



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

25.1.10

JULY 22, 2021

EFFECTIVE DATE

(07-22-2021)

PURPOSE

- (1) This transmits revised IRM 25.1.10, Fraud Handbook, LB&I Fraud Procedures.

MATERIAL CHANGES

- (1) IRM 25.1.10.1 - Subsection was renamed and expanded to provide internal controls information. Subsections 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.
- (2) IRM 25.1.10.2(1)(a) - Statement was added to advise examiners to complete necessary interviews in a timely manner.
- (3) IRM 25.1.10.2(1)(b) - Statement was added to advise examiners to issue summons in a timely manner.
- (4) IRM 25.1.10.2(2) - Section has been added to clarify that when the examiner suspects indicators of fraud while working a case, the examiner will discuss the case with the team manager and if the team manager concurs, the examiner will request a Fraud Enforcement Advisor (FEA) consultation by submitting a request through the Specialist Referral System (SRS). The link to the SRS was added.
- (5) IRM 25.1.10.2(4) - Moved from IRM 25.1.10.1(3).
- (6) IRM 25.1.10.3(2) - Referrals related to publicly-traded entities are now sent to the Assistant Deputy Commissioner Compliance & Integration Division (ADCCI) Senior Program Specialist.
- (7) IRM 25.1.10.6(3) - All questions regarding suspense issues are now discussed with the respective Geographic Practice Area Functional Fraud Coordinator.
- (8) 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 25.1.10, dated March 20, 2015.

AUDIENCE

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

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25.1.10
LB&I Fraud Procedures

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25.1.10.1
(07-22-2021)
Program Scope and Objectives

- (1) **Mission.** The mission of the Office of Fraud Enforcement (OFE) is to promote compliance through strengthening IRS' response to fraud and 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 or criminal fraud potential.
- (3) **Purpose.** This section provides additional guidance to Large Business and International (LB&I) employees.
- (4) **Audience.** 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.
- (5) **Policy Owner.** Director, Office of Fraud Enforcement, Small Business/Self Employed (SB/SE).
- (6) **Program Owner.** Office of Fraud Enforcement, Policy, SB/SE.
- (7) **Primary Stakeholders.** The primary stakeholders are LB&I, CI and the OFE.

25.1.10.1.1
(07-22-2021)
Background

- (1) The SB/SE OFE is a servicewide program with fraud enforcement advisors (FEAs) located across the country. The groups are comprised of revenue agents and revenue officers who are located strategically throughout the country to assist with the development of fraud. The FEA plays a vital role and **must** be consulted in all cases involving potential criminal fraud, as well as cases that have potential for a civil fraud penalty.
- (2) Upon identifying initial indicators of fraud the examiner should contact their fraud coordinator after first discussing the case with their manager.

25.1.10.1.2
(07-22-2021)
Authority

- (1) By law, the IRS has the authority to conduct examinations under Title 26, Internal Revenue Code Subtitle F – Procedure and Administration, Chapter 78, Discovery of Liability and Enforcement of Title, Subchapter A, Examination and Inspection.

25.1.10.1.3
(07-22-2021)
Roles

- (1) The FEA serves as a resource and liaison to compliance employees in all operating divisions. The FEA is available to assist in fraud investigations and offer advice on matters concerning tax fraud.
- (2) 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.

25.1.10.1.4
(07-22-2021)

**Program Management
and Review**

- (1) The Office of Fraud Enforcement Policy staff prepares and issues the following reports to servicewide customers:
 - Three-year reports prepared using Fraud Information Tracking System (FITS) data
 - Status 17 reports using Audit Information Management System (AIMS) or AIMS Centralized Information System (ACIS) 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) Ad-hoc reports are produced as requested by OFE customers.
- (4) 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.
- (5) FEA managers utilize reports generated from FITS to monitor and track FEA inventory assignments.

25.1.10.1.5
(07-22-2021)

Program Controls

- (1) FEA managers verify program and procedural compliance by conducting case consultations, quality case reviews, workload 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.

