



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

25.3.2

NOVEMBER 9, 2023

EFFECTIVE DATE

(11-09-2023)

PURPOSE

- (1) This transmits revisions to IRM 25.3.2, Litigation and Judgments, Suits by the United States.

MATERIAL CHANGES

- (1) IRM 25.3.2.1.6: Added additional equity valuation determinations to Terms and Acronyms chart.
- (2) IRM 25.3.2.4.2(5): Added reference to IRC 6751 compliance at the request of Counsel.
- (3) IRM 25.3.2.4.4.4(4): Added reference to IRC 6751 compliance at the request of Counsel.
- (4) IRM 25.3.2.6.2: Updated section Injunction Monitoring for Trust Fund Pyramiding Cases.
- (5) Editorial changes made throughout to update text, references, and web addresses.

EFFECT ON OTHER DOCUMENTS

IRM 25.3.2, dated November 24, 2021, is superseded.

AUDIENCE

SBSE Collection Employees and all Operating Divisions

Rocco A. Steco
Acting Director, Collection Policy
Small Business/Self-Employed

25.3.2

Suits by the United States

Table of Contents

25.3.2.1 Program Scope and Objectives

25.3.2.1.1 Background

25.3.2.1.2 Authority

25.3.2.1.3 Roles and Responsibilities

25.3.2.1.4 Program Management and Review

25.3.2.1.5 Program Controls

25.3.2.1.6 Terms and Acronyms

25.3.2.1.7 Related Resources

25.3.2.2 Pre-Referral Preparation, Consultations, and Communications

25.3.2.2.1 Area Counsel Assistance

25.3.2.2.2 Service of Process

25.3.2.3 Criteria for Bringing Suit

25.3.2.4 Procedures for IRS Employees Initiating Suits

25.3.2.4.1 Preliminary Actions

25.3.2.4.2 Investigation and Evidence Gathering

25.3.2.4.3 General Recommendation Organization

25.3.2.4.3.1 Recommendations Processed Through eApproval

25.3.2.4.4 Required Forms

25.3.2.4.4.1 Form 4477-C: Civil Suit Table of Contents and Contact List, Instructions

25.3.2.4.4.2 Form 4477-A - Data Capture Tables

25.3.2.4.4.2.1 BASIS TOOL - Creating Basis for Assessment Table using IAT and the Basis Tool

25.3.2.4.4.3 Form 4477 - Civil Suit Recommendation, Instructions

25.3.2.4.4.4 Form 4477-B, Civil Suit Narrative Report, Instructions and Exhibits

25.3.2.4.4.4.1 Form 4477-B, Instruction Details

25.3.2.4.4.5 Form 4478, Civil Suit Checklist, Instructions

25.3.2.4.4.6 Form 4479, Civil Suit - Property, Liens, and Claims, Instructions

25.3.2.4.4.7 Form 4480, Civil Suit - Service of Legal Papers, Instructions

25.3.2.4.4.8 Form 4481, Civil Suit - Advisory Transmittal - To Counsel, Instructions

25.3.2.4.5 Suit Recommendation Considerations

25.3.2.4.5.1 Exhaustion of Administrative Remedies

25.3.2.4.5.2 Actions Involving the Principal Residence of the Taxpayer

25.3.2.4.5.3 Collection Due Process (CDP) Requirements Met

25.3.2.4.5.4 Statutes of Limitations

25.3.2.4.5.5 Cases with Imminent CSEDs

25.3.2.5 Settlement Recommendation

25.3.2.6 Revenue Officer Referral and Account Disposition

25.3.2.6.1 Aging Suit Development Case Suspension

25.3.2.6.2 Injunction Monitoring for Trust Fund Pyramiding Cases

25.3.2.7 Advisory Procedures

25.3.2.7.1 Pre-Suit Development

25.3.2.7.2 Pre-Suit Review / Referral Received

25.3.2.7.3 Initial Processing

25.3.2.7.4 Returned Recommendations and Those Needing Further Development

25.3.2.7.5 Approved Recommendations

25.3.2.1
(11-24-2021)
Program Scope and Objectives

- (1) The Internal Revenue Service in certain circumstances initiates litigation action against a taxpayer or third party when collection enforcement actions alone cannot resolve the case.
- (2) **Purpose:** This section provides the procedural instructions for collection staff recommending suits by the Internal Revenue Service to further collection of liabilities owed.
- (3) **Audience:** This IRM is used by Collection employees initiating suits by the Internal Revenue Service. Generally, a request that a legal action be brought against a taxpayer or third party to collect unpaid tax is initiated by the Field Collection function or Advisory. However, litigation recommendations can be initiated by any Collection employee. Primarily Collection Advisory staff or Field Collection revenue officers use this IRM when assisting Counsel and the Department of Justice with defense actions related to these types of suits.
- (4) **Policy Owner:** Director, Collection Policy. Collection Policy is an organization under Small Business/Self-Employed Division (SBSE), Collection.
- (5) **Program Owner:** SBSE, Collection Policy, Enforcement is the program owner of this IRM.
- (6) **Primary Stakeholders:** The primary stakeholders are Chief Counsel and Department of Justice attorneys.
- (7) **Program Goals:** The goal of the program aligns with IRS Strategic Goal II to, Effectively enforce the law to ensure compliance with tax responsibilities and combat fraud and Objective 1 to: Enforce Domestic and International Compliance by Strengthening expertise, adopting innovative Approaches and Streamlining Procedures.

25.3.2.1.1
(11-09-2023)
Background

- (1) There are a number of judicial actions that may be brought by the United States against taxpayers or third parties. See IRM 5.17.4, Suits by the United States, and IRM 5.17.14, Fraudulent Transfers and Transferee and Other Third Party Liability, for a review of the principal types of actions that may be brought by the United States.
- (2) A suit is generally commenced by the filing of a complaint with the court. A copy of the complaint accompanied by a summons must be served upon all persons named as a party to the action. The persons against whom the action is brought are referred to as the “defendants”. The party bringing the complaint is the “plaintiff”.
- (3) Advisory is responsible for internal control of and actions pertaining to most litigation by and against the United States. Exceptions where Advisory does not control suits against the United States include:
 - a. Bankruptcy actions, which are controlled by Insolvency.
 - b. Tax Court litigation, which is controlled by the Independent Office of Appeals (Appeals) or in some cases Area Counsel. This would include IRC 7345 Passport litigation, when filed in Tax Court.
 - c. Refund litigation not involving trust fund recovery penalties, which is controlled by campus refund litigation units. See IRM 3.17.243.8.2, Refund Litigation Campus Contacts, for the appropriate campuses and contacts.

- (4) After receipt of a civil suit recommendation and supporting documents, Area Counsel examines the case carefully from a legal viewpoint to determine whether suit is warranted on the facts presented.
- (5) If it is determined that suit is warranted, Area Counsel prepares a suit letter to the Department of Justice, Tax Division (DOJ), authorizing and requesting that a suit be filed.

Note: In certain cases, the suit letter may need to be reviewed by the appropriate Associate Chief Counsel Office. See IRM 35.11.1-1, Litigation Exhibits - Issues Requiring Associate Office Review. For example, such review is required for cases recommending assertion of the penalty for failure to honor a levy. If national office review is required, additional time will be needed before the case can be forwarded to DOJ.

- (6) When DOJ receives the suit letter from Area Counsel, the case becomes the responsibility of DOJ. If DOJ determines that a suit should be filed, the pleadings will generally be prepared and filed by the Tax Division attorney assigned to the case.
- (7) Because sufficient time is needed for each step in this process, suit recommendations should be prepared well in advance of the Collection Statute Expiration Date (CSED). See *CSED Calculator* and IRM 25.3.2.4.5.5, Cases with Imminent CSEDs, below, for further discussion.

25.3.2.1.2
(11-09-2023)
Authority

- (1) The legal authority for Civil Actions by the United States is found in the United States Code, Title 26, Subtitle F, Chapter 76, Subchapter A, Sections 7401 through 7410. Collection uses:
 - a. IRC 7401. Authorization.
 - b. IRC 7402. Jurisdiction of district courts.
 - c. IRC 7403. Action to enforce lien or to subject property to payment of tax.
 - d. IRC 7404. Authority to bring civil action for estate taxes.
 - e. IRC 7405. Action for recovery of erroneous refunds.
 - f. IRC 7406. Disposition of judgments and moneys recovered.
 - g. IRC 7407. Action to enjoin tax return preparers.
 - h. IRC 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.
- (2) The authority to approve most suit recommendations is delegated to Collection territory managers and Advisory territory managers. However, Area Director approval is required, if the recommendation is to either:
 - a. Secure judicial approval to seize a principal residence; or
 - b. Foreclose the federal tax lien against the principal residence of any person.
 - c. See IRM 1.2.65.3.2, SBSE 1-23-9, Approval of Form 4477, Civil Suit Recommendation.

Note: An electronic signature is an acceptable method of written approval for these enforcement actions. See also IRM 5.11.2.2.2(10), Preparing the Notice of Levy.

- (3) This IRM provides instructional procedures for initiating suits by the Internal Revenue Service. See also IRM 25.3.1.4, Litigation and Judgments, General

Guidelines, Authorization for Filing Suits, Counterclaims or Third Party Complaints, regarding the legal authority under IRC 7401 for filing suits, counterclaims, or third party complaints.

- **Policy Statements for Collection** are located in IRM 1.2.1.6, Policy Statements for the Collecting Process.
- **Delegation Orders for Collection** are located in IRM 1.2.2.6, Delegations of Authority for the Collecting Process, IRM 1.2.2.15, Delegations of Authority for Special Topics Activities, and in IRM 1.2.65.3, SB/SE Functional Delegation Orders - Collection.

25.3.2.1.3
(11-24-2021)
Roles and Responsibilities

- (1) IRM 5.17.1, Legal Reference Guide for Revenue Officers, General Information, provides a list of the parties with an explanation of their role with suits.

25.3.2.1.4
(11-24-2021)
Program Management and Review

- (1) **Program Reports:** Suits are individual to the case and are of a wide variety and scope. When it is appropriate the Collection employee will provide a case Narrative Report for Area Counsel and the Department of Justice identifying all pertinent facts so that appropriate legal action may be taken. Narrative Reports are discussed in IRM 5.17.12, Legal Reference Guide for Revenue Officers, Investigations and Reports.
- (2) **Program Effectiveness:** Whenever litigation involving collection matters is pending or the institution of affirmative legal action to effect collection is being considered, revenue officers will, in the main, be investigators of facts. They will be required to prepare reports concerning any facts ascertained. Advisory reviews the revenue officer recommendation package for clarity and completeness. The approving official reviews the package and if the recommendation represents an effective utilization of collection techniques, approves the package for Counsel's consideration. The lawyers charged with the responsibility make the ultimate decision of whether to proceed but must rely on those facts and reports provided by the revenue officer when making case decisions.

25.3.2.1.5
(11-24-2021)
Program Controls

- (1) Collection Advisory maintains a copy of any suit documentation until the suit is closed. After case closure see Document 12990, Records and Information Management Records Control Schedules, under section Internal Revenue Service Records Control Schedule (RCS) 28, Tax Administration Collection, in:
 - PART III - Administrative Records - All Collection Functions, item number 38, Litigation Files, and in
 - PART IV - Delinquent Accounts, Delinquent Returns, And Office Services Records, item 45, Suits to Foreclose Federal Tax Liens, item 53, Civil Suit Recommendation, Form 4477, and in item 54 (a), Special Procedures Function Case Files.
- (2) Preserving electronically stored information is covered in:
 - IRM 25.3.1.7, Preserving Electronically Stored Information In Litigation Cases,
 - IRM 25.3.1.7.21, References, and
 - *Chief Counsel Notice 2016-005.*

- (3) Initiating suit with the Department of Justice (DOJ) requires group manager and advisory review, territory manager approval, and sometimes area director approval, depending on the type of suit. After advisory prepares and transmits the suit referral and transmits it to counsel. Counsel reviews the suit referral and, if appropriate, sends a suit recommendation to the Department of Justice. See Delegation Order 1-23-9, Approval of Form 4477, Civil Suit Recommendation in IRM 1.2.65.3.2, Small Business/Self-Employed Division Delegations of Authority.

Note: See also Narrative Reports discussed in IRM 5.17.12, Investigations and Reports.

- (4) eApproval metadata allows for operational review inventory selection.

25.3.2.1.6
(11-09-2023)

Terms and Acronyms

(1)

Table of Terms and Acronyms with their Definitions

Acronym	Definition
AC	Action Code
ALS	Automated Lien System
ASED	Assessment Statute Expiration Date
ATAT	Abusive Tax Avoidance Transactions
BAL DUE	Balance Due
BMFOLT	Business Master File On Line Transactions
CAP	Collection Appeals Program
CDP	Collection Due Process
CSED	Collection Statute Expiration Date
DEL RET	Delinquent Return
DOJ	Department of Justice
eApproval	SharePoint application for review and approval of suit recommendations
ESI	Electronically Stored Information
Estimated Recovery Amount	Estimated amount recoverable calculated by subtracting from the forced sale value of the property any amounts owed to secured lien holders with priority over the federal tax lien. Reflects that the sale is a forced sale of the property. IRM 25.3.2.4.4.3(5)
et seq.	and what follows
FMV	Fair Market Value - IRM 5.10.1.5.3.2(1)
FSV	Forced Sale Value - IRM 25.3.2.4.2(6) and IRM 5.10.4.3.1.3(1)
FTD	Federal Tax Deposit
IAT	Integrated Automation Technologies

Acronym	Definition
I/B-MFOLT	Individual / Business Master File On Line Transactions
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
IMFOLT	Individual Master File On Line Transactions
IRC	Internal Revenue Code
KM	Knowledge Management
LLC	Limited Liability Company
MB	Megabyte
NFTL	Notice of Federal Tax Lien
OI	Other Investigation
PALS	Property Appraisal and Liquidation Specialist
PDF	Portable Document Format
QSV	Quick Sale Value - IRM 5.8.5.4.1(2) and IRM 5.15.1.21(4)
RAR	Revenue Agent Report
Rev.	Revision
RCS	Records Control Schedules (Internal Revenue Service)
RFSV	Reduced Forced Sale Value - IRM 5.10.1.5.3.1(1) and IRM 5.10.4.3.1.4(1)
SB/SE or SBSE	Small Business / Self-Employed Division
SFR	Substitutes For Return
TBOR	Taxpayer Bill of Rights
TC	Transaction Code
TFRP	Trust Fund Recovery Penalty
TIN	Tax Identification Number
Treas. Reg.	Treasury Regulation

(2) **eApproval Terms** see the table in IRM 25.3.2.4.3.1.

25.3.2.1.7
(11-09-2023)

Related Resources

- (1) For procedural guidelines on recommending, working, and responding to suits and claims for damages both for and against the United States, see:
 - a. IRM 5.17.4, Suits by the United States,
 - b. IRM 5.17.5, Suits Against the United States,
 - c. IRM 5.17.14, Fraudulent Transfers and Transferee and Other Third Party Liability,
 - d. IRM 25.3.2.4.4, Required Forms, which can also be found searching the Publishing catalog, *Suit Forms*,
 - e. IRM 25.3 series, Litigation and Judgments,
 - f. IRM 4.10.3.3.6, Requests to Audio Record Interviews,

- g. IRM 5.1.12.3, Taxpayer Recording of Interviews,
- h. IRM 5.15.1, Financial Analysis Handbook, and IRM 5.1.10.3, Initial Contact, paragraph (10) where no financial statement provided to the revenue officer.
- i. *Knowledge Management Suit Forms* page the forms are under **Related Forms and Documents** click option under **Other Related Resources** to open the *Suits - Resources/Examples*, page which contains helpful videos as well as the suit forms User Guide tutorials, and examples of the most common suit types, and
- j. *eApproval Information Center*.

- (2) 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>, Taxpayer Bill of Rights (TBOR).

25.3.2.2
(11-24-2021)
**Pre-Referral Preparation,
Consultations, and
Communications**

- (1) The first element, when the Internal Revenue Service is planning and preparing any recommendation to initiate suit action, is to review all current IRM chapters and sections applicable to the type of suit planned. Also review the IRM 25.3.2.4.4, Required Forms used to recommend a suit. Their format provides insight into what is important internally for those reviewing and approving the recommended action as well as what is important to the Department of Justice in litigating the action.
- (2) A second essential element is to keep the lines of communication open between the employee initiating the suit, their group manager, Advisory, and Area Counsel. This communication remains key throughout the litigation and post-litigation.

Reminder: Consider the time frames needed to research, prepare, process, and have the recommendation reach Counsel more than nine months before the earliest CSED expires. IRM 25.3.2.4.1(2), Preliminary Actions, Submission Timeliness, and IRM 25.3.2.4.5.5, Cases with Imminent CSEDs.

- (3) Direct process and strategy questions to your group manager, Advisory, and if necessary Area Counsel.
- (4) While direct communication with Area Counsel by IRS employees who initiate suits is not prohibited, Advisory must be kept apprised of any such communications to avoid duplication of efforts and enhance proper case controls and actions.
- (5) At any point in the process of investigating, preparing, or referring a suit recommendation, a conference may be desirable with Advisory, management and, if needed, Area Counsel. Such conferences are designed to assist and expedite the referral process. To schedule a conference, the employee initiating the suit should contact Advisory.
- (6) Document any communications with Area Counsel or other attorneys, as appropriate, in the Integrated Collection System (ICS) case history.

