |
| WebETS | Web-Based Employee Technical Time System |
| W&I | Wage & Investment |

25.1.9.1.7
(10-07-2022)
Terms

- (1) Compliance employees must be familiar with the following legal terms to understand the requirements of proof. The following table defines terms commonly used throughout this IRM:

| Term | Definition |
|-------------------------------|---|
| Burden of Proof | Includes both the burden of producing evidence and persuading a court (judge or jury) by clear and convincing evidence that the facts support the contention of civil fraud. In tax fraud cases, the burden of proof is on the government. |
| Circumstantial Evidence | Evidence that relies on an inference to connect it to a conclusion of fact. |
| Clear and Convincing Evidence | Evidence showing that the assertion made is highly probable or reasonably certain. This is a greater burden of proof than preponderance of the evidence but less than beyond a reasonable doubt. |
| Direct Evidence | Evidence in the form of testimony from a witness who actually saw, heard, or touched the subject of questioning. Direct evidence, which is believed, proves existence of fact in issue without inference or presumption. |
| Evidence | Data presented to a judge or jury in proof of the facts in issue and, which may include the testimony of witnesses, records, documents, or objects. Evidence is distinguished from proof, in that, proof is the result or effect of evidence. |
| Fraud | Deception by misrepresentation of material facts, or silence when good faith requires expression, which results in material damage to one who relies on it and has the right to rely on it. Simply stated, it is obtaining something of value from someone else through deceit. |
| Inference | A logical conclusion from given facts. |
| Preponderance of Evidence | Evidence that will incline an impartial mind to one side rather than the other so as to remove the cause from the realm of speculation. It does not relate merely to the quantity of evidence. Simply stated, evidence, which is more convincing than the evidence offered in opposition. |
| Presumption (of Law) | A rule of law that a judge or jury will draw a particular inference from a particular fact, or from particular evidence, unless and until the truth of such inference is disproved. |
| Reasonable Doubt | The evidence must be so convincing that a reasonable person would not question the defendant's guilt. |

| Term | Definition |
|---------------------------|--|
| Willful Intent to Defraud | An intentional wrongdoing with the specific purpose of evading a tax believed by the taxpayer to be owing. |

25.1.9.1.8
(10-07-2022)
Related Resources

- (1) The Fraud Development Knowledge Base is located at: <https://portal.ds.irsnet.gov/sites/v1019/pages/default.aspx>
- (2) Procedural guidance on potential fraud development cases can be found throughout IRM 25.1.
- (3) The 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>

25.1.9.2
(10-07-2022)
TE/GE Fraud Personnel

- (1) TE/GE designates a TE/GE fraud specialist (TFS) to coordinate the TE/GE fraud / promoter / AT program. They also assist the functions as requested with identification and development of fraud.
- (2) In addition, each TE/GE function, including the sub-functions within EO/GE; (Indian Tribal Government (ITG); Federal, State and Local Government/ Employment Tax (FSL/ET); and Tax Exempt Bonds (TEB)), has its own Functional Fraud Subject Matter Expert (SME). Both the TFS and Functional Fraud SMEs (FFSs) liaise with the TE/GE-assigned fraud enforcement advisors (FEAs) from the Office of Fraud Enforcement (OFE). For cases initiated outside of TE/GE, and involving a TE/GE entity, the FEA will promptly contact the appropriate FFS with a courtesy copy of the contact sent to the TFS.
- (3) The TE/GE functions may also assign Fraud Suspense Coordinators (FSCs) to monitor status 32 and 36 cases and manage statuses to ensure proper disposition of cases.
- (4) Lastly, Functional Promoter Coordinators (FPCs) may be designated within some functions to coordinate promoter work within the function.

Note: TE/GE fraud development cases are assigned to select OFE FEAs designated as Subject Matter Experts. A local FEA may be co-assigned to TE/GE cases to ensure the local tax environment is considered during fraud development and allow additional OFE FEAs to gain TE/GE expertise

25.1.9.2.1
(10-07-2022)
TE/GE Fraud Specialist Responsibilities

- (1) Coordinates and supports TE/GE Fraud Program-related processes across TE/GE.
 - a. Coordinates with TE/GE FFSs, FSCs and FPCs, and schedules TE/GE Fraud Program meetings as deemed necessary.
 - b. Coordinates CP&C-Issue ID and K-Net program involvement.

- c. Assists TE/GE personnel with practitioner referrals to the IRS Office of Professional Responsibility for potential criminal or civil fraud issues, as appropriate.
- (2) Serves as the point of contact for the TE/GE Fraud Program.
 - a. Oversees TE/GE Fraud mailbox (*TE/GE-EO-FIU) and supports cooperating agent assignment process.
 - b. Liaises with working level teams that could include TEGEDC, OFE, CI, OPI and LDC to identify program needs.
 - c. Liaises with functional directors, business units, and agencies on topics pertaining to the TE/GE Fraud Program.
 - d. Facilitates inter-agency collaboration.
- (3) Monitors and supports TE/GE fraud/promoter/abusive transactions (AT) inventory.
 - a. Issues naming convention codes and maintains databases for EO, EP, and GE.
 - b. Retains required program documents (e.g., Forms 11661 and 2797).
 - c. Compiles monthly reports, collaborating with functional counterparts for feedback (e.g., missing cases, case status changes), as necessary.
 - d. Compiles program-related divisional reports and Business Performance Review (BPR).
- (4) Coordinates development and delivery of TE/GE-wide program-related training and supports functional-specific program training, as requested.
- (5) Coordinates and supports maintenance of TE/GE fraud, promoter, and AT IRM and knowledge management site data.
- (6) Support Servicewide and TE/GE risk process as it pertains to fraud, promoter and AT items.

25.1.9.2.2
(10-07-2022)

**Functional Fraud SME
Responsibilities**

- (1) Maintains awareness of fraud program-related processes within their function.
- (2) Serves as the point of contact for technical / functional fraud questions.
 - a. Coordinates function-specific fraud inquiry assistance.
 - b. Supports agents and managers within their function with fraud development activities.
 - c. Participates in TE/GE Fraud Program meetings, as scheduled and appropriate.
 - d. Works with non-TEGE business units to answer questions on potential leads and to assist those non-TEGE business units in making a referral to CP&C on the potential fraud situation within their function.
- (3) Supports TE/GE fraud reporting.
 - a. Responds to TFS inquiries related to reports, as requested.
 - b. Coordinates with the TFS for naming convention codes.
- (4) Supports TE/GE Fraud Program training.
 - a. Develops and delivers functional fraud training.
 - b. Provides SME support to TE/GE-wide fraud training efforts.

- (5) Contributes functional-specific fraud information to TE/GE fraud IRMs and knowledge management site data.
- (6) Contributes to Servicewide and TE/GE risk process as it pertains to fraud items.

Note: Individual TE/GE functions may be organized differently and may not assign a single FFS based on that function's requirements or may assign different employees to fulfill the listed responsibilities. Each function will inform the TFS of the individual(s) responsible for performing the above activities for their function in support of the TE/GE Fraud Program.

25.1.9.2.3
(10-07-2022)
**Functional Fraud
Suspense Coordinator
(FSC) Responsibilities**

- (1) Maintains awareness of TE/GE fraud suspense activities within their function.
- (2) Serves as the point of contact for functional fraud suspense questions.
 - a. Provides function-specific fraud suspense assistance.
 - b. Supports agents and managers with fraud suspense activities.
 - c. Participates in TE/GE Fraud Program meetings, as scheduled and appropriate.
- (3) Supports TE/GE fraud suspense inventory reporting.
 - a. Monitors the function's fraud suspense inventory.
 - b. Responds to TFS inquiries related to reports, as requested.
- (4) Supports TE/GE Fraud Suspense Program Training.
 - a. Identifies functional program training needs.
 - b. Supports TFS to develop and deliver functional fraud suspense training as needed.
- (5) Contributes functional-specific fraud suspense information to TE/GE fraud IRMs and knowledge management site data.
- (6) Support Servicewide and TE/GE risk process as it pertains to fraud suspense items.

Note: Individual TE/GE functions may be organized differently and may not assign a single FSC based on that function's requirements or may assign different employees to fulfill the listed responsibilities. Each function will inform the TFS of the individual(s) responsible for performing the above activities for their function in support of the TE/GE Fraud Program.