25.1.10.1.6
(07-22-2021)

Acronyms

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

Acronym	Definition
ACS	Automated Collection System
ACIS	AIMS Centralized Information System
ACTC	Additional Child Tax Credit
ADCCI	Assistant Deputy Commissioner & Compliance Integration Division
AIMS	Audit Information Management System
AIS	Automated Insolvency System
AOIC	Automated Offer in Compromise
AOTC	American Opportunity Tax Credit
ASED	Assessment Statute Expiration Date
ATFR	Automated Trust Fund Recovery
AUSA	Assistant U.S. Attorney
BMF	Business Master File
BSA	Bank Secrecy Act
CCFC	Collection Campus Fraud Coordinator
CCP	Centralized Case Processing
CFC	Campus Fraud Coordinator
CFFC	Collection Functional Fraud Coordinator
CI	Criminal Investigation
COIC	Centralized Offer In Compromise
COP	Conditions of Probation
CSCO	Compliance Services Collection Operations
CTC	Child Tax Credit
CTR	Currency Transaction Report
DEL RET	Delinquent Return
ECS	Exam Case Selection
EFC	Examination Fraud Coordinator
EITC	Earned Income Tax Credit
EPR	Examination Planning and Review
ERCS	Examination Returns Control System
FBAR	Report of Foreign Bank and Financial Accounts
FCQ	FinCEN Query
FEA	Fraud Enforcement Advisor

Acronym	Definition
FFC	Functional Fraud Coordinator
FFTF	Fraudulent Failure to File penalty
FinCEN	Financial Crimes Enforcement Network
FIRM	Fraudulent Intent Referral Memorandum
GM	Group Manager
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRP	Information Return Processing
IRS	Internal Revenue Service
LB&I	Large Business & International
ODC	Other Dependent Credit
OFE	Office of Fraud Enforcement
OIC	Offer in Compromise
PII	Personally Identifiable Information
PSP	Planning and Special Programs
RA	Revenue Agent
RAR	Revenue Agent's Report
RICS	Return Integrity and Compliance Services
RO	Revenue Officer
SA	Special Agent
SAC	Special Agent in Charge
SAR	Special Agent's Report or Suspicious Activity Report
SB/SE	Small Business/Self Employed
SOL	Statute of Limitation
SSA	Supervisory Special Agent
TBOR	Taxpayer Bill of Rights
TE/GE	Tax Exempt/Government Entities
TM	Territory Manager
TP	Taxpayer

Acronym	Definition
TS	Technical Services
W&I	Wage & Investment

25.1.10.1.7
(07-22-2021)
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 documents or 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 to prove the facts in issue. Evidence includes 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.

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

25.1.10.1.8
(07-22-2021)

Related Resources

- (1) IRM 20.1, Penalty Handbook, provides specific procedures for assertion of the civil fraud penalty.
- (2) The Fraud Development Knowledge Base is located at <https://portal.ds.irsnet.gov/sites/vl019/pages/default.aspx>.
- (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>.

25.1.10.2
(07-22-2021)

Fraud Development within LB&I

- (1) The detection and deterrence of fraud is every compliance employee's responsibility and should be a top priority when discovered. The procedures prescribed in IRM 25.1.25.1 , Overview/Definitions, and IRM 25.1.2 , Recognizing and Developing Fraud, should be reviewed.
 - a. Recognizing and developing fraud requires a thorough determination of all the relevant facts and circumstances surrounding the potential fraud issues. This requires detailed interviews of all individuals who may possess first-hand knowledge. Examiners should follow the specific guidelines in IRM 4.10.3.3 for conducting all the necessary interviews in a timely manner.
 - b. When taxpayers and their employees, return preparers, bookkeepers, and other third parties do not voluntarily provide testimony and/or documents as requested, it may be necessary to issue summonses. Examiners should follow the specific guidelines in IRM 25.5 for issuing summonses in a timely manner.
- (2) If the examiner suspects indicators of fraud while working a case, the examiner should discuss the case with their team manager. If the team manager agrees, then the examiner will request a consultation with an FEA. To request an FEA consultation, the examiner will submit a request through the Specialist Referral System (SRS). The link to the SRS is <https://srs.web.irs.gov/default.aspx>.
- (3) LB&I Counsel established a counter-fraud working group to monitor fraud issues and to ensure consistency in fraud matters. LB&I Counsel will work with the teams and the FEAs to review and provide assistance on all criminal fraud referrals and cases involving development and assertion of the civil fraud

penalty and/or the fraudulent failure to file penalty. LB&I Counsel involvement does not replace the requirement to contact and include the FEA.

