MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

DECEMBER 13, 2023

EFFECTIVE DATE

(12-13-2023)

PURPOSE

(1)   This transmits revised IRM 25.25.10, Revenue Protection, Frivolous Return Program.

MATERIAL CHANGES

(1)   IRM 25.25.10.3.1, Updated Cross functional feedback to correct the department per SERP feedback - IPU 23U1006 issued 10-11-2023

(2)   IRM 25.25.10.3.1, Updated IDRS numbers listed for cross functional IRM consistency

(3)   IRM 25.25.10.3.1, Added subsection on Cross Functional Account Freeze Cleanup to coordinate freeze code releases after corrected adjustments input per procedural clarification - IPU 23U0419 issued 03-17-2023

(4)   IRM 25.25.10.7(2), Updated to define Classified Waste to prevent inadvertent/unlawful destruction of records

(5)   IRM 25.25.10.7.1, Updated PSL Criteria shipped to the DPC per DOJ and CI feedback

(6)   IRM 25.25.10.9(5), Updated IRC 6751(b) language to clarify written supervisory approval timing per IRM 20.1.1.2.3.1

(7)   IRM 25.25.10.15, Updated FTC Criteria to match Notice 2010-33 wording

(8)   IRM 25.25.10.15, Added Processing Frivolous Returns Claiming Fuel Tax Credit (FTC) - IPU 23U1006 issued 10-11-2023

(9)   IRM 25.25.10.15.1, Added FTC guidance for post audit penalty assessments per policy procedural changes -IPU 23U1006 issued 10-11-2023

(10)   IRM 25.25.10.17.9, Removed Fuel Tax Credit Guidance and realigned to IRM 25.25.10.15 for procedural organization - IPU 23U1006 issued 10-11-2023

(11)   IRM 25.25.10.19, Added link to the FRP Campus Contacts list and removed obsolete information regarding FRP POC Listing and fraud referral page per SERP feedback - IPU 23U1006 issued 10-11-2023

(12)   Editorial changes to adhere to plain writing guidelines, standards updates, organizational term updates including titles and contact information as needed with renumbering when applicable.

EFFECT ON OTHER DOCUMENTS

IRM 25.25.10 dated December 15, 2022, is superseded. This IRM incorporates the following IRM Procedural Updates (IPUs): 23U0419 issued 03-17-2023 and 23U1006 issued 10-11-2023.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10**
Any line marked with a #
is for **Official Use Only**

AUDIENCE

Campus employees in Return Integrity Verification Operations, Frivolous Return Program (FRP)

Denise D. Davis
Director, Return Integrity Verification Program Management
Wage and Investment Division

25.25.10   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

25.25.10
Frivolous Return Program

Table of Contents

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10**
Any line marked with a #
is for **Official Use Only**

25.25.10   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10**
Any line marked with a #
is for **Official Use Only**

25.25.10.1 (09-15-2017) **Program Scope and Objectives**	(1) **Purpose:** to provide guidelines for selecting, controlling, investigating, and closing Frivolous Return Program (FRP) cases.
	(2) **Audience:** The procedures in this IRM apply to Return Integrity Verification Operations (RIVO) employees.
	(3) **Policy Owner:** The Return Integrity Verification Program Management (RIVPM) is the policy owner of this program.
	(4) **Program Owner:** RIVPM is the program office responsible for oversight over this program.
	(5) **Primary Stakeholders:** RIVO employees and organizations that collaborate to address Frivolous Filings.

25.25.10.1.1
(08-04-2021)
Background

(1) This activity supports IRS strategy to protect revenue and stop fraud and abuse through frivolous return filing. This program provides for assessment of penalties to encourage compliance.

(2) IRC 6702 was put into law to address the filing of purported returns which do not allow the IRS to judge the correctness of the self-assessment made by the taxpayer. The purported returns are filed based on a frivolous position and/or reflect a desire to delay or impede the administration of the tax law.

(3) Notice 2010-33 provides a list of frivolous arguments the penalty was put into place to address. These positions are patently frivolous, and the Courts have ruled numerous times in favor of the IRS on these issues.

(4) The penalty applies when the information on the face of the return shows a patently frivolous position.

25.25.10.1.2
(03-21-2018)
Authority

(1) Refer to the following:

- IRM 1.2.1.5.10, Policy Statement 4-21, Selection of returns for examination
- IRM 1.1.13, Organization and Staffing, Wage and Investment Division
- Various Internal Revenue Code (IRC) sections including but not limited to:
- IRC 6702(a), Frivolous Tax Returns
- IRC 6702(b), Specified Frivolous Submissions
- IRC 6702(c), Listing of Frivolous Positions
- IRC 6702(d), Frivolous Tax Submissions Penalty Reduction
- IRC 6404, Abatements of tax
- IRC 6402(a), Authority to make credits or refunds
- IRC 6401, Amounts treated as overpayments
- IRC 6213, Restrictions on assessments and math error authority
- IRM 5.1.9.3.15, Hearing Requests with Frivolous, Delaying or Impeding Issues

25.25.10.1.3
(09-28-2020)
Roles and Responsibilities

(1) The Wage and Investment (WI) Return Integrity Verification Operations (RIVO) is responsible for the Frivolous Return Program (FRP) due to the October 2014 Small Business/Self Employed (SB/SE) realignment.

(2) A FRP Coordinator assigned at each campus will assist with a review of potentially frivolous documents referred by employees within their campus and will

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.1.3**
Any line marked with a #
is for **Official Use Only**

consult with the FRP on new developments or concerns related to frivolous filings. Program receipts will be reviewed for frivolous criteria and either selected or cleared as follows:

1. If not frivolous, stamp the upper left corner, "FRP cleared" and include the last five digits of IDRS number and return to processing.
2. If frivolous, initiate audit code R procedures for IMF returns, initiate X code procedures for BMF returns and route for processing.

Note: For Cincinnati, Ogden, and Kansas City campuses, expedite handling and review BMF returns within two business days. Code frivolous returns with Computer Condition Code (CCC) 331 and attach Form 4227, Intra Service Center Reject with remarks, "Refer to FRP for audit after processing."