25.1.9.2.4
(10-07-2022)
**Functional Promoter
Coordinator (FPC)
Responsibilities**

- (1) Maintains awareness of TE/GE promoter activities within their function.
- (2) Serves as the point of contact for functional promoter questions.
 - a. Coordinates function-specific promoter development assistance.
 - b. Supports agents and managers with promoter exam activities.
 - c. Coordinates cross-BOD discussions with promoter and exam agents.
 - d. Participates in TE/GE Fraud Program meetings, as scheduled and appropriate.
- (3) Supports TE/GE promoter inventory reporting.

- a. Monitors the function's promoter inventory.
 - b. Responds to TFS inquiries related to reports, as requested.
- (4) Supports TE/GE Promoter Program Training.
- a. Identifies functional program training needs.
 - b. Supports OPI / LDC / TFS to develop and deliver functional promoter training.
- (5) Contributes functional-specific information to promoter IRMs and knowledge management site data.
- (6) Support Servicewide and TE/GE risk process as it pertains to promoter items.

Note: Individual TE/GE functions may be organized differently and may not assign a single FPC based on that function's requirements or may assign different employees to fulfill the listed responsibilities. Each function will inform the TFS of the individual(s) responsible for performing the above activities for their function in support of the TE/GE Promoter Program.

25.1.9.3
(10-07-2022)
Fraud in TE/GE

- (1) Each TE/GE business unit addresses a specific taxpayer population that may involve unique indicators of fraud (a.k.a, badges of fraud).

25.1.9.3.1
(10-07-2022)
Definition of Taxpayer

- (1) The term taxpayer, for TE/GE purposes, is anyone who:
- participates in any manner in the filing of an application for exempt status or determination;
 - prepares or files required tax and information returns on behalf of itself;
 - operates a plan, trust or organization;
 - is a federally recognized Indian tribe or is one of its business operations or related entities;
 - is the issuer of tax-advantaged bonds; or
 - is a federal, state or local government entity.

25.1.9.3.2
(10-07-2022)
Exempt Organizations (EO)

- (1) The Tax Reform Act of 1969 imposed new and stringent requirements with respect to exempt organizations. Originally, only private foundations and certain trusts received restrictions. Subsequent legislation imposed restrictions and reporting requirements on public charities, social welfare organizations and other exempt organizations. The Act established penalties for:
- repeated and willful violations of Chapter 42 provisions,
 - failure to file information returns, and
 - willful violation of annual reporting requirements of private foundations.
- (2) IRC 6033 governs the Form 990, Return of Organization Exempt from Income Tax, information return filing requirements of EOs. IRC 6012 governs the Form 990-T unrelated business income tax return filing requirements of EOs. IRC 6011 governs the Form 4720, Return of Certain Excise Taxes on Charities and Other Persons Under Chapters 41 and 42 of the IRC, excise tax return filing requirements of EOs and other persons.
- (3) EOs receive favorable tax treatment on the premise that they are both organized and operated in accordance with their exempt purpose. The majority of EOs are organized as nonprofit organizations. Given their tax-favored status

for exemption from federal income tax and in some cases for deductibility of charitable contributions to them, EOs may be used as vehicles to conduct inappropriate schemes, scams and fraud.

- (4) While EOs may conduct fraud directly, usually individuals using the EO as a shield to hide their true activities perpetrate the fraud. It is imperative that the EO examiner is cognizant of these types of misuse and identify and consider all related individuals and entities to ascertain whether the EO is being used for tax evasion purposes.
- (5) Restrictions on church tax inquiries and examination under IRC 7611, shall not apply to:
 - a. any criminal investigation,
 - b. any inquiry or examination relating to the tax liability of any person, other than a church, except for IRC 4958 (excess benefit transactions),
 - c. any assessment under IRC 6851 (relating to termination assessments of income tax), IRC 6852 (relating to termination assessments in case of flagrant political expenditures of IRC 501(c)(3) organizations), or IRC 6861 (relating to jeopardy assessments of income taxes, etc.),
 - d. any willful attempt to defeat or evade any tax imposed by Title 26, or
 - e. any knowing failure to file a return of tax imposed by Title 26.
- (6) CI investigations cover a wide range of fraud, many involving tax exempt entities. For example, the health care industry has been subject to fraudulent schemes such as false claims, kickbacks, bribes, schemes involving durable medical equipment, staged/caused accidents, clinic mills, drug diversion, rolling labs, and psychiatric mills. Often, these schemes involve tax exempt organizations. Many hospitals, clinics, and health care related entities are tax exempt organizations.
- (7) There are historical accounts of the use of EOs to fund terrorism, which is both illegal and a fraudulent misuse of an EO's exempt status.
- (8) While examining an exempt organization, sometimes known as non-governmental organizations (NGOs) in the international context, the examiner may find evidence of involvement in terrorism, such as dealings with another NGO suspected of funding terrorism. NGO cases involved in potential terrorism-funding may be subject to a JTTF GJ investigation. As such, these sensitive cases are subject to additional security measures and may require a National Top-Secret Security Clearance.
- (9) When an examiner encounters an EO that appears to be potentially involved in funding or supporting terrorism the examiner should review the Specially Designated Nationals List (SDN List), maintained by the Office of Foreign Asset Control (OFAC), to determine if the organization or any related entity or key individual is identified on that list. If there is a positive OFAC hit or if the examiner continues to have concerns as to the organization's involvement in supporting terrorism, the examiner should suspend all examination work and contact with the EO Fraud SME through their group manager.

Note: The examiner and EO Fraud SME will discuss whether it is appropriate to contact other divisions or agencies.

25.1.9.3.3
(10-07-2022)

Employee Plans (EP)

- (1) The Employee Retirement Income Security Act of 1974 (ERISA) provides criminal and civil penalties for specified violations. The IRS (under Title II) and the Department of Labor (under Title I) generally share jurisdiction over ERISA.
- (2) The Secretary of Labor also has authority to investigate Title 29 offenses. These offenses relate to reporting, disclosure, participation, vesting, funding and fiduciary responsibilities for employee plans. Consequently, the Secretary of Labor and the Secretary of Treasury may be seeking to prosecute the same case.
- (3) Qualified employee plans receive favored tax treatment through a deduction for contributions by the employer, tax exemption for the related trust, and deferral of income by the participating employees. These tax advantages can be used to establish criminal criteria (criteria used by CI for criminal investigation consideration) by identifying a proper tax due and owing, as prescribed in IRC 7201, Attempt to Evade or Defeat Tax.
- (4) IRC 6058 governs the filing of Form 5500, Annual Return/Report of Employee Benefit Plan. CI has criminal jurisdiction over Form 5500 violations. IRC 6012 governs the Form 990-T unrelated business income tax return filing requirement of qualified plans. IRC 6011 governs Form 5300, Return of Excise Taxes Related to Employee Benefit Plans, excise tax return filing requirements of qualified plans and other persons.

25.1.9.3.4
(10-07-2022)

Indian Tribal Governments (ITG)

- (1) Established in 2000 by Presidential Order 13175. ITG is responsible for administering federal tax administration issues applicable to ITG. ITG is a business unit in EO/GE section of TE/GE.
- (2) ITG examiners have specialized training in the administration of tax law and protocols unique to Indian tribes. Federally recognized Indian tribes and their chartered corporations are not subject to federal income taxes at the entity level. However, tribes that are incorporated under state law may be subject to federal income taxes. Indian tribes are subject to other federal taxes including excise, employment and backup withholding.
- (3) Tribal members are subject to federal income taxes with few statutory exceptions.

25.1.9.3.5
(10-07-2022)

Tax Exempt Bonds (TEB)

- (1) TEB is responsible for ensuring compliance with the provisions of IRC 54, IRC 54A-F, IRC 103, IRC 141-150, IRC 1394 and IRC 7871 applicable to tax-advantaged bonds, including tax exempt bonds and tax credit bonds.
- (2) Although bondholders may ultimately be liable for federal taxes upon completion of an examination, for purposes of conducting the TEB examination and to determine the tax status of a bond issuance, the issuer of the debt is deemed the taxpayer.
- (3) Consult the TEB Fraud SME when the examiner and group manager identify potential indicators of fraud in a TEB examination or arbitrage claim review and follow the procedures listed in IRM 4.81.5.18.1, Fraud Procedures.