Caution: Counsel opinions and communications should not be copied and pasted into the ICS history. Contacts with Counsel may be generally described, but, in order to preserve the attorney-client privilege, Counsel communications should not be copied verbatim into the history.

25.3.2.2.1
(06-01-2010)
**Area Counsel
Assistance**

- (1) Area Counsel is always available for the purpose of rendering legal advice in determining the most desirable course of action available and the probability of success in litigation.
- (2) If information is discovered early in the investigation casting doubt as to whether a legal action could be successfully pursued, much time and effort can be saved if timely legal assistance is requested.
- (3) In complex cases or cases raising potential legal issues, consult with Area Counsel to ensure that legal action is appropriate in a given case.
- (4) Ensure that Advisory is aware of requests for Area Counsel advice and the advice provided. Formal requests for legal assistance must be routed through Advisory, unless there is a local agreement to the contrary.

25.3.2.2.2
(11-24-2021)
Service of Process

- (1) In order to serve the summons and complaint upon the defendants, the defendants' correct names and addresses must be provided. The addresses provided must be up to date.

Note: A physical address, as opposed to a post office box number, is needed for service of process.

- (2) If the defendant moves around or has more than one home, provide enough information so that a determination of the defendant's domicile can be made. This is where the taxpayer resides and differs from their "last known address." The correct home address is also important for purposes of determining correct Notice of Federal Tax Lien filing locations and other property rights (e.g., whether the defendant lives in a community property state).

Service of Process Table

If the defendant is	Then
an individual	provide the correct name and home address of the individual.
an individual doing business under another name	provide both the name and home address of the individual and the name and address of the business.
a corporation	provide the complete name and address of the corporation and its officers, state of incorporation, and statutory agent for service of process. Check with the Secretary of State in the state in which the business is located to confirm whether the business is in fact a corporation. Identify the local service agents for out of state corporations.
a partnership	provide the names and addresses of the general partners.
a limited liability company (LLC)	consult with Advisory or Area Counsel regarding state law to determine proper service of process. Most state statutes require an LLC to designate an agent upon whom service of process may be made.

- (3) Direct any questions regarding the information needed for service of process to Advisory. If necessary, Advisory will consult with Area Counsel.

25.3.2.3
(11-24-2021)
Criteria for Bringing Suit

- (1) Do not recommend a suit without first considering all available administrative remedies and exhausting those that are applicable and effective. If there are untried administrative tools which you determine would be ineffective, unfeasible, or inappropriate, explain this in your suit recommendation.
- (2) Generally, do not recommend a suit if the amount expected to be collected is less than the amount set forth in the paragraphs, below. If there are overriding concerns which dictate a suit for less than this amount, fully explain them in the recommendation. Such overriding concerns may exist in:

a. Situations with significant potential impact on the overall collection program, or

b. Situations in which reduction of the tax claim to judgment is needed due to an imminent CSED and significant future collection potential can be reasonably anticipated.

Note: An assessed restitution-based assessment may be subject to a limited period of enforceability for administrative collection. See IRM 5.1.5.18, Collection Actions on Cases with Restitution-Based Assessments (RBA).

#

##

- (6) Criteria for filing certain types of suits can be found in IRM 5.17.4, Suits by the United States, and IRM 5.17.12, Investigations and Reports.

25.3.2.4
(06-01-2010)
**Procedures for IRS
Employees Initiating
Suits**

- (1) Success in litigation is highly dependent upon the factual development of the case. The Department of Justice and Area Counsel rely on the IRS to provide accurate and complete information that is both favorable and unfavorable to the Internal Revenue Service's position.
- (2) The following procedures are intended to assist revenue officers and other IRS employees who initiate suit recommendations in developing suit packages that are accurate and complete.

25.3.2.4.1
(11-09-2023)
Preliminary Actions

- (1) **Preparation:** Review current IRM sections for relevant requirements and *local law guides* applicable to the type(s) of suit being considered. Discuss any questions about case theories with your manager, with Advisory, or with Counsel to ensure that the recommendation can substantiate the theory pursued from the case facts and evidence gathered.
- (2) **Submission Timeliness:** Counsel needs all suit recommendation submissions in their offices at least **nine months before** expiration of the earliest CS&ED in the recommendation. They have the discretion to reject any suit recommendation received after their nine-month cutoff date. For a successful submission, ensure sufficient time is factored in ahead of this cutoff date for case research, case actions, recommendation preparation, review, and approval by the delegated official.

SHORT CSED REQUIREMENTS

Requirement	Instructions
Written Notification to Counsel through Advisory:	<p>When there is any consideration about moving forward on a recommendation with less than nine months on the CSED, contact Advisory and/or Area Counsel to determine Counsel's resources and the time they and Department of Justice (DOJ) need. This includes soliciting formal agreement from Counsel that they have the resources to process a late suit submission.</p> <p>Reminder: Consider removing the earliest CSED from the suit recommendation, if it will not affect the estimated recovery amount from litigation. See IRM 25.3.2.4.4.3 and IRM 25.3.2.4.4.6 for discussion of estimated recovery.</p>
Written Agreement from Counsel before Proceeding:	<p>A written agreement to work a short CSED suit recommendation must be obtained from Counsel by the revenue officer (i.e., or from Counsel through Advisory). This agreement must be clearly identified (file name) and loaded to eApproval as part of the suit package. The "Counsel agreed to accept CSED" box in eApproval must be checked as well. However, the "Counsel agreed to accept CSED" box cannot be checked unless Counsel agreement is obtained in writing and that agreement is loaded to eApproval.</p> <p>Reminder: When considering moving forward on a recommendation with less than nine months on the CSED, contact Advisory and/or Area Counsel to determine Counsel's resources and the time they and Department of Justice (DOJ) need. This includes soliciting formal agreement from Counsel that they have the resources to process a late suit submission.</p>

Note: For cases with imminent CSEDs see IRM 25.3.2.4.5.5, Cases with Imminent CSEDs.

Additional Timeliness Factors:

Item	Factor
1	Ensure that any Collection Due Process, Third-Party Contact, or other notices have been sent allowing for incorporation of any response or response delays provided by statute, designation, or delegation.
2	An assessed restitution-based assessment may be subject to a limited period of enforceability for administrative collection. See IRM 5.1.5.18, Collection Actions on Cases with restitution-based assessments (RBA).

Item	Factor
3	In certain cases, Area Counsel's suit letter may need to be reviewed by the appropriate Associate Chief Counsel Office. See IRM 25.11.1-1, Litigation Exhibits - Issues Requiring Associate Office Review. For example, such review is required for cases recommending assertion of the penalty for failure to honor a levy. If national office review is required, additional time will be needed before the case can be forwarded to DOJ.

Note: For cases with imminent CSEDs see IRM 25.3.2.4.5.5, Cases with Imminent CSEDs.

(3) **ESI:** Identify and preserve all IRM 25.3.1.7, Electronically Stored Information (ESI), that will be subject to litigation discovery.

(4) **Theory of the Case:**

a. Make a complete compliance and collection determination.

Example: Legal basis for the case. See IRM 5.17.4, Suits by the United States.

Example: Facts substantiating the legal basis. See IRM 25.3.2.4.2, Investigation and Evidence Gathering, and IRM 5.17.12, Investigations and Reports.

Example: Equitableness or fairness in pursuing this case action.

b. Identify information both favorable and unfavorable to the Internal Revenue Service's position by identifying significant actions taken by the IRS and the taxpayer.

Example: Internal Revenue Service: actions such as previous injunctions, criminal prosecutions, levying, or seizing assets.

Example: Taxpayer: actions such as Collection Appeals Program (CAP) submissions, Installment Agreements, Offers in Compromise, bankruptcies, Tax Court, or transferring assets out of the reach of the IRS.

(5) **Statutes:** Review all relevant statutes of limitations on assessment, collection, or other actions.

- Verify that all assessments were timely.
- Identify all applicable CSEDs (see *CSED Calculator*).
- Verify that all extensions and suspensions relating to statutory limitations were proper and correctly computed.
- For a potential action to recover erroneous refunds, identify the refund dates and determine the latest date for filing suit (normally, two years after the refund date, but five years if there is adequate evidence of fraud or misrepresentation of material fact).
- Evaluate any actual or potential statute problems to determine their seriousness, whether they can be resolved, and their potential effect on a suit recommendation. Correct problems as possible/allowable.

(6) **TFRP:** Conclude Trust Fund Recovery Penalty (TFRP) determinations and assessments where applicable.

- (7) **Review all statutory liens and Notices of Federal Tax Lien (NFTLs)** and take needed actions to preserve and protect the lien and NFTL.

Lien and NFTL Preparation Detail

Item Preparation Detail

- a) Ensure all statutory liens are intact. If a lien has been inadvertently or erroneously released, repair the lien by:
 - **revoking the release** see IRM 5.12.3.14,
 - **reinstating the lien** see IRM 5.12.3.15, and
 - **reestablishing the lien's priority** through filing a new NFTL see IRM 5.12.3.16.
- b) When multiple NFTLs have been filed, maintain a chart identifying the refile date for each statutory lien listed on each NFTL. Awareness of the refile dates found on NFTLs in column e is important. The Automated Lien System (ALS) will compute refile dates when NFTLs are filed systematically. **Recalculate all refile dates for any manually prepared NFTLs.** Where statutory liens have already been refiled, include in the refile chart the next (e.g., second or even third) refile date. IRM 5.12.8, Notice of Lien Refiling, contains instructions for calculating refile dates.
- c) Identify any situations where property has been transferred **after** the statutory lien has come into existence but **before** the NFTL has been filed. This is called **lien-tracing**. That definition is found in IRM 5.12.7.6.3(1).
- d) Ensure NFTLs are filed properly to protect the Internal Revenue Service's position with respect to all federal tax liens for all property involved (real and personal). Make sure all unpaid assessments are addressed. File additional NFTLs as needed.
- e) Ensure that all previously filed NFTLs are correct. File amended NFTLs as needed. See IRM 5.12.7.9.3, Amending the NFTL Using the ALS Amend Option.
- f) Ensure compliance with and documentation of IRC 6320 and IRC 6330 Collection Due Process (CDP) requirements if applicable. See IRM 25.3.2.4.5.3, Collection Due Process (CDP) Requirements Met, below.
- g) Ensure all needed NFTL refilings have been made, if appropriate. Refile any NFTLs that are in the refile period. See IRM 5.12.8, Federal Tax Liens - Notice of Lien Refiling.

Note: The IRS uses NFTLs that contain self-releasing provisions that will release the underlying statutory lien if the NFTL is not timely refiled during the refiling period. Therefore, NFTLs must be timely refiled in all jurisdictions in which they are filed in order to prevent the statutory lien from being released.
- h) Request approval for and file nominee, transferee, alter ego, or successor in interest notices of federal tax lien as needed prior to suit referral to protect the Internal Revenue Service's interest during the pendency of the action. See IRM 5.12.7.6, Special Condition NFTLs (Nominee, Alter Ego, Transferee, Successor in Interest). See also:
 - IRM 5.12.7.6.1, Nominee NFTL.
 - IRM 5.12.7.6.3 Transferee NFTL.
 - IRM 5.12.7.6.2, Alter Ego NFTL.
 - IRM 5.12.7.6.4, Successor In Interest NFTL.

25.3.2.4.2
(11-09-2023)
**Investigation and
Evidence Gathering**

- (1) Plan and perform a complete investigation and gather evidence appropriate to the situation, type of suit, and possible defense strategies. The following paragraphs and tables in this section highlight the aspects of investigation and evidence gathering including the following:
 - a. Where to research in the IRM.
 - b. The importance of interviews.
 - c. How to gather evidence.
 - d. What type of documentation to consider including from sources both internal and public as well as from witnesses and claimants.
 - e. And where property is involved how to determine its value.
- (2) **IRM:** Review and apply the guidelines provided in:
 - a. IRM 5.17.12, Investigations and Reports,
 - b. IRM 5.17.12.3 through IRM 5.17.12.9 regarding testimony and documentary evidence gathering, and
 - c. IRM 5.17.4, Suits by the United States, for specific suit types involved aiding in identification of issues to be addressed.
- (3) **Interview:** are used to develop information and establish evidence. In addition to IRM 5.17.12, guidance on who to interview, where to conduct interviews, preparation and planning, types of interviews, documenting interviews, the interviewee's rights during interviews, and interview techniques can be found throughout the IRM. For example:
 - a. IRM 4.10.3.3, Interviews: Authority and Purpose,
 - b. IRM 9.4.5, Investigative Techniques - Interviews,
 - c. IRM 4.10.7.3.2, Oral Testimony,
 - d. IRM 5.1.10.7.1, Rights During Interviews, and
 - e. IRM 25.1.2.4, Investigative Techniques.
- (4) **Evidence:** Use all possible sources and secure facts and evidence needed to support your recommendation.
 - a. The duty to retain and preserve evidence applies also to electronically stored information (ESI), including all ICS files. See IRM 25.3.1.7, Preserving Electronically Stored Information In Litigation Cases, for information on ESI. See also Chief Counsel's, *Litigation Hold* site.
 - b. Use summonses, affidavits, etc. as needed. Do not limit the case information provided to Advisory and Area Counsel. Present all of the information you have secured in the suit recommendation so that Counsel can determine what information is relevant. Counsel or the Department of Justice (DOJ) will determine what information is relevant and what will be presented at trial.
 - c. All suit recommendations should include information pertaining to any CDP notices that were issued and/or hearings conducted pursuant to IRC 6320 and IRC 6330, including court proceedings and their final disposition. A summary of all issues raised in these proceedings (where relevant) should be included.

Note: IRC 6330 notice is not required to file suit to collect unpaid taxes. However, providing information to Counsel regarding any CDP notices that were issued, whether or not a hearing was requested, and the results of any hearing and subsequent judicial appeal, is important for purposes of protecting the Internal Revenue Service's

interests in litigation. See IRM 25.3.2.4.5.3, Collection Due Process (CDP) Requirements Met.

- (5) **Documentation:** Use all possible sources to secure the documentation needed to support your recommendation. As soon as the possibility of a suit is recognized begin compiling the supporting documentation.

Internal Files

Item	Instructions
1	<p>Order original returns for all periods involved in the suit, Substitutes For Returns (SFRs), Revenue Agent Reports (RARs) and, if applicable, TFRP/Appeals/Civil Penalty (e.g. required approvals per IRC 6751) administrative files. Forward them with the suit recommendation package.</p> <p>Note: In cases where the tax liability has already been determined in a court proceeding (e.g., a final Tax Court decision), original returns are not needed. Secure a copy of the Tax Court decision.</p>
2	<p>If original returns or the administrative file cannot be located or obtained and it is anticipated that these documents may be needed, consider the feasibility of going forward with a suit recommendation without these documents (e.g., Consider dropping a civil penalty period requiring IRC 6751 compliance where an approved Form 8278 or other applicable approval document could not be located). Consult with Advisory and Area Counsel to resolve any questions.</p> <p>Caution: Where applicable, all collection suit referrals must contain a discussion of whether IRC 6751 penalty approval applies and whether there was compliance with the supervisory approval requirements in IRC 6751(b) for each penalty in the suit referral. Consult with Advisory or Area Counsel with any questions. References IRM 35.4.1.6.3, Chief Counsel Directives Manual – Tax Court Litigation, Pre-Trial Activities, Trial Planning, Section 6751(b) Penalty Approval Requirement and IRM 35.2.2.3.9(2), Chief Counsel Directives Manual – Tax Court Litigation, Petition and Answer, Answers, Affirmative (New) Issues.</p>
3	<p>Check for any ongoing audits, pending additional assessments, IRS criminal investigations, or other open internal investigation. Coordinate with the other functions regarding data already secured, the impact of the proposed litigation on other cases (and vice versa), and other pertinent factors.</p>
4	<p>Secure certified transcripts for inclusion in the referral package. Certified transcript ordering instructions are found in IRM 25.3.6.2.1.1, Form 4340 Procedures, and IRM 21.2.3.5.9, Ordering Transcripts.</p>

Public Records

Item	Instructions
1	<p>Conduct or update a complete public records check no more than 30 calendar days before submission of the suit recommendation for review and approval. Complete, current information is vital. See IRM 5.1.18.4.1, Courthouse Records Check.</p>

Item	Instructions
2	<p>Save plain copies of appropriate public records needed to substantiate a suit recommendation. Before submitting a suit load as exhibits to eApproval those needed to substantiate the suit.</p> <p>Note: DOJ will request certified copies of relevant documents (deeds, titles, etc.) on an as needed basis. They request certified copies if a suit goes to trial and the parties do not stipulate to the documents.</p> <p>Caution: Do not alter certified documents in any way. This restriction includes any sort of alteration or defacement to the documents, including marking or writing on them, affixing labels or tabs, cutting them, punching holes in them, or stapling or unstapling them.</p>

Witnesses and Claimants

Item	Instructions
1	Compile lists of names and complete addresses of affected parties and other potential witnesses as well as their potential contributions/testimony and reliability. See also IRM 25.3.2.4.4.7, for Form 4480, Civil Suit - Service of Legal Papers, Instructions.
2	Witnesses may assert privileges in response to a summons, such as attorney-client, work product doctrine, accountant-client, and fifth amendment. Privileges can restrict gathering of certain evidence. See IRM 5.17.6, Legal Reference Guide for revenue officers - Summonses.
3	Identify residents or other occupants of real property involved. Determine name, mailing/service addresses, relationship to the taxpayer, basis of occupancy, and other pertinent information.
4	Identify all parties holding any claim to or interest of record in the property involved in the recommendation, regardless of the validity, priority, or status thereof. They must all be named as defendants in the recommended action against the property. Determine the current physical address of these parties and the identity and physical/potential service address of any service agents or others empowered to receive legal service for these parties.
5	Anticipate possible defenses and plan your investigation to address any related concerns.