(3) The Commissioner is charged with ensuring that IRS employees are familiar with and act in accordance with the taxpayer rights as accorded by the Code. See IRC 7803(a)(3), which refers to taxpayer rights afforded by other provisions of the IRC. Under these Code provisions, in general, taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS. They are to be spoken to in a way that is easily understood and any correspondence from the IRS must be clear and understandable. They have the right to speak with a supervisor whenever quality service is not received. For additional information, refer to IRM 1.2.1.2.36, Policy Statement 1-236, Fairness and Integrity in Enforcement Selection; and the Taxpayer Bill of Rights at www.irs.gov/taxpayer-bill-of-rights; and Pub 1, Your Rights as a Taxpayer. Review Pub 5170, Taxpayer Bill of Rights at https://irssource.web.irs.gov/Lists/General%20News/DispItemForm.aspx?ID=126

25.25.10.1.4
(07-07-2022)
Program Management and Review

(1) Outreach training is available in Integrated Talent Management (ITM) for functions that need information and/or guidance to identify and refer frivolous conditions.

(2) RIVO provides FRP outreach education for applicable external stakeholders and coordinates systemic identification of frivolous filings and guidance to make referrals to FRP, as applicable, with affected stakeholders.

(3) Each frontline manager ensures timely completion of the work performed in that unit, addresses issues that come up and notifies the Department Manager of ongoing problems.

(4) Local problems are resolved at the local level. Problems of a more serious nature that cannot be resolved at the first line are reported to the Planning and Analysis (P&A) Staff. If the work problem or stoppage is determined to be something that will affect policy or cross functional processing, P&A will report the issue to the Headquarters analyst for resolution assistance.

25.25.10.1.5
(09-15-2017)
Program Controls

(1) The Frivolous Return Program (FRP) is responsible for:

a. Reviewing, asserting, and monitoring all frivolous penalties, and penalty reduction procedures
b. Controlling inventory related to frivolous returns, frivolous submissions, and correspondence
c. Referring preparer penalty related to frivolous filings

25.25.10.1.6
(03-21-2018)
Acronyms

(1) The acronyms below are utilized in the Frivolous Return Program:

Acronym	Definition
AC	Action Code
ACH	Automated Clearing House
AIMS	Audit Information Management System
AMS	Account Management Services
ARG	Frivolous Argument Codes
ASED	Assessment Statute Expiration Date
ATAT	Abusive Tax Avoidance Transactions
BFS	Bureau of the Fiscal Service
BMF	Business Master File
BS	Blocking Series
CADE	Customer Account Data Engine
CAS	Customer Account Services
CC	Chief Counsel
CCC	Computer Condition Code
CCP	Centralized Check Process
CDP	Collection Due Process
CEAS	Campus Exam Automation Support
CFC	Campus Fraud Coordinator
CI	Criminal Investigation
CIS	Correspondence Imaging System
CPE	Continuing Professional Education
CRD	Correspondence Received Date
DC	Disposal Code
DLN	Document Locator Number
DOJ	Department of Justice
EGC	Employee Group Code
EIN	Employer Identification Number
FEMA	Federal Emergency Management Agency
FFC	Federal Fraud Case
FOIA	Freedom of Information Act
FPIA	Full Pay Installment Agreement

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.1.6**
Any line marked with a #
is for **Official Use Only**

Acronym	Definition
FRP	Frivolous Return Program
FRP RA	FRP Revenue Agent
FTA	Fraud Technical Advisor
FTC	Fuel Tax Credit
FTD	Federal Tax Deposit
HQ	Headquarters
IA	Installment Agreement
IDRS	Integrated Data Retrieval System
IDT	Identity Theft
IDVA	Identity Protection & Victim Assistance
IMF	Individual Master File
IRC	Internal Revenue Code
IRP	Information Reporting Program
ITG	Indian Tribal Governments
ITLA	Interactive Tax Law Assistant
ITM	Integrated Talent Management
LDC	Lead Development Center
LUQ	Large Unallowable Questionable
MeF	Modernized e-file
MFT	Master File Tax Account Code
MMIA	Manually Monitored Installment Agreement
MRG	Mail Routing Guide
NC	Name Control
OAR	Operations Assistance Request
OIC	Offer in Compromise
PBC	Primary Business Code
POA	Power of Attorney
PPIA	Partial Pay Installment Agreement
PSL	Project Status Listing
PSP	Planning and Special Programs
QRP	Questionable Refund Program
R&C	Receipt and Control
RACS	Revenue Accounting Control System

25.25.10.1.6   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
                                                                 Any line marked with a #
                                                                 is for **Official Use Only**

Acronym	Definition
RCD	Reduction Completion Date
RGS	Report Generation Software System
RICS	Return Integrity & Compliance Services
RIVO	Return Integrity Verification Operations
RIVPM	Return Integrity Verification Program Management
RO	Revenue Officer
RPC	Return Processing Code
RPO	Return Preparer Office
RSED	Refund Statute Expiration Date
RTR	Remittance Transaction Research
SB/SE	Small Business/Self Employed
SB/SE LDC	SB/SE Lead Development Center
SBC	Secondary Business Code
SD	Source Document
SERP	Servicewide Electronic Research Project
SFR	Substitute for Return
SNOD	Statutory Notice of Deficiency
SP	Submission Processing
SSN	Social Security Number
TAR	Technical Assistance Request
TAS	Taxpayer Advocate Service
TC	Transaction Code
TEGE	Tax Exempt Government Entities
TIGTA	Treasury Inspector General for Tax Administration
TIN	Taxpayer Identification Number
TP	Taxpayer
TT	Toll-Free Tax Technicians
W/H	Withholding Tax
WI	Wage and Investment

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.1.6**
Any line marked with a #
is for **Official Use Only**

25.25.10.1.7
(12-16-2019)
Related Resources

(1) The related resources listed below are to be utilized for account research and issue resolution. These related resources are accessed through the IRS Intranet-Servicewide Electronic Research Program (SERP) site.

- IRM 25.25, Revenue Protection
- IRM 25.23, Identity Protection and Victim Assistance
- IRM 25.24, Return Preparer Misconduct Program
- IRM 21, Customer Account Services
- IRM 20.1, Penalty Handbook
- IRM 20.2, Interest
- IRM 3, Submission Processing
- IRM 4, Examining Process
- IRM 5, Collecting Process
- Interactive Tax Law Assistant (ITLA)
- Revenue Rulings
- Internal Revenue Code (IRC)

(2) IDRS restricted access accounts are accounts where a user must request special permissions to access the account through IDRS. Follow IRM 21.2.1.3.2, Authorized IDRS Access.