- 25.1.9.3.6
(10-07-2022)
Federal, State, and Local Governments (FSL/ET)
- (1) The FSL/ET section of TE/GE is responsible for federal tax administration, information reporting and compliance issues relative to the government entities in their role as a taxpayer/employer. Examiner responsibilities are outlined in IRM 4.75.10, Exempt Organizations Examination Procedures, Exempt Organization Pre-contact Procedures, specifically with IRM 4.75.10.1.2.
 - (2) FSL/ET is also responsible for ensuring compliance with and assisting in the administration of Federal Insurance Contributions Act (FICA) coverage agreements under the provisions of Section 218 of the Social Security Act. Procedural guidance on employment tax issues can be found in IRM 4.23, Employment Tax.
- 25.1.9.4
(10-07-2022)
TE/GE Fraud Development Procedures
- (1) When the TE/GE examiner identifies indicators (signs or symptoms) of fraud, they initiate a discussion with their group manager and the appropriate FFS. See IRM 25.1.2.3, Indicators of Fraud, for a list of the common indicators of fraud (a.k.a, badges of fraud).
 - (2) If the group manager agrees that there are indicators of fraud, a request is made for FEA support via the Specialist Referral System (SRS). The SRS is located at <https://srs.web.irs.gov/default.aspx> The FEA will contact the compliance employee within two business days from the date of the request to arrange a meeting. Timely and appropriate actions are very important if potential fraud is an issue.
 - The FFS is available to answer fraud related questions and assist with fraud development throughout this process.
 - Ensure the FFS is included in the correspondence and invited to the meetings. The examiner should also copy the FFS in correspondence related to the referral, as appropriate.
 - (3) If the TE/GE examiner, group manager, FFS and FEA agree that the case warrants fraud development, the TE/GE examiner prepares Form 11661, Fraud Development Recommendation - Examination, with the support of the FEA and FFS. The TFS can assist if needed. Forward the completed form, via secure e-mail, to the group manager for approval. Do not place cases into or out of fraud development without consulting the FEA and FFS. If a disagreement exists about whether to place a case in fraud development, the ultimate decision rests with the TE/GE examiner's group manager.
 - (4) The group manager reviews the Form 11661, approves it, and electronically forwards the completed form via secure e-mail to the FEA for consideration. Also send a courtesy copy to the TFS for tracking purposes.
 - (5) The FEA recommends placing the case in fraud development (update on AIMS to status code 17) by completing the applicable section of Form 11661 and returning the completed form to the TE/GE examiner, the group manager, the FFS and the TFS.
 - (6) An integral part of fraud development is the development of a plan of action. The plan of action involves establishing the affirmative acts that confirm fraud. The plan should be a joint effort of the TE/GE examiner, the TE/GE group manager, the FFS and the FEA. The plan of action helps guide the case to its appropriate conclusion in a timely manner. It is important to note that the role of the FEA can be more advisory or consultative. The jointly developed plan of action should specify any direct assistance expected from the FEA. FEA contacts via email or by telephone are the norm.

- (7) The FEA completes instructions items 16 a-i of Form 11661 and provides a written plan of action on Form 11661.

Note: Examiner places a copy of the initial plan of action and those containing follow up action items in the workpapers.

- (8) Upon receipt of an approved Form 11661, the TE/GE examiner places the case in fraud development status by securing a naming convention code, updating AIMS/RCCMS to status code 17 after requesting copies of the original tax returns (if the original returns have not been secured), in accordance with TEGEDC advice, and proceeding with the plan of action until affirmative acts of fraud are established or a determination is made that fraud is no longer an issue. TEGEDC assistance is secured to help develop the fraud issues. A case is returned to AIMS status code 12, if it is determined that the potential for fraud no longer exists. Upon identification of affirmative acts of fraud, the TE/GE examiner discontinues the examination and immediately contacts the FFS and FEA for advice on how to proceed.

Note: All cases in fraud development status require timely action. The TE/GE examiner or the group manager should **never** directly seek advice from CI for a specific case under examination.

- (9) Cycle time is excluded from the monthly aging reports to management (Month at a Glance Report) while the case is in fraud development status. A case remains in status 17 - fraud development status if there is active involvement in an ongoing exam, or the following occurs:

- update the case on AIMS to status code 18, if CI accepts the criminal referral;
- return the case on AIMS to status code 12; or
- assert the civil fraud penalty and/or the fraudulent failure to file penalty, or both.

- (10) Additional considerations:

- a. If it is determined that the potential for fraud no longer exists, the FEA documents the reason(s) and the recommendation to return the case to AIMS/RCCMS status code 12 as recorded on Form 11661.
- b. If pursuing assertion of the civil fraud and/or fraudulent failure to file penalty, after CI involvement has concluded, the TE/GE examiner notifies the TFS of the change in status code and of the assertion of applicable penalties. The TFS issues a naming convention code, as needed. The examiner returns the case to status code 17 and sends a copy of the updated Form 11661 to the TFS.

- (11) TE/GE examiners should consider whether the fraud development of a TE/GE case may have an impact on other tax returns and make appropriate collateral referrals to SB/SE, LB&I or W&I examination functions.

- (12) Do not discuss consideration of fraud or criminal investigation with the taxpayer at any time during an examination or during the development of a fraud case. If a taxpayer or Power of Attorney (POA) questions the examiner regarding the status of a case during fraud development, IRM 25.1.3.3(3), Preparation of Form 2797, Referral Report of Potential Criminal Fraud Cases, provides instructions concerning disclosures to the taxpayer. Contact the FEA or FFS to assist if disclosure becomes an issue.

25.1.9.4.1
(10-07-2022)
**Case File
Documentation**

- (1) It is important to consider, develop and document completely the usual indicators of fraud in every fraud case. Generally, in those cases in which the court does not sustain the fraud penalty, it is because the court felt that the IRS did not provide enough proof that a sufficient number of the badges of fraud exist, or the court believes the taxpayer has a plausible alternative explanation for their actions or underpayment of tax.
- (2) Examiners should ask taxpayers to provide an explanation for their actions (or why they underpaid their taxes) and document these explanations verbatim and thoroughly. This documentation assists Counsel in rebutting a taxpayer's explanations at trial, if those explanations are inconsistent with what the taxpayer told the compliance employee. Also, if the taxpayer's explanations do not make sense, look for documents or other evidence that rebuts the taxpayer's explanations. Counsel needs this evidence to show the Tax Court that the taxpayer's explanation for their actions is not credible.
- (3) A properly developed case must address and document potential indicators of fraud (a.k.a., badges of fraud). Fully develop and document leads when indicators of fraud are present.
 - Clarify and document the intent of the taxpayer and/or related entities.
 - Clarify and document explanations of the taxpayer and/or related entities.
 - Ensure management is appropriately involved when affirmative indications and acts of deception by the taxpayer are present.
 - The TE/GE manager and FFS must involve the FEA when firm indicators are present.
 - Once the manager and FEA agree that firm indicators are present, prepare Form 11661 for approval by the FEA and include a signed copy of the form with the case file.
 - Once the manager and FEA agree that the fraud case is sufficiently developed, prepare Form 2797 for approval by the FEA and include a signed copy of the form with the case file.
 - The examiner's report reflects the civil fraud penalty by IRC section on a separate attachment, identifying the adjustments attributable to the penalty.
 - For joint returns, address and document innocent spouse issues.
- (4) Send copies of Form 11661 and Form 2797 to the TFS for retention.

25.1.9.4.2
(10-07-2022)
Civil Fraud

- (1) The civil fraud penalty may be based on facts and circumstances of a civil examination or result from the civil settlement of a criminal prosecution case. Often, civil fraud is decided by analyzing the same evidence of intent necessary to support a criminal conviction for tax evasion.
- (2) The penalty for failure to file a tax return, if such failure is fraudulent, is 15 percent per month, or fraction thereof, up to a maximum of 75 percent of the net amount of tax due (IRC 6651(f)). This penalty may be applied in cases involving tax returns such as Form 990-T.
- (3) A criminal conviction for tax evasion under IRC 7201 usually establishes liability for the civil fraud penalty. However, the civil fraud penalty may be imposed even when the taxpayer is acquitted in a criminal fraud prosecution. The burden of proof shifts to the government to prove civil fraud as well as criminal fraud.