(6) **Property and Value:**

Type	Instructions
Equity Determination	<p>First, make an equity determination by determining the fair market value described in IRM 5.10.1.5.3.2, Equity Determination - Fair Market Value. Second, reduce that amount by a forced sale reduction not to exceed 25%, described in IRM 5.10.4.3.1.3, Minimum Bid - Force Sale Value. Third, subtract any liens or claims having priority over the federal tax lien as described below in IRM 25.3.2.4.4.3(5). Consider securing a commercial title search using guidelines in IRM 5.10.1.5.3.3(4), Equity Determination - Verify Ownership and Identify Encumbrances.</p> <p>Reminder: The forced sale value for a suit does not include the additional IRM 5.10.4.3.1.4 20% reduction used with seizures.</p>

Type	Instructions
Actuarial Interest	<p>Computation of the actuarial interest factor of the party liable for unpaid taxes is required in some jurisdictions when foreclosure of the tax lien is to be pursued against property, especially homestead property, co-owned by non-labile persons, or property used as a homestead by one or more non-labile persons.</p> <ol style="list-style-type: none"> Check with Advisory to determine if this requirement applies in your area. If required, request the computation by sending a request via secured e-mail to <i>*TE/GE-EP-Actuarial</i>. Provide all data needed for the computation, including type of property ownership, birth dates of all owners (from INOLE or other source), and any other significant factors (health, etc.). Request a response that can be printed out as a hard copy that can be included as an exhibit in the suit recommendation.

25.3.2.4.3
(11-09-2023)

**General
Recommendation
Organization**

- (1) It is important to be aware of the different types of time lines that intersect the organization and execution of a suit, and to take appropriate action as necessary.

Time Lines:

Type	Instructions
Internal	<p>Create and use a time line of important CSED and NFTL refile dates. Plotting out this time line helps ensure timely submission of the recommendation package. Additional considerations include:</p> <ol style="list-style-type: none"> An assessed restitution-based assessment may be subject to a limited period of enforceability for administrative collection. See IRM 5.1.5.18, Collection Actions on Cases with Restitution-Based Assessments (RBA). Counsel needs the recommendation package through review, business approval, and in their offices nine months before the earliest CSED expiration in the recommendation package. See IRM 25.3.2.4.1(2), Preliminary Actions, Submission Timeliness, and IRM 25.3.2.4.5.5, Cases with Imminent CSEDs.
Taxpayer	<p>Creating a time line of taxpayer contacts and actions may help for the later preparation of the narrative report.</p>

- (2) **Written:** All suit forms and reports must be typed. The forms are available in ICS, directly through the Publishing web site, or from the Knowledge Management suit site. Use the most current revision of the forms and Suit Forms User Guide available on the Knowledge Management (KM) *Suit Resources and Examples* page. The User Guide assists with how to use the functionality in the forms and problem solving.

Reminder: If a newer version of the suit forms posts while preparing the forms, instructions for transferring existing file content to the new revision are available in the User Guide. The quick and easy transfer process allows accessing the advantages available in the revision. The same is true if a programming bug is identified and fixed in an existing revision. Once the bug has been fixed, transferring content to the fixed file eliminates problems arising from the bug.

- (3) **Organized:** Recommendation package organization needs to match within the package and how it is loaded to eApproval so that items can be readily located and identified. See IRM 25.3.2.4.3.1, Recommendations Processed Through eApproval.
- Include complete, accurate information in the recommendation.
 - Use Form 4477-C, Civil Suit Table of Contents and Contact List, contained in Form 4477-D, Civil Suit Package, using the eApproval naming conventions to name and orderly list the recommendation exhibits. The naming standards are designed to accommodate eApproval's SharePoint parameters of removing leading zeros and limiting file name length.

Example: Exh01-NameControl-Deed-PropertyA or NameControl-Exh01-Deed-PropertyA

25.3.2.4.3.1
(11-24-2021)
**Recommendations
Processed Through
eApproval**

- (1) **The eApproval Information Center** contains all the user guides for case creation, review, and approval. These user guides are supplemented with SHOTs videos to assist using eApproval.
- (2) Submission of suit recommendation forms and exhibits for review and approval occurs electronically through *eApproval*. The application is designed with many automated features to allow smooth suit recommendation processing from RO through Counsel. The suit tracker allows recommendation package process tracking through Counsel's stage of forwarding it to DOJ.

eApproval Terminology

Term	Definition
Create	<p>Revenue officer in eApproval clicks "Create New" in the suit module and begins to enter data and load documents to the suit recommendation created.</p> <p>Caution: Do not enter a Submission Date until all data fields completed and all documents attachments.</p> <p>Reminder: Suit recommendation no longer pursued, are deleted from eApproval through the eApproval administrator.</p>
Submit	<p>Revenue officer, after completing data entry and document attachments, enters a "Submission Date" and saves the eApproval suit recommendation in order to forward the case to the manager and start the review process.</p> <p>Caution: Once a Submission Date is entered and the suit is Saved, it automatically routes to the GM, and the revenue officer will no longer have the suit in eApproval inventory. At this point the RO tracks suits progress via the Suit Tracker.</p>
Revise	<p>Any reviewer or approver needing additional data or documents sends the suit recommendation back to the revenue officer through eApproval for needed items.</p>

Term	Definition
Ready	Group managers, territory managers, area directors, and area counsel decide when a suit recommendation is ready to move forward in the process by selecting “Ready”.
Closed	Suits move to “Closed” archives after a suit is either litigated or settled by DOJ and DOJ returns authority for the case to IRS.
Declined	<p>Suit recommendations move to “Declined” archives when a reviewer or approver declines to move the suit recommendation forward.</p> <p>Note: This differs from a revision request.</p> <p>Example: Area Counsel determines another course of action is appropriate.</p> <p>Example: Area Counsel has provided a deadline for perfection of a recommendation sent back for revision and that deadline is not met.</p> <p>Example: Revenue officer resolves the case (i.e., full pay, OIC, etc.) before referral to DOJ.</p> <p>Example: Group manager, territory manager, or area director choose not to pursue litigation.</p>
Deleted	<p>Suit recommendation created but not pursued (i.e., abandoned). Revenue officer needs to contact eApproval administrator to have recommendation deleted from eApproval.</p> <p>Note: Sometimes duplicate suit recommendations are created inadvertently. These too need to be deleted from eApproval.</p>

- (3) **Form and Exhibit Naming:** The naming standards are designed to accommodate eApproval’s SharePoint software parameters of dropping leading zeros and limiting file name length. Counting each character is important when naming form and exhibit files. eApproval allows a limited number of characters for file names. Be brief, descriptive, and to the point. Use dashes rather than spaces between words as the software counts each space as three characters whereas the dash counts as one character. Dropping the term “form” when naming the form files and starting the exhibit files with “Exh” organizes the suit forms at the top of the eApproval attachment listing. It also ensures that the exhibits will post to eApproval in the correct number order. This organization will both ease and speed reviewers and approvers access to the correct documents.

Example: 4477D-NameControl or NameControl-4477D

Example: Exh01-NameControl-Deed-PropertyA or NameControl-Exh01-Deed-PropertyA

- (4) **When to Create a Suit in eApproval:**

Item	Action	Comments
1	Forms Are Ready:	Suit forms have been prepared and are ready for review. Pre-review assistance by GM, <i>SME</i> , or Advisory completed. IRM 25.3.2.4.4, Required Forms, et seq. (and what follows).
2	Exhibits Are Ready:	Exhibits have been prepared with their file names titled using the naming conventions and they are ready for review. IRM 25.3.2.4.4.1, Form 4477-C: Civil Suit Table of Contents and Contact List, Instructions. With the exhibits, for ease of identification, ensure that the file name titles use the naming conventions. The Contact List, contains both current and former ROs who have worked on the suit recommendation as well as the RO's current management chain. Caution: The requirement of loading all exhibits to eApproval may not apply to very large exhibit files. A very large file size is 1 or 1.5 MB. However, make every use of file size reduction functions and zip compression files before consulting with Advisory and Counsel on alternative methods of delivery for these very large exhibit files such as returns, Revenue Agent Reports (RAR), and TFRP files.
3	Create: by following the instructions in the references listed.	<ul style="list-style-type: none"> • IRM 25.3.2.6, Revenue Officer Referral and Account Disposition, and • IRM 25.3.2.4.5.5, Cases With Imminent CSEDs.

Caution: Once a **Submission Date** is entered and the suit is **Saved**, it automatically routes to the GM, and the revenue officer will no longer have the suit in eApproval inventory. At this point the RO tracks suits progress via the Suit Tracker.

Reminder: If, after creating an eApproval suit and loading the documents, a determination is made to pursue seizure rather than suit (e.g., a principal residence seizure instead of a principle residence suit foreclosure), contact an eApproval administrator to *transfer* the recommendation from the suit module to the seizure module.

(5) **When / How to Dispose of a Suit in eApproval:**

- **Closed Case Archive:** Send a suit to this archive when the suit was fully litigated, and the litigation is now closed.

- **Declined Case Archive:** Send a suit to this archive when the suit was declined at some point in the review and approval process.

Example: This could include DOJ choosing not to initiate litigation or Counsel not accepting the case (i.e., below their 9-month threshold). It could also include where an Area Director, territory manager, or GM declines approval in favor of another course of action or a lack of fact or case theory substantiation.

- **Delete from eApproval:** Contact an eApproval admin to delete the suit from eApproval when a suit was abandoned (i.e., no longer pursued or a different course of action chosen) or was input in error.

Example: Advisory provided revisions, but they were never completed. A suit was created on eApproval while only under consideration with no or few documents loaded to eApproval and nothing finalized.

(6) **When Not to Create a Suit in eApproval:**

- **Under Consideration:** A suit is only under consideration with preparation work not complete (i.e., research, taxpayer and third-party contacts, forms, and exhibits either not prepared or not completed)
- **Not Completed:** The suit forms and exhibits in draft stage, but not complete and ready to upload to eApproval.
- **Duplication(s)** of an existing suit.

Example: When a suit returned for revision, do not create a new suit. Upload the revised document(s), add comments regarding revision action, and input the Revision Response Date to resubmit the suit. When discovering a duplicate eApproval suit, contact an eApproval administrator to have it deleted.

Reminder: eApproval sends an email alert when a duplicate suit creation is attempted.

(7) **When to Seek Assistance:**

- **Mis-routed suit:** A suit was created or is thought to have been created (e.g., eApproval closed abruptly when an upload was rejected) and now cannot be located. Use the Suit Tracker to see who has assignment. Contact the local administrator for assistance with mis-routed suits.
- **Abandoned:** The suit is no longer being pursued.

Reminder: If an eApproval suit is not being pursued, contact an eApproval administrator to have it deleted.

(8) **General Tips**

- Use the date of the action rather than the date the eApproval entry is made.
- If DOJ wants a countersuit filed, make that clear in eApproval comments for the reviewers and approvers.

25.3.2.4.4
(11-09-2023)
Required Forms

- (1) Use of the auto populating **Form 4477-D, Civil Suit Package**, which contains all the forms needed for a suit recommendation, guides the user through the process. The package includes the forms in paragraph 2 and 3 below and allows for a certain amount of auto-population. The auto-populate package is designed as the easiest to use. The forms are available individually for those circumstances where the auto populate package does not fit with the circumstances of the case or where an additional form such as a Form 4479 may be needed for the recommendation.

Reminder: The forms are in Adobe PDF fillable format. They need to be left in the fillable format so that the forms can be revised as needed and signed. While leaving the package in fillable format the Form 4477-B narrative report portion can be finalized to hide the instructional assistance when wanting to review the narrative for flow. The finalize and unlock buttons are at the top of each page of the narrative report. When wanting to review the narrative for flow, click the *finalize* button. Then click the *unlock* button to continue entering content.

Caution: After downloading and saving Suit form(s) to your computer and entering content, remember to save early and save often. Work interruptions whether they be computer, software, or other work-related, can result in lost work.

Note: The Suit Form User Guides and the forms can be found on the Knowledge Management (KM) Litigation Site. Use either the *Forms* page with the forms under **Related Forms and Documents** and the User Guides under Other Related Resources accessed through the link to the *Suit Resources and Examples* page.

- (2) The following forms are provided in the order in which they appear in the Form 4477-D auto populate package for all suit recommendations, except as provided in paragraph (4) below:

Reminder: The suit forms may be completed in whatever order is comfortable for the user. For example, the user may start with the Narrative Report and complete other forms or parts of them while working through the Narrative Report.:

- Form 4477-C, Civil Suit Table of Contents and Contact List which is designed to be used with either a civil suit or to secure judicial approval to seize a principal residence.
- Form 4477, Civil Suit Recommendation, the executive summary and for the approval signatures.
- Form 4477-B, Civil Suit Narrative Report, the report on why litigation is appropriate.

Note: Creating a time line of actions may help for the later preparation of the narrative report.

- Form 4480, Civil Suit - Service of Legal Papers, lists the name, address and any representative for the parties to be served.
- Form 4478, Civil Suit Checklist. includes both Advisory and RO cross-checks that all necessary items are included and applicable facts discussed.

Note: Form 4477-A, Data Capture Tables, is not included in the Form 4477-D auto-populate package. However, it provides the alternative to extract the data tables from the Narrative Report. This may be of advantage because large data tables can impact the narrative by disrupting the flow of the narrative. The form is available in PDF as well as a more user-friendly Excel file.

(3) If the suit involves specific property, also complete the following form:

- Form 4479, Civil Suit - Property, Liens, and Claims

Reminder: If there are multiple properties in one suit recommendation (e.g., a principal residence and a vacation property), use additional individual Forms 4479 for each additional property.

Note: All applicable items must be completed.

- (4) Advisory, when sending the approved recommendation package to Area Counsel, uses Form 4481, Advisory Transmittal, to provide applicable notes as needed.
- (5) Forms and other items required to be included with recommendations for proceedings to secure judicial approval to seize a principal residence are different from those for other recommendations for judicial action. Refer to IRM 5.10.2, Securing Approval for Seizure Action and Post-Approval Actions, for instructions. Form 4477-C is designed to capture those forms.

25.3.2.4.4.1
(11-09-2023)

**Form 4477-C: Civil Suit
Table of Contents and
Contact List,
Instructions**

- (1) Use the auto populating **Form 4477-D, Civil Suit Package** to access and complete Form 4477-C.
- (2) The Suit forms User Guide for completing the suit forms and suit package examples are available on the Knowledge Management *Suit Resources and Examples Page*.
- (3) The purpose of Form 4477-C is to provide an easily accessible contact list of participants in the process and a standardized title page listing the order of document presentation for the recommendation package.
- (4) The order in which the forms in the package are prepared by the originator depends on personal preference and organizational style.
- (5) **Taxpayer Name and TIN:** At the top of the form are entry fields for the taxpayer's name and TIN. This is an auto populate field when using the Form 4477-D package. This means either entering the data here or in Form 4477 or Form 4477-B will complete this field in the other forms.

Reminder: If the user completes this field either in the Form 4477 or Form 4477-B, it will back fill to the appropriate field in Form 4477-C.

- (6) **Contact List: Select Position and Contact Information:** Use the position drop down menu to select appropriate position title, fill in the contact information for that participant, and continue selecting participant contacts. Selections include: revenue officer, RO group manager, Insolvency, Insolvency group manager, Advisor, Advisor group manager, territory manager, Area Director, Area Counsel Attorney, Department of Justice Attorney, and Other. When choosing Other, the selection can be left as-is or typed over to describe the

position added for the recommendation. Provide the known contacts. The list can be updated as it moves through the process. If the list is updated, ensure that the advisor and revenue officer have the updated revision. The contact list is of assistance to DOJ. For example, if one revenue officer initiates the recommendation, but then retires or moves to a different position and another revenue office takes over, the list can be updated to indicate both that the status of the previous RO and the RO now working the case. Update the contact list for other personnel changes applicable to the case as well.

- (7) **Table of Contents: Step One - Type of Recommendation:** Next select the Recommendation Type. For suits this will be *All Other Suit Recommendations*. Or choose, *Principal Residence Seizure*, when that is appropriate. The choice selected will determine which required forms remain in the package. The two selections are:

- a. All Other Suit Recommendations, and
- b. Seizure of a Principal Residence,

- (8) **Table of Contents: Step Two - Begin Building Recommendation Package:** After the type of recommendation is selected, the forms for the type of package selected are provided and the appropriate exhibit sections for that selection appear. The forms for each type of package are listed below. After creation all suit packages are submitted electronically through eApproval. The seizure Form 13719 is not in the Form 4477-D package, however it is listed and must be completed and uploaded to eApproval.