\#
\#
\#

25.25.10.2
(08-04-2021)
Identification of Frivolous Submissions

(1) Identification of frivolous submissions can be made in any IRS office by any employee. They can be identified during original return processing, amended return or claim processing, during the course of a routine audit, or upon any contact with a taxpayer or their representative.

(2) Notice 2010-33 provides a list of frivolous arguments the penalty was put into place to address. These positions are patently frivolous, and the Courts have ruled numerous times in favor of the IRS on these issues.

(3) Imposition of the IRC 6702 Penalty applies only when the information on the face of the return shows a patently frivolous position. Frivolous returns often:

a. Contain on the face of the tax return or on attachments to the tax return arguments about the obligation to file or pay tax.
b. Include altered forms or jurats containing frivolous arguments.
c. include verbiage that attempts to impede or circumvent the administrative processing of the tax return.

Note: The section 6702 penalty should not be assessed against a taxpayer who encloses with, or attaches to, an otherwise accurate and complete tax return, documents articulating frivolous arguments. If, however, a taxpayer claims on the return that he is entitled to a deduction or credit based on a conscientious objection or other frivolous argument, then the section 6702 penalty should be assessed.

(4) Frivolous documents take many forms. Frivolous arguments can be asserted on original returns, amended returns, or documents purporting to be returns. Frivolous submissions can claim frivolous deductions, credits or exclusions or can omit items of income. Individuals might refuse to pay, or file based on a

25.25.10.1.7   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

variety of frivolous or discredited legal or constitutional theories. Unusual attachments to the return also serve as indicators that the return is frivolous.

(5)   A Frivolous Position is one that the IRS has identified as being frivolous, or that reflects a desire to delay or impede the administration of Federal tax laws. Frivolous returns generally fall under one or more of the five basic categories.

Category	Arguments
Frivolous Income	• Argument (ARG)1 -Wages/ Receipts Not Income (NTR) • ARG 3 -Zero Returns (ZERO) • ARG 4 - U.S. v. Long (Z-Long) • ARG 5 - Not a Citizen • ARG 8 - Not a Person or Individual • ARG 9 - Sixteenth Amendment (16AMEND) • ARG 15 -Valuation (FAIRMV) • ARG 19 - Taxes are Voluntary • ARG 23 - Alleged Churches/First Amendment (ALDGCH) • ARG 27 - Services Not Taxable/Thirteenth Amendment/Form of Servitude (13AMEND) • ARG 31 - IRC 861 for Individual Employees (IMF 861) • ARG 32 - IRC 3121 (FICA) • ARG 36 - Bosnian Refugees (BOSNREF) • ARG 37 - Not Liable (NTLIABL) • ARG 42 - Nunc Pro Tunc (NUNC) • ARG 44 - Zero Wages on a Substitute Form • ARG 48 - Prisoner Filings • ARG 50 - Non Taxable Social Security (SS) Benefits

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.2**
Any line marked with a #
is for **Official Use Only**

Category	Arguments
Frivolous Deductions	• ARG 2 - Eisner v. McComber • ARG 7 - Form 2555 Deduction (F2555) • ARG 14 - Wages Deducted in Cost of Goods Sold (F-SCHC) • ARG 35 - IRC 1341 Claim of Right (COR) • ARG 40 - Exempt Employees of World Bank Organization (XMTEMP) • ARG 41- American Indian Treaty (AMERIND) • ARG 43 - IRC 1001 (1001)
Frivolous Credits	• ARG 6 - Reparation Tax (REPTX) • ARG 33 - 1041 - Lifetime Social Security Claims (LFTMEARN) • ARG 38 - IRC 861 Business - Employment Tax (BMF 861) • ARG 39 - EIC with Disability Income (FRIVEIC) • ARG 45 - Fuel Tax Credit • ARG 46 - Form 1099-Series • ARG 50 - Non Taxable Social Security (SS) Benefits
Altered/Invalid Documents	• ARG 11- Altered Jurat • ARG 12- Altered Form • ARG 13- Unsigned Returns (UNSIGN)

Category	Arguments
Other Arguments	• ARG 10 - Fifth Amendment (5AMEND) • ARG 16 - In Lieu of (ILO) • ARG 17 - Disclaimer (DISCL) • ARG 18 - Protest Against Government Action/Inaction (WARTAX) • ARG 20 - Challenges to Authority (CONST) • ARG 21 - Paperwork Reduction Act • ARG 22 - IRS Collects Tribute, Not Taxes (TRIBU) • ARG 24 - Amended Returns/Form 843 Claim for Refund and Request for Abatement (AMEND) • ARG 25 - Untaxed (UNTAX) • ARG 26 - Federal Reserve Notes Are Not Legal Tender (FEDRES) • ARG 28 - Obscene, Vulgar, Harassing (OBSC) • ARG 29 - Any other position deemed frivolous • ARG 30 - Non-negotiable Chargeback (NNCB) • ARG 34 - 1041 - In Lieu of 1040 (1041 ILO) • ARG 47 - C-Filings • ARG 49 - Collection Issues

(6) For a full listing of all arguments see Exhibit 25.25.10-1, Frivolous Arguments.

(7) When identifying frivolous documents, consider key indicators such as:

    a. Altered jurats, rewording or crossing off parts of the jurat, statements such as "signed under duress," and "all rights reserved,"

    b. Irregular entities such as: name of taxpayer in all lower-case letters, addresses such as "Territory of (state)" or address in all lower- or upper-case letters,

    c. Reduced or eliminated tax liability without valid justification, and

    d. Improper credits, deductions, or exclusions.

(8) Frequently FRP receives other frivolous documents. If the documents are not submitted with a Frivolous Return or identified as a Specified Frivolous Submission, then treat the document as frivolous correspondence.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.2**
Any line marked with a #
is for **Official Use Only**

25.25.10.2.1
(09-28-2020)
**Submission Processing
Identification and
Processing of Frivolous
Filings**

(1) Frivolous returns or documents purporting to be returns identified by Submission Processing employees will be forwarded to a central location for screening. See IRM 3.11, Returns and Document Analysis, and IRM 3.12, Error Resolution, for guidance on identifying and forwarding.