- (4) Once the FEA, examiner, their group manager and FFS concur sufficient affirmative acts of fraud exist to support the civil fraud penalty, the case should be forwarded to TEGEDC for its concurrence and recommendation prior to proposing the civil fraud penalty in an examination report.
- (5) The civil fraud penalty and/or fraudulent failure to file penalty must be asserted if a taxpayer was successfully prosecuted by the Department of Justice under Title 26 (e.g., Sections 7201, 7203, 7206(1)) and the prosecution involved additional tax assessment(s) as opposed to payment of existing assessment(s). TEGEDC must approve any exceptions to this rule. See IRM 25.1.6.3, Procedures.
- (6) There is no statute of limitations in civil fraud cases if fraud can be established. TEGEDC must approve the fraud statute and the tax and penalty may be assessed at any time (IRC 6501(c)(1)).
- (7) Collateral Estoppel: A taxpayer convicted under IRC 7201 cannot dispute the fraud penalty in a civil case for the same tax year(s) involved in the conviction. The taxpayer can dispute the amount of the underpayment in the year of conviction, and dispute the underpayment and civil fraud penalties in other tax years.

25.1.9.4.3
(10-07-2022)
Criminal Fraud

- (1) When the examiner establishes that an affirmative act of fraud exists, (see IRM 25.1.1.4, Indicators of Fraud vs. Affirmative Acts of Fraud, for a list of examples), they should suspend the examination, including any contact with the taxpayer and/or representative. As soon as possible the examiner should discuss the examination finding with their group manager, the FEA and the FFS.
- (2) If the FEA and FFS agree that the case meets criminal criteria the examiner prepares Form 2797 and forwards the form via secure email to their group manager for approval with a courtesy copy to the TFS. The FEA and the FFS are available to assist with the preparation of Form 2797 as needed.
- (3) See IRM 25.1.3.4, Referral Evaluation, through IRM 25.1.3.6, Declined Criminal Referrals, for a description of the CI evaluation process. The examiner forwards a copy of the Form 2797 accepted or declined by CI to the FFS and the TFS via secure email.
- (4) If CI declines the referral, the examiner should consider the civil fraud penalty and/or fraudulent failure to file penalty. The FEA signs Form 11661, section 16d or 16e to recommend asserting the penalty(ies). The FEA assists with the development and/or write up of the penalty if necessary.

Note: If the criminal investigation is discontinued or upon completion of prosecution, examiners should consider these penalties. Return the case to AIMS status code 17 if development and/or assertion of these penalties are taking place. The TFS will provide a new naming convention, if needed.

- (5) If a criminal referral is declined for criminal investigation or if the criminal investigation is subsequently discontinued and the FEA and the examiner determine that fraud (civil or criminal) no longer exists, the FEA recommends return of the case to AIMS status code 12 via Form 11661. Send a copy of the FEA-signed Form 11661 to the TFS.

Note: Examiners must document all AIMS status code changes (from status 12 to 17; from 17 to 18; from 18 to 17 or from 17 or 18 to 12) on Form 11661 and have the form signed by the FEA.

25.1.9.5
(10-07-2022)
**Procedures that Apply
to TE/GE Overall**

- (1) This subsection provides guidelines for the universe of returns and applications under the jurisdiction of the Tax Exempt/Government Entities (TE/GE) BOD, including determination letter applications and tax and information returns.

25.1.9.5.1
(10-07-2022)
Criminal Provisions

- (1) This subsection contains the Internal Revenue Code (IRC) sections that apply to TE/GE cases. See IRM 25.1.1-1 for a list of Criminal Violations and the Elements Necessary for Prosecution.
 - a. IRC 7206(1). Declaration Under Penalties of Perjury, is the criminal statute most useful in EO/GE and EP cases, but applies to any return, statement, or other document made under the penalty of perjury, which the taxpayer knows is not true and correct as to every material fact. See *United States v Holroyd*, 732 F.2d 1122 (2d Cir. 1984) for a discussion of the application of IRC 7206(1) when the taxpayer files a false statement, as opposed to a false return. Applications for qualification of employee plans and exempt organizations, and information or tax returns and reports are subscribed under the penalties of perjury. As examples, filing a determination letter application containing false statements, submitting falsified documents in support of such an application, or submitting a falsified annual return for an employee plan or exempt organization, would give rise to a potential IRC 7206(1) prosecution if the falsifications are shown to be willful and material.
 - b. IRC 7201. Attempt to evade or defeat tax - includes filing a false determination letter application, annual return or registration statement. These actions can be considered as affirmative acts leading to tax evasion.
 - c. IRC 7203. Willful failure to file return, supply information, or pay tax - the willful failure to file any required tax or information statement pertaining to a tax exempt entity, may be subject to criminal penalties and civil penalties.
 - d. IRC 7206(2). Fraud and false statements (providing aid or assistance) - many returns and reports are prepared by third parties. Under this section, preparers of false documents relating to a tax exempt entity can be prosecuted.

Note: Under IRC 7206(2), there is no requirement for a false document to be signed under penalties of perjury to pursue prosecution.

25.1.9.5.2
(10-07-2022)
**Referrals to Criminal
Investigation (CI)**

- (1) Use Form 2797, Referral Report of Potential Criminal Fraud Cases, to refer a case to Criminal Investigation (CI) through the FEA.
- (2) If a case involving a collateral examination, which is a civil examination jointly worked by two BODs, shows indicia of criminal fraud, the initiating area of TE/GE and the receiving area (TEGE, SBSE, LB&I or W&I) function prepare a joint referral identifying the affirmative acts established during their respective exams. The FEA group manager ensures that the examiner properly identified both the TE/GE and receiving function and accounts for the referral.

25.1.9.5.2.1
(10-07-2022)

Referral Evaluations

- (1) CI is required to meet with the referring team within 10 workdays of receipt to evaluate and discuss the referral. Within 45 calendar days (75 calendar days for international referrals) of referral receipt, the same individuals must meet again to discuss CI's decision to accept or decline. TE/GE considers the timing and meeting discussions to be critical to effective case management. Whether CI accepts or declines the referral, either a face-to-face meeting (when feasible) or call should always occur. E-mails for this purpose are never advised in order to avoid any potential misunderstanding. For additional information on criminal referral evaluation see IRM 25.1.3.4, Referral Evaluation.
- (2) If the criminal referral is accepted, the team manager must immediately update the case to AIMS status code 18. The referring examiner will serve as the cooperating agent if requested by CI on Form 2797. CI is not required to complete Form 6544, Request for Cooperating Examiner, for TE/GE referrals. The 30-day meeting will be the first opportunity to plan or discuss civil actions (statute extensions, related investigations, etc.) as well as the duties of the cooperating agent. For additional information on accepted criminal referrals see IRM 25.1.3.5, Accepted Criminal Referrals.
- (3) If the criminal referral is declined, the 45-day face-to-face meeting is critical to assure that the team fully understands CI's reasons for the declination. The team should not waive this meeting. For additional information on declined referrals see IRM 25.1.3.6, Declined Criminal Referrals.
- (4) The FEA and TEGEDC should (schedule permitting) be included in all meetings. The TFS may be included if there are concerns or questions.

25.1.9.5.3
(10-07-2022)

Request for Cooperating Agent

- (1) The laws that apply to tax exempt entities are complex. The involvement of a TE/GE examiner can be useful in properly developing investigations involving all types of tax exempt entities, related entities, and individuals. All requests for TE/GE assistance are made by CI on Form 6544.
- (2) Requests for a TE/GE examiner for CA assignments are sent to TE/GE via the TE/GE Fraud mailbox (*TE/GE-EO-FIU) or through direct contact from CI. The direct contact is generally made as follows:
 - a. Within EO, send Form 6544 to the FIU group manager. JTTF cases requesting EO examiners with Top Secret Clearances are submitted through the same channels.
 - b. Within EP, send Form 6544 to the TFS or EP Fraud SME.
 - c. Send Form 6544 requests for ITG examiner support involving taxpayers identified in IRM 25.1.9.4.3 to the ITG Field Operations Manager or equivalent, the ITG Fraud SME, or the TFS.
 - d. Send FSL/ET examiner requests to the FSL/ET Field Operations Manager or equivalent, the FSL/ET Fraud SME, or the TFS. The FSL/ET Field Operations Manager provides a copy of the approved Form 6544 to the TFS.
 - e. TEB agent requests are routed through TEB group managers for approval with an approved copy forwarded to the TFS.

