



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

25.24.5

MARCH 11, 2021

EFFECTIVE DATE

(03-11-2021)

PURPOSE

- (1) This transmits revised IRM 25.24.5, Return Preparer Misconduct Program, Return Preparer Misconduct Field Examination.

MATERIAL CHANGES

- (1) The following material changes have been made since the prior revision:

IRM Reference	Description of Change
IRM 25.24.5.10.1 (9)	Removed last sentence "Do not refer a taxpayer to any one particular LITC." per Interim Guidance Memorandum WI-21-0420-0002, Guidance to Implement Section 1402 of the Taxpayer First Act.
IRM 25.24.5.10.2 (5)	Removed last sentence "Do not refer a taxpayer to any one particular LITC." per Interim Guidance Memorandum WI-21-0420-0002, Guidance to Implement Section 1402 of the Taxpayer First Act.
IRM 25.24.5.1.6	Several updates to IRM links made in the Resources table and throughout the IRM.

- (2) Minor editorial changes have been made throughout this IRM. Website addresses, form references and IRM references were reviewed and updated as necessary.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 25.24.5, Return Preparer Misconduct Program, Return Preparer Misconduct Field Examination dated March 7, 2018 and incorporates Interim Guidance Memorandum WI-21-0420-0002, Guidance to Implement Section 1402 of the Taxpayer First Act, dated April 24, 2020.

AUDIENCE

Small Business/Self-Employed (SB/SE) Examination employees.

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SE:S:DCE:E:HQ:EFCP
Small Business/Self-Employed

25.24.5

Return Preparer Misconduct Field Examination

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25.24.5.1
(03-07-2018)
Program Scope and Objectives

- (1) *Purpose.* This section provides guidance to Small Business/Self-Employed (SB/SE) Examination employees working cases involving taxpayer claims of misconduct by a tax return preparer.
- (2) *Audience.* Small Business/Self-Employed (SB/SE).
- (3) *Policy Owner.* The Director, Examination - Field and Campus Policy, which is under the Director, Headquarters Examination.
- (4) *IRM Owner.* Field Examination Special Processes (FESP), which is under the Director, Examination - Field and Campus Policy.
- (5) *Contact Information.* To recommend changes or make any other suggestions related to this IRM section see IRM 1.11.6.6, Providing Feedback About an IRM Section - Outside of Clearance.

25.24.5.1.1
(03-07-2018)
Background

- (1) This IRM provides procedures and guidance examiners should understand and apply in the performance of their duties.

25.24.5.1.2
(03-07-2018)
Authority

- (1) The IRS has established a Policy Statement (P 25-2) that covers victims of return preparer misconduct. See IRM 1.2.1.16, Servicewide Policies and Authorities, Policy Statements for Special Topics.

25.24.5.1.3
(03-07-2018)
Responsibilities

- (1) The Director, Headquarters Examination, is the executive responsible for providing policy and guidance for field employees and ensuring consistent application of policy, procedures and tax law to effect tax administration while protecting taxpayers' rights. See IRM 1.1.16.3.5, Headquarters Examination, for additional information.
- (2) The Director, Examination - Field and Campus Policy, reports to the Director, Headquarters Examination, and is responsible for the delivery of policy and guidance that impacts the field examination process. See IRM 1.1.16.3.5.1, Field and Campus Policy, for additional information.
- (3) FESP, which is under the Director, Examination - Field and Campus Policy, is the group responsible for providing oversight and policy and procedural guidance on specialized examination processes to SB/SE field examiners and managers. See IRM 1.1.16.3.5.1.2, Field Exam Special Processes.

25.24.5.1.4
(03-07-2018)
Program Management and Review

- (1) Periodic program reviews are conducted to:
 - Assess the effectiveness of specific programs within Examination or across the organization,
 - Determine if procedures are being followed,
 - Validate policies and procedures and
 - Identify and share best/proven practices.

25.24.5.1.5
(03-07-2018)
Terms/Definitions/ Acronyms

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

Term/Acronym	Definition
AG	Attorney General
AM	Accounts Management
AMS	Account Management Services
ASED	Assessment Statute Expiration Date
AUR	Automated Underreporter
CI	Criminal Investigation
CIS	Correspondence Imaging System
DITA	Designated Identity Theft Adjustment
ERSED	Erroneous Refund Statute Expiration Date
IDRS	Integrated Data Retrieval System
IDTVA-C	Identity Theft Victim Assistance - Complaints
IVO	Integrity & Verification Operations
LITC	Low Income Taxpayer Clinic
Non-RAC	Non-Refund Anticipation Check
OMM	Operation Mass Mailing
PTIN	Preparer Tax Identification Number
RA	Revenue Agent
RAC	Refund Anticipation Check
RPM	Return Preparer Misconduct
RO	Revenue Officer
RSED	Refund Statute Expiration Date
TA	Tax Auditor
TAS	Taxpayer Advocate Service
TBOR	Taxpayer Bill of Rights
TC	Transaction Code
TCO	Tax Compliance Officer
TIGTA	Treasury Inspector General for Tax Administration

(2) The following table provides definitions of return preparer roles:

Preparer Role	Definition
Tax Return Preparer	Any person who prepares for compensation, or who employs one or more persons to prepare for compensation, all or a substantial portion of any return of tax or any claim for refund of tax under the Internal Revenue Code.

Preparer Role	Definition
Signing Preparer	Is the individual tax return preparer who has the primary responsibility for the overall substantive accuracy of the preparation of such return or claim for refund. An individual who prepares a federal tax return for compensation is required to have a Preparer Tax Identification Number (PTIN) issued by IRS and must enter it on every tax return prepared for compensation along with the preparer name and signature.
Ghost/Non-Signing Preparer	Is any tax return preparer who is not a signing tax return preparer but who prepares, for compensation, all or a substantial portion of a return or claim for refund. An individual who prepares a tax return for compensation but does not sign the return as a preparer is a ghost preparer/non-signing preparer. These returns may also be reflected as self-prepared .

25.24.5.1.6
(03-11-2021)

(1) The following table contains related IRM sections referenced in this IRM:

Related Resources

IRM	Title
IRM 1.2.1.16	Servicewide Policies and Authorities, Policy Statements for Special Topics
IRM 1.2.1.16.1	Policy Statement 25-2, Return Preparer Misconduct
IRM 4.1.10	Return Preparer Program Coordinator
IRM 4.4.5.10	Claims for Refund or Abatement
IRM 4.4.9	AIMS Procedures and Processing Instructions, Delinquent and Substitute for Return Processing
IRM 4.4.9.2.3.1	Criminal Investigation (CI) Freeze
IRM 4.8.9.28	Rescinding Notices of Deficiency
IRM 4.10.6.8.2	Return Preparer Penalties
IRM 4.10.27	Examination of Returns, Identity Theft Case Processing for Field Examiners
IRM 4.13	Audit Reconsideration
IRM 20.1.1	Penalty Handbook, Introduction and Penalty Relief
IRM 20.1.2	Failure to File/Failure to Pay Penalties
IRM 20.2.5	Interest on Underpayments
IRM 21.3.1.5.53	Status of Individual Master File (IMF) Underreporter Cases
IRM 21.4.1.4.4	Refund Issued but Lost, Stolen, Destroyed or Not Received
IRM 21.4.5	Refund Inquiries, Erroneous Refunds
IRM 21.4.5.15.1.1	Statutes of Limitations Category D Erroneous Refunds IRC 6532(b) ERSED

IRM	Title
IRM 25.6.1.10.2.6.3	Informal Claims
IRM 25.23.2.6	Closing Identity Theft Issues

25.24.5.2
(03-07-2018)

**Return Preparer
Misconduct (RPM)**

- (1) A taxpayer is a victim of RPM when a tax return preparer completes a return for a taxpayer and without the taxpayer's knowledge makes changes to the return, which results in an improper refund to the preparer or a third party or a reduction in tax owed by the taxpayer. Taxpayers may not know there is an issue until the IRS contacts them about the return well after refunds have been issued.
- (2) Taxpayers may become aware of RPM via taxpayer initiated contact (IRS Toll-Free Line, Field Assistance, Taxpayer Advocate Service, etc.) or through IRS enforcement contacts (Revenue Agent (RA) or Tax Compliance Officer (TCO), Automated Underreporter (AUR) correspondence, Campus Examination correspondence, Revenue Officer (RO) contact, Criminal Investigation (CI) inquiries).
- (3) Taxpayers who claim to be a victim of return preparer misconduct must submit a complaint and the required documentation to the IRS to request relief.
- (4) Once it has been determined a taxpayer is a victim of RPM, Field Exam employees (manager, RA, TCO, TA or clerk) will follow the Field Exam specific procedures to correct an RPM victim's account. See IRM 25.24.5.5, Return Preparer Misconduct Criteria Met.
- (5) Per the TBOR, taxpayers have the right to expect a fair and just tax system which provides taxpayers with the opportunity to have facts and their circumstances considered when it might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from Taxpayer Advocate Service (TAS) if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through normal channels. Taxpayers also have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to be told that if they cannot afford to hire a representative they may be eligible for assistance from an LITC. IRS employees must be informed about taxpayer rights and be conscientious in the performance of their duties to honor, respect and effectively communicate those rights. Refer to <https://www.irs.gov/Taxpayer-Bill-of-Rights> for additional information.

25.24.5.3
(03-07-2018)

**Return Preparer
Misconduct Complaints**

- (1) **Compliance Complaints** - A complaint from a taxpayer who has current or previous Compliance involvement with the IRS will be forwarded to the appropriate Compliance function when RPM documentation is received. This includes, but is not limited to, an account of a taxpayer who became aware of return irregularities/inconsistencies as a result of:
 - a. Audit notice or assessment (-L freeze, TC 420/424, TC 300),
 - b. AUR notice; such as CP2501 or CP 2000 (TC 922 with Process Code 30, 55 or 57; refer to IRM 21.3.1.5.53, Status of Individual Master File (IMF) Underreporter Cases),

- c. Collection notices or
- d. Contact by RO, RA, TCO, Tax Auditor (TA) or other Field employee.

Note: All RPM complaints received on closed area office examination cases will be referred to the Identity Theft Victim Assistance - Complaints (IDTVA-C) team in accordance with IRM 4.13, Audit Reconsideration.

Other than Compliance Complaints - A complaint with **no** evidence of Compliance involvement (for instance, taxpayer who became aware of the potential for return irregularities/inconsistencies through friends who used the same preparer or through media releases) will be worked by the appropriate function outside of Compliance. This could include:

- a. Accounts Management (AM),
- b. Integrity & Verification Operations (IVO) or
- c. CI.

- (2) **Routing Information** - All employees are required to perform IDRS research to determine possible Compliance involvement and determine:

- If there are related case controls **or**
- If there are multiple controls on the account, i.e., AUR, Exam or AM.

- (3) **Compliance Controls** - Advise the taxpayer to submit their documentation to the address on the notice or to the Compliance employee working with the taxpayer. See IRM 25.24.5.6.2, Return Preparer Misconduct Documentation. If the taxpayer does not have a copy of the IRS correspondence (notice/letter), follow normal procedures to provide a Compliance mailing address.

- (4) **Accounts Management (AM) Controls or No open Controls** - Advise the taxpayer to submit the documentation to the IRS address where they file their 1040 return.

- (5) **Integrity & Verification Operations (IVO) Controls** - An IVO complaint can be identified as follows: (This list is not all inclusive.)