Note: At the revenue officer stage of preparation, some of the forms, such as the Form 4478, will only be partially prepared. Advisory builds on what the revenue officer begins and also adds their transmittal as needed.

Forms List - All Other Suit Recommendations:

Form	Title
Form 4477-C	Table of Contents and Contact List
Form 4477	Civil Suit Recommendation
Form 4477-B	Suit Narrative Report
Form 4480	Civil Suit Service of Legal Papers
Form 4478	Civil Suit Checklist

Forms List - Seizure of a Principal Residence:

Form	Title
Form 4477-C	Table of Contents and Contact List
Form 4477	Civil Suit Recommendation
Form 4477-B	Suit Narrative Report
Form 4480	Civil Suit Service of Legal Papers
Form 13719	Pre-Seizure Checklist and Approval Request

- (9) **Table of Contents: Step Three - Property Forms and Property Related Exhibits:** Area Counsel and the Department of Justice want the property and claimant forms and their associated exhibits together. The Principal Residence Seizure package will always have property forms and exhibits; however, other recommendations may or may not have property identified.

Reminder: Form and Exhibit Naming: The number of characters in a file whether form or exhibit is important as eApproval allows a limited number of characters for file names. Be brief, descriptive, and to the point. Use dashes rather than spaces between words as software often counts each space as three characters whereas the dash counts as one character. Use names such as:

Example: A form name identified using: 4477D-NameControl or NameControl-4477D

Example: An exhibit name identified using: Exh01-NameControl-Deed-PropertyA or NameControl-Exh01-Deed-PropertyA

- a. If pursuit of property is the reason for the suit recommendation, complete **Form 4479** for each property and use the drop down list to identify the appropriate exhibits. **Choose** an appropriate selection and **Adjust** the text by overwriting the line as needed to provide a distinctive exhibit title for the recommendation. Otherwise proceed to Step Four.

Property Exhibit List - Suit Recommendation

List	Description
1	Required: for real property - Deed with Legible Legal Description; If Available: for property other than real, some other type of property identification.
2	Additional deed
3	Mortgage
4	Lien / Claim
5	Commercial title report with explanation of title search results
6	County Statement - Property Tax Collections
7	UCC or Other Creditor payoff statement or denial
8	Appraisal
9	Photos
10	Department of Motor Vehicles (DMV) documents.

- b. If pursuit of a principal residence is the reason for the seizure recommendation, complete and upload to eApproval the appropriate forms and exhibits. The drop down list of property exhibits is listed below. **Choose** an appropriate selection and **Adjust** the text by overwriting the line as needed to provide a distinctive exhibit title for the recommendation.

Property Forms List - Principal Residence Seizure

Form	Title
Form 2434-B	Notice of Encumbrances Against or Interests in Property Offered for Sale
Form 2433	Notice of Seizure

Property Exhibit List - Principal Residence Seizure

List	Description
1	Required: Deed with Legible Legal Description
2	Required: Estimated minimum net sale proceeds calculation (worksheet, memo, or excerpt from ICS history)
3	Letter 1040, Creditor Information Request and its attachment Form 12470, Request for Information From Creditor
4	Form 14071 Request for Information from Lien Holder
5	Commercial title report with explanation of title search results
6	Appraisal
7	Photos

Caution: Some exhibits especially scanned reports or pictures may be large files. Exhibit file sizes 1 or 1.5 MB and greater will slow access, loading, and reviewing in eApproval. Make every use of file size reduction functions and zip compression files before consulting with Advisory and Counsel on alternative methods of delivery for very large exhibit files.

- (10) **Table of Contents: Step Four - Other Exhibits:** Continue selecting exhibits until the recommendation package is complete. Use the drop-down list for identifying the type of exhibit. **Choose** an appropriate selection and **Adjust** the text by overwriting as needed to provide the a distinctive exhibit title for the recommendation.

Reminder: Form and Exhibit Naming: The number of characters in a file whether form or exhibit is important as eApproval allows a limited number of characters for file names. Be brief, descriptive, and to the point. Use dashes rather than spaces between words as software often counts each space as three characters whereas the dash counts as one character. Use names such as:

Example: A form name identified using: 4477D-NameControl or NameControl-4477D.

Example: An exhibit name identified using: Exh01-NameControl-Deed-PropertyA or NameControl-Exh01-Deed-PropertyA.

Caution: Some exhibits especially scanned reports or pictures may be large files. Exhibit file sizes 1 or 1.5 MB and greater will slow access, loading, and reviewing in eApproval. Make every use of file size reduction functions

and zip compression files before consulting with Advisory and Counsel on alternative methods of delivery for very large exhibit files.

The “Other” Exhibit List is as follows:

Number	Item
1	Notices of Federal Tax Lien; Reminder: Any Notice of Federal Tax Lien exhibit(s) should be the first listed under Other Exhibits.
2	Levy/Seizure/Final Demand Served/Sale;
3	CDP - Collection Due Process, CAP - Collection Appeals Program, and Third-Party Notifications: Letters 1058, 3172, 3164, Notices of Determination, Tax Court Decisions, and CAP Appeal(s);
4	Transcripts IDRS MFTRA-J (i.e. Form 4340 Certified Transcript); Note: Certified Transcript ordering instructions are found in IRM 25.3.6.2.1.1, Form 4340 Procedures, and IRM 21.2.3.5.9, Ordering Transcripts.
5	Tax Return;
6	Taxpayer Representative, Form 2848;
7	ICS History;
8	Forms 433, 656, Collection Information Statements, Installment Agreements, Offers, and documentation;
9	Audit, Appeals, Tax Court Decisions;
10	Records Checks, Title Searches, Credit Checks;
11	Bank Statements;
12	Photos;
13	Miscellaneous/Other including CSED Calculator worksheet if used.

25.3.2.4.4.2
(11-09-2023)
**Form 4477-A - Data
Capture Tables**

- (1) Form 4477-A provides the alternative to extract the data tables from the Narrative Report into a separate form. The reason for this separate option is that large data tables can impact the narrative by disrupting the flow when reading the recommendation. The official PDF form, if used, remains outside of the Form 4477-D package. The form is available in PDF as well as a more user-friendly Excel file. Though the Excel file also remains outside of the Form 4477-D package, its benefit is for use when there are numerous modules; where copying and pasting reduces table preparation time.
- (2) The Excel file is a workbook containing a tab with instructions and a tab for each table type.

Considerations and Options for the Data Tables

Item	Consideration / Option
1	<p>A user may choose to:</p> <ul style="list-style-type: none"> • Use the tables within the Narrative Report (i.e, Form 4477-B, and or as part of the Form 4477-D package). • Use the separate PDF Form 4477-A. Reminder: This form would need separate loading to eApproval • Use the separate Excel Form 4477-A. Reminder: This form would need separate loading to eApproval
2	When there are only a few modules in the suit package, it may remain beneficial to keep the data tables in the Narrative Report and allow the <i>Basis for Assessment</i> table(s) to total in Section 6 of the Form 4477.
3	If either the PDF Form 4477-A or the Excel Form 4477-A are used, then in the Narrative report, there is the option to <i>Hide</i> or <i>UnHide</i> the tables. This allows for a streamlined view of the Narrative Report sections.
4	The Excel file is designed to mirror the tables in the Form 4477-B Narrative Report and the PDF Form 4477-A.
5	If either the PDF Form 4477-A, the Excel Form 4477-A, or the individual Narrative Report tables are used instead of the Form 4477-D, Civil Suit Package , then the total of all <i>Basis for Assessment</i> tables, must be individually entered into Section 6 of the Form 4477.
6	<p>When choosing to use the Excel version of Form 4477-A - IF:</p> <ul style="list-style-type: none"> • Certain tables are not needed, those tabs can be deleted. • Additional tables are needed then a table tab can be copied. <p>Note: The first tab in the Excel workbook contains instructions for using Excel to complete the form.</p>

- (3) **Data Table Types:** There are two types of data tables associated with the suit recommendation and narrative report. The two types are the required tables and the optional tables. The optional tables are utilized when there are modules in the current recommendation package which have gone through one or more of the processes identified in the table data.

Required Tables

Table Name	Table's Purpose
Basis for Assessment	<p>This table is an important snapshot for both Counsel and DOJ. Counsel uses this table in their suit letter and DOJ uses this table to see what issues may arise in litigation. The basis for assessment (i.e., self-reported, audit, etc.) provides the underlying cause of the liability. The original assessed amount data along with the current balances assists DOJ develop their litigation strategy.</p>

Table Name	Table's Purpose
Notice of Federal Tax Lien (NFTL)	This table allows DOJ to track the status of each statutory federal tax lien . An NFTL is a listing of statutory federal tax liens for specific assessments. Completed correctly this table clarifies when NFTL need refiling and provides DOJ at a glance information on how many NFTL a specific statutory lien for an assessment is listed.
Appeals Collection Due Process (CDP)	This table at a glance provides Counsel and DOJ data on taxpayer appeals of NFTL filings or concerns about levies. DOJ has stated this information is helpful in planning their litigation strategy even when a CDP case has no direct bearing on the litigation.

Optional Tables

Table Name	Table's Purpose
Collection Statute Expiration Date (CSED) extended or suspended	This table outlines modules in the litigation recommendation package, whose CSED has been extended or suspended prior to litigation. It identifies the cause underlying the CSED change and requests the updated CSED calculation date.
Appeals Other (than CDP) issue has gone to Appeals for determination	This table provides data on non-CDP issues sent to Appeals. It provides at a glance the type of appeal, the action appealed, and the resolution. The data is useful to DOJ in building their litigation strategy.
Bankruptcy	This table provides bankruptcy data including chapter, petition, and discharge date. The data is useful to DOJ in building their litigation strategy.
Chronological Presentation	Note: This is not one of the data tables. However, It is in table format for ease of presentation. See IRM 25.3.2.4.4.1(7), Categories of note in the Narrative Body, table item "d".

(4) **Form 4477-A Instructions:** For instructions on completing the tables:

- Using Adobe PDF tables in Forms 4477-D, 4477-B, and 4477-A, see the Suit Forms User Guide on the *Knowledge Management Suit Resources/Examples* page.
- Using Excel Workbook tables, see the Instructions tab in the Excel Form 4477-A. Access the Excel Form 4477-A on the *Knowledge Management Suit Resources/Examples* page.

25.3.2.4.4.2.1
(11-24-2021)

BASIS TOOL - Creating Basis for Assessment Table using IAT and the Basis Tool

- (1) Assistance in the capture of the Basis for Assessment table data, organizing it, and loading that data into the Basis for Assessment Table uses two tools.
- One familiar IAT tool called Quick Command Code (QCC) used to identify and download modules for the suit. The IDRS command codes used for the QCC data capture are IMFOLT /or/ BMFOLT plus INTSTB.
 - The other is a new tool called the Basis Tool, which was designed for this unique task. It takes the modules copied to it from QCC, extracts the data needed for the table, and totals the original assessed amounts and

current totals needed for the table(s) then uploads them to a Basis table that can then be moved to the Excel Form 4477-A.

(2) The first step is capturing the data.

Reminder: Step by step instructions with diagrams and pictures can be found in the Suit Forms User Guide Chapter 5 Part 4 Excel Basis Tool on the Knowledge Management, Suit Resources site.

Step 1 - IAT QCC Tool

Number	Action	Instruction
1	Getting started	Log on to IDRS. open IAT, and select the Quick Command Code (QCC) Tool icon.
2	Setting up IAT QCC	Select IDRS from the appropriate menu, set "grab all pages", open the print area, and clear out any old data.
3	Taxpayer Data	Enter the TIN, MFT, and Tax Period to the tool (Name Control will auto populate).
4	Grabbing IMFOLT /or/ BMFOLT data	Grab all the I/B- MFOLT modules in a continuous string in the order desired.
5	Pulling the IMFOLT /or/ BMFOLT data	Select all the I/B-MFOLT data grabbed and then copy it using the keyboard short-cuts (1) CTRL + A to select all and (2) CTRL + C. to copy.
6	Pasting the I/B-MFOLT data	Go to Step 2.
7	Grabbing INTSTB data	Grab all the INTST-B data so they are in the same order as the I/B-MFOLTS and using pay-by date for the <i>Accruals Date</i> appropriate for the suit.
8	Pulling the INTSTB data	Select all the INTSTB data grabbed and then copy it using the keyboard short-cuts (1) CTRL + A to select all and (2) CTRL + C. to copy.
9	Pasting the INTSTB data	Go to Step 2.

Note: Alternatively, the I/B-MFOLT and INTSTB data can be copied to Notepad and from there to Step 2.

(3) The second step is pasting the data into the Basis Tool then clicking the calculation button allowing the data to be organized, calculated, and uploaded into a Basis Table.

Reminder: Step by step instructions with diagrams and pictures can be found in the Suit Forms User Guide Chapter 5 Part 4 Excel Basis Tool on the Knowledge Management, Suit Resources site.

Step 2 - Basis Tool

Number	Action	Instruction
1	Getting started	Open a clean copy of the Basis Tool.
2	Save a copy	Download to a selected location on your computer.
3	I/B-MFOLT data	Get the data for the first module from Step 1, Number 5 (i.e., grabbing the Ctrl + C data).
4	PASTE - go to the Basis Tool's MFOLT tab	Click into Cell A1, then use the keyboard short-cut CTRL + V to paste.
5	Return to IAT	Step 1, Number 5.
6	Continue with each module needed for I/B-MFOLT data	Get the data for next module (Step 1, Number 5, i.e., the CTRL+ C data).
7	Continue PASTE - go to the Basis Tool's MFOLT tab	Click into next Column A non-grey cell , then use the keyboard short-cut CTRL + V to paste the next module. Note: There may be numerous empty grey Column A cells, this is normal. If the data is pasted inadvertently into a grey cell, the Basis Tool will error when clicking the calculation button. If data pasted into other than Column A, the Basis Tool will also error when clicking the calculation button.
8	Return to IAT	Step 1, Number 7.
9	Get the INTSTB data	Get the data from Step 1, Number 7, 8, and 9.
10	PASTE - go to the Basis Tool's INTST tab	Click in Cell A1, then use the keyboard short-cut CTRL + V to paste.
11	Continue PASTE - go to the Basis Tool's INTST tab	Click into next Column A non-grey cell , then use the keyboard short-cut CTRL + V to paste the next INTSTB. Note: There may be numerous empty grey Column A cells, this is normal. If the data is pasted inadvertently into a grey cell, the Basis Tool will error when clicking the calculation button. If data pasted into other than Column A, the Basis Tool will also error when clicking the calculation button.
12	CALCULATE - go to tab titled Actions to calculate	Once all of the MFOLT and INTSTB data copied into the Basis Tool, go to the Actions Tab. On the Actions tab, Click Calculations .
13	Populate the Basis Table(s)	Click "OK" on the message, <i>Formatted calculations are complete</i> .

Number	Action	Instruction
14	Check the Basis Table(s)	Go to the Basis Table tab(s) and cross-check that the table(s) formatted and calculated correctly. Note: Occasionally Excel graphics will error. If for example, a Basis Table 2 contains a Total of All Tables line, which only belongs on a Basis Table 1, the user only needs to click into another tab and then back to the Basis Table 2 tab to clear the graphic error.
15	Reminder	The totals from this tool will not auto populate Section 6 of Form 4477 in the Form 4477-D package.
16	COPY the table(s) to the Excel Form 4477-A Workbook	Go to Step 3.
17	RESET the Basis Tool for future use	Go to the Actions tab and click on <i>Reset Workbook</i> . The Reset Workbook will remove the data and formatting from the 'Basis Table 1' sheet and will delete any additional Basis Table sheets it created. It will also remove any remaining data from the TXMOD Data and INTST Data sheets.

- (4) The third step involves moving / copying the Basis Tool's Basis Table(s) to the Excel Form 4477-A.

Reminder: Step by step instructions with diagrams and pictures can be found in the Suit Forms User Guide Chapter 5 Part 4 Excel Basis Tool on the Knowledge Management, Suit Resources site.

Step 3 - Moving Basis Table to Form 4477-A

Number	Action	Instruction
1	Getting started	Open a clean copy of Excel Form 4477-A.
2	Save a copy	Download to a selected location on your computer. Rename the file appropriately for the suit. Example: 4477-A-NCTRL
3	Open completed Basis Table 1 tab in Basis Tool	Open the tab with the Basis Table 1 from Step 2, Number 12.
4	Select the Basis Table 1	Right click on the tab's name and from the menu that opens select <i>Move or Copy</i> .
5	Finding Excel Form 4477-A	Have the Excel Form 4477-A saved in Step 3, Number 2 open. Then using the drop down arrow while in the Basis Tool Table, select the Excel Form 4477-A file

Number	Action	Instruction
6	Copying Basis Table 1 from Basis Tool to Excel Form 4477-A.	With Excel Form 4477-A selected, highlight CSED Table 1 so the Basis Table 1 copies before the CSED table. Click the box at the bottom that says, <i>Create a copy</i> , and then click OK.
7	Copying multiple tables	The Basis Tool will create multiple tables if it determines there are for example joint spousal liabilities and individual spousal liabilities. If multiple Basis Tables are created then repeat Step 3, Numbers 4 - 6.
8	Resetting the Basis Tool	The reset removes the data and formatting from the 'Basis Table 1' tab and deletes any additional Basis Table tabs if created. It also removes any remaining data from the 'MFOLT Data' and 'INTST Data' tabs.
9	Deleting and Recalculating	See the User Guide, Chapter 5, Part 4.
10	Reminder	When using the Excel Form 4477-A, once the <i>Basis for Assessment</i> table(s) data is complete, the first three columns can be copied and pasted as needed to the other tables.
11	Reminder	The totals from this tool will not auto populate Section 6 of Form 4477 in the Form 4477-D package.