Note: RICS FRP will coordinate annual training with Submission Processing on identifying new arguments and/or refresher for this program.

(2) All returns or documents purporting to be returns received by FRP are screened to determine if the statute for limitation period must be set. Identified returns must be expedited to ensure precautions are taken to prevent barred assessments. See IRM 25.6.1.6.14, Criteria for Establishing a Statute of Limitations Period. Frivolous returns that require processing must be edited following IRM 25.25.10.8.7, Editing Return Instructions.

(3) Frivolous returns can be valid or invalid. A valid return meets the requirements to start the limitations period for assessment under IRC 6501. Frivolous returns are normally considered "valid or processable", under IRC 6611(g)(2) (although there are some exceptions) if they meet the following four-point criteria from *Beard v Commissioner*, 82 T.C. 766, 777(1984), aff'd per curiam, 793 F.2d 139 (6th Cir. 1986):

(4) A frivolous processable return meets the four-point criteria below:

- the return must contain sufficient data to calculate a tax liability
- it must purport to be a return
- it must include an honest and reasonable attempt to satisfy the requirements of the tax law
- it must be signed under penalties of perjury

(5) Do not process a frivolous return that does not meet the above four criteria. Processable returns must comply with the Beard Standard. Invalid unprocessable returns lack sufficient data and cannot be input to the computer. See IRM 25.6.1.6.16, Processable – Unprocessable Returns, for additional information.

(6) Valid returns that require processing are a priority and must be routed to Submission Processing as soon as possible to prevent barred assessments. Ensure all editing is complete and precautions are taken to prevent erroneous refunds.

(7) The Ogden campus will follow IRM 3.10.72, Receiving, Extracting, and Sorting, and any local procedures for using designated Private Delivery Service to transship.

(8) If a Campus FRP Coordinator refers a submission to FRP that is not frivolous, designated employees must provide feedback to the respective FRP Coordinator to explain the reasoning of the determination.

Note: Notification will be provided to Submission Processing, through the FRP HQ Analyst, when FRP receives numerous non-frivolous filings that must be cleared.

(9) Valid, frivolous returns on international forms or that have international impact will be routed to the appropriate Campus for processing international forms.

(10)   Any non-frivolous IMF returns that require processing (such as misroutes) will be directed to Kansas City Submission Processing Campus as outlined in national transshipment procedures.

(11)   FRP Cleared returns will be tracked using Category Code "FRP3" for inventory reporting purposes.

25.25.10.3
(03-02-2022)
Referrals to Frivolous
Return Program

(1)   Referral packages must contain adequate information for FRP to make a determination. Send referrals via Form 3210 to:

Note: If the frivolous document contains valid inquiries such as Freedom of Information Act (FOIA) requests, transcript requests, or taxpayer advocate issues, it should be forwarded to the appropriate function prior to transshipping to Ogden, FRP.

Internal Revenue Service

Attn: FRP M/S 4450

1973 N. Rulon White Blvd.

Ogden, UT 84404

(2)   Packages for IRC 6702(a) must include:

- Original return as received including any attachments or a copy of the original

Note: **Do Not** close case or transfer controls in order to transship cases. Coordinate with FRP to resolve ownership of the frivolous argument to ensure account resolution. Forward frivolous document only for the assertion of the IRC 6702 penalty if ownership will remain in AUR/ASFR etc.

(3)   Packages for IRC 6702(b) must include:

- TIN and Name Control
- Copy of the taxpayer's CDP hearing request, OIC, IA or Form 911, Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance order)

  Note: Only one section 6702(b) penalty will be assessed per CDP request. Assess the penalty on the oldest tax year included in the request.

- Copy of the letter(s) 3846 and/or 4380 issued soliciting a withdrawal of the taxpayer's "specified frivolous position" or desire to delay position (see letter 3176C for wording, it must be modified for specified submissions)

  Note: Appeals Letter dates are required to complete penalty assessment actions.

- If applicable, a copy of case history notes documenting related discussion(s) with the taxpayer
- Copy of written communication from the taxpayer in response to the withdrawal request

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.3**
Any line marked with a #
is for **Official Use Only**

- A case memo that includes a statement identifying the possible 6702(b) issue in the submission. This may be a frivolous position as identified in IRS Notice 2010-33 or a position that reflects a desire to delay or impede tax law administration
- When appeals transships a submission, the group manager must document approval of assessment of the penalty by writing "IRC 6702(b) penalty assessment approved" and signing the Form 5402, Appeals Transmittal and Case Memo

    Reminder: Incomplete packages will be returned to the generating function. When transshipping, original documents must be sent within five business days.

(4) Taxpayer Advocate Service (TAS) referral criteria is provided in the *Return Integrity and Compliance Service (RICS) Service Level Agreement (SLA) addendum* procedures.

25.25.10.3.1
(12-13-2023)
Cross Functional
Account Freeze Cleanup

#
#
#

#
#
#

#
#
#
#
#

#
#
#

#
#
#

#
#

25.25.10.4
(03-02-2022)
RIVO RRP IMF Frivolous
Return Screening

(1) The Return Review Program (RRP) uses filters and models to select returns for Return Integrity Verification Operations (RIVO) review. Potentially frivolous returns are placed in the Electronic Fraud Detection System (EFDS) in Process Status (PS) 77 for screening. RIVO will screen the returns in PS 77 using the procedures in IRM 25.25.12.17, Frivolous Return Program (FRP), prior to being forwarded to FRP for a final review.

(2) Fraud Referral & Evaluation (FRE) will input TC 810 with a jurisdiction code "4" on potentially frivolous returns being referred and will open an IDRS control to 1486900000, with a category code of FRP3 and the activity of "INCOM/PS70". Refer to IRM 25.25.10.8.1, RIVO RRP IMF Frivolous Return Scheming for treatment specifics.

25.25.10.3.1   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
                                                                    Any line marked with a #
                                                                    is for **Official Use Only**

25.25.10.5 (03-02-2022) **RIVO DDB BMF Frivolous Return Screening**	(1)	Return Integrity and Compliance Services (RICS) started utilizing filters for BMF Frivolous Filer identification in 2013. Each year the filters will be reviewed and updated when newly identified schemes or existing scheme changes are determined.