- a. TC971(s) AC(s) 121/134/617/199,
- b. UPC 147 RC 7 or 8 or

TRDBV.

If an IVO complaint is identified advise the taxpayer to submit the documentation to the address below:

Internal Revenue Service

Integrity & Verification Operations

3651 S Interregional Hwy 35

Mail Stop 6579

Austin, TX 78741-0053

- (6) **Criminal Investigation (CI)** - Accounts with a -Z freeze or TC 914/916/918, refer to IRM 4.4.9.2.3.1, Criminal Investigation (CI) Freeze.

Note: Do not confuse cases under the Return Preparer Program with Return Preparer Misconduct victim assistance. Cases under the Return Preparer Program (Program Action Cases, see IRM 4.1.10, Return Preparer Program

Coordinator) generally do not qualify for victim relief. The taxpayer must state they are a victim of preparer misconduct and provide the necessary documentation to be considered for relief.

Note: The Return Preparer Office (RPO) may also forward Form 14157, Return Preparer Complaint, without the presence of Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, when there is indication the taxpayer is requesting account resolution and there is compliance activity. RPO does not make account determinations. Do not reject these cases.

25.24.5.4
(03-07-2018)

**Return Preparer
Misconduct Criteria Not
Met**

- (1) The taxpayer's complaint may not meet IRS guidelines for RPM relief, but there may still be relief available under other procedures. The table below includes some of the situations that do not meet IRS guidelines for RPM relief:

If...	Then...
The taxpayer's only issue is a lost, stolen or unintentional misdirected refund.	<ul style="list-style-type: none"> See IRM 21.4.1.4.4, Refund Issued but Lost, Stolen, Destroyed or not Received. Advise the taxpayer that a review of the account and the information provided indicates an issue other than RPM. Review/Explain the account status to the taxpayer.
The taxpayer submits preparer misconduct documentation, but the reduced refund is due to a math error, frozen refund or usual Exam or AUR inquiries.	<ul style="list-style-type: none"> Inform the taxpayer that the review of their account and information provided does not support RPM. Explain to the taxpayer the reason for the reduced refund.
<p>The taxpayer did not visit a preparer for the current year; however, a preparer filed a return without authorization using information obtained from a prior year visit resulting in an identity theft scenario.</p> <p>OR</p> <p>The taxpayer provides the return preparer and</p> <p>an identity theft scenario.</p> <p>AND</p> <p>There is no evidence the taxpayer's actual return has been processed (no duplicate filing transactions, TC 976 or 977, on the module).</p>	<ul style="list-style-type: none"> Advise the taxpayer they are a victim of identity theft. See IRM 4.10.27, Examination of Returns, Identity Theft Case Processing for Field Examiners. If a signed unprocessed return is received with RPM complaints, process the return following normal procedures. <p>Note: Do not request information if the Identity Theft (IDT) issue can be resolved utilizing internal information.</p>

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<p>The taxpayer did not visit a preparer for the current year; however, a preparer filed a return without authorization using information obtained from a prior year visit resulting in an identity theft scenario.</p> <p>OR</p> <p>The taxpayer provides preparer named company identity theft scenario.</p> <p>AND there is evidence the taxpayer's actual return has been processed (TC 976/977).</p>	<ul style="list-style-type: none"> Advise the taxpayer they are a victim of identity theft and additional information is needed. See IRM 25.23.2.6, Closing Identity Theft Issues, for required documentation. See IRM 4.10.27, Examination of Returns, Identity Theft Case Processing for Field Examiners. <p>Note: Do not request information if the IDT issue can be resolved utilizing internal information.</p>
<p>The taxpayer's account does not show a posted return.</p> <p>Example: The taxpayer may assume the preparer filed an unauthorized return because of media attention.</p>	<p>Advise the taxpayer that no tax return has been filed using their Taxpayer Identification Number (TIN). Secure a signed return and process it per IRM 4.4.9, Delinquent and Substitute for Return Processing.</p>
<p>The taxpayer submits RPM documentation due to a credit offset for a balance due on a prior year or Treasury Offset Program (TOP) offset for other liabilities, such as child support.</p>	<ul style="list-style-type: none"> Inform the taxpayer that a review of the account and information provided does not support RPM. Explain to the taxpayer the reason for the reduced refund.
<p>The taxpayer's complaint does not fit into any of the four RPM fact patterns, see IRM 25.24.5.5, Return Preparer Misconduct Criteria Met, but involves PTIN misuse, misrepresentation of credentials, extreme fees, or other issues.</p> <p>Example: The taxpayer is not requesting relief or correction of their personal tax return. They are reporting or informing on a person who misused return preparer information.</p>	<ul style="list-style-type: none"> Advise the taxpayer why the complaint does not meet IRS guidelines for relief. Recommend the taxpayer contact the Federal Trade Commission, Better Business Bureau, State Consumer Agencies, and so on. See IRM 1.2.1.16.1, Policy Statement 25-2, Return Preparer Misconduct. Continue with Exam procedures. Route the original Form 14157, Return Preparer Compliant, or its equivalent, and documents to the address below and continue with normal audit procedures. Consider return preparer penalties. See IRM 4.10.6.8.2, Return Preparer Penalties, for guidance. <p>Return Preparer Office 401 W. Peachtree Street NW Mail Stop 421-D Atlanta, GA 30308</p>

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25.24.5.5
(03-07-2018)
**Return Preparer
Misconduct Criteria Met**

(1) RPM complaints have been categorized into four (4) basic fact patterns. Within each fact pattern there are various scenarios that will result in different treatment streams and account resolution.

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- a. **Category 1.** Unauthorized filing. The taxpayer was in contact with a #
The preparer submits a return using the taxpayer's identifying information and directs all or part of the refund to an account not belonging to the taxpayer. See IRM 25.24.5.7.1, Category 1 - Unauthorized Filing, for additional information.
 - b. **Category 2.** Altered return information with no additional refund due to the taxpayer. The taxpayer authorizes a preparer to file a return, but the preparer later alters the return to increase the expected refund (if any). The taxpayer received at least the amount of the refund expected from the IRS or the preparer, and the preparer received all or part of the increased refund amount. See IRM 25.24.5.7.2, Category 2 - Authorized Filing, Altered Return Information and No Additional Refund Due to the Taxpayer, for additional information.
 - c. **Category 3.** Altered return information with an additional refund, plus any applicable interest, due to the taxpayer. The facts are similar to Category 2 above; however, the taxpayer receives a portion or none of the refund expected. See IRM 25.24.5.7.3, Category 3 - Authorized Filing - Altered Return Information and Taxpayer Requesting an Additional Refund, for additional information.
 - d. **Category 4.** Misdirected deposit. The taxpayer was in contact with the preparer and authorized the filing of a return. The preparer changed either the mailing address for the refund check or the deposit information, such as the bank routing and/or account numbers; however, the return is otherwise as intended to be filed by the taxpayer. See IRM 25.24.5.7.4, Category 4 - Misdirected Refund Only and Taxpayer Requesting an Additional Refund, for additional information.
- (2) When reviewing RPM complaints, it is important to review all documentation to determine the correct category, as the category determines the appropriate procedures and relief.

Caution: In some instances, the taxpayer's statements may indicate they fall into one category but research findings determine the complaint falls into another.

25.24.5.6 (03-07-2018) Evaluating Return Preparer Misconduct Complaints

- (1) Determining whether a taxpayer qualifies for relief under the established RPM guidelines involves a two-step process:
- (2) The first step is to determine if RPM criteria is met.
 - a. Review the Taxpayer Documentation.
 - b. Document the Return Preparer Misconduct.
 - c. Identify the correct RPM category.
 - d. Perform a Refund Trace (in specified circumstances).
 - e. Verify the preparer.
 - f. Verify the law enforcement agency report (in specified circumstances).
 - g. Determine the correct treatment stream based upon the facts and circumstances.

Note: If criteria are **NOT** met, refer to the table in IRM 25.24.5.4, Return Preparer Misconduct Criteria Not Met, for steps on how to proceed.

- (3) If RPM criteria **are** met, determine relief to be provided which will include:

- a. An account adjustment (such as removing the inflated information and refund the preparer received from the account) and
- b. In certain circumstances, a full or partial refund to the taxpayer, with interest as required by law.

25.24.5.6.1
(03-07-2018)
**Review of Taxpayer
Documentation**

- (1) Perform complete Integrated Data Retrieval System (IDRS) research to confirm a tax return was filed or the taxpayer does not have a filing requirement. Research should include, but is not limited to, the use of CC TXMOD or CC IMFOLT to review posted information; CC RTVUE, CC TRDBV and/or access of Employee User Portal (EUP) to review MeF original tax return information; CC IRPTR to review income information and so on.
- (2) An initial review of the taxpayer's complaint and account information (IDRS, Account Management Services (AMS), Correspondence Imaging System (CIS)) needs to be performed to determine if the complaint meets Compliance RPM criteria or if the case should be routed to an another area. See IRM 25.24.5.4, Return Preparer Misconduct Criteria Not Met, for further guidance.
- (3) If the complaint is mis-routed, route to the correct area.
- (4) If there are multiple controls, coordinate with the other area to negotiate ownership.

25.24.5.6.2
(03-07-2018)
**Return Preparer
Misconduct
Documentation**

- (1) If the taxpayer alleges a preparer altered tax data on a return or misdirected all or a portion of a refund, the taxpayer must submit sufficient documentation to support the allegation.
- (2) Documentation for complaint consideration includes the following:
 - a. Form 14157, Return Preparer Complaint, completed by the taxpayer.
 - b. Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, completed and signed by the taxpayer (at least one taxpayer if married filing joint).
 - c. Signed, valid tax return as intended to be filed unless the taxpayer does not have a filing requirement.
 - d. Signature of the preparer on the return filed by the preparer or preparer information on an electronic return.

Note: If there is no signing preparer, see paragraph (3) below.

- e. Name and address of the preparer on the Form 14157 or Form 14157-A or within taxpayer's written correspondence.
- f. Report from a law enforcement agency (only for Categories 3 and 4): This could include a report made to the police department, State Attorney General (AG), CI and/or Treasury Inspector General for Tax Administration (TIGTA). The law enforcement agency report must be signed by a police officer or equivalent, depending on the report received (or otherwise demonstrably shown it was accepted by the law enforcement agency). It must contain the following:
 - Tax year(s) involved,
 - Preparer's first and last name and address and
 - Statement describing the preparer misconduct and theft of the refund.

Note: See IRM 25.24.5.6, Evaluating Return Preparer Misconduct

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Complaints, for an exception when a law enforcement agency report is not required.

- (3) In a case involving a “ghost” or non-signing preparer, in addition to the documentation in (2) above, at least one additional piece of corroborating evidence that the preparer was in the business or held themselves out as being in the business of preparing tax returns is required. Examples of evidence the preparer held themselves out as being in the business of preparing tax returns includes, but is not limited to, the following:

- Copy of past year tax return(s) provided by the preparer if signed by the preparer as the paid preparer (for purposes of establishing the preparer held themselves out as a preparer)
- Preparer’s Preparer Tax Identification Number (PTIN) or Employer Identification Number (EIN)
- Preparer’s business card
- Flyer or advertisement with the name of the return preparation service or the preparer
- Professional or business letterhead bearing the name of the preparer
- Business name on check from preparer
- A letter addressed to the taxpayer from TIGTA, civil preparer investigation IRC 6700, Promoting Abusive Tax Shelters, or IRC 6701, Penalties for Aiding and Abetting Understatement of Tax Liability, or IRS CI regarding an ongoing investigation of the preparer (for purposes of establishing the preparer held themselves out as a preparer)
- Affidavit of the person who hosted or sponsored the preparer or lease agreement (for example, storefront location that is no longer open)

Example: If the preparer’s services were provided at a church hall, then the minister could provide an affidavit with details about when the tax return preparation services were offered.