Reminder: Step by step instructions with diagrams and pictures can be found in the Suit Forms User Guide Chapter 5 Part 4 Excel Basis Tool on the Knowledge Management, Suit Resources site.

25.3.2.4.4.3
(11-09-2023)

**Form 4477 - Civil Suit
Recommendation,
Instructions**

- (1) Use the auto populating **Form 4477-D, Civil Suit Package** to access and complete Form 4477.
- (2) Suit forms User Guide tutorials on completing the suit forms and suit package examples are available on the Knowledge Management *Suit Forms* default page under **Related Forms and Documents**.
- (3) **Section 1 - 4:** Identify the Taxpayer, TIN, earliest CSED, and earliest expiring NFTL.
- (4) **Section 5:** Check all potentially applicable suit types. Area Counsel and the Department of Justice (DOJ) will determine the exact type(s) of suit to pursue. With most, if not all suits, DOJ would like the option of reducing the Internal Revenue Service's tax claim to judgment. Include that recommendation or explain why it would not be in the IRS's benefit. The reverse would be true if there are circumstances where a recommendation to reduce claims to judgment needs to move forward but a foreclosure at this time is not warranted. Again, explain the circumstances.
- (5) **Section 6** is the summary of the data totals. Using the auto populate package Form 4477-D, the liability totals will auto populate from:
 - The assessment totals will auto populate from Form 4477-B's, Basis for Assessment table.

Reminder: If using the PDF or Excel Form 4477-A, the totals from the Excel basis for assessment table will have to be manually entered.

- The estimated recovery amount will auto populate from Form 4479, Property, Liens, and Claims. The estimated amount recoverable will be calculated by subtracting from the forced sale value of the property any amounts owed to secured lien holders with priority over the federal tax lien. The forced sale value of the property will be calculated by reducing the fair market value of the property by a certain percentage to reflect the fact that the sale is a forced sale of the property. See IRM 5.10.1.5.3.2, Equity Determination - Fair Market Value, for guidance on determining fair market value, and IRM 5.10.4.3.1.3, Minimum Bid - Force Sale Value, for guidance on determining forced sale value.

Reminder: If there are multiple properties and additional Forms 4479 are needed, then combine the estimated recovery fields on all Forms 4479 and enter that amount in Section 6 by over-riding the amount listed.

- (6) **Section 7** is a summary of relevant taxpayer activity. Activities, which may be required by law, may affect arguments for or against the IRS in court, or may impact the CSED calculation. Appeals can be complicated. There could be multiple actions.
- a. **APPEALS:** Select all options where a taxpayer has taken an issue to Appeals. Select the type of Appeals and then select the determination or resolution by Appeals. Drop down selections are provided for convenience. If there have been multiple appeals of the same type, document the most recent but explain all previous appeals in the Narrative Report. Attach as an exhibit any Appeals determination or resolution responses to the taxpayer or the IRS. Notate on Form 4477 the Narrative Report paragraph number where the issue is fully explained and the exhibit number.
 - b. **Other Relevant Activity:** Select all options where the taxpayer or IRS has pursued one of the identified actions. If there have been multiple appeals of the same type, document the most recent but explain all previous appeals in the Narrative Report. Attach as an exhibit any documents associated with that action. Notate on Form 4477 the Narrative Report paragraph number where the issue is fully explained and the exhibit number(s) for the associated documents.
- Note:** Checking the innocent spouse indicator identifies that there is a spouse who is not liable for some or all of the tax liability involved in the suit. This would be particularly relevant where the suit involves the pursuit of property.
- (7) **Section 8** is where the initiator, the initiator's manager, Advisory reviewer, and Advisory manager sign concurrence progressively as the recommendation is completed and reviewed.
- (8) **Section 9** contains the suit recommendation approvals. The last approval signature should be that of the IRS official with the delegated authority to approve the suit. See IRM 25.3.2.1.2, Authority, and, IRM 1.2.65.3.2, SBSE 1-23-9, Approval of Form 4477, Civil Suit Recommendation.

25.3.2.4.4.4
(11-09-2023)
**Form 4477-B, Civil Suit
Narrative Report,
Instructions and
Exhibits**

- (1) **Purpose:** The narrative report is required for all suit recommendations because it outlines the facts and circumstances of the case. Extraneous information or employee opinions unsubstantiated by facts, in the narrative or case history, are inappropriate. When well prepared, it is the single most important part of a suit recommendation. It must be coherent, concise, and complete. Form 4477-B is designed to ensure all suit recommendations are appropriately justified and documented. By utilizing a standardized approach following the IRM requirements, its design assists revenue officers, reviewers, and approvers with the preparation, review, and approval process for the recommendation.
- (2) **Review:**
 - IRM 5.17.12, Legal Reference Guide for Revenue Officers, Investigations and Reports, for guidance in conducting investigations and preparing narrative reports.
 - Use the Form 4477-B, Civil Suit Narrative Report template, which parallels IRM 5.17.12.20, The Narrative Report.
- (3) **Organize:** the report into (1) Introduction, (2) Body, and (3) Conclusion and Recommendation sections ensure:
 - a. Use Correct spelling and grammar.
 - b. Paragraphs should be numbered to enhance organization and ability to refer to them. Use a separate paragraph for each item, event, or topic. **Do not** number the paragraph within the paragraph field. Use the separate paragraph number field for the paragraph number.

Caution: The paragraph numbering fields do not auto populate nor do they renumber if the order of paragraphs is rearranged or additional paragraphs are added after numbering. Waiting to number the paragraph fields until the Narrative Report is complete may save time.
 - c. Organize material in sequential/chronological order.
 - d. Exclude extraneous information such as personal opinions.
 - e. Fully address all relevant issues.
 - f. Large or intricate sets of information or complicated interrelations and/or situations should be as cogent as possible. Consider replacing lengthy narrative sections with tables and/or spreadsheets that summarize the facts or situations, which can be attached as exhibits and referenced appropriately.
 - g. Guidance as to what must be included in each section can be found in IRM 5.17.12.20.1, Contents of the Narrative Report, and IRM 5.17.12.20.2, Format of the Form 4477-B Narrative Report.
- (4) **Exhibits:** An index of exhibits or table of contents (Form 4477-C) enhances organization of the recommendation package.
 - a. All documents and other supporting data should be attached as exhibits or attachments to exhibits and clearly referenced and explained in the report. This would include Notices of Federal Tax Lien, judgments, state tax liens, administrative files such as civil penalty files, or documents evidencing other competing claims. Significant items on suit forms should be discussed or cited appropriately such as civil penalty approvals (e.g. Form 8278 or other applicable approval document for IRC 6751 compliance).

Caution: Where applicable, all collection suit referrals must contain a discussion of whether IRC 6751 penalty approval applies and whether there was compliance with the supervisory approval requirements in IRC 6751(b) for each penalty in the suit referral. Consult with Advisory or Area Counsel with any questions. References IRM 35.4.1.6.3, Chief Counsel Directives Manual – Tax Court Litigation, Pre-Trial Activities, Trial Planning, Section 6751(b) Penalty Approval Requirement and IRM 35.2.2.3.9(2), Chief Counsel Directives Manual – Tax Court Litigation, Petition and Answer, Answers, Affirmative (New) Issues.

- b. See IRM 25.3.2.4.4.1, Civil Suit Table of Contents and Contact List Instructions.
- c. **Exhibit Naming:** These exhibits will be loaded to eApproval, which allows limited characters for file names. Be brief, descriptive, and to the point. Use dashes rather than spaces between words as software often counts each space as three characters whereas the dash counts as one character. For example Exh01-NameControl-Deed-PropertyA. or NameControl-Exh01-Deed-PropertyA

Caution: A very large file size is 1 or 1.5 MB. Make every use of file size reduction functions and zip compression files before consulting with Advisory and Counsel on alternative methods of delivery for very large exhibit files such as returns, Revenue Agent Reports (RAR), and TFRP files.

- (5) The data tables for the narrative report can be completed within the Form 4477-B, in the Form 4477-D package by using the Form 4477-A, or by using the Excel version of the Form 4477-A. The option used will be dependent on whether there are many or only a few modules in the recommendation package. See also IRM 25.3.2.4.4.2, Form 4477-A - Data Capture Tables.

25.3.2.4.4.1
(11-09-2023)

**Form 4477-B, Instruction
Details**

- (1) Use the auto populating **Form 4477-D, Civil Suit Package** to access and complete Form 4477-B.
- (2) **General information:** Suit forms User Guide tutorials on completing the suit forms and suit package examples are available on the Knowledge Management at *Suit Resources and Examples* or from *Suit Forms* default page under **Other Related Resources**.
- (3) **The purpose of the Narrative Report is to provide DOJ the story of why litigation against the named party is appropriate.**
 - a. The Narrative Report is designed as a fillable form with instructions for each section. Some sections have standardized data tables. Of the standardized tables, some are required and some optional depending on the recommendation specifics.
 - b. Each section allows for an unlimited amount of numbered paragraphs or table rows using the add (+), delete (-), and move (⇅) buttons.
 - c. Compose the report while keeping in mind the goal of convincing Counsel and DOJ of the need to pursue the litigation recommended. Include the information that makes the case for litigation.

Reminder: Use facts and documentation to present the recommendation. Do not use unsubstantiated or personal opinion when composing the narrative.

- d. Not all sections of the Form 4477-B report will be applicable to each specific suit recommendation. **Do not complete** sections which are not applicable to the specific case. Leave those sections blank. That way the final report will not have blank or NA sections, as these types of typos do not further a composite narrative of the case for DOJ.
- e. The instructions assisting in completing the form are not needed by reviewers, approvers, or DOJ.

Reminder: Remember to use the *Click to Finalize* button in the Narrative Report itself before uploading the file to eApproval. Also, the *Click to Finalize* button can be used at any time to see what the final report will look like. To continue editing and adding content use the *Click to Unlock Report* button.

- f. To remove the instructions and see the final report click the button titled **Click to Finalize Report**. This toggle switch removes all the instructions and unused sections and it can be used while completing the report allowing the originator to see how the report will look for spacing and ease of reading. Upload the finalized version to eApproval for all reviewer and approver reviews. To revise content or table data, reopen the fillable pages and tables by clicking the button titled **Click to Unlock Report**. These toggle switches are on every page of the Form 4477-B report.

- (4) **Most Common Mistake:** The most common mistake is removing a check mark that created a specialized segment without first removing the content of that segment. Only removing the check mark, means that segment no longer appears in the draft document. However, it will still be visible in the review / approval mode. For example a specialized segment such as a *suit to foreclose on a principal residence* if the box is unchecked while content remains in the paragraph fields, those paragraphs remain visible when **Click to Finalize Report** button used.

- **How to fix:** To re-access the content in order to delete it, first *click to unlock the report*, then check the specialized segment again. This makes the content available for deletion. Delete all text, paragraph numbers, empty spaces, and data before removing the check mark.
- The Suit Forms User Guide found on the Knowledge Management *Suit Resources and Examples* page discusses this common mistake and provides the above tip as well as other useful tips when working with these forms.

Reminder: Official IRS forms are in PDF and PDF functionality differs from Microsoft products such as Word.

- (5) **Pre-Introduction:** Prior to beginning the introduction there are several fields to complete.
- a. Taxpayer Name and TIN;
 - b. Earliest CSED;
 - c. Earliest NFTL Refile;
 - d. Click to add fields if the suit recommendation includes a real property foreclosure;

- e. Click to add fields if the suit recommendation contains third parties such as with a fraudulent transfer or third parties named on special condition NFTLs.
- (6) **Introduction:** Selection of the **type of suit** recommendation from the pick list will determine whether certain additional information segments in the **Body** will be required to be completed for particular types of recommendations (see IRM 5.17.12.20.2.2.1 through IRM 5.17.12.20.2.2.4 and IRM 5.10.2.3). The selection also determines whether approval of the recommendation is at the territory manager or Area Director level (see IRM 1.2.65.3.2, SBSE 1-23-9, Approval of Form 4477, Civil Suit Recommendation).
- (7) **Body:** The document is set up with established headers to walk the user through preparation. It follows IRM 5.17.12.20.2.2. Some particular items to be aware of include but are not limited to:

Categories of note in the Narrative Body

Item	Category
a.	<p>Personal History of the Taxpayer: Selection from the pick list will generate the requirement instructions for: individual, non-individual, or estate taxpayer. Any one, two, or all may be checked dependent on the case circumstances.</p> <p>Reminder: A separate Compliance History topic becomes available for each selection made in this section.</p> <p>Caution: Extraneous information or employee opinions unsubstantiated by facts, in the narrative or case history, are inappropriate.</p>
b.	<p>Additional items for certain types of suits: This section is located after the personal history of the taxpayer. The appropriate additional items will appear depending on the type of suit selected at the beginning of the report. Additional Item sections are discussed in IRM 5.17.12.20.2.2.1 through IRM 5.17.12.20.2.2.4). There are also additional items for a principal residence seizure, if that is the type of action chosen at the top of the report. If the suit has additional items needing to be discussed in the report, the fillable fields for that suit will automatically become part of the report. Include the reasoning behind the choice of why choosing suit over seizure or seizure over suit.</p> <p>Reminder: For seizure or foreclosure of principal residences (as defined in Treas. Reg. 301.6334-1(d)) include in the ICS history and the narrative report a discussion whether the action proposed would result in an inability to secure future housing or otherwise lead to an economic hardship (see Treas. Reg. 301.6343-1(b)(4)(ii)). Base this on all available information obtained while working with the taxpayer. This would include any health issues experienced by the taxpayer or others impacting acquisition, by the taxpayer, of future housing. Otherwise, include the reason sufficient data does not exist to provide this analysis. See IRM 25.3.2.4.5.2(3) and IRM 5.17.4.8.2.5(3)d.</p>
c.	<p>Data Tables: Some data tables are required and some are not. There are three options for completing the tables. They can be completed within the Form 4477-B, by using the PDF Form 4477-A, or by using the Excel version of the Form 4477-A. The option used will be dependent on whether there are many or only a few modules in the recommendation package. See also IRM 25.3.2.4.4.2, Form 4477-A - Data Capture Tables.</p>

Item	Category
d.	<p>Chronological Presentation: Creating a time line, for those actions of specific importance to supporting the recommended action prior to drafting the Form 4477-B Narrative Report portion of the Form 4477-D package, may help in determining what is best to include in the chronological presentation. The chronological presentation is not intended to duplicate the ICS history or content contained elsewhere in the narrative report. The chronological presentation's purpose is to lay out chronologically in a time line the facts and events that make it easy to follow the recommendation's story line. If the chronological presentation will not enhance the story line by laying out facts and events in a time line, it may be by-passed; however, if local Counsel prefers one be included, follow accepted local practice in this regard.</p>

Note: The liability figures provided to the Department of Justice need to be up to date. If the amounts included in the suit package are more than six months old at the time the suit recommendation is approved, recompute and include more up to date amounts.

(8) **Conclusion and Recommendation:** There are no auto select or population elements for the conclusion and recommendation segment of the narrative. This segment is a free form summary analysis that concludes the narrative report and reiterates the recommended action.

25.3.2.4.4.5
(11-09-2023)

Form 4478, Civil Suit Checklist, Instructions

- (1) Use the auto populating **Form 4477-D, Civil Suit Package** to access and complete Form 4478.
- (2) Suit forms User Guide tutorials on completing the suit forms and suit package examples are available on the Knowledge Management *Suit Forms* default page under **Other Related Resources**.
- (3) The Civil Suit Checklist contains a portion for both the Advisory Reviewer and the revenue officer Initiator.
- (4) **Revenue Officer Section:** The revenue officer initiator's portion concentrates on the case facts and the organization content of the recommendations. There is a button at the top of the form allowing the user to skip to the revenue officer portion of the checklist.
 - a. Each line should contain either a "Yes" or "NA.",
 - b. Sections II through V are needed only for applicable types of suits, and
 - c. Indicate a reference to a form, exhibit, or narrative paragraph in each line marked "Yes".

Note: Although Form 4478 is a useful checklist, it is not a substitute for a well-developed and organized narrative report.

Reminder: The Form 4478 must remain as a fillable file in order for Advisory to complete their portion.

- (5) **Advisor Section:** The Advisory Reviewer's portion emphasizes cross-checking the details that are of importance to Counsel and DOJ. Any areas of particular importance are explained more fully on Form 4481, Advisory Transmittal, which is the Advisor's cover sheet report for the recommendation.
 - a. Each line should contain either a "Yes" or "No", and

- b. Provide a short explanation, reference to a form, exhibit, narrative report paragraph, or Transmittal paragraph if appropriate.