(2)   Prior to January 2022, Form 1120, U.S. Corporation Income Tax Return, Form 1120S, U.S. Income Tax Return for an S Corporation and Form 1041, U.S. Income Tax Return for Estates and Trust were allowed to post, but any refund was held with a TC 570 which generated the -R freeze. Starting in January 2022, new programming went into production to freeze potentially frivolous filings using a -Q freeze by posting a systemic TC 810 RC 4. This new functionality also restricts the release of the BMF TC 810 to RIVO employees.

(3)   FRE will open an IDRS control to 1486900000, with a category code of FRP3 and the activity of "INCOM/DDB". Screening of these returns will follow guidance listed in IRM 25.25.10.8, Screening Returns and Claims.

25.25.10.6 (12-13-2023) **Processing of Incoming Receipts**	(1)	Incoming Receipts are received by mail, E-fax, and/or referrals from other areas.

(2)   Date stamp all paper correspondence within two business days of receipt in FRP.

Exception: All incoming paper documents must be stamped with the FRP received date in the initial sorting process except the automated frivolous correspondence. During second sort, date stamp all PSL correspondence prior to routing to the Data Processing Center (DPC). There is no requirement to date stamp destroy correspondence that will be treated as classified waste. Classified waste is documentation containing taxpayer entity or account information that is not part of the case and is not needed for audit trail purposes. Refer to IRM 21.5.1, General Adjustments for guidance on handling classified waste to prevent inadvertent/ unlawful destruction of records.

(3)   For digital and faxed correspondence received, no date stamp action is required. The date will already be present on correspondence submitted digitally. **Exception:** If the fax is received from another internal department, date stamp to show the FRP received date stamp.

- Consider faxes received by an E-fax machine before 11 p.m., MST, timely received. Take no further action to evidence receipt.
- If no date shows on an E-Fax, date stamp the E-fax based on the guidelines provided.

(4)   Update correspondence with the earliest IRS received date within five business days of receipt.

(5)   Acknowledge 3210s with signature. Route one copy to sender and file additional copy per local procedures.

(6)   Date Stamp and initial ALL cover sheets and Routing slips for mail routed out of FRP.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.6**
Any line marked with a #
is for **Official Use Only**

25.25.10.6.1
(07-07-2022)
Priority Pull

(1)   Process priority receipts using the table below:

If	Then
Receipt is misrouted to FRP	Date stamp and add to misroute tub for additional research to determine appropriate functional area and include count on quicksort report and include comments with sender and intended recipient info to ensure proper feedback is shared by FRP Coordinator as needed.
Valid Correspondence	Refer to IRM 25.25.10.7.2, Non-Frivolous Correspondence, for guidance
Returns and Claims	Refer to IRM 25.25.10.8, Screening Returns and Claims, for guidance
Form 14402, IRC 6702(d) Frivolous Tax Submissions Penalty Reduction	• Input and scan to FRP Master using the appropriate action code, within three days of receipt. • Open CC TXMOD control to "1486700000" or "1486800000", using activity "F14402" and category FRPR on MFT 55. • Route to TT Team for processing.
Identity Theft (IDT) Form 14039, Identity Theft Affidavit, or other signed statement indicating IDT	Follow procedures in IRM 25.25.10.8.6, Identify Theft Screening. Do Not open a CC TXMOD control unless specified.
Form 4442, Taxpayer Inquiry Referrals	• Open CC TXMOD control to "1486700000" or "1486800000", using activity "F4442" and category "TWRO." • Route to TT Team for processing.

25.25.10.7
(12-13-2023)
Screening
Correspondence

(1)   Sort incoming correspondence based on the categories below:

1.   Frivolous
2.   Undeliverables
3.   Non-Frivolous and there are no FRP actions
4.   Non-Frivolous and there are FRP actions

Exception: All incoming paper documents must be stamped with the FRP received date in the initial sorting process except the automated frivolous correspondence. During second sort, date stamp all PSL correspondence prior to routing to the Data Processing Center (DPC). There is no requirement to date stamp destroy correspondence that will be treated as classified waste. Classified waste is documentation containing taxpayer entity or account information that is not part of the case and is not needed for audit trail purposes. Refer to IRM 21.5.1, General Adjustments for guidance on handling classified waste to prevent inadvertent/ unlawful destruction of records.

25.25.10.6.1   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
                                                                    Any line marked with a #
                                                                    is for **Official Use Only**

25.25.10.7.1
(12-13-2023)
Frivolous
Correspondence

(1) Correspondence indicating unwillingness to file or pay taxes based on frivolous arguments will be worked under this category. Frivolous correspondence is not subject to the frivolous return penalty except as noted below.

Note: Correspondence that purports to be "in lieu of" a tax return or informal refund claims are subject to the IRC 6702 penalty. These cases will follow return processing procedures.

(2) Research IDRS for case controls, freezes and histories that can affect processing the frivolous correspondence. (e.g., TC 971 Action Code (AC) 281 on CC ENMOD indicates a Fraud case is in development or a disaster freeze (O) is present that can require suspended account activity. Coordinate as appropriate.)

(3) All program receipts in manual screening will be controlled within five days of receipts including frivolous correspondence. If you identify an existing control base for the receipt in question, update category and/or action codes to indicate the current status or treatment if warranted.

Exception: Correspondence receipts that meet automation criteria will be added to the appropriate automation spreadsheet for case controlling purposes. Case controls and database input must be completed within 14 days of receipt. Automated case controls will be opened and closed using Category Code "FRP1" for inventory tracking purposes.

(4) Process frivolous correspondence that **will not be destroyed** using the table below. All frivolous correspondence must be input to FRP Master by automation spreadsheet or manual input. Update correspondence using the appropriate closing action code and input time charged to 91853. Ensure to input all promoter information in the promoter section.

(5) Use the following category code criteria for frivolous correspondence screening unless otherwise noted:

- FRP3 is to be used for general screening of receipts prior to input to database.
- FRP1 is to be used to identify inventory receipts when they are added to FRP database for treatment.

Reminder: If correspondence will be used to document civil or criminal fraud, **Do Not Destroy**.

Note: The table below is not all inclusive. Additional research will need to be completed on a case-by-case basis.