- Documentation of state or local law enforcement investigation of the preparer

Exception: For purposes of establishing preparer held themselves out as a preparer, if the taxpayer is contacted by TIGTA, IRS CI agent or civil preparer investigation (§6700/6701 investigations) regarding their preparer, or if RPM CI referral sent and CI response indicates preparer investigation, consider this requirement satisfied.

- (4) **In addition**, one piece of corroborating evidence that the person named on the Form 14157 interacted with the taxpayer and submitted the return filed, is required. The corroborating evidence includes:

- Preparer first and last name,
- Tax year(s) in question and
- Applicable corresponding dates indicating an exchange between the taxpayer and the preparer about the filing of a tax return.

Exception: If CI indicates there was interaction between the taxpayer and the preparer, then this requirement is met.

Types of evidence demonstrating that the taxpayer interacted with the person named on the Form 14157 may include the following:

- Cover letter, including the tax return, received from the preparer when the return was prepared.
- Copy of Form 8879, IRS e-file Signature Authorization, with signature or evidence it was received from the preparer.
- Copy of negotiated check the taxpayer gave to the preparer for payment of services.
- Credit card statement with the charge in the preparer's name (or the preparer's business name) for payment of services.
- Copy of "refund" check the taxpayer received from the preparer.
- Receipt from the preparer reflecting a fee for the preparation of a tax return for the tax year in question.
- E-mail, text messages or other written communication between the taxpayer and preparer about tax return preparation.

(5) Additional documentation relevant to establishing RPM may include the following:

- Copy of bank statement with the refund amount received by direct deposit, if applicable.
- Copy of taxpayer's bank statement showing the refund was not deposited in the taxpayer's account.
- Copies of any other documentation to support the complaint.

Exception: If internal research, (using CC NAMEI, MeF information through EUP) shows that the taxpayer's return and the individual tax return for the preparer named by the taxpayer were filed from the same IP address or other information is present indicating an association, use this information as one piece of evidence showing interaction. Only request evidence that the preparer held themselves out as a preparer.

Example: Ghost preparer/non-signing preparer situation: Taxpayer provided a copy of the named preparer's business card for tax services. Internal research shows that the MeF return was filed by a non-signing preparer; however, the e-mail address provided when submitting the return reflects the named preparer. This information, along with the taxpayer's statements has satisfied both requirements showing corroborating evidence that the named preparer held themselves out as a preparer and submitted the tax return in question. However, if the taxpayer did not provide the named preparer's business card, additional evidence would be required to reflect that the preparer held themselves out as a preparer.

25.24.5.6.3
(03-07-2018)
**Verification of the
Preparer**

- (1) Verification of the preparer is required on all complaints alleging RPM. Research the account to determine whether the original return was signed by a preparer or there was a "ghost" preparer.
- a. If the return was filed electronically, research CC TRDBV and/or access EUP to review MeF original tax return information.
 - b. If a paper return was filed, the original return may need to be requested from Files to determine if there is a signing or "ghost" preparer scenario.
 - c. If there is preparer information per CC TRDBV and the name of the preparer matches the name of the preparer on the complaint, there is no need to request the document from Files. If the name does not match or

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there is no preparer information, request the document from Files.
Suspend the case per normal procedures while waiting for the document.

- (2) The two levels of verification required are as follows:
- Documentation and/or IDRS research must show the preparer named on Form 14157, Return Preparer Complaint, is in the business of preparing tax returns or held themselves out as being in the business of preparing tax returns **AND**
 - Evidence must show the person named on the Form 14157 interacted with the taxpayer and submitted the return filed with the IRS.
- (3) Verify the identity of the preparer from the following IRS records:
- CC INOLE to verify the TIN or EIN provided
 - CC RPVUE to verify PTIN
 - CC NAMEI or CC NAMEB to locate TIN or EIN
- (4) Use the following If/Then table to verify the preparer.

If	And	Then	
Signing preparer and preparer name matches the name with the associated TIN, EIN or PTIN		Consider verified.	# # # # # # #
Signing preparer and PTIN provided is not valid or belongs to another person		Consider verified.	# #
Signing preparer and PTIN provided is not valid or belongs to another person	preparer.	Consider not verified. See IRM 25.24.5.9, Incomplete or Missing Documentation, and IRM 25.24.5.10, Claim Disallowance, for proper handling of the complaint.	# #
information provided by the taxpayer	N/A	Consider identity theft. Refer to IRM 25.24.5.4, Return Preparer Misconduct Criteria Not Met.	# # #
	can be located for the preparer.	Consider verified.	# # # # #

If	And	Then	
	cannot be located for the preparer.	Consider not verified. See IRM 25.24.5.5, Return Preparer Misconduct Criteria Met, and IRM 25.24.5.10, Claim Disallowance, for proper handling of the complaint.	# # # # #
Non-signing preparer and no preparer information on tax return, "self-prepared" and documentation is provided showing that the third party held themselves out to be a return preparer and third party interaction.	can be located for the preparer.	Considered verified.	#
Non-signing preparer and no preparer information on tax return, "self-prepared" and no documentation is provided showing that the third party held themselves out to be a return preparer and third party interaction.	cannot be located for the preparer.	Consider not verified. See IRM 25.24.5.5, Return Preparer Misconduct Criteria Met, and IRM 25.24.5.10, Claim Disallowance, for proper handling of the complaint.	#

Reminder: If non-signing preparer (ghost preparer), make sure the taxpayer provided sufficient documentation showing that the preparer named in the complaint is in the business of preparing tax returns or held themselves out as in the business of preparing tax returns, AND the person named in the complaint interacted with the taxpayer and submitted the return filed with the IRS. A signing preparer is considered to have held themselves out as in the business of preparing tax returns and interacted with the taxpayer; therefore, no additional documentation is required.

25.24.5.6.4
(03-07-2018)
Refund Trace

- (1) In addition to the required documentation to support the RPM complaint, a
- The purpose of the refund trace is to validate the taxpayer's statement regarding whether a refund was issued or deposited into an account in the taxpayer's name.
- (2) A refund trace is required as outlined below:

RPM Category	Refund Trace Required:
Category 1 & 2	<ul style="list-style-type: none"> When the RPM complaint is denied and the taxpayer's return as intended to be filed is included in the complaint, the refund trace is used to determine the appropriate processing of the return submitted with the complaint. <p>Exceptions:</p> <ul style="list-style-type: none"> Taxpayer states they received a refund and matches the TC 845 issued then a trace is not required. Taxpayer received entire refund. Taxpayer states they received a portion of the refund and the remainder of the refund is equal to stated preparer fees then a trace is not required. <p>Note: If refund trace information is available, the information must be used when determining the correct relief.</p>
Category 3 & 4	On all cases

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- (3) Research refund information via CC IMFOLI, TXMOD, TRDBV, and MeF Return Request Display (RRD) through EUP.
- Indicator DD: 0 (paper check)
 - Indicator DD: 9 (direct deposit)
 - Refund Anticipation Loan (RAL) indicator of "1"
 - Refund Anticipation Check (RAC) indicator of "2"
- (4) Complete Form 4844, Request for Terminal Action, and forward to the Designated Identity Theft Adjustment (DITA) team to request a refund trace. Upon completion of the refund trace, DITA will forward the results directly back to the requestor. See IRM 25.24.4-1, Form 4844 Example for Refund Trace Request.

Note: Refund traces can take up to 4-6 weeks for the information to be obtained.

- (5) Depending upon the RPM category, this information will be used in conjunction with other required information to determine the correct account adjustment. Review available refund trace information for all cases, if applicable, regardless of category for information on the amount of the refund, if any received by the taxpayer.

Note: For Category 1 & 2 cases, if additional information is requested from the taxpayer and received before the refund trace information is available, do not wait for the refund trace information. Continue working the case.

- (6) Refund trace information will reflect a negotiated check or completed Financial Management Service Form 150.1 or Form 150.2, which provide information as to the individual's name and where the refund was deposited.

Note: Be cognizant of split refunds. It is possible that the taxpayer received a portion of the refund or multiple refunds were issued to the preparer. A bank may have returned money to the IRS. Consider any returned monies when

determining relief and any additional refund due the taxpayer. Treasury Offset Program offsets must be considered as well because the taxpayer received the benefit of the refund.

- (7) On incomplete Category 3 and 4 complaints, initiate the refund trace while continuing to correspond with the taxpayer for additional information.

25.24.5.6.5
(03-07-2018)
**Law Enforcement
Agency Report
Verification**

- (1) An official report from a law enforcement agency (such as police department, State AG, CI or TIGTA) is required in RPM Category 3 and 4 cases for the taxpayer to be eligible for an additional refund.

Exception: If the original refund is frozen for the full amount in question, the law enforcement agency report is not required. However, on cases where a partial refund was released to the preparer, a law enforcement agency report is required.

- (2) If the taxpayer is unable to obtain an official report from a law enforcement agency the taxpayer will be directed to their local CI office or TIGTA office. Examiners will follow-up with taxpayers if a report has not been received within a reasonable period.
- (3) The official law enforcement agency report must be signed by a law enforcement agency officer or equivalent, depending on the report received (or otherwise demonstrably accepted by the law enforcement agency) and contain the following:
- a. Tax year(s) involved
 - b. Return preparer's first and last name and address and
 - c. A statement describing the preparer misconduct and theft of refund.
- (4) If signing preparer information is present, the individual named on the law enforcement agency report **must** match the name of the preparer named in the complaint and on the original return. If signing preparer information is not present, the preparer name on the law enforcement agency report must match the preparer named in the complaint.
- (5) If the preparer name does not match, the taxpayer is not entitled to an additional refund. The taxpayer may still be eligible for an account adjustment and removal of the preparer portion of the refund depending on the refund verification results.

25.24.5.7
(03-07-2018)
**Return Preparer
Misconduct Categories**

- (1) There are four categories of RPM as described below.

25.24.5.7.1
(03-07-2018)
**Category 1 -
Unauthorized Filing**

- (1) Category 1 is defined as a taxpayer who was in contact with a preparer and with their name and TIN.
- (2) Potential relief/resolution: The IRS will resolve these cases using RPM procedures and may result in the taxpayer receiving a refund.

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Example: Taxpayer visited or was in contact with a preparer and provided personal information including income documentation for a quote, rapid refund eligibility, and so on, and subsequently a return is filed without the taxpayer’s knowledge.

Note: If the taxpayer provided personal information, including income documentation to a 3rd party for other, non tax purposes, such as a loan, and subsequently a return is filed without the taxpayer’s knowledge. This scenario is considered identity theft not return preparer misconduct.

Note: If the taxpayer provides proof they received a loan (car or home loan) or loan rejection letter, which could support a finding of identity theft not return preparer misconduct.