25.1.9.5.4
(10-07-2022)

Administrative (Non-Grand Jury) Investigations

- (1) Administrative cases remain with the team in AIMS status code 18 until either the CI investigation is completed, discontinued, or a grand jury investigation is approved. The cooperating agent may have full access to documents secured by CI during the course of the investigation. The referring agent may have full access to all documents secured by CI once the criminal investigation is

complete or during the investigation with concurrence of the Supervisory Special Agent. See IRM 25.1.4.4.2, Duties and Responsibilities, for the role of the cooperating examiner in a joint administrative investigation.

- (2) Quarterly conferences are critical to the effective management of cases referred to CI. CI retains primary responsibility to schedule these meetings every 90 days commencing after the referral is accepted. Group managers should assure these meetings are held timely and documented by CI as required on Form 6084, Quarterly Joint Workplan and Conference Memorandum. Face-to-face or conference calls are preferred. E-mail only updates are not recommended. See IRM 25.1.3.5(6), Accepted Criminal Referrals, for more information on quarterly conferences involving a cooperating agent in an administrative joint investigation.
- (3) Quarterly conferences are also required for all accepted criminal referrals where the referring revenue agent is not asked to participate as the cooperating agent. In this scenario, the mandatory quarterly conferences are designed to inform the referring team of the updated investigation status. All documents secured by CI and information learned during the course of the investigation may be freely shared with the team during an administrative investigation. For additional information on administrative joint investigations see IRM 25.1.4, Administrative Joint Investigations.
- (4) The TE/GE examiner's responsibilities with respect to any civil case under joint investigation may include:
 - a. determining the qualification status;
 - b. analyzing legal documents (e.g., plan and trust agreements, enabling documents);
 - c. examining trust or organization operations, or proposed operations;
 - d. assisting the CI Special Agent (SA) in interviews and as needed;
 - e. inspecting annual returns under TE/GE jurisdiction;
 - f. analyzing financial transactions and documents (e.g., bond transcripts, offering statements, derivative contracts);
 - g. protecting the statutory period for assessment of TE/GE returns;
 - h. providing technical advice; and
 - i. assisting with applicable special protocols (e.g., interactions with Indian Tribal entities).

25.1.9.5.5
(10-07-2022)
**Grand Jury
Investigations**

- (1) Grand jury investigations can be very complex and involve Federal Rules of Criminal Procedure, Rule 6(e). In the case of any substantive interaction pertaining to fraud matters involving LB&I, the TE/GE group manager will notify and coordinate with the Assistant Deputy Commissioner Compliance Integration (ADCCI) senior program specialist within LB&I, who is responsible for program issues related to fraud. LB&I's fraud procedures are found within IRM 25.1.10, LB&I Fraud Procedures. See also IRM 25.1.5, Grand Jury Investigations.
- (2) TE/GE employees will be assigned to grand jury cases and placed on the Grand Jury list when requested by CI.
- (3) If the case is grand jury, all quarterly conference participants must be on the Rule 6(e) list. See IRM 25.1.5.4, Cooperating Grand Jury Examiner/Revenue Officer Procedures, for more information on quarterly conferences and the role of a cooperating examiner in the grand jury investigation.

- (4) If TE/GE is examining a related case or is participating in a parallel civil investigation, a separate quarterly meeting will be required with that team as well. No grand jury information can be discussed; however, issues such as the status of the case, statutes, or timing of various activities may be discussed without violating grand jury rules. Examples of status updates may include the following:
- a. The Special Agent (SA) is writing the special agent's report (SAR);
 - b. The SA is discontinuing the case;
 - c. The case is being forwarded to Department of Justice (DOJ) - Tax or the Assistant United States Attorneys (AUSAs) office; or
 - d. The case is going to trial.

25.1.9.5.6
(10-07-2022)
Fraud Suspense

- (1) Upon completion of a joint administrative investigation and/or recommendation of criminal prosecution by CI, CI sends a Notice of Department of Justice Referral memorandum (referred by CI as a **Prosecution Recommendation** case) to SB/SE Technical Services (TS) to initiate suspense action. CI concurrently sends a copy of the memorandum to the TFS via secure e-mail to the TE/GE Fraud mailbox (*TE/GE-EO-FIU). The TFS forwards the memorandum to the appropriate FSC. The functional FSC prepares a memorandum instructing the TE/GE Examination group to close the case to its designated fraud suspense function. The case remains in suspense until completion of the criminal aspects of the case.
- (2) See IRM 25.1.4.4.11, Fraud Suspense, for guidance on the information required in the examination case file prior to placing the case in fraud suspense.
- (3) If an administrative investigation becomes an approved grand jury (GJ) investigation, CI sends a Notice of Department of Justice Referral memorandum (referred to by CI as a **Further Investigation** case) to TS to initiate suspense action. CI concurrently sends a copy of the memorandum to the TFS via secure e-mail to the TE/GE Fraud mailbox (*TE/GE-EO-FIU). The TFS forwards the memorandum to the appropriate FSC via secure e-mail. The FSC prepares a memorandum instructing the TE/GE examination group to transfer the case to its designated fraud suspense function. The case remains in suspense until the criminal aspects of the case are completed.
- (4) See IRM 25.1.5.3, Grand Jury Suspense, for guidance on the information required in the examination case file prior to placing the case in grand jury suspense.
- (5) See IRM 25.1.5.3(7) for guidance on Audit Information Management Systems (AIMS) controls for prior and subsequent periods.
- (6) See IRM 25.1.5.3(9) for guidance on AIMS controls and statute protection if the target of the grand jury investigation is not currently under examination.

25.1.9.5.7
(10-07-2022)
**Post Prosecution -
Criminal Investigation**

- (1) If applicable, CI completes and forwards a copy of Form 13308, Criminal Investigation Closing Report (Tax and Tax Related Only), via secure email to the TE/GE Fraud mailbox (*TE/GE-EO-FIU) or the TFS who then forwards it via secure e-mail to the FFS.

- (2) SB/SE Examination TS is responsible for assessing any court-ordered restitution. See IRM 4.8.6, Technical Services, Criminal Restitution and Restitution-Based Assessments.

25.1.9.5.8
(10-07-2022)
**Civil Resolution of
Prosecution Cases**

- (1) When the criminal prosecution aspects have been completed (i.e., criminal prosecution has concluded or the criminal investigation is discontinued), CI notifies TS of the formal closing of the criminal case via a closing package that includes Form 13308 and advises that civil actions on the case should resume.
- (2) CI concurrently sends a copy of the Form 13308 to the TFS via secure e-mail to the TE/GE Fraud mailbox (*TE/GE-EO-FIU). The TFS forwards the Form 13308 closing package to the appropriate TE/GE FSC via secure e-mail. The FSC returns the case to the originating TE/GE examination group with a memorandum explaining that civil actions may resume.
- (3) Upon completion of a grand jury investigation, do not assign the case to examiners who had access to grand jury information since they are “tainted” for civil case resolution. Likewise, assign the case to another manager for civil case resolution if the group manager had direct or indirect access to grand jury information. See IRM 25.1.5.6, Civil Case Resolution, for additional information.
- (4) If the civil fraud penalty under IRC 6663 and/or the fraudulent failure to file penalty under IRC 6651(f) is pursued, the tax years/periods under penalty consideration returns to AIMS status code 17 (Fraud Development Status), and are documented by the FEA on Form 11661.

Note: To comply with IRC 6751, the examiner must obtain the manager’s approval and signature prior to notifying the taxpayer of a penalty.

25.1.9.5.9
(10-07-2022)
**Special Conditions of
Probation**

- (1) The court may order probation for the taxpayer as part of the sentence imposed. The Order of Probation may contain special conditions relating to the settlement and/or payment of civil tax liabilities and penalties. The Special Agent in Charge (SAC) notifies TS via Form 13308, of the special conditions of probation.
- (2) CI concurrently sends a copy of the Form 13308 to the TFS via secure e-mail to the FIU mailbox (*TE/GE-EO-FIU). The TFS forwards the Form 13308 to the appropriate FSC via secure e-mail. The FSC prepares a memorandum to the TE/GE area manager / equivalent to return the case to the field for civil resolution and to consider the taxpayer’s conditions of probation.
- (3) The memorandum instructs the TE/GE area manager / equivalent to provide a response to the SAC regarding the taxpayer’s compliance with the conditions of probation no later than the earlier of the closing of the case or 180 days prior to the probation expiration date.
- (4) See IRM 25.1.4.6, Special Conditions of Probation, for additional guidance.
- (5) If the Judgment and Commitment Order orders restitution, SB/SE TS has the responsibility of assessing the restitution. See IRM 4.8.6, Criminal Restitution and Restitution-Based Assessments.