- (4) The Assistant Deputy Commissioner & Compliance Integration Division (ADCCI) senior program specialist within LB&I is responsible for program issues related to fraud. In addition, each geographic practice area within LB&I has designated a fraud coordinator to assist and act as a liaison for their industry.
- (5) If the examiner, his/her manager, and the FEA agree that the potential for fraud exists, the examiner must prepare the Form 11661, Fraud Development Recommendation - Examination. The FEA comments and specific action plan is mandatory and must be included on the Form 11661 submitted for approval. See IRM 25.1.2.2(1), through IRM 25.1.2.2(4), Fraud Development Procedures.
- (6) An approved Form 11661 places a case in Fraud Development status. Team managers must update Audit Information Management Systems (AIMS) to status code 17. Case development should continue in accordance with the FEAs Plan of Action. A case must not be placed in or out of fraud development status without consulting the FEA. If a disagreement exists on whether a case should be in fraud development status, contact the ADCCI senior program specialist for assistance.

25.1.10.3
(07-22-2021)
**Referrals to Criminal
Investigation (CI)**

- (1) The examiner and team manager must sign Form 2797, Referral Report of Potential Criminal Fraud Cases, for referrals of privately-held entities or individuals. Referrals related to publicly-traded entities or any case deemed highly sensitive must additionally be coordinated with the ADCCI senior program specialist. For additional information on criminal referrals see IRM 25.1.3, Criminal Referrals.

25.1.10.3.1
(07-22-2021)
Referral Evaluation

- (1) CI is required to meet with the referring team within 10 workdays of receipt to evaluate and discuss the referral. Within 30 workdays (60 workdays for international referrals) of referral receipt, the same individuals must meet again to discuss CI's decision to accept or decline. LB&I 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 25.1.3.3, Referral Evaluation.
- (2) If the criminal referral is accepted, the team manager must immediately update the case to AIMS status code 18. The referring agent 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 LB&I 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 25.1.3.4 , Accepted Criminal Referrals.
- (3) If the criminal referral is declined, the 30 day, (45 workdays), 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 25.1.3.5 , Declined Criminal Referrals.

- (4) The FEA and LB&I Counsel should (schedule permitting) be included in all meetings. The ADCCI senior program specialist may be included if there are concerns or questions.

25.1.10.4
(07-22-2021)
**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. Team 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 25.1.3.4(5) , 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.

25.1.10.5
(07-22-2021)
**Grand Jury
Investigations**

- (1) Grand jury investigations can be very complex and involve Federal Rules of Criminal Procedure, Rule 6(e). When an examiner is going to be involved in a grand jury investigation, it is highly recommended that the team manager seek immediate advice from the ADCCI senior program specialist. See IRM 25.1.5, Grand Jury Investigations.
- (2) LB&I employees will be assigned to grand jury cases and placed on the Grand Jury list when requested by CI. LB&I team managers should not be placed on the grand jury list.
- (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 the LB&I team 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, etc.

25.1.10.6
(07-22-2021)
**General Fraud and
Grand Jury Suspense
Procedures**

- (1) When a joint administrative investigation is completed and CI recommends criminal prosecution, LB&I teams must forward the case to Technical Services using AIMS status code 21. Technical Services will update the case to AIMS status code 32 and hold the case in fraud suspense until the criminal case is completed. See IRM 25.1.4.4.11, Fraud Suspense, for procedures for general fraud suspense.
- (2) CI may request a grand jury investigation at any point in the investigation. If a grand jury investigation is approved, it is critical that LB&I suspend all actions unless a parallel investigation is approved. See IRM 25.1.10.8 below. The LB&I team must forward the case to Technical Services using AIMS status code 21. Technical Services will update the case to AIMS status code 36 and hold the case in fraud suspense until the criminal case is completed. See IRM 25.1.5.3, Grand Jury Suspense, for procedures for grand jury suspense.
- (3) All questions regarding suspense issues should be discussed with the respective geographic practice area functional fraud coordinator.
- (4) The examiner may contact the Technical Services Fraud and Grand Jury Suspense Coordinator <http://mysbse.web.irs.gov/examination/tip/fraud/contacts/11888.aspx> for additional guidance on preparing the case for transfer to suspense.