(3) Some information that can assist with the determination may include:

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(4) Complaints that are determined to be Category 1, if allowed, will result in treating the original return filed as a nullity. The complaint will be treated with procedures similar to identity theft procedures. However, identity theft indicators will not be applied for the first year RPM is verified. Any subsequent years in which the preparer files without the taxpayer’s knowledge and consent will be considered identity theft. The account will be adjusted to match the taxpayer’s return and a subsequent refund may be issued barring any other issues.

Note: For this scenario, it is possible that the taxpayer is not a victim of preparer misconduct but a victim of identity theft. In some cases, judgment must be used to distinguish between the two. Based upon documentation submitted and research findings, a determination may be made that the taxpayer did have knowledge of the return filing. If this determination is made, follow the treatment stream that fits the appropriate category.

(5) Category 1 requires specific documentation to qualify for relief. The required documentation is outlined in the chart below:

Posted Return Reflects	
Signing Preparer	<ul style="list-style-type: none">Tax return as intended to be filed, signed by the taxpayerForm 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, signed under penalties of perjury (at least one taxpayer, if married filing joint return)

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Posted Return Reflects	
Ghost/Non-Signing Preparer	<ul style="list-style-type: none"> • Tax return as intended to be filed, signed by the taxpayer • Form 14157-A signed under penalties of perjury (at least one taxpayer, if married filing joint return) • Documentation showing 3rd party presented themselves as preparer • Documentation showing interaction resulting in the submission of the return at issue

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Note: A refund trace is not required for Category 1 during the initial processing of the complaint; however, if refund trace information is available, it must be used to assist with verifying taxpayer's statement regarding whether a refund was received in the taxpayer's name. If a refund was received by the taxpayer the amount received should be taken into consideration when adjusting the account.

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above are included. **In some circumstances all the required documentation is not required as outlined below:**

- Tax return is not included because taxpayer states they are not required to file and research (CC IRPTR) supports that statement.
- Form 14157-A is not included; however, other documentation included contains the required information and the taxpayer provides a statement/explanation signed under penalties of perjury.

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first and last name and business address are included on other documentation. Form 14157 is not required.

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above are not included, or are included, but the information provided within the documentation is incomplete.

Example: Taxpayer indicates that a refund was received and does not include the amount of the refund received on Form 14157-A or other documentation.

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- (9) If complaint is considered incomplete refer to IRM 25.24.5.9, Incomplete or Missing Documentation, for additional information. Suspend case following normal procedures. If reply received or suspense period ends refer to IRM 25.24.5.9.1, Evaluating Taxpayer Response to Missing Documentation Request.

Reminder: For this Category, it is possible that the taxpayer is not a victim of preparer misconduct but a victim of identity theft. In some cases, judgment must be used to distinguish between the two.

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- (10) Verify the preparer information. Refer to IRM 25.24.5.6.3, Verification of the Preparer, for additional information.

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only be required to be initiated when the claim is disallowed. This is necessary to determine the appropriate handling of the actual return provided with the claim. However, if a refund trace was previously performed and the trace infor-

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utilized to verify the receipt or non-receipt of a refund and to determine the amount, if any, of an additional refund that may be issued.

- (12) Verify whether a refund was issued or deposited into an account in the taxpayer's name.

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IRM 25.24.5.6.4, Refund Trace, for additional information.

Example: Taxpayer states no refund received and available refund trace information shows that the refund was NOT deposited into an

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Example: Taxpayer states that no refund or portion of refund was received; however, available refund trace shows that a portion of the refund was deposited into an account in the taxpayer's name. The refund amount from the refund trace information would be utilized to determine the additional refund amount (if any) due to the taxpayer. (Taxpayer states they received \$500 and trace shows taxpayer received \$1,000. When computing the applicable refund amount allowable, use \$1,000.)

- c. If trace information is not available or available trace information cannot

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Example: Taxpayer states portion of refund received and available refund trace information shows that the refund was NOT deposited into an account in the taxpayer's name. We cannot verify the

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- (13) If complaint is considered complete, all required documentation, including 3rd party documentation (if applicable), is present and the preparer information is considered verified, the complaint is accepted.

- (14) The IRS will determine the type of relief to which the taxpayer is entitled. The actual return presented by the taxpayer (unaltered by the preparer) in an allowed claim is considered the taxpayer's return of record. The IRS will consider the original return a nullity.

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to the preparer that were deducted from the original refund, this amount would be considered part of the preparer portion of the refund. If the taxpayer did not authorize the filing of the tax return, the taxpayer would not be held responsible.

- (16) Category 1: Treatment Stream for Accepted Complaints:

Taxpayer states they received:	Return as intended to be filed reflects:	And original refund was:	Then taxpayer is eligible for:
No refund	Refund due	available refund trace information shows NO refund was deposited into an account in the name of the taxpayer.	<ul style="list-style-type: none">• Account adjustment to remove unauthorized return• Account adjustment to reflect return as intended to be filed• Removal of the preparer portion of the refund• Applicable additional refund, plus interest Refer to IRM 25.24.5.15, Exam Procedures.

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Taxpayer states they received:	Return as intended to be filed reflects:	And original refund was:	Then taxpayer is eligible for:
No refund or Portion of refund	Balance due	<p>available refund trace information shows NO refund was deposited into an account in the name of the taxpayer.</p>	<ul style="list-style-type: none"> Account adjustment to remove the unauthorized return Account adjustment to reflect return as intended to be filed Removal of the preparer portion of the refund <p>Note: Normal collection notices will be issued for balance due amount shown on the taxpayer's return of record.</p> <p>Refer to IRM 25.24.5.13, Penalties and Interest, and IRM 25.24.5.15, Exam Procedures.</p>
		<p>available refund trace information shows all or a portion of the refund WAS deposited into an account in the name of the taxpayer.</p>	<p>Taxpayer will be asked to repay the erroneous portion of the refund using Category D erroneous refund procedures and is eligible for:</p> <ul style="list-style-type: none"> Account adjustment to remove the unauthorized return Account adjustment to reflect return as intended to be filed Removal of the preparer portion of the refund Normal collection notices will be issued for balance due amount on taxpayer's return of record <p>Note: Normal collection notices will be issued for balance due amount shown on the taxpayer's return of record.</p> <p>Refer to IRM 25.24.5.8, Erroneous Refund Procedures, IRM 25.24.5.13, Penalties and Interest, and IRM 25.24.5.15, Exam procedures.</p>

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Taxpayer states they received:	Return as intended to be filed reflects:	And original refund was:	Then taxpayer is eligible for:
No Refund or Portion of Refund	<p>Corrected refund exceeds or is equal to the amount that the taxpayer has received.</p> <p>(Taxpayer received less than or equal to what entitled to on actual return.)</p>	<p>available refund trace information shows all or a portion of the refund was deposited into an account in the name of the taxpayer.</p>	<ul style="list-style-type: none"> Account adjustment to remove the unauthorized return Account adjustment to reflect return as intended to be filed Removal of the preparer portion of the refund Remaining balance of refund due per actual return, plus interest, as applicable. <p>Exception: Partial Disallowance</p> <ul style="list-style-type: none"> If available refund trace confirms that the portion received is greater than what the taxpayer states, then issue only the remaining balance of refund, as applicable. <p>Refer to IRM 25.24.5.15, Exam Procedures.</p>
	<p>Correct refund is less than the amount that the taxpayer has received.</p> <p>(Taxpayer received more than what entitled to on actual return.)</p>	<p>available refund trace information shows all or a portion of the refund was deposited into an account in the name of the taxpayer.</p>	<p>Taxpayer will be asked to repay the erroneous portion of the refund using Category D erroneous refund procedures and is eligible for:</p> <ul style="list-style-type: none"> Account adjustment to remove the unauthorized return Account adjustment to reflect return as intended to be filed Removal of the preparer portion of the refund. <p>Refer to IRM 25.24.5.8, Erroneous Refund Procedures, and IRM 25.24.5.15, Exam Procedures.</p>

#25.24.5.7.2
(03-07-2018)**Category 2 - Authorized Filing, Altered Return Information and No additional Refund Due to the Taxpayer**

- (1) Category 2 is defined as a taxpayer who was in contact with a preparer and authorized a return filing, but states tax data (exemptions, income, expenses, deductions, credits) on their return was altered before the return was filed or the return otherwise includes items which they did not authorize.
- (2) Potential relief/resolution: The IRS will administratively adjust the taxpayer's account to reflect the correct information and remove the portion of the refund

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attributable to preparer misconduct. If refund trace shows taxpayer received more than entitled, taxpayer may be liable for the erroneous refund amount. See IRM 25.24.5.8, Erroneous Refund Procedures.

Example: The copy of the tax return provided by the taxpayer reflects wages and withholding only with a refund amount of \$2,000. The taxpayer states they received \$2,000. The posted return reflects wages and withholding and a Schedule C loss with a refund of \$5,000. Internal research

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- (3) Complaints that are determined to be Category 2, if allowed, will result in treating the original return filed as a nullity.
- (4) Category 2 requires specific documentation to qualify for relief. The required documentation is outlined in the chart below:

Posted Return Reflects	
Signing Preparer	<ul style="list-style-type: none"> Tax return as intended to be filed, signed by the taxpayer Form 14157, Return Preparer Complaint - First and last name and business address of preparer Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit - Signed under penalties of perjury (at least one taxpayer, if married filing joint return)
Ghost/Non-Signing Preparer	<ul style="list-style-type: none"> Tax return as intended to be filed, signed by the taxpayer Form 14157 - First and last name and business address Form 14157-A - Signed under penalties of perjury (at least one taxpayer, if married filing joint return) Documentation showing 3rd party presented themselves as preparer Documentation showing interaction between taxpayer and preparer resulting in the submission of the return at issue

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Note: A refund trace is not required during the initial processing of a complaint for Category 2 cases, unless the complaint is incomplete. However, if refund trace information is available, it must be used to assist with verifying taxpayer's statement regarding whether a refund was received in the taxpayer's name.

Note: If the complaint is completed before the refund trace is concluded, determine the appropriate treatment. Do not wait for refund trace results.

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above are included. **In some circumstances all the required documentation is not required as outlined below:**

- Tax return is not included because taxpayer states they are not required to file and research (CC IRPTR) supports assertion.

- Form 14157-A is not included; however, other documentation contains the required information and the taxpayer provides a statement/ explanation signed under penalties of perjury.

- (6) Form 14157 is not required if the preparer's first and last name and business address is included on other documentation.

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above are not included, or are included but the information provided within the documentation is incomplete.

Example: Taxpayer indicates that a refund was received and does not include the amount of the refund received on Form 14157-A or other documentation.

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- (8) If complaint is considered incomplete refer to IRM 25.24.5.9, Incomplete or Missing Documentation, for additional information. Suspend case following normal procedures. If reply received or suspense period ends refer to IRM 25.24.5.9.1, Evaluating Taxpayer Response to Missing Documentation Request.

- (9) Verify the preparer information. Refer to IRM 25.24.5.6.3, Verification of the Preparer, for additional information.

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initiated when the claim is incomplete or disallowed. This is necessary to determine the appropriate handling of the actual return provided with the complaint. However, if a refund trace was previously performed and the trace

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utilized to verify the receipt or non-receipt of a refund and to determine the amount, if any, of an erroneous refund received by the taxpayer.

- (11) Verify whether a refund was issued or deposited into an account in the taxpayer's name.

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IRM 25.24.5.6.4, Refund Trace, for additional information.