If	And	Then
Frivolous Correspondence	This is the first/only taxpayer submission (no FRP Master record exists) and issue will be added to FRP Database manually	• Scan into FRP Master. *Note:* Follow regular FRP processing procedures after scanning.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.7.1**
Any line marked with a #
is for **Official Use Only**

If	And	Then
Correspondence referred by BMF/IDT or EF after determining no IDT in-volvement, ***Note:*** Router will specify the reason for referral and FRP criteria identified	Determination made that the filing is not frivolous	• Complete account cleanup and FRP clear the filing by: • Update and close the FRP IDRS control to "FRPCleared" and Category Code "FRP3." • Review the module and address any held credits prior to closing the case. If no questionable criteria is identified input TC 571 to remove the R freeze. If applicable, input a TC 811, jurisdiction code "4" with 'Freeze-Release-Amt' for ″.00″ to remove the -E freeze. • Review FRP Master and input ap-propriate closing action code and address all applicable open issues.
Frivolous Correspon-dence containing: Any Information Return (IR) with frivolous indicators, Accepted For Value, Bill of Exchange/Money Order, Bond/Promissory Note, Form 56 or threat-ening letters – defined to mean letters concerning collection of tax, requests for refund, claiming they do not owe tax	**Do NOT destroy**	• Route to FRP Technical Coordinator. • After review, documents that meet PSL criteria will be added to Correspondence Automation process and transshipped to Kentucky Data Input Center following database input. • FRP Coordinator will review and refer misroutes and provide appropriate feedback as needed.
Frivolous Correspon-dence containing: Frivolous checks (Checks and/or money orders will generally state "EFT Deposit Only", "For Discharge / setoff", or other frivolous argument.	**Do NOT destroy**	• Route to Mail Stop (MS) 4457 Attn: Team Lead. • Scan into FRP Master. • Route to FRP Analyst.
Uniform Commercial Code (UCC) Financing Statement containing a federal employee name	Has or does not have an attachment, **Do NOT destroy**	• Route to Mail Stop (MS) 4457 Attn: Team Lead. • After review, contact Treasury Inspector General Tax Administration (TIGTA) if stamped by court. • Scan into FRP Master if requested by TIGTA before routing.

25.25.10.7.1   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

If	And	Then
Frivolous Correspondence	Account contains an unreversed Z freeze **Do NOT destroy** ***Note:*** Research for history "ok to audit", if present route to FRP TT.	• Attach IDRS print to the mail that reflects the most recent, open TC 91X and Agent ID number. • Route to FRP CI POC to coordinate via with CI liaison.
Frivolous Correspondence	FRP is pursuing civil fraud penalties, **Do NOT destroy** ***Note:*** Identified by a TC 971 AC 281 on the module.	• Route to assigned Tax Technician to associate with case.
Frivolous Correspondence	Freedom of Information Act (FOIA), Privacy Act, 5 USC 552(a), IRC 6103/IRC 6203, and Federal/State/Foreign Agency Requests, **Do NOT destroy**	• Attach SUMRY print to front of mail and write, "Input to FRP Master" on upper right-hand corner of print. Write, "Considered in FRP" on document, lower left hand corner. • Ensure FRP received date is on document but do not include initials, dates or other information on the FOIA request. • Route to FRP Disclosure Coordinator for coordination with Disclosure Office.
Frivolous Correspondence	Collection Due Process (CDP) or Collection Appeals Request (CAP), **Do NOT destroy**	• Attach CC ENMOD print to front of mail, highlight Business Operating Division (BOD) at top center of print and write "Input to FRP Master" on upper right-hand corner of print. Write, "Considered in FRP" on document in lower left hand corner. • Route to Collection Miscellaneous Department.

(6) Unless additional official guidance is provided, all other (not listed in the table above) frivolous correspondence **will be destroyed** and will require input to FRP Master or spreadsheet, under correspondence using action code 91853. Ensure to input all promoter information in the promoter section.

Note: Detach any non-frivolous forms from frivolous correspondence to be routed through non-frivolous correspondence.

(7) When the IRS receives frivolous correspondence, Letter 3175C, "Frivolous Correspondence Response" is sent to inform taxpayers that their positions are frivolous and that further correspondence regarding frivolous issues will not receive responses. This letter constitutes outreach education for frivolous filers.

Reminder: Although frivolous correspondence is excluded from Policy Statement P-21-3 criteria, every attempt will be made to respond within 30 days of the IRS received date. Refer to IRM 21.3.3.2, "What is the Definition of Correspondence? - Policy Statement P-21-3 Exclusion List".

Note: Systemic issuance of Letter 3175C, may be conducted as deemed appropriate.

25.25.10.7.2
(07-07-2022)
**Non-Frivolous
Correspondence**

(1)　All program correspondence in manual screening must be controlled within five days of receipt. Research non frivolous correspondence on IDRS for additional case considerations including account indicators, freezes, and histories that may affect treatment determinations (e.g., an open control in another area). If you identify an existing control base for the receipt in question, update category and/or action codes to indicate the current status or treatment if warranted.

(2)　Open IDRS control to IDRS number "1486x00000" (where x represents the team to be assigned the inventory), using standardized category code and activity code following local procedures. Include IRS received date of the correspondence. Use the following category code criteria for general correspondence screening unless otherwise noted:

- FRP3 is to be used for general screening of receipts prior to input to database.
- FRP1 is to be used to identify inventory receipts when they are added to FRP database for treatment.

(3)　Route any non-frivolous forms that have been detached from frivolous correspondence as appropriate (i.e., Form 2848, FOIA, Form 911, etc.)

(4)　Process Non-Frivolous correspondence using the table below:

Note: The table below is not all inclusive. Additional research may need to be completed on a case-by-case basis.

If	And	Then
A general Inquiry/question	the response is to a FRP action or letter	• Open CC TXMOD control to "1486x00000 "(X = the open issue employee team), using activity "CORRCVD" and category "FRP3." ***Note:*** if no open issue, assign to "1486700000" or "1486800000."
Form 14157, Complaint: Tax Return Preparer		• Do not open CC TXMOD control. • Route to FRP Technical Coordinator for review. • After review, Technical Coordinator will route to Return Preparer Office (RPO).