25.1.9.5.10
(10-07-2022)

Identifying Penalty File Examination Cases

- (1) To facilitate identification by campuses of closed TE/GE civil fraud cases, attach RCCMS 3198-A Special Handling checksheet to the electronic folder of each TE/GE case file for:
 - a. Prosecuted taxpayers where civil liabilities (tax and additions) are determined, and the cases are closed by TE/GE; and
 - b. Taxpayers for whom an underpayment of tax is determined, and the cases are closed in TE/GE with assertion of the civil fraud penalty (IRC 6663) and/or the fraudulent failure to file penalty (IRC 6651(f)), excluding prosecution.

Note: Document Form 3198-A with “Civil Penalty Assessment”.

25.1.9.6
(10-07-2022)

Time Tracking – Fraud / Fraud Related Activities

- (1) This section provides procedures for Web-Based Employee Technical Time System (WebETS) tracking of fraud cases and fraud-related activities. Use this guidance to properly track the amount of time devoted to these issues, and for consistency among the TE/GE functions.
- (2) Fraud cases, fall into two broad categories:
 - a. Exam-Related Cases. These are fraud cases resulting from examinations or through reviews of determination letter applications. In an exam-related case, the examiner controls the civil returns and issues using normal procedures while assisting in the criminal investigation.
 - b. Non-Exam Related Cases. These are fraud cases that involve collateral assignments such as assisting CI as a cooperating agent (CA). Typically, the CA in a non-exam related assignment does not control the civil returns in inventory. For a case to be considered a CA assignment it must be open in CI (TC 914 controls in place on non-Employee Plans Master File (EPMF) modules) and a formal request for TE/GE assistance must be made via Form 6544, Request for Cooperating Examiner/ Revenue Officer. Other examples of non-exam related cases include assignments such as assisting CI as a grand jury (GJ), administrative cooperating agent (CA), expert witness (EW), or with a Joint Terrorism Task Force (JTTF) investigation.
- (3) Regardless of whether a case is exam-related or non-exam related, proper accounting for time in WebETS by each function is critical to ensuring TE/GE accurately captures the amount of time applied to fraud cases and fraud-related activities. These procedures have no effect on AIMS or the Reporting Compliance Case Management System (RCCMS).

25.1.9.6.1
(10-07-2022)

General Information

- (1) All TE/GE functions use activity code (AC) 155, Fraud/Fraud Related Activities, for WebETS reporting.
- (2) See Exhibit 25.1.9-1, for project codes (PCs) compatible with AC 155.
- (3) Do not use taxpayer names on WebETS for fraud cases. Instead, use a tracking number based on a naming convention consisting of the following:
 - Part I - FRD
 - Part II - Function specific, (e.g., TEB, EPE, EOE, GEE, ITG)
 - Part III - Control Number (assigned by the TFS)
 - Part IV - Identifier (e.g., GJ, JTTF, CA, EW)
 - Part V - Identifier for ease of tracking (e.g., the state or location)

- (4) The TFS provides the naming convention code to the exam group for use on WebETS. This provides a consistent method for tracking both exam-related and non-exam related cases without disclosing GJ or other protected information.
- (5) The TFS maintains a naming convention code log of information for fraud or fraud-related cases worked within TE/GE, and prepares reports based on the tracked information.
- (6) The above guidance applies to all examiners. EO and EP Determinations also follow this additional guidance:
EO Determinations:
 - a. EO Determinations continue to use AC 130 and 303, even when the item is Abusive Tax Avoidance Transaction (ATAT) (PC 0428).
 - b. Update the activity code to AC 155 once the fraud case is referred to CI or developed with the help of the EO Determinations Fraud SME.**EP Determinations:**
 - a. EP Determinations continues to use AC 301 until a formal fraud referral is made to CI, or until otherwise instructed by the EP Determinations Fraud SME.
 - b. The EP Determinations Fraud SME consults with the EP Fraud SME to ensure use of the correct activity code.
 - c. The EP Determinations Fraud SME uses AC 155, PC 1551, to reflect time charged to discuss any potential fraud-related inquiries from the EP Determinations Specialist (DS). Update the PC for any subsequent formal fraud referrals.
- (7) Specific instructions for examiners, managers, Compliance, Planning and Classification, (CP&C) Planning and Monitoring analysts, FFSs and the TFS follow.

25.1.9.6.2
(10-07-2022)

**Examiner
Responsibilities**

- (1) Follow the TE/GE Fraud Development Procedures. See also IRM 25.1.9.4, TE/GE Fraud Development Procedures.
- (2) The examiner is responsible for securing a naming convention code from the TFS for all fraud cases to ensure proper time charging in WebETS. If more than one taxpayer is involved in a fraud case, charge all case time to the naming convention code assigned to the key case. Use the one naming convention code for time charged to all related taxpayers.
 - a. Exam-related Cases. It is the examiner's responsibility to contact the TFS and obtain a naming convention code when a return module is placed in AIMS status 17 or 18. The TFS issues the naming convention code when they receive the FEA signed Form 11661 from the examiner and the case is ready to update to status 17. The TFS also issues a naming convention code to examiners for civil examination cases that are updated to status 18 when CI notifies TE/GE of an open CI investigation related to an open TE/GE civil examination case for which no fraud referral was submitted to CI and no Form 6544 was processed.
 - b. Non-Exam Related Cases. When an examiner is assigned a non-exam related case in response to a Form 6544, the TFS issues a naming convention code to use for charging time spent on the assignment.

- (3) The examiner adds a new case in WebETS for each naming convention code received from the TFS. Apply all time charged to the case for fraud development to the new naming convention code. Instructions for WebETS input follow and Exhibits 25.1.9-2 through 25.1.9-5 provide examples of WebETS input screens. Contact the TFS with any input questions.
- (4) **EO Examinations** - WebETS input for a discrepancy adjustment, Form 4720, Return of Excise Taxes Related to Employee Benefit Plans, or Form 990-T, Exempt Organization Business Income Tax Return, case:
- a. Case Category and Type - Operational, EO Exam case
 - b. Case/Plan/Org Name - Naming convention code provided by the TFS
 - c. Date started - date of assignment
 - d. Transfer hours - usually zero
 - e. Organization data - use your organization, business segment and group information
 - f. Activity Code - Select 155
 - g. Project Code - Select the appropriate PC from the drop-down menu
 - h. TIN - dummy number 00-0000000
 - i. Case grade - actual case grade of the case
 - j. Tracking Code - Select N/A - Not applicable
 - k. MFT - actual Master File Transaction Code (MFT) 99
 - l. Tax period - actual tax period

Note: See Exhibit 25.1.9-2 for an example of how to establish an EO examination fraud case on WebETS.

Note: Enter Form 5330 and Form 990-T tracking number cases using the EO Exam case screen. It is not possible to enter Form 5330 and Form 990-T tracking number cases through the default EP Examination WebETS screen since AC 155 and related PCs are unavailable on that screen.

EP Examinations - WebETS input for employee benefit plans:

- a. Case Category and Type – Operational, EP Examination case
- b. Case/Plan/Org Name – Naming convention code provided by the TFS
- c. Date started – date of AIMS status 17 approval or non-exam related case assignment
- d. Transfer hours - usually zero
- e. Organization data - use your organization, business segment, and group information
- f. Activity Code – Select 155
- g. Project Code – Select the appropriate PC from the drop-down menu (see listing of compatible project codes on Exhibit 25.1.9-3.)
- h. TIN – dummy number 00-0000000
- i. Case grade, plan year ending – actual case grade and plan year end
- j. Plan sponsor - use the naming convention code provided by the TFS
- k. Plan Year End - use actual plan year end

EP Determinations - WebETS input. When instructed by the EP Determs Fraud SME, the EP DS inputs the following on WebETS to reflect the development of a potential fraud case or a formal fraud referral to CI:

- a. Case Category and Type – Operational, EP Determ case

- b. Case/Plan/Org Name – Use the exact tracking number provided by the TE/GE Fraud Specialist. It is important the name includes the dashes between the parts of the name. If multiple cases in the same location, it is permissible to add a designation at the end of the tracking number - such as “Case 2”
- c. Date started, control and assigned dates - date specialist instructed to input case on WebETS
- d. Transfer hours - usually zero
- e. Organization data - use your own business group Business Segment and Group Code
- f. Activity Code – Select 155
- g. Project Code – Select the appropriate PC from the drop-down menu (see listing of compatible project codes on Exhibit 25.1.9-4.)
- h. TIN – dummy number 00-0000000
- i. Case Grade/Plan Number - use actual data
- j. Control Date/Assigned Date - same as the date started
- k. Case number - Match the TIN (00-0000000)

Note: See Exhibit 25.1.9-3 and Exhibit 25.1.9-4 for examples of how to establish EP Examination and Determinations fraud cases on WebETS.