25.3.2.4.4.6
(11-09-2023)
**Form 4479, Civil Suit -
Property, Liens, and
Claims, Instructions**

- (1) Use the auto populating **Form 4477-D, Civil Suit Package** to access and complete Form 4479. If there are multiple properties in the package, use additional individual Forms 4479 and upload to eApproval.
- (2) Suit forms User Guide tutorials on completing the suit forms and suit package examples are available on the Knowledge Management *Suit Forms* default page under **Other Related Resources**.

Reminder: If multiple Forms 4479 are needed and the Form 4477-D auto populate is being used, as there is only one Form 4479 in the package, individual Form(s) 4479 may be included.

- (3) **PROPERTY:** Form 4479 combines both the property information and any liens or claims against that property. This form is important to identify all senior creditor interests so they are addressed and junior creditor interests so they are extinguished.

- a. All deeds, titles, liens, and claims associated with the property listed on each Form 4479 should be included as attachments to the form.

Reminder: The Form 4479 is not intended to list NFTLs in the claimant section. The form's purpose is to provide claimant information as part of a package provided to the Department of Justice substantiating a recommendation. If there is a foreclosure sale, it is the court who determines each party's interest. This differs, for example, from Form 2434-B, Notice of Encumbrances Against or Interests in Property Offered for Sale, where Form 2434-B is used to provide potential purchasers with transparency on the interest to be sold.

- b. For real property, ensure the legal description is contained in the deed attached to the form.
- c. Personal property must be adequately described to distinguish it from other property. For example, if the property is an automobile, the description should state the make, style, year and vehicle identification number or VIN. If the description is lengthy, reference to an attachment or exhibit can be made rather than duplicating the full description on the form.
- d. Follow the guidelines for describing property contained in IRM 5.10.3.13, Notice of Seizure Form 2433 - Preparation, when describing property involved in a suit recommendation.

Note: DOJ will request certified copies of relevant documents (deeds, titles, etc.) on an as needed basis. Their requests for certified documents occur when a suit goes to trial and the parties do not stipulate to the documents.

- (4) Make sure the fair market value and forced sale value on the form are consistent with the estimated amounts stated as recoverable (on Form 4477 and in the narrative report). See:
 - IRM 5.10.1.5.3.2, Equity Determination - Fair Market Value, for guidance on determining fair market value, and
 - IRM 5.10.4.3.1.3, Minimum Bid - Force Sale Value, for guidance on determining forced sale value.

Reminder: That is where the property value reduction does not exceed 25%.

Note: If the property under consideration for suit or seizure consists of assets where an accurate fair market value is not easily determinable, it is highly recommended that the revenue officer contact the Property Appraisal and Liquidation Specialist (PALS) to discuss how to value the property or to request that the PALS provide an appraisal for the property.

(5) If the property is an insurance policy, include the following information:

- a. Name and address of insurance company,
- b. Policy number,
- c. Date of policy,
- d. Amount of policy,
- e. Name of the insured,
- f. Cash surrender value,
- g. Amount of any loan outstanding and date made,
- h. Whether the loan was an automatic premium loan,
- i. Whether the insurer is holding any accumulated dividends,
- j. Whether the taxpayer has the right to change the beneficiary, and
- k. Name and address of each beneficiary.

(6) **LIENS and CLAIMS:** Form 4479 must identify all other persons with liens on or other interests in the property listed on the form. See IRM 5.17.4.8.3.2, Identification of Parties and Competing Liens.

Note: Each lien and claimant's record can be moved, as a whole, up or down a position. This way, if a claimant was missed and added later but is in a priority position over other claimants previously listed, then the added claimant can be moved using the form's move buttons up or down until it is in the correct position.

- a. NFTLs should not be listed on this form. If there are no other encumbrances, state that fact on the form.

Reminder: The Form 4479 is not intended to list NFTLs in the claimant section. The form's purpose is to provide claimant information as part of a package provided to the Department of Justice substantiating a recommendation. If there is a foreclosure sale, it is the court who determines each party's interest. This differs, for example, from Form 2434-B, Notice of Encumbrances Against or Interests in Property Offered for Sale, where Form 2434-B is used to provide potential purchasers with transparency on the interest to be sold.

- b. Identify the exhibit or attachment numbers of copies of encumbrances or claims.
- c. List all encumbrances, claims, and interests, regardless of frivolousness, priority, or enforceability. Include as current status information any facts challenging their validity and explain in the narrative report. If transferee (whether improper or not), alter ego, and/or nominee entities are involved, these entities should be included among the claimants.
- d. Include the name, title, and physical address of the person(s) who may be served on behalf of each lienholder or other claimant. If an out of

state entity is involved, identify any persons/agents empowered to receive service locally (name, physical address, etc.). If it is a local tax lien, identify the taxing authority.

25.3.2.4.4.7

(11-09-2023)

**Form 4480, Civil Suit -
Service of Legal Papers,
Instructions**

- (1) Use the auto populating **Form 4477-D, Civil Suit Package** to access and complete Form 4480.
- (2) Suit forms User Guide tutorials on completing the suit forms and suit package examples are available on the Knowledge Management *Suit Forms* default page under **Other Related Resources**.
- (3) The Form 4480 is used to provide a composite list of all the parties and their representatives who must be served as a part of the litigation.
 - a. Select the party to be served from the drop down list.
 - b. Identify and provide the legal name for service of papers and any contact name if appropriate.
 - c. Identify and provide the correct address for legal service. This must be a street address. No post office box numbers are allowed.
 - d. Identify and provide the power of attorney, representative, or attorney as appropriate if known along with their address for legal service.
- (4) Include the name, title, and physical address of the person(s) who may be served on behalf of each title holder, lienholder, or other claimant. If an out of state entity is involved, identify any persons/agents empowered to receive service locally (name, physical address, etc.).

25.3.2.4.4.8

(11-09-2023)

**Form 4481, Civil Suit -
Advisory Transmittal -
To Counsel, Instructions**

- (1) Suit forms User Guide tutorials on completing the suit forms and suit package examples are available on the Knowledge Management *Suit Forms* default page under **Other Related Resources**.
- (2) Form 4481 is the cover sheet for the suit recommendation and used by the advisor reviewer to summarize any areas of particular importance such as items identified during the review and noted on Form 4478. It also contains the advisor's contact information. The form is not intended as a duplication of the recommendation package but replaces any local practice summaries. At the top of the form there are a few set selections the advisor may use or may select *Add a Comment Box to Elaborate* in order to enter more individualized comments.

25.3.2.4.5

(12-08-2017)

**Suit Recommendation
Considerations**

- (1) The following subsections discuss specify areas of consideration to be addressed when preparing the narrative report.

25.3.2.4.5.1

(06-01-2010)

**Exhaustion of
Administrative Remedies**

- (1) The Introduction of the narrative report should include a statement that all administrative remedies have been exhausted or are unfeasible and/or inappropriate.
- (2) Briefly describe administrative collection actions taken or attempted.
- (3) If remaining administrative tools exist that are not being pursued, explain why they are not considered feasible or appropriate.

25.3.2.4.5.2
(11-09-2023)

Actions Involving the Principal Residence of the Taxpayer

- (1) There are two options for collecting against property owned by the taxpayer and used as the principal residence of the taxpayer, the taxpayer's spouse, the taxpayer's former spouse, or the taxpayer's minor child:
 - a. A proceeding to obtain a court order allowing administrative seizure of a principal residence under IRC 6334(e).

Principal Residence Seizure References and Examples

Reference	Title
IRM 5.17.4.9	Proceeding to Seize a Principal Residence
IRM 5.10.2.2	Securing Managerial Approval of Seizure Actions
IRM 5.10.2.3	Judicial Approval for Principal Residence Seizures
Example	An example can be found on the <i>Suit Resources and Examples</i> at <i>Example Principal Residence Seizure Pkg</i>

- b. A suit to foreclose the federal tax lien against a principal residence under IRC 7403.

Principal Residence Foreclosure References and Examples

Reference	Title
IRM 5.17.4.8.2.5	Lien Foreclosure on a Principal Residence
IRM 5.17.12.20.2	Format of the Form 4477-B Narrative Report
IRM 5.17.12.20.2.2.4	Additional Items for Lien Foreclose of Taxpayer's Principal Residence
Example	An example can be found on the <i>Suit Resources and Examples Page</i> at <i>Example Principal Residence Foreclosure with Judgment and 2nd Property</i>

- (2) These two options cannot be used concurrently. The narrative report should explain why one option is being recommended over the other.
- (3) Written approval by the Area Director must be obtained for either a suit recommendation for judicial approval of a principal residence seizure or a lien foreclosure of property used as a principal residence (as defined in Treas. Reg. 301.6334-1(d)). Area Director signature on Form 4477 is adequate written approval. Whichever method is pursued, both the ICS history and the narrative report must contain a discussion of whether the action proposed would result in an inability to secure future housing or otherwise lead to an economic hardship (see Treas. Reg. 301.6343-1(b)(4)(i)). Base this on all available information obtained while working with the taxpayer. This would include any health issues experienced by the taxpayer or others impacting acquisition, by the taxpayer, of future housing. Otherwise, include the reason sufficient data does not exist to provide this analysis (See IRM 25.3.2.4.4.4.1(7)b, IRM 25.3.2.7.2(3), Mandatory Form 5942 bullet two, and IRM 5.17.4.8.2.5(3)d).

Note: An electronic signature is an acceptable method of written approval. See also IRM 5.11.2.2.2(10), Preparing the Notice of Levy.

- (4) **ENTITY REPORT:** A manager, management assistant, or IQA may input "Principal Res Forecl" or "Seize Principal Res" as a program name in ICS as

an identifier in creating a sortable query of suit cases. Instructions can be found in the, ICS User Guide - Chapter 9 Entity Detail - Maintain Program Names.

25.3.2.4.5.3
(11-24-2021)
**Collection Due Process
(CDP) Requirements Met**

- (1) The Body of the narrative report should provide information as to whether *applicable* CDP requirements for filing a Notice of Federal Tax Lien or issuing a levy have been met, including the following:

- Date CDP notice was issued to the taxpayer and manner in which it was provided (i.e., given in person, left at the taxpayer's dwelling or usual place of business, or sent by certified or registered mail, return receipt requested, to the taxpayer's last known address).
- Date return receipt was received, if applicable and available.

Note: Facsimile prints of IRC 6320 notices sent after NFTL filing, with certified mailing information, can be generated from the Automated Lien System (ALS).

- Whether a request for hearing was received.
- Whether taxpayer received a CDP or equivalent hearing.
- Date the Notice of Determination or decision letter was issued to the taxpayer.
- Whether the taxpayer petitioned the Tax Court and the outcome.

- (2) Providing information to Counsel regarding any CDP notices that were issued, whether or not a hearing was requested, and the results of any hearing and subsequent judicial appeal, is important for purposes of identifying arguments the taxpayer may raise in litigation and protecting the Internal Revenue Service's position.

Note: In circumstances where a decision to recommend a suit has been made and a CDP appeal(s) remains open, contact Area Counsel then contact Appeals before proceeding. Appeals will check with their Counsel on how to proceed. See IRM 8.22.6.9, Cases Controlled by Department of Justice (DOJ).

- (3) If a Notice of Federal Tax Lien was filed, then information regarding the CDP requirements under IRC 6320 must be provided. If a, Notice of Intent to Levy and Notice of Your Right to a Hearing, (Letter 1058) was issued, then information regarding the CDP requirements under IRC 6330 must be provided.

Note: IRC 6330 notice is not required to file suit to collect unpaid tax. Whether a levy should be issued to the taxpayer prior to suit being recommended will depend upon the facts of the case.

- (4) This information can be either provided in the narrative report or included in an exhibit that is referenced in the narrative report. In some situations, it may be necessary to obtain the CDP file.
- (5) See IRM 5.1.9.3, Collection Due Process, for additional information regarding CDP requirements.

25.3.2.4.5.4
(11-09-2023)
Statutes of Limitations

- (1) The Body of the narrative report should provide information regarding the calculation of the Assessment Statute Expiration Date (ASED) if the date was extended/suspended for some reason and the validity of the assessment may be an issue in the suit. See IRM 5.17.4-1, Limitation Upon Assessment.

- (2) The Body of the narrative report should provide information regarding the calculation of the CSED for all assessments on all account modules involved in the suit. If the CSED was extended/suspended for any reason, this information must be either provided in the narrative report or included as an exhibit.
- (3) Recalculate any CSEDs that were extended/suspended to ensure that the dates are correct. (see also *CSED Calculator*) Explain any discrepancies between computed and systemic CSEDs.

Note: In most instances, when a bankruptcy case closes and TC520s reversed by a TC521 posting to IDRS, the CSED extension systemically updates on IDRS. However, there may be cases that require manual calculation of the CSED. See Bankruptcy IRMs - IRM 5.9.4.3, ASSED/CSED, IRM 5.9.17.19, ASSED/CSED Considerations, and IRM 5.9.17.5.3(13), CSEDs and Refiles, for additional information

- (4) The body of the narrative report should provide information regarding the calculation of any other applicable statute of limitations. For example, the calculation of the expiration date for filing a suit to recover an erroneous refund, and, if reliance on the five year period is proposed, the evidence which shows that the refund was induced by fraud or misrepresentation of material fact.
- (5) See IRM 5.1.19.3, Case Actions That Can Suspend and/or Extend a CSED, and IRM 5.17.4-2, Legal Revenue Officer Guide — Suits by U.S. -- Limitation Upon Collection.

25.3.2.4.5.5
(11-09-2023)

Cases with Imminent CSEDs

- (1) The rule is to forward suit recommendations to Advisory allowing sufficient time to perfect the referral, have it approved, and forward it to Area Counsel at least **nine months before the earliest CSED**.

Note: Success in litigation is highly dependent upon the full and complete development of factual and legal issues before the suit is actually filed. Suit recommendations must therefore be forwarded to Area Counsel with sufficient time remaining on the CSED to allow for sufficient review of the suit recommendation, analysis of any legal issues, preparation of the suit letter, and time for the DOJ to draft the pleadings and file the suit.

- (2) Whenever it is determined that a suit recommendation cannot be forwarded to Area Counsel with at least nine months before earliest CSED:

Revenue Officer Actions

Step	Action
1	Discussion with GM <ul style="list-style-type: none"> • Alternatives to pursuing litigation • Consideration of whether removing the earliest CSED would impact the estimated recovery amount from litigation. See IRM 25.3.2.4.4.3 and IRM 25.3.2.4.4.6 for discussion of estimated recovery. IRM 25.3.2.4.1, Preliminary Actions, Submission Timeliness.
2	Provide Advisory with written notification of pursuit of a short CSED suit recommendation including an explanation as to why the suit recommendation is untimely.

Note: An assessed restitution-based assessment may be subject to a limited period of enforceability for administrative collection. See IRM 5.1.5.18, Collection Actions on Cases with Restitution-Based Assessments (RBA).

Advisor Actions

Step	Action
3	<p>Advisory will then contact Area Counsel to provide notice of the potential suit recommendation and determine if the suit can be properly initiated before the CSED.</p> <p>Note: There may be occasions where the RO contacts Counsel or there is a discussion about the merits of proceeding with the case including the RO, GM, and Advisor.</p> <p>Caution: It is within Area Counsel's discretion not to accept a suit recommendation where the earliest CSED will expire in less than nine months.</p>
4	<p>Advisory will open an NFOI-187 to both assist and monitor the revenue officer's progress with imminent CSED cases.</p> <ul style="list-style-type: none"> See IRM 25.3.2.7 for working pre-suit development and pre-suit reviews.
5	<p>Recognizing that circumstances may arise where a suit recommendation cannot be forwarded to Area Counsel until shortly before the CSED, steps must be taken to ensure that the CSED is protected on IDRS.</p> <ul style="list-style-type: none"> See <i>CSED Calculator</i> <p>Reminder: Such actions may also be necessary if a suit recommendation is submitted in timely fashion, but DOJ does not bring the action until shortly before the CSED. These steps are discussed in detail in IRM 25.3.6, Open Litigation Control, Monitoring, and Closing Actions.</p>

Counsel Response

Step	Action
6	As it is within Area Counsel's discretion not to accept a suit recommendation where the earliest CSED will expire in less than nine months, Counsel will ask about: the merits of the case, consideration of alternatives to litigation, and the possibility of removing the earliest CSED.
7	Consideration of the Counsel and DOJ resource availability needed to pursue the litigation.
8	Provide the Advisor and RO a written response as to whether Counsel can work the recommendation if received by a specified date.

eApproval and Short CSED Cases

Step	Action
9	<p>Initiate an eApproval suit recommendation when:</p> <p>a. Suit documents are ready for review and loading to eApproval. Reminder: Use Form Naming standards for file names of the forms IRM 25.3.2.4.3.1.</p> <p>b. Exhibits are ready for review and loading to eApproval. Reminder: Use Exhibit Naming standards for file names of exhibit name and Table of Contents list in Form 4477-C and IRM 25.3.2.4.4.1 and IRM 25.3.2.4.3.1.</p> <p>c. Counsel written agreement ready for loading to eApproval.</p>
10	<p>eApproval:</p> <p>a. Automatically checks the <i>Prompt Action Required</i> box.</p> <p>b. Enter case data.</p> <p>c. Upload all forms and exhibits.</p> <p>d. Upload Counsel agreement accepting short CSED case.</p> <p>e. Requires checking box indicating Counsel agreement accepting short CSED case.</p> <p>f. Enter the Submission Date & Save only after items a - e completed as the action automatically forwards the suit to GM for review.</p>
11	<p>Caution: For CSEDs within 12 months or less - If recommendation package will need substantial revisions thus placing arrival in Counsel within 9 months of the CSED, determine whether Counsel will accept the case if it becomes a short CSED case. eApproval will trigger a report for any pre-Counsel case action where the case slips below the nine months remaining on statute.</p>

25.3.2.5
(12-08-2017)
**Settlement
Recommendation**

- (1) The IRS employee initiating the suit may, but is not required to, make a recommendation as to whether the case is susceptible of settlement and, if so, under what circumstances and conditions settlement should be considered. This recommendation should be included in the Conclusions and Recommendation section of the narrative report.
- (2) The initiator may recommend that settlement of a suit not be considered based on one or more of the following considerations:
 - The taxpayer is in flagrant noncompliance
 - The taxpayer involved (e.g., a public figure) makes the case sensitive in nature
 - Settlement may create difficulty in collecting from other taxpayers in the community
 - Other factors which would make settlement inappropriate or inadvisable
- (3) DOJ will refer any settlement offer based on collectibility to Area Counsel, who will refer it to the Field Collection function through Advisory for verification.