Example: Taxpayer states they received the correct or expected refund amount; however, available refund trace differs showing a larger refund was deposited into an account in the taxpayer's

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determine the amount of the erroneous refund that was made.

- c. If trace information is not available or available trace information cannot

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Example: Taxpayer states portion of refund received and available refund trace information shows that the refund was NOT deposited

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into an account in the taxpayer's name. We cannot verify the

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- (12) If complaint is considered complete, all required documentation, including 3rd party documentation (if applicable), is present and the preparer information is considered verified, the complaint is accepted.
- (13) The IRS will determine the type of relief to which the taxpayer is entitled. The actual return presented by the taxpayer (unaltered by the preparer) in an allowed RPM complaint is considered the taxpayer's return of record. The IRS will consider the original return a nullity.

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were deducted from the original refund, it must be taken into account when determining preparer portion of refund and any additional refund amounts. The fee amount would not be considered a part of the preparer portion of the refund. However, when the fee is paid by other methods of payment (cash, personal check, unknown), do not take it into account.

- (15) Category 2: Treatment Stream for Accepted Complaints

Taxpayer states they received:	Return as intended to be filed reflects:	And original refund was:	Then taxpayer is eligible for:
Refund	Refund amount that matches the amount received		<ul style="list-style-type: none"> Account adjustment to remove the nullified return Account adjustment to reflect return as intended to be filed Removal of the preparer portion of the refund Refer to IRM 25.24.5.15, Exam Procedures.

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Taxpayer states they received:	Return as intended to be filed reflects:	And original refund was:	Then taxpayer is eligible for:
No Refund	Balance due	and available refund trace information shows NO refund was deposited into an account in the name of the taxpayer.	<ul style="list-style-type: none"> Account adjustment to remove the nullified return Account adjustment to reflect return as intended to be filed Removal portion of the refund <p>Note: Normal collection notices will be issued for balance due amount on taxpayer's return record.</p> <p>Refer to IRM 25.24.5.13, Penalties and Interest, and IRM 25.24.5.15, Exam Procedures.</p>
		refund trace information shows all or a portion of the refund WAS deposited into an account in the name of the taxpayer.	<p>Taxpayer will be asked to repay the erroneous portion of the refund using Category D erroneous refund procedures and is eligible for:</p> <ul style="list-style-type: none"> Account adjustment to remove the nullified return Account adjustment to reflect return as intended to be filed Removal of the preparer portion of the refund, if applicable <p>Note: Normal collection notices will be issued for balance due amount on taxpayer's return record.</p> <p>Refer to IRM 25.24.5.8, Erroneous Refund Procedures, and IRM 25.24.5.15, Exam Procedures.</p>

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Taxpayer states they received:	Return as intended to be filed reflects:	And original refund was:	Then taxpayer is eligible for:
Refund amount that exceeds the amount on the return as intended to be filed	Refund/Balance Due	<p>received more than entitled.</p> <p>OR</p> <p>refund trace information shows all or a portion of the refund WAS deposited into an account in the name of the taxpayer.</p> <p>OR</p> <p>Determination can be made from account information and taxpayer's statement that all or a portion of the refund was received by the taxpayer. (For instance, taxpayer states received \$2,000 and TC 846 is \$2,000.)</p>	<p>Taxpayer will be asked to repay the erroneous portion of the refund using Category D erroneous refund procedures and is eligible for:</p> <ul style="list-style-type: none"> Account adjustment to remove the nullified return Account adjustment to reflect return as intended to be filed Removal of the preparer portion of the refund, if applicable <p>Note: Normal collection notices will be issued for balance due amount on taxpayer's return record.</p> <p>Refer to IRM 25.24.5.8, Erroneous Refund Procedures, and IRM 25.24.5.15, Exam Procedures.</p>

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were deducted from the original refund, it must be taken into account when determining preparer portion of refund and any additional refund amounts. When the fee is paid by other methods of payment (cash, personal check, unknown), do not take it into account.

25.24.5.7.3
(03-07-2018)

Category 3 – Authorized Filing – Altered Return Information and Taxpayer Requesting an Additional Refund

- (1) Category 3 is defined as a taxpayer who was in contact with a preparer and authorized a return filing, but alleges tax data (exemptions, income, expenses, deductions, credits) on their return was altered after they signed it or the return otherwise includes items they did not authorize, **and** taxpayer states either they received no refund or only a portion of the refund they expected.
- (2) Potential relief/resolution: The IRS will administratively adjust the taxpayer's account to reflect the correct information and remove the portion of the refund attributable to preparer misconduct. The taxpayer may receive a refund plus interest, as provided by law, for the amount not received.

Example: The copy of the tax return provided by the taxpayer reflects wages and withholding only with a refund amount of \$2,000. The taxpayer states they received no refund. The posted return reflects wages and withholding and a Schedule C loss with a refund of \$5,000. Internal research

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- (3) Complaints that are determined to be Category 3, if allowed, result in treating the original return filed as a nullity.
- (4) Category 3 requires specific documentation to qualify for relief. The required documentation is outlined in the chart below:

Posted Return Reflects		#
Signing Preparer	<ul style="list-style-type: none"> • Tax return as intended to be filed, signed by the taxpayer • Form 14157, Return Preparer Complaint - First and last name of preparer and business address • Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit - Signed under penalties of perjury (at least one taxpayer, if married filing joint return) • Official law enforcement agency (such as police department, State AG, CI or TIGTA) report, signed by an officer or equivalent or otherwise demonstrably shown to be accepted by that agency, which contains: <ul style="list-style-type: none"> • Tax year(s) involved, • Preparer's first and last name and • Statement describing preparer misconduct and theft of refund. 	
Ghost/Non-Signing Preparer	<ul style="list-style-type: none"> • Tax return as intended to be filed, signed by the taxpayer • Form 14157 - First and last name of preparer and business address • Form 14157-A - Signed under penalties of perjury (at least one taxpayer, if married filing joint return) • Documentation showing 3rd party presented themselves as preparer • Documentation showing interaction between taxpayer and preparer resulting in the submission of the return at issue • Official law enforcement (such as police department, State AG, CI or TIGTA) report, signed by an officer or equivalent or otherwise demonstrably shown to be accepted by that agency, which contains: <ul style="list-style-type: none"> • Tax year(s) involved, • Preparer's first and last name and • Statement describing preparer misconduct and theft of refund. 	

Note: In cases that meet Category 3 where the original refund is frozen for the full amount in question, the law enforcement agency report is not required. However, in cases where a partial refund was released to the preparer, a law enforcement agency report is required.

above are included. In some circumstances, all the required documentation is not required as outlined below:

- Form 14157-A is not included; however, other documentation included contains the required information and the taxpayer provides a statement/explanation signed under penalties of perjury.

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- If the preparer's name (first and last) and business address are included on other documentation, then Form 14157 is not required.

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above are not included or are included but the information provided within the documentation is incomplete.

Example: Taxpayer indicates that a refund was received and does not include the amount of the refund received on Form 14157-A or other documentation.

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- (7) If complaint is considered incomplete refer to IRM 25.24.5.9, Incomplete or Missing Documentation, for additional information. Suspend case following normal procedures. If reply is received or suspense period ends refer to IRM 25.24.5.9.1, Evaluating Taxpayer Response to Missing Documentation Request.
- (8) Verify the preparer information. Refer to IRM 25.24.5.6.3, Verification of the Preparer, for additional information.

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whether a refund was issued in the taxpayer's name. The trace information will be utilized to verify the receipt or non-receipt of a refund and to determine the amount, if any, of an additional refund that may be issued.

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trace information is available, initiate a refund trace. Refer to IRM 25.24.5.6.4, Refund Trace, for additional information.

- c. Verify the taxpayer's statement regarding whether a refund was issued or deposited into an account in the taxpayer's name using refund trace information.

Example: Taxpayer states no refund received and available refund trace information shows that the refund was NOT deposited into an account in the

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Example: Taxpayer states that no refund or portion of refund received; however, available refund trace shows that the entire refund was deposited into

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Use the refund trace information to determine the refund amount, if applicable.

- d. If trace information is not available or available trace information cannot

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Example: Taxpayer states portion of refund received and available refund trace information shows that the refund was NOT deposited into an account in the taxpayer's name. We cannot verify the

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- (10) If complaint is considered complete and all required documentation, including 3rd party documentation, if applicable, is present and the preparer information is considered verified, the complaint is accepted.
- (11) The IRS will determine the type of relief to which the taxpayer is entitled. The actual return presented by the taxpayer (unaltered by the preparer) in an allowed claim is considered the taxpayer's return of record. The IRS will consider the original return a nullity.

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were deducted from the original refund, it must be taken into account when determining preparer portion of refund and any additional refund amounts. The fee amount would not be considered a part of the preparer portion of the refund. However, when the fee is paid by other methods of payment (cash, personal check, unknown), do not take it into account.

- (12) Category 3 involves both a RPM complaint and a claim for refund. If complaint is disallowed, the claim for refund must be disallowed using claim disallowance procedures.
- (13) Category 3: Treatment Stream For Accepted Complaints

Taxpayer states they received:	And original refund was:	And individual named on law enforcement agency report:	Then taxpayer is eligible for:
No refund	refund trace information shows refund was NOT deposited into an account in the name of the taxpayer.	Signing preparer: Matches name on complaint and processed tax return. Non-signing preparer: Matches name on complaint.	<ul style="list-style-type: none"> Account adjustment to remove the nullified return Account adjustment to reflect return as intended to be filed Removal of the preparer portion of the refund Applicable additional refund Refer to IRM 25.24.5.15, Exam Procedures.
		Signing preparer: Does not match name on complaint and processed tax return. Non-signing preparer: Does not match name on complaint Or No law enforcement agency report is submitted with the complaint.	Partial Disallowance <ul style="list-style-type: none"> Account adjustment to remove the nullified return Account adjustment to reflect return as intended to be filed Removal of the preparer portion of the refund NO additional refund since law enforcement report requirements not met Refer to IRM 25.24.5.10.2, Partial Disallowance, and IRM 25.24.5.15, Exam Procedures.