25.1.10.7
(07-22-2021)
Civil Fraud

- (1) Civil fraud penalties will be asserted when there is clear and convincing evidence establishing that some part of the underpayment of tax is due to fraud. A civil fraud penalty may be developed based on facts and circumstances from a civil examination, a case initiated by CI, or from a post prosecution case.
- (2) The FEA and LB&I Counsel should work jointly with the team to develop and ensure that both the fraud penalty narrative and the direct and circumstantial evidence does, in fact, substantiate the assertion of the civil fraud and/or fraudulent failure to file penalty. The FEA will indicate his/her concurrence with the assertion of the civil fraud penalty and/or fraudulent failure to file penalty on Form 11661. This concurrence is mandatory.
- (3) Cases developed for civil fraud must be in AIMS status code 17. Case closing requires:
 - a. Form 5344, Examination Closing Record, to capture the following information in item 38:
 - Enter "F" if criminal prosecution has been successfully concluded;
 - Enter "C" if the 75% fraud penalty was asserted under IRC 6663; or,
 - Enter "B" if both apply.
 - b. Form 3198, Special Handling Notice, must be used for routing of civil fraud penalty cases. The revenue agent identifies the applicable penalty

code section and computed penalty amount for each tax period on this form and provides any special closing instructions for Centralized Case Processing.

- (4) LB&I Counsel must approve the civil fraud penalty and/or fraudulent failure to file penalty prior to issuance of a statutory notice of deficiency. If a statutory notice of deficiency is anticipated, early involvement of LB&I Counsel is recommended. For additional information on civil fraud see IRM 25.1.6, Civil Fraud.

25.1.10.8
(07-22-2021)

Parallel Investigations

- (1) LB&I cases typically involve many entities and individuals. The purpose of a parallel investigation is to balance both the civil and criminal aspects of a case under criminal investigation. The team manager and/or examiner should discuss the potential parallel investigation with the ADCCI senior program specialist and LB&I Counsel. LB&I team managers **must** discuss with CI the possibility of continuing civil activity on related taxpayers and/or tax years that does not adversely impact the criminal proceeding. For additional information on parallel investigations see IRM 25.1.4.4.6, Parallel Investigations, and Policy Statement (Formerly P-4-84) located at IRM 1.2.1.5.11 .

25.1.10.9
(07-22-2021)

Criminal Restitution

- (1) Contact the ADCCI senior program specialist for guidance and procedures for any case received with criminal restitution assessed.
- (2) Refer also to IRM 25.26, Restitution, for additional information.

25.1.10.10
(07-22-2021)

CI Initiated Cases

- (1) CI initiates many investigations during each year. In addition, the DOJ and US Attorney's office will request assistance for their cases. This may require LB&I agents to cease all civil activity on an open examination, request a parallel investigation, or provide technical tax law assistance when requested.
- (2) If LB&I managers receive a request from CI to cease civil activity on a taxpayer that has not been referred, cease all contact as requested. Contact the ADCCI senior program specialist immediately for additional guidance.
- (3) If an LB&I manager receives a request for a cooperating agent for a CI initiated case (non-referral), then:
 - a. For a domestic case he/she should advise CI to send the request via Form 6544 to the ADCCI senior program specialist for assignment; and,
 - b. For an international case the request for assistance should be emailed to *lbi.iic.requests.and.leads.from.ci@irs.gov*.

25.1.10.11
(07-22-2021)

Third Party Examinations

- (1) Potential third party examinations that have indications of fraud should be secured for examination by the same LB&I team. If the identified third party is located outside the team's geographical area, or it is determined that the examination should be assigned to another operating division, prepare Form 5346, Examination Information Report, and forward it to:
LB&I Ogden PSP - Attention: LB&I Info Item Classifier M/S 4912
1973 N. Rulon White Blvd
Ogden, UT 84404