25.3.2.6

(11-24-2021)

**Revenue Officer Referral
and Account Disposition**

- (1) **Pre-Suit:** This is the time to compile applicable evidence, interview results, research, case data, IRM references, CSEDs, NFTL refile dates, and any legal, process, or procedural questions.

- Questions should be discussed first with your manager after reviewing the appropriate current IRM.
- Some questions may be better addressed by Advisory. Advisory will contact Area Counsel, if they have questions.
- Occasionally the revenue officer may need to contact Area Counsel directly. When this happens, the revenue officer should communicate to Advisory the nature of the question and Area Counsel's response as it may affect Advisory's suit package review.

Caution: Timing becomes key in presenting a completed suit referral package when there are pre-suit questions or legal points to clarify. These can dramatically compress the time for preparation and approval of a suit recommendation.

Reminder: Area Counsel needs to receive business-side approved suit referral packages at least **nine months** prior to the expiration of the first CSED. When receipt in Counsel office of the approved suit recommendation package is anticipated to be less than nine months from the earliest CSED, contact Counsel for concurrence that they will accept a short-CSED case. This is why CSEDs and NFTL refile dates are an important consideration. See also IRM 25.3.2.4.1 and IRM 25.3.2.4.5.5 for more details on the requirements and processing of a short CSED case.

- (2) **Enter Recommendation onto eApproval:**

Revenue Officer Submission Actions

Step	Action
1	Suit forms have been prepared.
2	<p>Exhibits are identified and readied by naming the exhibit file and using that file name as the exhibit name in the Table of Contents in Form 4477-C (i.e., part of the Form 4477-D package)</p> <p>Reminder: Form and Exhibit Naming: Character counts are important when naming form and exhibit files. eApproval allows a limited number of characters for file names. Be brief, descriptive, and to the point. Use dashes rather than spaces between words as software often counts each space as three characters whereas the dash counts as one character.</p> <p>Example: 4477D-NameControl or NameControl-4477D.</p> <p>Example: Exh01-NameControl-Deed-PropertyA or NameControl-Exh01-Deed-PropertyA</p> <p>Caution: Some exhibits especially scanned reports or pictures may be large files. Exhibit file sizes 1 or 1.5 MB and greater will slow access, loading, and reviewing in eApproval. Make every use of file size reduction functions and zip compression files before consulting with Advisory and Counsel on alternative methods of delivery for very large exhibit files.</p>

Step	Action
3	Create an eApproval suit
4	Upload the forms and exhibits Reminder: Use of proper naming standards for both the forms and exhibits allows the forms to be at the top of the document list with the exhibits following in number order. See Reminder, Examples, and Caution in Step 2
5	Ready to Submit: Steps 1 - 4 completed then, ENTER Submission Date and SAVE . This automatically forwards the suit to the GM for review and automatically sends an email to the GM containing a link to the suit for review. Reminder: Do Not Enter a Submission Date until all required fields are complete and all documents are loaded. This avoids mis-routing delays and the need to have an administrator re-route the case to the RO.
6	Track the package's progress through use of the eApproval Tin Tracker.
7	Assistance: Contact an eApproval <i>SME</i> or Admin, for problems with a case or eApproval.
8	Revision and re-approval requests: Complete the revision requested, add comments for the requesting party and enter the completed date in the date field above the comment field. ENTER date in <i>Response to Revision</i> date field and click SAVE , automatically forwards the suit back to the GM. Reminder: Revisions may be returned through the GM from Advisory with a Form 5942, Advisory Reviewer's Report. When this occurs, complete the revisions, respond on page two of the Form 5942, and upload it and the revised package to eApproval. Caution: See also IRM 25.3.2.4.1 and IRM 25.3.2.4.5.5 for instructions on Counsel defined short CSED cases.
9	Disposition of Approved Suits: See (7) lower in this section for disposition of approved suit recommendations. IRM 25.3.2.6(7), After Referral to Area Counsel.
10	Declined Suit Recommendation: If an approving official or Counsel decline to accept the referral to initiate litigation, the case is returned to the RO through eApproval. <ul style="list-style-type: none"> • An RO disagreeing with the decision may discuss the case outside of eApproval. • An RO obtaining an agreement to reinstate the recommendation, submits an <i>Approval Requested</i>. • An RO accepting the decision, moves the eApproval case to the <i>Declined Case Archive</i>.
Note	Eliminated: eApproval eliminates the need for multiple paper copies. Even exhibits are included in the electronic eApproval case. However, if the suit is a reduce claims to judgment, DOJ needs not only the certified transcript Form 4340, Certificate of Assessments and Payments, but also the tax return, any revenue agent reports, and any Trust Fund Penalty files. The courts want to see the quality of the assessments being reduced to judgement.

Step	Action
Reference	See the, revenue officer User Guide, in the eApproval <i>Information Center</i> for assistance.

- (3) **Group Manager Review:** The revenue officer, when the recommendation package is complete, signs and dates the Form(s) 4477 and submits the entire package including exhibits to their group manager in eApproval. The group manager's review focuses on whether the package as a whole, including exhibits, follows the appropriate IRM requirements, exhibit and form naming conventions, and forms completion. The group manager may concur with the recommendation, request revisions, or reject the recommendation. Once revisions have been completed and / or the manager concurs with the referral, they sign and date the Form(s) 4477. They then forward the referral through eApproval to Advisory GM for assignment.

Reminder: Revisions may be returned through the GM from Advisory with a Form 5942, Advisory Reviewer's Report. When this occurs, ensure the RO completes the revisions, responds on page two of the Form 5942, and has uploaded it and the revised package to eApproval for your review.

- (4) **Advisory Review:** Once the Group Manager forwards the suit package to the Advisory GM for assignment, the Advisory GM in turn assigns it through eApproval to an Advisor for review.

Advisory Review Process

Step	Action	Instructions
1	Incomplete Package Received	The Advisory GM may return the recommendation package to the RO GM.
2	Revision Needed	Advisor reviews the package following IRM 25.3.2.7 et seq. (and what follows). Revisions may be worked with the RO through eApproval or informally outside eApproval for minor corrections. There may be occasions where a Form 5942 may be needed. if so, upload it to eApproval. (see IRM 25.3.2.7.2(3), Reasons for issuing Form 5942) After making any needed corrections, additions, or other revisions identified by Advisory via eApproval, the RO completes the revisions and returns the package through eApproval. See IRM 25.3.2.6, Revenue Officer Referral and Account Disposition, Step eight. Note: RO can track the progress of the case via the eApproval TIN Tracker.
3	After the package is perfected	Advisory completes Form 4478, signs the Form(s) 4477, and forwards the package through eApproval to the TM for approval. See also IRM 25.3.2.7 et seq., for detailed Advisory procedures.

Reminder: Advisory needs to maintain a paper copy of the approved recommendation for records purposes.

- (5) **Approval:** IRM 1.2.65.3.2, SBSE 1-23-9, Approval of Form 4477, Civil Suit Recommendation, determines whether the territory manager or Area Director approves the suit referral. The approving official may approve the referral, request revisions, or reject it. When approved, the appropriate official signs and dates the Form(s) 4477 and returns the package to Advisory through eApproval. The RO can track the package's progress through the eApproval Tin Tracker.

Note: Disaster Declaration Memorandum: Additional levels of approval may be required to lift the -O Freeze prior to submitting a suit recommendation to Area Counsel. Follow instructions pertinent to suit recommendations provided in the directive, when a directive is issued. -O Freeze references:

Citation	Title
IRM 25.16.1.7.2	- O Freeze
IRM 5.1.12.2.5	revenue officer Inventory with "-O Freeze"

Note: Compliance Suspension Periods: A suspension for a specific time period and for specific identified circumstances may require deviations from certain activities or additional approval requirements. Follow instructions pertinent to suit recommendations provided in issuance directives.

- (6) **Area Counsel:** Once Advisory receives the approved suit referral back from the approving official, they review the package once more to ensure that it is complete, organized, and assembled. Advisory then forwards the package to Area Counsel. Area Counsel may accept, reject, or request revisions to the referral. During this process Area Counsel may seek the assistance of the revenue officer or Advisory. When Area Counsel is in agreement with pursuing the case facts and legal theories recommended, the assigned attorney will complete a suit referral letter and forward the package to the Department of Justice.
- (7) **After Referral to Area Counsel:** After the case has been successfully referred to Area Counsel and Department of Justice for action:

Note: Area Counsel, receiving recommendations via electronic submission, provides the same to DOJ. Subsequent to Area Counsel's submission to DOJ, DOJ may reach out to Area Counsel, the Advisor, or the RO for a paper copy of a document such as an original tax return. DOJ will only do this if they feel it is necessary for the specific case. So, with electronic submission, the RO does not, or the Advisor if the RO has closed their case and sent it to the Advisor, provide paper copies of exhibits including tax returns unless it is requested by DOJ.

- a. Close the case appropriately. If the suit referral is the final collection action, it may be appropriate to place the affected Balance Due (BAL DUE) modules in currently not collectible status.

Caution: Taking proper case closing actions helps prevent unwanted case reissuance after litigation has concluded. Discuss case resolution and retention of the closed BAL DUE by Advisory with your group manager and Advisory as needed.

- b. In the unusual event that collection action is contemplated after referral, check with Advisory and Area Counsel to see what restrictions should be observed and to make sure any collection action taken will not cause problems with the litigation. In most cases, no administrative collections should be taken after a suit recommendation is made. See IRM 25.3.1.5, Collection Action During Litigation.

Note: Cases referred to DOJ for litigation are under the control of DOJ. Advisory's input of the TC 520 and appropriate closing code triggers a -W Freeze on IDRS. The -W Freeze identifies that no action be taken without consultation with DOJ. See IRM 21.5.6.4.46, -W Freeze.

- c. Revenue Officers closing a case with an active suit, will forward the administrative file(s) to Advisory allowing case information availability for the duration of the litigation. Do not forward case files to closed file retention.
- d. **Injunction:** While seeking an IRC 7402(a) injunction using the IRM 5.7.2, Letter 903 Process, the RO must continue to monitor the taxpayer's compliance throughout the suit recommendation process, the litigation, and after obtaining the injunction. For post-injunction instructions, see IRM 25.3.2.6.2, Injunction Monitoring for Trust Fund Pyramiding Cases, below.

25.3.2.6.1
(03-30-2015)
**Aging Suit Development
Case Suspension**

- (1) The following suit development cases qualify for suspension of the overage calculation with group manager approval:
 - a. Complex or fact-intensive cases where additional time is needed to analyze and gather the facts necessary for developing a suit recommendation.

Note: Suit development cases retain their ICS subcode.
- (2) The manager must document approval in the ICS case history.
- (3) A Transaction Code (TC) 971 Action Code (AC) 281 is used to suspend overage on these cases. Input the code by selecting *Generate TC 971/972 AC 281* from the *Collection Activities* menu on the Integrated Collection System (ICS). This initiates the upload of TC 971 AC 281 or the reversal TC 972 AC 281 to IDRS.

Note: TC 971/972 AC 281 **input is limited to** the group manager, acting group managers, group secretaries, and ICS Quality Analysts (IQAs), to suspend overage suit development cases.

- *Generate TC 971/972 AC 281* offers two choices. The first will generate a TC 971 AC 281 to suspend the overage clock. The second will generate a TC 972 AC 281 which turns the overage clock back on.
- ICS can only upload these transactions to IDRS if there is an open IDRS BAL DUE or Delinquent Return (DEL RET) module. Otherwise the option to generate is blocked.

Note: If there is no open module on ICS, prepare a manual Form 4844, Request for Terminal Action.

- (4) The identifier, **SUIT**, must be in the location block on ICS in order for the overage suspension to function properly. **group managers** generate the identifier by:

- a. Selecting *Entity Detail* then selecting *Name/Address*,
- b. Selecting the taxpayer's address and clicking *view/edit*,
- c. Entering **SUIT** in the location block and saving.

Note: If **SUIT** is not input in the location block, the case will erroneously be included on the Area fraud report.

- (5) The case no longer qualifies for suit development status and the TC 972 AC 281 is input when:
 - a. The suit recommendation has been referred to the DOJ,
 - b. The suit recommendation is no longer being pursued, or
 - c. Other actions, such as CNC classification, are being recommended to dispose of the case.
- (6) If appropriate, the revenue officer will create an Other Investigation (OI) when additional assistance is requested by the DOJ after the suit has been referred.
- (7) See also:
 - IRM 5.20.2.4, Abusive Tax Avoidance Transactions (ATAT), Aging of ATAT and Suit Development Cases, and
 - IRM 25.1.8.8, Fraud Handbook, Field Collection, Aging of Collection Fraud Cases.

25.3.2.6.2
(11-09-2023)

Injunction Monitoring for Trust Fund Pyramiding Cases

- (1) Most Injunctive Relief suit referrals involve a business entity that is flagrantly delinquent with filing and Federal Tax Deposits (FTD) requirements, or with FTD requirements alone. When an Injunctive Relief suit referral is submitted, the referring revenue officer must create an OI in ICS to monitor and document the quarterly trust fund compliance status. If the suit involves multiple in-business entities, the RO needs to create an OI to monitor each entity. The following table provides instructions for revenue officers after an Injunctive Relief suit is submitted:

If ...	Then ...
The business demonstrates compliance with filing and FTD requirements	Consult with CEASO advisor and Counsel to advise of temporary compliance and discuss whether the suit referral should proceed or be withdrawn.
The business is not in compliance with FTD requirements	<ol style="list-style-type: none"> a. Verify the business is still operating and making payroll. Depending on the type of business involved, this may require a field call, drive by, website search, or other methods. b. Use all available information, such as past liability amounts, to determine the approximate amount of FTD delinquency. c. Consult with CEASO advisor and Counsel and keep them apprised of the continued delinquency.
The business is not in compliance with filing requirements	Same as above, and consult with CEASO advisor and Counsel to determine if demanding delinquent returns and/or processing delinquent returns under IRC 6020b is recommended.

If ...	Then ...
The entity is determined to be out of business	Consult with CEASO advisor and Counsel to discuss the circumstances and whether the suit should be withdrawn. Note: If the entity is out of business, continue investigation to determine asset disposition, etc.

(2) **CEASO Advisors** will:

- a. Create and maintain an NFOI-216 to ensure that the injunction file remains available in the event future actions are needed,
- b. Monitor quarterly to ensure the assigned revenue officer continues compliance monitoring after suit referral submission.
- c. Assist the revenue officer with Counsel or DOJ notifications, to relay compliance status
- d. Assist the revenue officer with Counsel or DOJ notifications, if there is either a curable violation or an official default of the injunction order
- e. Assist the revenue officer as necessary, with resolution recommendations if the injunction officially defaults, and
- f. Review the revenue officer resolution recommendation and process appropriately through Area Counsel to DOJ.

(3) **Revenue Officer Responsibilities:**

- a. **In Process:** Actions while the injunction is in process (i.e., from submission, while the suit is pending, and through DOJ filing the complaint), **monitor** the current filing compliance status and ensure DOJ has that current data (i.e., continuing to pyramid, in compliance, or out of business).
- b. **Court Order:** Once the Court orders an injunction, **monitor** compliance with the injunction for a specified period.

Reminder: Generally, the monitoring period is for five years. Monitoring may be done with the case in active inventory or as an Other Investigation (OI).

- c. **References:** For more information on obtaining injunctions, **see:** IRM 5.17.4.17, Civil Injunctions under IRC 7402(a) to Restrain Pyramiding, and IRM 5.7.2.3, Referrals For Civil Enforcement.