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Taxpayer states they received:	And original refund was:	And individual named on law enforcement agency report:	Then taxpayer is eligible for:
No refund or Portion of refund	<p>or PORTION of refund was deposited into account of the taxpayer.</p> <p>AND</p> <p>The refund is equal to the refund on actual return.</p>	Match/Does Not Match regardless of whether it is signing preparer or non-signing preparer.	<p>Partial Disallowance</p> <ul style="list-style-type: none"> • Account adjustment to remove the nullified return • Account adjustment to reflect return as intended to be filed • NO additional refund is due since our records show taxpayer previously received correct refund amount. <p>Note: If law enforcement agency report does not match, also include an explanation that the information provided on Form 14157-A does not match the law enforcement agency report in the complaint disallowance letter.</p> <p>Refer to IRM 25.24.5.10.2, Partial Disallowance, and IRM 25.24.5.15, Exam Procedures.</p>

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Taxpayer states they received:	And original refund was:	And individual named on law enforcement agency report:	Then taxpayer is eligible for:
No refund or Portion of refund	<p>or PORTION of refund was deposited into account of the taxpayer.</p> <p>AND</p> <p>The refund is less than what taxpayer is entitled to on actual return.</p>	<p>Signing preparer: Matches name on complaint and processed tax return.</p> <p>Non-signing preparer: Matches name on complaint.</p>	<ul style="list-style-type: none"> Account adjustment to remove the nullified return Account adjustment to reflect return as intended to be filed Removal of the preparer portion of the refund Applicable additional refund <p>Refer to IRM 25.24.5.15, Exam Procedures.</p> <p>Exception: Partial Disallowance:</p> <ul style="list-style-type: none"> If the refund amount the taxpayer states they did not receive matches the fee paid to the preparer then no additional refund will be issued or If refund trace confirms that the portion received is greater than what taxpayer states then issue only the remaining balance of refund <p>Refer to IRM 25.24.5.10.2, Partial Disallowance.</p>
		<p>Signing preparer: Does not match name on complaint and processed tax return.</p> <p>Non-Signing preparer: Does not match name on complaint.</p> <p>Or</p> <p>No law enforcement agency report is submitted with the complaint.</p>	<p>Partial Disallowance</p> <ul style="list-style-type: none"> Account adjustment to remove the nullified return Account adjustment to reflect return as intended to be filed Removal of the preparer portion of the refund NO additional refund since law enforcement agency report requirements not met <p>Refer to IRM 25.24.5.10.2, Partial Disallowance, and IRM 25.24.5.15, Exam Procedures.</p>

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Taxpayer states they received:	And original refund was:	And individual named on law enforcement agency report:	Then taxpayer is eligible for:
No refund or Portion of refund	or PORTION of refund was deposited into account of the taxpayer. AND The refund exceeds what the taxpayer is entitled to on actual return.	Match/Does not Match regardless of whether it is signing preparer or non-signing preparer.	Partial Disallowance Taxpayer will be asked to repay the erroneous portion of the refund using Category D erroneous refund procedures and is eligible for: <ul style="list-style-type: none"> Account adjustment to remove the nullified return Account adjustment to reflect return as intended to be filed Removal of the preparer portion of the refund Refer to IRM 25.24.5.8, Erroneous Refund Procedures, IRM 25.24.5.10.2, Partial Disallowance, and IRM 25.24.5.15, Exam Procedures.

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Note: In order to be eligible for an additional refund, the individual named on the law enforcement agency report must match the name on the complaint and documentation submitted to verify the preparer was in the business of preparing returns. If signing preparer, the name must match the processed return as well.

25.24.5.7.4
(03-07-2018)

Category 4 - Misdirected Refund Only and Taxpayer Requesting an Additional Refund

- (1) Category 4 is defined as a taxpayer who was in contact with a preparer and authorized a return filing, but states only the direct deposit information or address was altered, diverting the refund to the preparer and no refund or only a portion of the refund was received.
- (2) Potential relief/resolution: The IRS will administratively remove the portion of the refund attributable to preparer misconduct and the taxpayer may receive a refund.
- (3) Complaints determined to be Category 4 will **not** result in treating the original return filed as a nullity.
- (4) Category 4 requires specific documentation to qualify for relief. The required documentation is outlined in the chart below:

Posted Return Reflects		#
Signing Preparer	<ul style="list-style-type: none"> • Tax return as intended to be filed, signed by the taxpayer (should match the posted return with exception of the refund information) • Form 14157, Return Preparer Complaint - First and last name of preparer and business address • Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit - Signed under penalties of perjury (at least one taxpayer, if married filing joint return) • Official law enforcement agency (such as police department, State AG, CI or TIGTA) report, signed by an officer or equivalent or otherwise demonstrably shown to be accepted by the agency and contains: <ul style="list-style-type: none"> • Tax year(s) involved, • Preparer's first and last name and • Statement describing preparer misconduct and theft of refund. 	
Ghost/Non-Signing Preparer	<ul style="list-style-type: none"> • Tax return as intended to be filed signed by the taxpayer (should match the posted return with exception of the refund information) • Form 14157 - First and last name preparer and business address • Form 14157-A - Signed under penalties of perjury (at least one taxpayer, if married filing joint return) • Documentation showing 3rd party presented themselves as preparer • Documentation showing interaction between the taxpayer and preparer resulting in the submission of the return at issue. • Official law enforcement (such as police department, State AG, CI or TIGTA) report, signed by an officer or equivalent or otherwise demonstrably shown to be accepted by the agency and must contain: <ul style="list-style-type: none"> • Tax year(s) involved, • Preparer's first and last name and • Statement describing preparer misconduct and theft of refund. 	

Note: In cases that meet Category 4 where the original refund is frozen for the full amount in question, the law enforcement agency report is not required. However, in cases where a partial refund was released to the preparer, a law enforcement agency report is required.

Note: A refund trace is required for all Category 4 cases. It must be used to assist with verifying the taxpayer's statement regarding no refund or only a portion of the refund was received.

mentation requirement complete. **In some circumstances all the required documentation is not required as outlined below:**

25.24 Return Preparer Misconduct Program

- Form 14157-A is not included; however, other documentation included contains the required information and the taxpayer provides a statement/explanation signed under penalties of perjury.
- If the preparer's first and last name, and business address are included on other documentation, then Form 14157 is not required.

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above are not included or are included but the information provided within the documentation is incomplete.

Example: Taxpayer indicates that a refund was received and does not include the amount of the refund received on Form 14157-A or other documentation.

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paid to the preparer, it must be taken into account when determining refund eligibility.

- (7) If complaint is considered incomplete refer to IRM 25.24.5.9, Incomplete or Missing Documentation, for additional information. Suspend case following normal procedures. If reply received or suspense period ends refer to IRM 25.24.5.9.1, Evaluating Taxpayer Response to Missing Documentation Request, for additional information.
- (8) Verify the preparer information. Refer to IRM 25.24.5.6.3, Verification of the Preparer, for additional information.

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whether a refund was issued in the taxpayer's name. The trace information will be utilized to verify the receipt or non-receipt of a refund and to determine the amount, if any, of an additional refund that may be issued.

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trace information is available, initiate a refund trace. Refer to IRM 25.24.5.6.4, Refund Trace, for additional information.

- c. The trace information will be utilized to verify the receipt or non-receipt of a refund and to determine the amount, if any, of an additional refund that may be issued.

Example: Taxpayer states no refund received and refund trace information shows that the refund was **NOT** deposited into an account in the taxpayer's

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Example: Taxpayer states that no refund or portion of refund received; however, refund trace shows that the entire refund was deposited into account in

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refund trace information. Disallow claim.

- d. If trace information cannot verify the receipt or non-receipt of the refund,

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Example: Taxpayer states portion of refund received and available refund trace information shows that the refund was **NOT** deposited

into an account in the taxpayer's name. We cannot verify the

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- (10) If complaint is considered complete and all required documentation, including 3rd party documentation (if applicable) is present and the preparer information is considered verified, the complaint is accepted.

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were deducted from the original refund, it must be taken into account when determining preparer portion of refund and any additional refund amounts. When the fee is paid by other methods of payment (cash, personal check, unknown), do not take it into account.

- (11) The IRS will determine the type of relief the taxpayer is entitled to. **For Category 4 cases the original return is considered valid and not considered a nullity.**

- (12) Category 4: Treatment Stream For Complaints:

Taxpayer states they received:	And original refund was:	And individual named on law enforcement agency report:	Then taxpayer eligible for:
No refund or Portion of refund	trace information shows refund was NOT deposited into an account in the name of the taxpayer.	Signing preparer: Matches name on complaint and processed tax return. Non-signing preparer: Matches name on complaint.	<ul style="list-style-type: none"> Removal of the preparer portion of the refund Applicable additional refund Refer to IRM 25.24.5.15, Exam Procedures.
		Signing preparer: Does not match name on complaint and processed tax return. Non-signing preparer: Does not match name on complaint. OR No law enforcement agency report is submitted with the complaint.	<ul style="list-style-type: none"> Disallow complaint for Return Preparer Misconduct. Continue processing case following normal procedures. Refer to IRM 25.24.5.10, Claim Disallowance.

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Taxpayer states they received:	And original refund was:	And individual named on law enforcement agency report:	Then taxpayer eligible for:
No refund or Portion of refund	ENTIRE refund was deposited into account of the taxpayer.	Match/Does not Match regardless of whether it is signing preparer or non-signing preparer.	<ul style="list-style-type: none"> Disallow complaint for Return Preparer Misconduct. Continue processing case following normal procedures. Refer to IRM 25.24.5.10, Claim Disallowance.
No refund or Portion of refund	PORITION of refund was deposited into account of the taxpayer.	Signing preparer: Matches name on complaint and processed tax return. Non-signing preparer: Matches name on complaint.	<ul style="list-style-type: none"> Removal of the preparer portion of the refund Applicable additional refund Refer to IRM 25.24.5.15, Exam Procedures. Exception: Partial Disallowance <ul style="list-style-type: none"> If the refund amount the taxpayer states they did not receive matches the fee paid to the preparer then no additional refund will be issued or If refund trace confirms that the portion received is greater than what taxpayer states then issue only the remaining balance of refund. Refer to IRM 25.24.5.10.2, Partial Disallowance.
		Signing preparer: Does not match name on complaint and processed tax return. Non-signing preparer: Does not match name on complaint. OR No law enforcement agency report is submitted with the complaint.	<ul style="list-style-type: none"> Disallow complaint for return Preparer Misconduct. Continue processing case following normal procedures. Refer to IRM 25.24.5.10, Claim Disallowance.

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25.24.5.8
(03-07-2018)
**Erroneous Refund
Procedures**

- (1) In situations where the taxpayer received a refund for an amount to which they are not entitled, erroneous refund procedures must be followed to recoup the refund. See IRM 21.4.5, Refund Inquiries, Erroneous Refunds, for additional information. Any erroneous refunds will be included in the referral package to DITA.
- (2) For RPM cases, in which the complaint is allowed, the erroneous refund will fall into Category D only. Category D erroneous refund is subject to the right of offset.

Note: The Assessment Statute Expiration Date (ASED), Refund Statute Expiration Date (RSED) and Erroneous Refund Statute Expiration Date (ERSED) must be determined when following these charts. See IRM 25.24.5.12, Statute of Limitations, for additional information.

25.24.5.9
(03-07-2018)
**Incomplete or Missing
Documentation**

- (1) In reviewing the documentation submitted, there may be missing/incomplete required documentation as outlined for each category or additional information needed to make a determination.

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as the amount of fees paid for the preparation of the return. If fee information

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- (3) If the taxpayer's return as intended to be filed is unsigned, have the taxpayer sign the return and process it per IRM 4.4.9, Delinquent and Substitute for Return Processing.
- (4) If the taxpayer does not provide sufficient information to support the complaint (for instance, if a law enforcement agency report for Category 4 is missing) then use Form 4564, Information Document Request, to request additional information with a specific response due date. Audit activity will continue while the taxpayer is securing needed information. Advise the taxpayer, if no response is received by the deadline established, IRS will disallow the claim and continue with the compliance action.
- (5) Suggested language for taxpayer contact: *We received your complaint of return preparer misconduct; however, we are unable to process your complaint because your supporting information is incomplete or missing the required documentation.* Include an explanation specifying what information is missing (preparer's name, business address, PTIN, TIN or EIN, amount of refund received or expected).
- (6) Provide your direct contact information, including telephone number and hours of operation.
- (7) If TAS is involved and an Operations Assistance Request is received and there is documentation missing, return the case back to TAS requesting the taxpayer be contacted for the required information. Negotiate a new response date.
- (8) If a Taxpayer Assistance Order (TAO) is received and documentation is missing, contact TAS to request the missing information and negotiate a new response date.
- (9) For all categories, if the case is incomplete, initiate a refund trace if one was not already performed. See IRM 25.24.5.6.4, Refund Trace.