ITG Examinations - WebETS input for ITG:

- a. Case Category and Type – Operational, GE ITG case
- b. Case/Plan/Org Name – Naming convention code provided by the TFS
- c. Date started - date of AIMS status 17 approval or non-exam related case assignment
- d. Date closed - leave blank
- e. Transfer hours - usually zero
- f. Organization data - use your own business group Business Segment and Group Code
- g. Activity Code – Select 155
- h. Project Code – Select the appropriate PC from the drop-down menu (see listing of compatible project codes on Exhibit 25.1.9-5.)
- i. TIN – dummy number 00-0000000, as provided by the TFS
- j. Case Grade/Plan Type/Plan Number - use actual data
- k. Control Date/Assigned Date - same as the date started
- l. MFT - actual MFT
- m. Case number - same as TIN (00-0000000)
- n. Tax Period - If this is a one-year case and the year is known, use that year. If multi-years or if unsure of the years, use the most recent year ending.

Note: See Exhibit 25.1.9-5 for an example of how to establish an ITG Examination fraud case on WebETS.

- (5) All case time related to fraud development/activities are recorded on the new line item on WebETS.
 - a. If the named case had controls and time charges prior to being placed in fraud status, it is maintained in WebETS as a separate case/return until the examined return is closed. In other words, retain the original case/return on WebETS, however, do not charge time to it for fraud development. Instead, apply all time to the naming convention code provided by the TFS.

- (6) AC 155 Hours on RCCMS, WebETS and Case Chronology Record (CCR).
- a. Once a naming convention code is issued, the exam time for all return types is charged to the one naming convention code. The CCRs prepared for each return type show the examiner's activities for each date but not the hours since those are charged to the naming convention code for that day. The CCR reflects only the charges for statuses other than 17 or 18; the naming convention code hours are not listed on the CCR.
 - b. The RCCMS case closing documents should match the CCR time.
 - c. The examiner's WebETS report lists each named case as well as the naming convention code case. The naming convention code case reflects all the status 17 and 18 hours charged to fraud or fraud-related activities for all of the various exam cases related to the fraud or fraud-related activities. The examiner's WebETS report also contains each named case. Each named case reflects the total hours charged to that case for status codes other than 17 or 18.
 - d. Close the naming convention code case off WebETS when:- A status 17 or 18 case updates back to status 12 or closed from the group. - Upon receipt of a Form 13308 or equivalent from CI that closes a non-exam related assignment
 - e. AC 155 charges on the CCR: - The CCR time for each named case return type, by year, should match to the WebETS time charged for each named case return type, by year. The CCR and WebETS hours should not include any AC 155 time. - The CCR time for each named case return type by year should match to the time charges on the RCCMS closing document for each examination case by year and should not include any AC 155 time. - The RCCMS hours, CCR hours and WebETS hours charged to the named case should match. This total does not include the AC 155 hours.
 - f. The TFS receives a monthly AC 155 time report for each TE/GE business unit. The AC 155 report lists open and closed hours charged by each examiner each month to the different naming convention codes. The report is used to help monitor the naming convention code inventory and to help examiners resolve WebETS issues involving the naming convention codes.
- (7) Keep the manager and TFS apprised of:
- a. Any grand jury approvals related to an exam-related or non-exam related assignment. For example, when an administrative criminal investigation is approved for a grand jury
 - b. Expansion of a fraud-related examination to additional entities or years
 - c. Outcome of CA Assignments
 - d. Any other status changes regarding fraud or fraud-related cases

25.1.9.6.3
(10-07-2022)
**Group Manager
Responsibilities**

- (1) Follows the TE/GE Fraud Development Procedures. See IRM 25.1.9.5, Procedures that Apply to TE/GE Overall.
- (2) Monitors and supports TE/GE fraud, promoter, AT program inventory:
 - a. Follows functional procedures to notify the TFS of any Form 6544 accepted and assigned or any Form 11661 or Form 2797 accepted to ensure issuance and tracking via a naming convention code.

#

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Exhibit 25.1.9-1 (10-07-2022)

ATAT & Fraud Related Project Codes Compatible with Activity Code 155

| Project Code | Title | Description |
|--------------|---|---|
| 1550 | Fraud Coordination, Case Specific | FSCs and FFSs, Case Specific |
| 1551 | Fraud Coordination, Non-Case Specific | FSCs and FFSs, Fraud Program, Non-Case Specific |
| 1552 | Fraud Development - TE/GE | Examiners/Tax Law Specialists - Fraud Development, AIMS status 17/18 - Approved Form 11661 (fraud development) and/or Form 2797 (CI accepted pre-CA assigned) |
| 1553 | Fraud Development, Non TE/GE | Examiners/Tax Law Specialists, FFSs - Fraud Development, Non-TE/GE Taxpayer |
| 1554 | CI Assistance, Grand Jury | Cooperating Agent Assistance to CI - Grand Jury |
| 1555 | CI Assistance, Administrative Cases | Cooperating Agent Assistance to CI – Administrative Case |
| 1556 | Trial Assistance, Witness – Fraud | Non-Cooperating Agent, Witness Assistance - Fraud Case |
| 1557 | Trial Assistance, Witness – Non-Fraud | Non-Cooperating Agent, Witness Assistance - Non-fraud Case |
| 1558 | International – Fraud | FFSs & Examiner - Case Specific |
| 1559 | International Fraud – Trial Assistance – Witness | Witness Assistance Related – International |
| 1560 | International Non-Fraud Trial Assistance - Witness | Witness Assistance Non-Fraud – International |
| 1561 | JTTF | Cooperating Agent Assistance - Joint Terrorism Task Force |
| 1562 | Manager – Fraud Related Activities – Case Specific | Managers – Case Specific |
| 1563 | Managers – Fraud Related Activities – Non Case Specific | Managers – Non-Case Specific time |
| 1564 | Reserved | Reserved |

Exhibit 25.1.9-2 (10-07-2022)

Example of How to Establish EO Examination Fraud Cases on WebETS

Example of How to Establish EO Examination Fraud Cases on WebETS

| | |
|-----------------------------|--|
| Case Type Selections | |
| Case Category | Operational |
| Case Type | EO Exam Case (Default) |
| Basic Case Info | |
| Case/Plan/Org Name | FRD-EOE-2021-030-CA-FL |
| Date Started | 05/01/2021 <small>mm/dd/yyyy</small> |
| Transfer Hours | 0.0 |
| Organization | |
| Organization | EO |
| Business Segment | Area Exams - Great Lakes Area Office |
| Employee Group Code | 7935 |
| Activity-Project | |
| Activity Code | 155 - Fraud/Fraud Related Activities (243) |
| Project Code | 1555 - CI Assistance, Administrative Cases (573) |
| Additional Case Info | |
| TIN | 00-0000000 <small>nnn-nn-nnnn / nn-nnnnnnn (V or W suffix allowed)</small> |
| Case Grade | GS-13 |
| Tracking Code | N/A - Not Applicable |
| MFT | 99- Non-Return Units |
| Tax Period | 202012 <small>YYYYMM</small> |

Case Category – Establish EO fraud cases as Operational

Case/Plan/Org Name – Use the exact tracking number provided by the TE/GE Fraud Specialist. It is important the name includes the dashes between the parts of the name. If multiple cases in the same location, it is permissible to add a designation at the end of the tracking number – such as “Case 2”

Date Started – Use the date assigned

Transfer Hours – Usually zero (0)

Organization – Use your own group Business Segment and Group Code

Activity Code – Use 155

Project Code – The TE/GE Fraud Specialist will provide this information when the tracking number is provided.