(4) **Monitoring the Injunction Order:** Injunctions are monitored for the taxpayer's compliance with specific instructions in the Order. Generally, the Order will direct the taxpayer to provide the documentation directly to the revenue officer. Specific items include but are not limited to:

- a. Confirmation from the taxpayer on depositing compliance;
- b. Confirmation from the taxpayer on filing compliance;
- c. Confirmation of any change in the business;
- d. Notating any taxpayer attempts to transfer or disperse assets;
- e. Notifying Advisory, IRS counsel, and DOJ, if the taxpayer has a "curable" violation (so DOJ can send an official warning); and
- f. Notifying Advisory, IRS Counsel, and DOJ, if the taxpayer officially defaults injunction, including in the notification a recommendation for follow-up.

- (5) **Curable Violation:** An injunction may allow a certain number of violations in complying with the conditions of the Court Order, as long as those violations are timely cured as provided in the Order. The Order will require the taxpayer be sent a notification of a *curable violation* and how it must be cured.
- (6) The **revenue officer** is responsible for timely notifying of Advisory and Area Counsel, who will notify DOJ, of any *curable violation* in the Court's Order. DOJ is responsible to send the taxpayer an official notification for the *curable violations* and allowing the taxpayer to cure the violation.

Note: If the revenue officer is in direct contact with DOJ, the RO is responsible to timely update both Area Counsel and Advisory.

- (7) **Official Default:** If the *curable violations* are exceeded, any further breach causes the injunction to *officially default*. The Order will indicate whether DOJ is required to notify the taxpayer in this event. The **revenue officer** will not only notify Advisory, Area Counsel, and DOJ of an *official default*, but will also submit a recommendation for resolution, through Advisory and Area Counsel, to DOJ.

Example: This referral requests that you take whatever action is necessary to enforce the injunction in this matter, including having a receiver appointed or requiring the taxpayer to immediately wind down its business operations. As detailed in this referral, the taxpayer is not in compliance with the injunction and has indicated an inability to comply with the injunction. In this situation, we are requesting that the taxpayer wind down its business immediately and/or consider having a receiver appointed to wind down the taxpayer's business, or any other action you deem necessary to stop the further pyramiding and noncompliance with the judgment.

- (8) **Advisor Responsibilities:**
 - a. Create and maintain an NFOI-216 to ensure that the injunction file remains available in the event future actions are needed,
 - b. Assist the revenue officer with DOJ notifications, if there is either a curable violation or an official default of the injunction,
 - c. Assist the revenue officer as necessary, with resolution recommendations, if the injunction officially defaults, and
 - d. Review the revenue officer resolution recommendation and process appropriately through Area Counsel to DOJ.
- (9) **ENTITY REPORT:** A manager, management assistant, or IQA may input "Injunction Monitor" as a program name in ICS as an identifier in creating a sort query of cases. Instructions can be found in the, ICS User Guide - Chapter 9, Entity Detail - Maintain Program Names.

25.3.2.7
(11-24-2021)
Advisory Procedures

- (1) Advisory involvement in the suit process enhances the quality of recommendations and expedites the processing in eApproval. Advisors have several key roles with suits including:
 - a. Assisting with pre-suit development,
 - b. Assisting revenue officers understanding of the suit forms and eApproval process,
 - c. Reviewing suit packages,

- d. Providing both informal (i.e., consultation) and formal (i.e., Form 5942) feedback,
- e. Preparing approved packages for Counsel, and
- f. Assisting Counsel and DOJ as needed.

Reminder: Advisory needs to maintain a paper copy of the approved recommendation for records purposes.

25.3.2.7.1
(11-09-2023)
Pre-Suit Development

- (1) Advisory's role begins with any revenue officer request for assistance determining whether suit action is appropriate or request for assistance with a suit package pre-submission on eApproval. Early consultation between Advisors and revenue officers tends to strengthen the overall quality of the recommendation package. Use an NFOI 187 when assisting an RO with suit development. The table below contains tips on assisting with pre-suit development.

- a. **First**, if needed, refer the revenue officer to or walk them through the current revisions for IRM suit references including but not limited to:

Tips for Assisting Revenue Officers Preparing Suits

Reference	Description
IRM 25.3.1	Specifically discuss Electronically Stored Information.
IRM 25.3.2	Suggest they read the entire IRM.
IRM 25.3.2.4.5.5	Specifically discuss CSED issues and Counsel's nine month timeliness criteria.
IRM 5.17.1	Specifically discuss the Revenue Officer Role.
IRM 5.17.4	Specifically point out the location for the particular type of litigation they are pursuing.
IRM 5.17.12.20	Point out locations for type of suit they are pursuing and emphasize reading through entire segment on the Narrative Report.

- b. **Second**, discuss the case theories they are proposing again utilizing the appropriate IRM sections and the *local law guides*.

- (2) Once pursuing suit is deemed appropriate, the revenue officer may need assistance with navigating the suit forms and when to initiate a suit on eApproval. The table below provides tips to assist with the forms and eApproval.

Tips for Assisting Revenue Officers with Suit Forms and eApproval

Forms	eApproval
Always download a fresh copy of suit forms when starting a suit allowing access to any fixed programming bugs.	Point ROs to the <i>eApproval Information Center</i> .
If a new revision becomes available, transfer content from draft document to new revision allowing access to updated functionality.	Point out that the Information Center contains eApproval User Guides and SHOTS videos of how create a case on eApproval and how to load forms and exhibits.

Forms	eApproval
Point RO to, or walk through with them, the most recent Suit Forms User Guide found on the <i>Suits - Resources/Examples</i> . Point out the page contains examples of packages and an instructional webinar on how to use the forms. Suit resources are on the Knowledge Management Litigation site.	<p>For naming forms and exhibits, point out the need to be brief and to the point and avoiding blank spaces when naming their files. Also, explain about file sizes and walk through compressing file sizes in PDF and using zip compressed files.</p> <p>Example: A form name identified using: 4477D-NameControl or NameControl-4477D</p> <p>Example: An exhibit name identified using: Exh01-NameControl-Deed-PropertyA or NameControl-Exh01-Deed-PropertyA</p>

25.3.2.7.2
(11-24-2021)

**Pre-Suit Review /
Referral Received**

- (1) Once notified that a suit package is assigned for review on eApproval, the Advisor reviews the packages to ensure that the package is complete and ready for business and Counsel approval. If the suit recommendation received cannot be pursued because it is incomplete or further development is needed, return the suit recommendation to the initiating employee no later than 14 calendar days after this determination. Include an explanation for the return, using Form 5942, Advisory Reviewer's Report, where appropriate (see IRM 25.3.2.7.2(3), Reasons for issuing Form 5942, below). Use the following NFOI in ICS for this review process prior to sending the case forward to Counsel.

- 221 Pre- Suit Judgment.
- 222 Pre- Suit Foreclose.
- 223 Pre- Suit Refund.
- 224 Suit Quiet Title.
- 225 Pre- Suit Other.
- 226 Pre- Suit Civil Injunction.

- (2) In reviewing the suit package, the Advisor should:

- a. Evaluate and critically review the suit recommendation.
- b. Ensure that the suit recommendation meets all criteria for bringing suit found in IRM 25.3.2.3, Criteria For Bringing Suit.
- c. Consider whether additional development is needed. Use the Advisor Review Checklist in Form 4478 as a guide.

Note: Is the most recent revision of the suit forms being used? If there are questions using the suit forms, has the Suit Form User Guide been consulted?

- d. Determine whether necessary documents have been included and obtain any omitted documents. Use an encrypted folder for downloading signature documents from eApproval for signature and reloading to eApproval.

Reminder: Form and Exhibit Naming: The number of characters in a file whether form or exhibit is important as eApproval allows a limited number of characters for file names. Be brief, descriptive, and to the point. Use dashes rather than spaces between

words as software often counts each space as three characters whereas the dash counts as one character. Use names such as:

Example: A form name identified using: 4477D-NameControl or NameControl-4477D

Example: An exhibit name identified using: Exh01-NameControl-Deed-PropertyA or NameControl-Exh01-Deed-PropertyA

Caution: Large files slow eApproval response time. They can be any type of file, but often are picture, title report, scanned tax return files. The large files need to be size-reduced. Files at or larger than 1 or 1.5 MB need to be reduced first using PDF compression. Consider having the RO place them in a compressed zip file if the compressed PDF file remains too large. Consult with Counsel on alternative methods of delivery if after reduction, the file size remains very large.

- e. Ensure that the suit recommendation is approved by the appropriate officials. See IRM 25.3.2.1.2, Authority, above.

Caution: Disaster Declaration Memorandum Additional levels of approval may be required to lift the -O Freeze prior to submitting a suit recommendation to Area Counsel. Follow the instructions pertinent to suit recommendations provided in the directive, when a directive is issued. See IRM 25.16.1.7.2, - O Freeze, and IRM 5.1.12.2.5, Revenue Officer Inventory with -O Freeze.

Caution: Compliance Suspension Periods A suspension for a specific time period and for specific identified circumstances may require deviations from certain activities or additional approval requirements. Follow instructions pertinent to suit recommendations provided in issuance directives.

- (3) **Reasons for issuing Form 5942:** Below are reasons where a commendatory, additional information required, correction or action needed, supporting documents required, and technical feedback Form 5942 would be issued. Remembering the form's purpose is improving recommendation quality and supporting effective litigation. To issue the form, upload it to eApproval.

Form 5942 Types

Type	Description
Mandatory Form 5942:	<ul style="list-style-type: none"> IRM 25.3.2.4.1(2) Failure to upload to eApproval a written agreement from Counsel to accept a short CSED suit. IRM 5.17.4.8.2.5(3)d and IRM 25.3.2.4.5.2(3) Failure to provide in the Narrative Report for a Principal Residence foreclosure the required discussion of whether the proposed action would result in an inability to secure future housing or otherwise lead to an economic hardship.

Type	Description
Optional Form 5942	<ul style="list-style-type: none"> • Commendatory for a skillfully prepared, proficiently-documented suit package. • Additional information required. • Correction or action needed. • Supporting documents required. • Technical feedback.

25.3.2.7.3
(11-24-2021)

Initial Processing

- (1) As soon as possible after notification of a suit assignment and the case available in eApproval, Advisory must review the suit recommendation to identify imminent CSEDs or other indicators of urgency. Process accordingly.

Short CSED Case

If ...	Then ...
CSED within 9 months or less,	Ensure eApproval case notated as prompt action required and that Counsel has agreed to accept the short CSED case. Look for an exhibit on eApproval documenting Counsel's agreement to accept the short CSED case.
CSED within 12 months or less,	If recommendation package will need substantial revisions thus placing arrival in Counsel within 9 months of the CSED, determine whether Counsel will accept the case if it becomes a short CSED case.

Caution: An assessed restitution-based assessment may be subject to a limited period of enforceability for administrative collection. See IRM 5.1.5.18, Collection Actions on Cases with Restitution-Based Assessments (RBA).

Reminder: The eApproval Advisor page has a short CSED report in *Reports and Views* under *Suit Reports*.

- (2) Locate the eApproval case on the Advisor's page under *Approval Requests*.

Reminder: The eApproval *Information Center* has an Advisor User Guide covering topics step by step including: new reviews, revisions, re-approvals, prep for Counsel, and more.

- (3) Open a case on ICS no later than 10 calendar days after receipt of suit recommendation using the NFOI codes listed in IRM 25.3.2.7.2(1), Pre-Suit Review / Referral Received. Use the following NFOI in ICS for the review process prior to sending the case forward to Counsel.

- (4) No later than 45 calendar days after receipt of the suit package:
- Review the suit package to determine if it meets all criteria for bringing suit in IRM 25.3.2.3, or whether additional information is needed,
 - Contact the originator to acknowledge receipt, inform them they may follow the progress in eApproval using the TIN Tracker, request any missing information, or address other issues as appropriate,
 - Identify any missing information or other issues for follow-up.

- (5) Use Form 4478, Civil Suit Checklist, the Advisor Review - Checklist, portion when reviewing the recommendation package. See IRM 25.3.2.4.4.5, Form 4478, Civil Suit Checklist, Instructions. Advisor categories in eApproval:
- New Review: A new receipt assigned for review by the Advisory GM.
 - Revision: Cases needing form revisions or additional documentation before an advisor can provide a decision that the case is *Ready* for review by authorized approvers. Any RO revised recommendations are found under *Revisions for Approval*.

Note: Form 5942, Advisory Reviewer's Report, may be issued, as appropriate, to secure additional documentation or information needed from the originating employee.

Reminder: See IRM 1.2.65.3.2, SBSE 1-23-9, Approval of Form 4477, Civil Suit Recommendation).

- Re-Approval: This is where an approver beyond Advisory requests a revision, and case returns to the Advisor after the RO has made that revision.
- Prep For Counsel: Advisor conducts a final check of the recommendation before forwarding to Counsel including removal of any extraneous suit forms (i.e. sometimes the suit signature form for each approver is included with the case, rather than the one revision containing all the signatures).
- Supplemental Request: Once Counsel refers the case to the DOJ, Counsel can request additional actions from the Advisor.

Example: Supplemental actions may include items such as securing an original return, updating accrual numbers, or monitoring a case.

(6) **References:**

- IRM 5.17.4, Suits by the United States, for guidance regarding the most common types of suits brought by the United States to collect taxes.
- IRM 5.17.12, Investigations and Reports, for guidance regarding the types of reports to be prepared by initiating employees and the information to be included when recommending that certain judicial actions be brought by the United States.
- IRM 25.3.6, Open Litigation Control, Monitoring, and Closing Actions, provides instructions on review, documents, specific types of suits, Advisory case controls, monitoring, payment processing, and DOJ requested actions.

25.3.2.7.4
(11-24-2021)
**Returned
Recommendations and
Those Needing Further
Development**

- (1) If a suit recommendation cannot be pursued or further development is needed, return the suit recommendation to the initiating employee no later than 14 calendar days after determining that it will be returned. In eApproval select *Revision Required*. Include an explanation for the return, using Form 5942, Advisory Reviewer's Report, if appropriate. See also IRM 25.3.2.7.2(3), Pre-Suit Review / Referral Received, Reasons for Issuing Form 5942.
- (2) If a recommendation has been declined by an approving official or Counsel, the case is returned to the RO. They have the opportunity to discuss a revision; however, if the case remains declined, the RO moves the case to *Declined Case Archives*.

25.3.2.7.5
(11-24-2021)

Approved Recommendations

(3) Close the ICS control module.

(1) **Processable Recommendation:** If a suit recommendation is processable, complete, and correct, the advisor will:

- Sign and date the Form 4477. Based on local practice or group requirements, the Advisory manager may also need to sign and date the Form 4477.
- Forward it through eApproval to the appropriate official(s) for approval. Approval levels are found in IRM 1.2.65.3.2, SBSE 1-23-9, Approval of Form 4477, Civil Suit Recommendation). The approving official(s) sign the Form 4477, Civil Suit Recommendation, and return it to the Advisor.
- Ensure that the suit recommendation is approved by the appropriate official(s). See IRM 25.3.2.1.2, Authority, above.

Caution: Disaster Declaration Memorandum Additional levels of approval may be required to lift the -O Freeze prior to submitting a suit recommendation to Area Counsel. Follow the instructions pertinent to suit recommendations provided in the directive, when a directive is issued. See IRM 25.16.1.7.2, - O Freeze, and IRM 5.1.12.2.5, Revenue Officer Inventory with -O Freeze.

Reminder: An electronic signature is an acceptable method of written approval. See also IRM 5.11.2.2.2(10), Preparing the Notice of Levy.

- When Advisory has received the approved recommendation package, they prepare Form 4481, Civil Suit - Advisory Transmittal - To Counsel. The Advisor as part of their *Prep for Counsel* takes any actions necessary to perfect the package for Counsel such as removing extraneous signature approval copies of the suit forms. They then enter the Prep for Counsel date and forward through eApproval to Counsel.

Reminder: Advisory retains one paper copy of the recommendation package as the official records retention copy. Steps are being taken for eApproval to become the official records copy keeper; and that transition should be within the next few years.

Note: If the review and approval process takes more than 60 days, Advisory will request the initiating employee to conduct an updated public records check and Advisory will promptly forward the updated information to Area Counsel.

- (2) If applicable, request the initiating employee to complete any needed BAL DUE case action and forward the administrative case file(s) to Advisory upon closure so that the information therein is available during litigation.
- (3) Gather additional documents that are needed and take appropriate actions described in IRM 25.3.6, Open Litigation Control, Monitoring, and Closing Actions.

Note: Cases referred to DOJ for litigation are under the control of DOJ. Advisory's input of the TC 520 and appropriate closing code triggers a -W Freeze on

IDRS. The -W Freeze identifies that no action be taken without consultation with DOJ. See IRM 21.5.6.4.46, -W Freeze.

- (4) Advisory stays in communication with Area Counsel and DOJ throughout the litigation and beyond. DOJ may ask assistance from Advisory for taking certain actions and Advisory may need to have the revenue officer perform certain of those actions. The Advisor may receive a Supplemental Request from Counsel through eApproval for additional assistance. See also IRM 25.3.5, Judgment Followup, IRM 25.3.6, Open Litigation Control, Monitoring, and Closing Actions, and IRM 25.3.7, Reconciling Non-Insolvency LAMS Report. Update ICS control by closing Pre-suit NFOI and opening one of the following to monitor.
- 211 Suit Judgment.
 - 212 Suit Foreclose.
 - 213 Suit Refund.
 - 214 Quiet Title.
 - 215 Suit Other.
 - 216 Suit Civil Injunction.