Note: For Category 1 and 2 cases, if the additional information was requested from the taxpayer and taxpayer responds before the refund trace information becomes available, do not wait for the refund trace information, resume working the case.

- (10) If the ASED is imminent (90 days) and the taxpayer's actual return is included with the complaint, but there are other missing elements, ensure the ASED is protected.

Note: The treatment of the taxpayer's actual return submitted with the complaint differs depending upon whether the complaint is allowed or disallowed; however, in an incomplete scenario that determination cannot be made immediately and although the ASED is considered imminent, certain factors may affect the statute implication.

- (11) Document all findings and actions taken following normal procedures.

25.24.5.9.1
(03-07-2018)

**Evaluating Taxpayer
Response to Missing
Documentation Request**

- (1) When the taxpayer responds to a request for missing information, re-evaluate the complaint and determine if the additional information is sufficient to provide relief.
- (2) Although not all inclusive, follow the If/Then Chart below upon receipt of the taxpayer's response to the missing information request.

If	And	Then
The taxpayer responds to a request for missing information.	Does not provide all the required documentation as requested. Exception: *For a Category 3 case missing only the law enforcement report, follow partial disallowance procedures.	Disallow the RPM complaint based upon the RPM category and missing information. *For a Category 3 case see IRM 25.24.5.10.2, Partial Disallowance.
The taxpayer responds to a request for missing information.	Provides all the requested required information.	Follow the guidance in this IRM to determine if relief will be provided. See IRM 25.24.5.5, Return Preparer Misconduct Criteria Met.
The taxpayer does not respond.		Disallow the RPM complaint based upon RPM category and missing information. Refer to IRM 25.24.5.10, Claim Disallowance.

25.24.5.10
(03-07-2018)

Claim Disallowance

- (1) Taxpayers have appeal rights when refund claims are disallowed. Normal appeal rights apply. See IRM 4.4.5.10, Claims for Refund or Abatement.
- (2) In all cases where the taxpayer is requesting an additional refund and the claim is disallowed, a Claim Disallowance letter is required.

25.24.5.10.1
(03-11-2021)

Full Disallowance

- (1) For specific categories, depending upon the facts and circumstances, an otherwise complete claim may not be allowed.
- (2) Disallow complaints in full in any category if:
 - a. The taxpayer does not adequately respond to the request for specific additional information.

Exception: Category 2 is not a claim for refund. See IRM 25.24.5.14.1, Form 4442 - Designated Identity Theft Adjustments (DITA) Team Referral Package Content, Assembly and Submission.

Exception: If the only missing element of a Category 3 complaint is a law enforcement agency (such as police department, AG, CI or TIGTA) report, see IRM 25.24.5.10.2, Partial Disallowance.
 - b. The preparer and/or the documentation cannot be verified.
- (3) If the taxpayer's actual return is included in the documentation and the complaint is disallowed, a refund trace is required to determine the treatment of the taxpayer's actual return.

Exception: If the amount of refund the taxpayer states they received matches the TC 846 amount, then no refund trace is required. Consider the taxpayer to have received the entire refund amount.
- (4) Disallowing Complaint of Return Preparer Misconduct & Taxpayer's Actual Return is Present:

If the refund trace shows	And	Then
The entire refund was deposited into an account in the taxpayer's name.	N/A	<ul style="list-style-type: none"> Issue Letter 569, Full/ Partial Preliminary Claim Disallowance. Treat taxpayer's actual return, if present, as an amended return following normal procedures.
Only a portion or no refund was deposited into an account in the taxpayer's name.		<ul style="list-style-type: none"> Disregard tolerance and continue with audit; however, include the alleged altered issues as part of the audit.
Only a portion or no refund was deposited into an account in the taxpayer's name.		<ul style="list-style-type: none"> Continue with audit; however, include the alleged altered issues as part of the audit.

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- (5) Suggested language for the Complaint Disallowance letter is outlined below. Include the reason(s) for the complaint disallowance.
 - a. *We are disallowing your Return Preparer Misconduct complaint because we received no response to our request for missing information.*

- b. *We are disallowing your Return Preparer Misconduct complaint because you did not provide sufficient information in your response to our request for missing information.*
 - c. *We are disallowing your Return Preparer Misconduct complaint because we cannot verify the information you provided regarding your return preparer.*
- (6) When guidance states to treat taxpayer's return as an amended return, suggested verbiage: *Refund trace information shows that the entire original refund was deposited into an account in your name and/or it has been determined that you received the benefit of the entire original refund. We have adjusted your account to reflect the tax return you provided with your complaint as an amended return. A notice of adjustment will be issued.*
- (7) For Category 4 disallowances include:
- a. *We are disallowing your Return Preparer Misconduct complaint because the refund trace information shows that the entire original refund was deposited into an account in your name.*
 - b. *We are disallowing your complaint for Return Preparer Misconduct because the preparer information on the law enforcement agency report provided does not match the preparer information you provided on the complaint filed.*

Note: If statute issues also apply, for example, ASERD expired and no adjustment to reflect taxpayer's actual return can be made then you must also address this in the complaint disallowance letter. Suggested verbiage: *No adjustments can be made to your account at this time because the legal period has expired for assessments for the tax period(s) shown above.*

- (8) When guidance states "Do not process actual return." Suggested verbiage: *No adjustments are being made to your account at this time. If you need to make any changes to your original return, please file a Form 1040X, Amended U.S. Individual Income Tax Return.*
- (9) Provide Pub 4134, Low Income Taxpayer Clinic (LITC) List. This publication provides information on LITCs.

25.24.5.10.2
(03-11-2021)

Partial Disallowance

- (1) Partial disallowance procedures can occur in RPM Categories 1,3, 4 and may apply if there are RSED implications.

Example: Category 4: a refund is due, but the RSED expired before the complaint was filed.

Example: Category 1 or 3: a refund is due, but no payments were made within the look-back period

- (2) Depending upon the facts and circumstances, including the refund trace results, the taxpayer may have received more than they stated in the RPM complaint which would impact the amount of the refund issued and partial disallowance procedures would apply.

Example: Category 3: The taxpayer states they received a portion of the refund in the amount of \$500. Their actual return shows a refund of \$1,500. The complaint is reviewed and considered complete. The refund trace shows

that the taxpayer received a refund but in the amount of \$1,000. The treatment chart would advise that the taxpayer is eligible for account adjustment, removal of any preparer portion of the refund and the remaining balance of refund. The computation would affect the preparer portion moved to the general ledger (GL) 1547 account and in turn affect the additional refund amount due to the taxpayer. Since the refund amount (\$500) is less than the taxpayer expects (\$1,000) this is considered a partial disallowance.

- (3) If the law enforcement agency report contains inconsistent information but the complaint was otherwise complete, the taxpayer is not eligible for a refund but is eligible for an account adjustment.
- (4) Issue Letter 569, Full/Partial Preliminary Claim Disallowance, when partially disallowing a claim.
- (5) Provide IRS Pub 4134, Low Income Taxpayer Clinic (LITC) List. This publication will provide information on LITCs.

25.24.5.11
(03-07-2018)
**Referrals to Return
Preparer Office**

- (1) The RPO must be notified of all RPM complaints received in Exam regardless of completeness of complaint or criteria met unless there is an indication that the case was previously sent to the RPO or was received from RPO (RPO control number or date stamp.)
- (2) Forward all copies of Form 14157, Return Preparer Complaint, Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, and all applicable documentation received on an RPM complaint where the complaint has been accepted, denied or involved instances of identity theft.
- (3) RPO will not receive copies of Form 14157 and/or Form 14157-A when the complaint is due to a math error, open Exam not involving RPM, general account issues, and so on.
- (4) All RPM documentation should be mailed to the address below:
Return Preparer Office
401 W. Peachtree Street NW
Mail Stop 421-D
Atlanta, GA 30308

25.24.5.12
(03-07-2018)
Statute of Limitations

- (1) Care must be taken when evaluating statute year complaints. If the ASER and/or RSED is imminent or expired, the complaint must still be evaluated. Appropriate actions must be taken to protect these dates. See IRM 25.6.1, Statute of Limitations Processes and Procedures.
- (2) If additional information is necessary for consideration on a statute year complaint, see IRM 25.24.5.9, Incomplete or Missing Documentation, for guidance.
- (3) When a complaint (Categories 1-3) is allowed, the original return will be treated as a nullity and the taxpayer's signed return as intended to be filed, received with their complaint, will be considered the return of record. For Category 4 cases the original return is considered valid and the taxpayer's return of record.

- 25.24.5.12.1
(03-07-2018)
**Assessment Statute
Expiration Date**
- (4) When following Category D erroneous refund procedures the ERSED must be considered. Refer to IRM 21.4.5.15.1.1, Statute of Limitations Category D Erroneous Refunds IRS 6532(b) ERSED.
- (1) This applies to Categories 1-3: For the purposes of applying the RPM procedures, the filing of an altered return by a preparer may not meet the definition of a valid return. When a claim is allowed, the posted return is considered a nullity and the statute of limitations does not start until a signed return is received from the taxpayer regardless of whether the taxpayer authorized the filing of the initial return.
- (2) Returns filed in Category 4 cases are **not** considered nullities and the ASERD will begin to run based on the filing of those returns.
- (3) If complaints are received after the ASERD, the complaint must be evaluated to determine whether the posted return is a valid return.
- (4) When returns are received with a taxpayer's allegation of preparer misconduct and the claim is allowed, with the exception of Category 4, Misdirected Refund, the ASERD must be updated based upon the received date of the signed return (return as intended to be filed). The ASERD must be updated prior to routing to DITA, if applicable.
- (5) Use the received date of the taxpayer's signed return as intended to be filed to reflect the date of the return of record for allowed complaints.
- (6) If a return is submitted but unsigned, correspond for signature. If not received, disallow the complaint. **Do not** change the ASERD on disallowed complaints.
- Note:** RPM complaint is accepted when complete. Complaint is allowed when all requirements are satisfied. These ASERD modifications only apply to allowed claims.
- 25.24.5.12.2
(03-07-2018)
**Refund Statute
Expiration Date**
- (1) Although a return submitted with an accepted RPM complaint for Categories 1, 2, or 3 is timely filed for purposes of the RSED, the taxpayer may not be entitled to a refund. See IRC 6511(b). Returns submitted as part of an accepted RPM complaint for Categories 1, 2, and 3 will be considered original returns, unless otherwise noted.
- (2) Generally, prepaid credits must be claimed within three years of the due date of the return with regard for extensions. Therefore, if a return is received more than three years from the due date with regard to extensions, a refund of prepaid credits should not be made.
- (3) If the RSED has expired, send a claim disallowance letter for the RSED issue only on an otherwise allowed claim.
- (4) Category 4 cases involve a claim for refund only. Normal RSED procedures will apply.
- Note:** The requirement that a RPM complaint must be complete before it is accepted has no bearing on whether or not a claim for refund is timely for RSED purposes. Claims for refund (including informal claims) received prior to the RSED will be considered timely regardless of whether or not the RPM compliant is complete. See IRM 25.6.1.10.2.6.3, Informal Claims.