25.25.10.7.2　　　　　　Internal Revenue Manual　　　Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

If	And	Then
Form 4549, Income Tax Examination Changes or any other signed agreed to audit proposal	an open CC AMDIS issue in FRP	• Update Audit Information Management Services (AIMS) with Correspondence Received Date (CRD). • Route to TT Team for processing.
Form 4549, Income Tax Examination Changes or any other signed agreed to audit proposal	a closed CC AMDIS	• Close IDRS control with activity "2RECON". • Route to Audit Reconsideration Team.
Non-Frivolous	there are **no** FRP actions	• Do not open CC TXMOD control. • Route as appropriate following mail routing guide procedures.
Non-Frivolous	there are FRP actions and there is an open FRP control	• Input and scan to FRP Master using the appropriate action code. • Route to TT Team for processing.

25.25.10.7.3
(07-07-2022)
Correspondence Automation

(1) Clerks prepare bundles of correspondence from the cart using the following criteria:

   a.   By PSL or Destroy
   b.   Notate Cart and Bundles with FRP CRD. Work from the oldest date
   c.   In no more than bundles of 50 pieces of correspondence

(2) Update the Correspondence Automation Spreadsheet on SharePoint and notate tick sheet with batched count for Misroutes, Not Friv, Classified Waste, PSL, and Destroy. Email/Print the Correspondence Tick Sheet and forward to Manager.

(3) When updating the spreadsheet, clerks should include a unique identifier of clerks Initials and Batch Count.

(4) Store completed work bundles on the designated automation area. Ensure Batch Sheets match Automation Run dates.

25.25.10.7.4
(06-08-2018)
Undeliverable FRP Mail

(1) Undeliverable FRP letters or notices for existing FRP Master records are worked per the table below.

Note: Undeliverable FRP letters or notices received with no existing FRP Master record, must be updated with a history item on CC ENMOD.

If	Then
Letter 3175C	Update FRP Master with an action showing, undeliverable letter/notice, update CC ENMOD with undeliverable history and Destroy.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.7.4**
Any line marked with a #
is for **Official Use Only**

If	Then
Letter 3176C *Note:* Includes CP 72 received prior to January 2016	Update FRP Master with an action showing, undeliverable letter/notice, update CC ENMOD with undeliverable history and Destroy.
CP 15, CP 215	Update CC ENMOD with undeliverable notice history and Destroy.
All Other Letters (non-certified) sent by FRP technicians	Update CC ENMOD with undeliverable letter/notice history and Destroy.
Certified Mail (105C, 3219C)	Follow procedures in IRM 4.19.13.15, Undeliverable Mail. *Reminder:* Notate undeliverables with "unclaimed" or "refused".

25.25.10.8
(03-02-2022)
Screening Returns and Claims

(1) Screen new returns and claims to determine if frivolous return program criteria have been met. Refer to IRM 25.25.10.2, Identification of Frivolous Submissions for criteria.

Note: BMF returns require expedite handling (2 business days) to avoid interest on legitimate refunds.

(2) Sort incoming returns/claims based on the categories below:

   a.   Frivolous
   b.   Non-Frivolous and there are **no** FRP actions
   c.   Non-Frivolous and there are FRP actions

Reminder: All incoming documents must be stamped with the FRP received date.

(3) Research FRP cleared returns to identify any taxpayer issues and account cleanup that FRP will need to address prior to routing out.

(4) If Return is to be treated in FRP, open or update the existing IDRS control for the specified return to IDRS number "1486x00000" (where x represents the team to be assigned the inventory), using standardized category code and activity code following local procedures. Use the following category code criteria for return screening unless otherwise noted:

   •   FRP3 is to be used for general screening of receipts prior to input to database.
   •   FRP1 is to be used to identify inventory receipts when they are added to FRP database for treatment.

(5) Route Frivolous and Non-Frivolous with FRP actions to the FRP Technical Coordinator or designated backup to screen for Promoter/Preparer and other frivolous screening criterion.

Note: Indian Tribal filings must be coordinated with the Office of Indian Tribal Governments (ITG) located within Tax Exempt Government Entities (TEGE) prior to taking any case action.

Reminder: Under IRC 6702, a return must refer to a frivolous position or reflect a clear indication of a desire to delay or impede the administration of tax laws. Penalties should not be imposed in situations where the taxpayer is attempting to meet their tax obligations but may be confused by a particular issue or is seeking assistance.

(6)   Route Non-Frivolous with no FRP actions per the Mail Routing Guide.

25.25.10.8.1
(01-03-2023)
RIVO RRP IMF Frivolous
Return Scheming

(1)   If no issues were identified in prior subsection, process PS 70 inventory as follows:

- Log into the Workload Management System (WMS)
- Analyze the returns controlled as INCOM/PS70 on AAL listing

(2)   If frivolous return criteria are detected, take the following actions:

a.   Determine Argument
b.   Update Case Notes as "FRP Selected, Argument NN determined in scheming"
c.   Update IDRS case control to "PS70INPUT" and update category code to "FRP1"
d.   Input to FRP Master Database as a return issue using Action of "Assign"
e.   Refer to team clerk to reassign FRP Issue and IDRS Case Control to clerical team for issuance of Letter 3176

(3)   If frivolous criteria is not identified, disposition the return as follows:

a.   Input in the EFDS Return note: "FRP Cleared, return is not frivolous".

#
#
#
#
#
#

c.   Refile all remaining returns considered verified good.
d.   Close IDRS case control as "FRPCleared" and release -E freeze with a TC 811 Jurisdiction Code "4". Review for any other case clean up actions necessary.

25.25.10.8.2
(12-16-2019)
Screening for
Promoter/Preparer

(1)   Designated employees will timely review all program receipts to determine appropriate handling including referrals to the SB/SE Lead Development Center (LDC). The nature of frivolous filings requires careful consideration of the inventory as a whole; therefore, screening will be conducted on documents prior to their assignment out to program employees. Review the entire population of new receipts to identify:

#
#
#
#

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.8.2**
Any line marked with a #
is for **Official Use Only**

# # # # # # # #

> *Note:* Ensure authentication requirements are met per IRM 11.3.2.3.2, Requirements for Verbal or Electronic Requests and IRM 21.1.3.2.3, Required Taxpayer Authentication.

(2) Filings will also be screened for International implications and subsequent co-ordination with International Exam. Processable frivolous International filings require processing at the appropriate Campus handling International returns. International filings include:

- Form 2555
- Form 1040NR
- Tax Treaties
- Foreign Income
- Foreign address including APO/FPO such as for military personnel .