TIN – Use a dummy EIN with zeros (00-0000000)

Case Grade – Use actual data

Tracking Codes – This should be “N/A”

MFT – Use “99” (Non-Return Unit)

Tax Period – If this is a one-year case and the year is known, use that year. If multi-years or if unsure of the years, use the most recent year ending.

Exhibit 25.1.9-3 (10-07-2022)

Example of How to Establish EP Examination Fraud Cases on WebETS

Example of EP Examination WebETS Fraud Case

The screenshot shows the 'Add Case' form in the WebETS system. The form is divided into several sections:

- Case Type Selections:** Case Category is set to 'Operational' and Case Type is set to 'EP Exam Case (Default)'.
- Basic Case Info:** Case/Plan/Org Name is 'FRD-EPE-2013-010-0000-NM', Date Started is '09/25/2013', and Transfer Hours is '0.0'.
- Organization:** Organization is 'EP', Business Segment is 'EP Examinations Programs and Review', and Employee Group Code is '7695'.
- Activity-Project:** Activity Code is '155 - Fraud/Fraud Related Activities' and Project Code is '1552 - Fraud Development - TEGE'.
- Additional Case Info:** TIN is '96-9999999', Case Grade is 'GS-13', Plan Type is '401(k)', Plan Number is '001', Return Type is 'Form 5500-SF', Plan Sponsor is 'FRD-EPE-2013-010-0000', and Plan Year End is '123111'.

At the bottom of the form, there are 'cancel' and 'Add Case' buttons. The footer of the page indicates 'TE/GE Supported by IT:AD 2013'.

Case/Plan/Org Name and Plan Sponsor – use the tracking number you received from the functional fraud coordinator for both entries

Date Started – use the Status 17 approval date or the date of the non-administrative case assignment.

TIN – use a dummy EIN (96-9999999) or SSN (999-99-9999). **Do not use 99-9999999 as a dummy EIN.** All 9's can be used for the dummy SSN.

Case grade, plan type, plan number, return type and plan year end – use actual information from case

Exhibit 25.1.9-4 (10-07-2022)

Example of How to Establish EP Determination Fraud Cases on WebETS

Example of EP Determinations WebETS Fraud Case

The screenshot shows the 'Add Case' form in the WebETS system. The form is divided into several sections:

- Case Type Selections:** Case Category is set to 'Operational' and Case Type is set to 'EP Determ Case (Default)'.
- Basic Case Info:** Case/Plan/Org Name is 'EPE-FRD-2013-010-0000-NM', Date Started is '08/25/2013', and Transfer Hours is '0.0'.
- Organization:** Organization is 'EP', Business Segment is 'Rulings & Agreements - Determinations Area 1', and Employee Group Code is '7521'.
- Activity-Project:** Activity Code is '155 - Fraud/Fraud Related Activities' and Project Code is '1552 - Fraud Development - TEGE'.
- Additional Case Info:** TIN is '96-9999999', Case Grade is 'GS-13', Plan Type is '401(k)', Plan Number is '001', Control Date is '08/25/2013', Assigned Date is '08/25/2013', and Case Number is '969999999'.

At the bottom of the form, there are 'cancel' and 'Add Case' buttons. The footer of the page indicates 'TE/GE Supported by IT:AD 2013'.

Case/Plan/Org Name and Case Number – use the tracking number issued by the functional fraud coordinator.

Date Started, Control and Assigned Dates – use date Specialist instructed to input case on WebETS.

TIN – use a dummy EIN (96-9999999) or SSN (999-99-9999). **Do not use 99-9999999 as a dummy EIN.** All 9's can be used for the dummy SSN.

Case grade, plan type and plan number – use actual information from case.

Exhibit 25.1.9-5 (10-07-2022)

Example of How to Establish ITG Examination Fraud Cases on WebETS

Example of How to Establish ITG Examinations Fraud Cases on WebETS

| | |
|-----------------------------|--|
| Case Type Selections | |
| Case Category | Operational |
| Case Type | GE ITG Case (Default) |
| Basic Case Info | |
| Case/Plan/Org Name | FRD-ITG-2018-002-GJ-N |
| Date Started | 09/04/2018 mm/dd/yyyy |
| Date Closed | mm/dd/yyyy |
| Transfer Hours | 0.00 |
| Organization | |
| Organization | GE-ITG/TEB |
| Business Segment | ITG Field Operations |
| Employee Group Code | 7283 |
| Activity-Project | |
| Activity Code | 155 - Fraud/Fraud Related Activities (244) |
| Project Code | 1554 - CI Assistance, Grand Jury (568) |
| Additional Case Info | |
| TIN | 00-0000000 nnn-nn-nnnn / nn-nnnnnn (V or W suffix allowed) |
| Case Grade | GS-13 |
| Control Date | 09/04/2018 mm/dd/yyyy |
| Assigned Date | 09/04/2018 mm/dd/yyyy |
| MFT | 02- Form 1120(All) BMF |
| Case Number | 00-0000000 |
| Tax Period | 201412 YYYYMM |

Case Category – ITG fraud cases should be established as Operational

Case/Plan/Org Name – Use the exact tracking number provided by the TE/GE Fraud Specialist. It is important the name includes the dashes between the parts of the name. If multiple cases in the same location, it is permissible to add a designation at the end of the tracking number – such as “Case 2”

Organization – Use your own group Business Segment and Group Code

Activity Code – Use 155

Project Code – The TE/GE Fraud Specialist will provide this information when the tracking number is provided.

TIN – Use a dummy EIN with zeros (00-0000000)

Case Grade / Plan Type / Plan Number – Use actual data

Control Date / Assigned Date – Same as the date started

MFT – Select appropriate item from drop-down

Case Number – Match the TIN (00-0000000)

Tax Period – If this is a one-year case and the year is known, use that year. If multi-years or if unsure of the years, use the most recent year ending.

Exhibit 25.1.9-6 (10-07-2022)

Summary of Fraud and Fraud Related Time Tracking

| Category | Summary of Fraud and Fraud Related Time Tracking |
|--|---|
| When is Activity Code 155 Used? | <ul style="list-style-type: none"> • Exam-Related Cases - Upon placement of returns in AIMS status 17 (civil fraud development) or status 18 (Accepted by CI) • Non-Exam Related Cases - Upon acceptance of a case assigned in response to Form 6544, Request for Cooperating Examiner/ Revenue Officer. |
| Examiner Responsibilities | <ul style="list-style-type: none"> • Contact TFS for naming convention code • Create new “operational” case(s) in WebETS • Record applicable time in WebETS for fraud activities • Keep group manager and FFS apprised of fraud related activities |
| Group Manager Responsibilities | <ul style="list-style-type: none"> • Advise FFS and TFS of any Form 6544 approved and the applicable assignment • Keep FFS and TFS apprised of any status changes regarding any fraud or fraud related cases • Ensure Examiners/Tax Law Specialists are properly recording their WebETS time using Activity Code 155 and the correct project and naming convention codes • Follow functional fraud suspense processes as appropriate • Use Activity Code 155 when working fraud related case projects with the proper project code |
| Functional Fraud SME Responsibilities | <ul style="list-style-type: none"> • Submit requests for FEA assistance via SRS • Forward all approved Forms 11661 or accepted Forms 2797 to the TFS • Advise the examiners as to the appropriate WebETS line for charging time (depending on the nature of the case) if it is determined that fraud will no longer be pursued |
| TE/GE Fraud Specialist Responsibilities | <ul style="list-style-type: none"> • Provide naming convention codes to examiners and managers for use in WebETS and maintain a naming convention code log • Reconcile WebETS information to naming convention code log after receipt of monthly WebETS data from CP&C, Planning and Monitoring • Update the naming convention code log to reflect that a case/return is no longer in AIMS status 17 or 18 • Facilitate TE/GE functional contacts with the OFE FEAs and LB&I Fraud Coordinators, as needed • Facilitate and assist FFSs with Counsel and CI, as needed • Engage Functional Fraud SMEs to discuss strategies and cases, when necessary • Share information with working groups, when appropriate • Provide back up support to the FFSs |
| CP&C, Planning and Monitoring Analyst Responsibilities | <ul style="list-style-type: none"> • Forward Activity Code 155 information to the TFS at the end of each WebETS cycle. This allows the TFS to ensure the naming convention code logs are accurate and agree with WebETS |

Exhibit 25.1.9-7 (10-07-2022)
TE/GE Fraud Process Flowchart