25.24.5.12.3
(03-07-2018)

**Erroneous Refunds
Statute Expiration Date
(ERSED)**

- (1) The ERSED is two years from the date of the erroneous refund or direct deposit. However, a five-year statute will apply if the IRS can show the erroneous refund was induced by fraud or misrepresentation of material facts by the taxpayer. Generally, for purposes of RPM, the two-year statute will apply to the taxpayer.

25.24.5.13
(03-07-2018)

Penalties and Interest

- (1) **Balance Due Cases:** Depending upon the facts and circumstances of the complaint and account actions, there may be instances where a balance due will be a result. Possible scenarios are:
- The taxpayer received, or it is determined that the taxpayer received, a refund in excess of the amount which they are entitled resulting in an erroneous refund. For these types of accepted cases, the taxpayers will be asked to repay the amount using erroneous refund procedures. Refer to IRM 25.24.5.7, Return Preparer Misconduct Categories, for treatment stream charts, and IRM 25.24.5.8, Erroneous Refund Procedures, for additional information.
 - The taxpayer may not have received a refund, but did not expect a refund and the return as intended to be filed is a balance due. This scenario should only occur with Category 1 and Category 2 cases. Circumstances of the account and return received dates will have to be considered to determine if any penalty and interest should apply. Refer to the General Filing Penalties paragraph below for additional information.
- (2) **General Filing Penalties.** The following IRM sections should be referenced. This list is not all inclusive:
- IRM 20.1.1, Introduction and Penalty Relief.
 - IRM 20.1.2, Failure to File/Failure to Pay Penalties.
 - IRM 20.2.5, Interest on Underpayments.
- (3) Penalties and interest may apply when the taxpayer's actual return reflects a tax liability. In many cases, the First Time Abate (FTA) administrative waiver or reasonable cause exception may apply for the penalties. Refer to IRM 20.1.1, Introduction and Penalty Relief, when considering if FTA or reasonable cause criteria are met. If a taxpayer does not meet FTA criteria, consider whether the taxpayer is able to show the failure(s) was/were due to reasonable cause and not due to willful neglect.
- Reminder:** Per IRM 20.1.1, Introduction and Penalty Relief, FTA should be considered and applied, if criteria are met, before reasonable cause is considered.
- (4) The Failure to File (FTF) penalty should be considered when:
- Taxpayer's actual return reflects a tax liability owed and
 - Taxpayer's actual return provided with the RPM complaint is received after the due date of the return.
- (5) When Category 1, 2, and 3 complaints are accepted, the original return is considered a nullity therefore; the Failure to File (FTF) penalty may apply.

Note: If taxpayer received a refund in excess of what they should have received and the actual tax return does not show a tax liability owed then FTF does not apply. The FTF penalty is based on the amount required to be shown as tax on the return which is not paid on or before the due date.

- (6) The FTF penalty will have to be computed manually and included on the adjustment to the account. The computer cannot systemically generate the penalty if the altered return (TC 150) was timely.
- (7) The FTF penalty does not apply if the taxpayer's failure to file a timely return was due to reasonable cause and not due to willful neglect as outlined below:

If	And	Then
The taxpayer did not authorize the filing of the original return.	Through research, there is an indication that the taxpayer made efforts to file a return (electronic filing indication or TC97X on account).	FTF does not apply; reasonable cause can be cited as the taxpayer attempted to comply by electronically filing or submitted a paper return within the prescribed time-frames.
The taxpayer authorized the filing of the original return.	Through research and documentation submitted, the taxpayer received the expected refund amount and was unaware of issues with their original return.	FTF does not apply; reasonable cause may be cited as the taxpayer demonstrated reasonable cause and not due to willful neglect.

- (8) The Failure to Pay (FTP) penalty should be considered when:
- Taxpayer's actual return reflects a tax liability owed and
 - Tax has not been paid by the due date of the original return.
- (9) The FTP penalty is not imposed if the taxpayer's failure to pay is due to reasonable cause and not due to willful neglect.

Note: Keep in mind that these taxpayers are victims of a crime perpetrated by their preparer. In many RPM cases, the reasonable cause exception may apply.

- (10) Examples where taxpayer may have demonstrated reasonable cause:
- Taxpayer X visited Preparer Y but did not feel comfortable with the arrangement and did not authorize Preparer Y to file their 2013 tax return. Preparer Y went ahead and filed a tax return for Taxpayer X, using made-up numbers and routed the inflated refund of \$5,000 to Preparer Y's bank account, unbeknownst to Taxpayer X. Subsequently, Taxpayer X attempted to file their true 2013 tax return, but it was rejected. By the time Taxpayer X realized someone had filed a return on their behalf, the 2013 filing deadline had passed. Taxpayer X contacted the IRS immediately and learned they were a victim of return preparer misconduct. Here, the taxpayer had reasonable cause and should not be assessed a penalty for Failure to File.
 - Taxpayer X heard from a friend that Preparer Y was able to obtain huge tax refunds for truck drivers based on their diesel fuel purchases. Taxpayer X sought out the services of Preparer Y for tax year 2013. Taxpayer X believed he would be getting a refund of \$4,000 based on the return Preparer Y prepared. Unbeknownst to Taxpayer X, Preparer Y then altered the return to claim an additional \$1,000 refund and had the entire \$5,000 deposited into an account under Preparer Y's control. Taxpayer X's true refund amount should have only been \$600. Taxpayer

X is low-income, did not complete high school, and had no reason to suspect that he was not entitled to a \$4,000 refund. Taxpayer X's reliance on Preparer Y establishes reasonable cause for the failure to file penalty not to be assessed.

(11) Interest will be allowed to systemically generate.

25.24.5.13.1
(03-07-2018)
Accuracy-Related Penalties

- (1) Accuracy-related penalties must be considered when reviewing RPM complaints.
- (2) If audit issues remain on the return after a RPM complaint has been accepted, accuracy-related penalties may be assessed.
- (3) If accuracy-related penalties were assessed based upon items inflated by a preparer, the associated penalties should be removed/abated if the items are removed from the account.

25.24.5.14
(03-07-2018)
Return Preparer Misconduct Procedures

- (1) Once it has been determined that a taxpayer is a victim of return preparer misconduct (RPM), Field Exam employees (manager, revenue agent (RA), tax compliance officer (TCO), tax auditor (TA), or clerk) will follow the Field Exam specific procedures to correct an RPM victim's account.
- (2) Generally to correct the victim's account, the examiner must submit a Form 4442, Inquiry Referral, package as described in IRM 25.24.5.15, Exam Procedures, to request a reversal of incorrect data posted to the victim's account as a result of preparer misconduct. The return submitted by the preparer that is determined to be the result of RPM is referenced as the posted return.
 - a. **Inputting RPM Indicators:** Use Form 5348, AIMS/ERCS Update, to input aging reason code (ARC) 96 on all open returns (cases open on Audit Information Management System (AIMS)) where RPM is determined applicable.

25.24.5.14.1
(03-07-2018)
Form 4442 – Designated Identity Theft Adjustments (DITA) Team Referral Package Content, Assembly, and Submission

- (1) Once the examiner determines the taxpayer is a victim of RPM, the examiner completes Form 4442, Inquiry Referral, as follows:
 - The phrase "SB/SE Field Exam" in Part I, Box 4 - Location.
 - Complete Part I & II in full.
 - The preparer's name and business address. (Part III, Section B).
 - Whether the taxpayer received the full refund, partial refund amount, no refund, or an amount greater than expected. (Part III, Section B).
 - Category number that fits the individual taxpayer scenario, Category 1, 2, 3 or 4.(Part III, Section B).
 - Amount of refund that the taxpayer is entitled, if applicable. (Part III, Section B).
 - Penalties and Interest to be assessed/abated, as applicable. (Part III, Section B).
 - If erroneous refund Category D is applicable, the amount of the erroneous refund. (Part III, Section B).
 - If No Consideration letter Letter 916-C, Claim Incomplete for Processing; No Consideration, is required, DITA will issue for Field Exam. On referral, include whether the complaint is denied in part or full and the appropriate paragraphs. Include your contact information for inclusion on Letter 916-C. (Part III, Section B).

- (2) Request DITA to – “Inform the examiner by secure e-mail at [insert your full e-mail address, for example, Mary.Doe@irs.gov] when the account corrections are complete.”
- (3) The Form 4442 package sent to DITA should contain:
 - a. Completed Form 4442.
 - b. Copy of the taxpayer’s posted (RPM) return, TRDBV or MeF print.
 - c. Copy of the signed return intended to be filed; Annotate the copy of the return intended to be filed as the “Taxpayer Intended Return.” The DITA team will use the RPM return and “Taxpayer Intended Return” to make the account adjustments.

Exception: Annotate on Form 4442 if taxpayer does not have a filing requirement.
 - d. Copies of Form 14157, Return Preparer Complaint, and Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, and supporting documentation.
- (4) Mail, fax, or e-mail the Form 4442 package, along with Form 3210, Document Transmittal, to the DITA team.

Mailing Address	Fax Number	E-Mail Address
Internal Revenue Service	(855) 786-6575	*SBSE CCS DITA
2970 Market St. Philadelphia, PA 19104 Attn. DITA Mail Stop 4-J30, 152	Subject: Return Preparer Misconduct Case. Expedite Form 4442	Subject: Return Preparer Conduct case. Expedite Form 4442

Note: E-mail the Form 4442 package via secure e-mail, if the entire Form 4442 package is comprised of **only** electronic documents (Microsoft Word, PDF, or scanned documents).

- (5) Incomplete referrals will be rejected back to the originating group.

25.24.5.15
(03-07-2018)
Exam Procedures

- (1) While the corrections for the RPM bad return data are being made, the examiner should continue with the examination of the victim’s “intended” return. Continue to include any audit issue(s) that remain on the return as intended to be filed.
- (2) Correct RGS case information to match the “intended” return before creating the Revenue Agent Report (RAR).
- (3) After DITA corrects the account, ensure the IDRS transcript (TXMOD, IMFOL) matches the “intended” return.
- (4) A copy of the Form 4442, Inquiry Referral, package, and all supporting documents, must be retained in the case file.
- (5) Before closing the case, a copy of the complaint and supporting documents must be sent to the RPO. See IRM 25.24.5.11, Referrals to Return Preparer Office.
- (6) Close case using established examination procedures.

25.24.5.16
(03-07-2018)
**Technical Services
Procedures**

- (1) If a Statutory Notice of Deficiency (SNOD) was issued prior to the RPM complaint determination and the corrected deficiency is greater than the amount on the issued SNOD:
 - a. If time remains to petition Tax Court, obtain the taxpayer's consent to rescind the SNOD. The SNOD rescission process must be completed before the expiration of the last day to petition Tax Court, as reflected on the SNOD. Then re-issue with the correct deficiency amount as long as there is sufficient time left on the ASED without any previously included tolling time added upon issuance of the SNOD. See IRM 4.8.9.28, Rescinding Notices of Deficiency, for additional information.
 - b. If time to petition Tax Court has expired, do not assess the deficiency on the first SNOD; issue new SNOD for correct deficiency, if 90 days or more remain on the original ASED.
- (2) If the ASED is imminent, follow normal procedures to request the taxpayer sign Form 872, Consent to Extend Time to Assess Tax, to protect the statute.
- (3) The ASED must be open to issue a SNOD. Refer to IRM 25.24.5.12, Statute of Limitations, to ensure the ASED is correct.