(3) When **new** frivolous arguments are identified:

- Coordination will occur between FRP Technical Coordinator, and RIVPM P&A to obtain a Counsel Opinion that outlines the non-compliant behavior, IRC 6702 criteria and compliance issues that need to be addressed to correct the filing.
- RIVPM P&A and Management will determine the treatment of new filing patterns and, a new argument code will be assigned.
- Issue FRP Alert describing new argument to educate FRP employees.
- Apprise FRP Coordinators, CI, TEC, SB/SE LDC of new information.
- Issue SERP Alert/Hot Topic if impact on IRS is significant.
- Update training materials and Internal Revenue Manuals.

(4) When new preparers or promoters are identified, enter the name and promotion on FRP Master Project Status Listing (PSL).

(5) Coordinate civil investigations with SBSE Lead Develop Center (LDC). See IRM 4.32, Abusive Transactions, for additional information.

(6) See IRM 20.1.6, Preparer, Promoter, Material Advisor Penalties and IRM 20.1.10.12, IRC 6702 -Frivolous Tax Submissions, for additional information.

(7) Refer cases to technician for Handling of Returns and Claims.

25.25.10.8.3
(07-07-2022)
Handling of Returns and Claims

(1) Screen returns/claims to determine if FRP criteria has been met. Ensure FRP Technical Coordinator determinations are input to FRP Master on notated frivolous return/claims. Refer to IRM 25.25.10.2, Identification of Frivolous Submissions for criteria.

> *Note:* BMF returns require expedited handling (2 business days) to avoid interest on legitimate refunds.

25.25.10.8.3   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
                                                                    Any line marked with a #
                                                                    is for **Official Use Only**

(2)   When submissions are received that contain potentially new frivolous
        position(s): coordinate with FRP Technical Coordinator and HQ Analyst to
        obtain Chief Counsel opinion that determines whether they are frivolous.

(3)   Research IDRS for case controls, freezes and histories that may affect pro-
        cessing the frivolous return/claim.

Note: Refer to table below for additional information regarding specific freeze
            codes.

(4)   On IMF inventory, input a TC 810 using jurisdiction code "4" on any year with
        an open RSED, unless a -E freeze specific to FRP is posted.

(5)   Review the module and address any held credits prior to closing the case. If
        applicable, input a TC 811 with jurisdiction code "4" with 'Freeze-Release-Amt'
        for ″.00″ to remove the -E freeze. and input a TC 571 to release -R freeze

Note: IMF modules with a TC 811 will systemically post once an RSED expires as
            long as a held credit amount is not present.

(6)   Review tax module for Erroneous Refunds, Offsets, and transfers. Update FRP
        Master Error Filing Tab and coordinate any recovery actions needed.

(7)   Review sorted returns/claims based on the categories below:

   a.   Frivolous non-processable - a non-processable Frivolous return is a
           return that does not have enough information to be processable (i.e.,
           altered jurats, altered forms or unsigned returns.)
   b.   Frivolous processable - a processable Frivolous return is a return that
           contains enough information to be processed.

      Note: See IRM 25.25.10.2.1, Submission Processing Identification and
                  Processing of Frivolous Filings, for further guidance.

   c.   Frivolous Amended Return or Claim - A Frivolous Claim is a request for
           refund or a request for an adjustment of tax paid or credit not previously
           reported or allowed based upon a frivolous position. This treatment
           includes protective claims and requests for abatement of interest/penalty.
           See IRM 21.5.3.2, What Are Claims for Credit, Refund, and Abatement?,
           for additional information.

      Note: Refer to IRM 25.25.10.8.8 for guidance on processing a Form
                  1040X, Informal Claim, or Invalid Form that would constitute a tax-
                  payer's initial filing.

   d.   Non-Frivolous.

(8)   Route Non-Frivolous with no FRP actions per the Mail Routing Guide.

(9)   Review the Argument selected by the FRP Technical Coordinator; if research
        finds the argument to be incorrect follow procedures in IRM 25.25.10.8.3.1,
        Technical Assistance Request (TAR).

(10) Research account for the specific tax period to ensure all receipts are consid-
        ered in the determination.

Reminder: **DO NOT ESTAB** for documents if the return is electronic. ESTAB all
                    paper returns. Prior to receipt, if research supports that a paper return

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.8.3**
Any line marked with a #
is for **Official Use Only**

is frivolous, create issue and follow established work process. Upon receipt of return, scan into FRP Master Database and attach image to issue number.

(11)   All returns/claims not routed must be controlled within five days of receipt. Review the existing control base for the receipt in question, and if applicable update category code to FRP1 and make necessary changes to action codes to indicate the current status or treatment. Treat according to the table below:

Reminder: All frivolous and non-frivolous returns/claims require input to FRP Master using the appropriate action code (unless otherwise notated). The selected FRP Master action codes must reflect issue specific selections on a letter sent to the taxpayer. Ensure that cross-reference Taxpayer Identification Numbers (TINs) are annotated for all BMF accounts. Ensure to input all promoter information in the promoter section. Scan all returns/claims to the FRP Master if not available electronically. If a Correspondence Imaging System (CIS) document exists for subsequent returns input the CIS# to FRP Master.

Exception: If a 3176C letter has been sent within the last 12 months for the same tax period or with an on-going FRP involvement, select the appropriate FRP Master action code to ensure pre-notification is not reissued to the taxpayer. If a new frivolous document is received and no correspondence has been sent in the last 12 months, select the appropriate FRP Master action code to ensure pre-notification is reissued to the taxpayer.

Note: Systemic issuance of Letter 3176C may be conducted, as deemed appropriate.

Note: Compliance checks are currently required on any module with an erroneous refund, offset, or transfer and/or a Frivolous argument 44 and 46 as designated by HQ. Refer to Exhibit 25.25.10-1, Frivolous Arguments, and IRM 25.25.10.9.5, Conducting Compliance Checks.

Note: Only on Individual Master File (IMF) accounts, if a TC 810 with jurisdiction code "4" exists on an account where the RSED has expired, reverse the TC 810 with TC 811 with 'Freeze-Release-Amt' for ".00".

Note: Consider referring for classification by FRP RA or designated back up if return includes: Large, Unallowable, or Questionable (LUQ) items in addition to the original frivolous issue. If re-classified return may need to be referred for disposition. These should be worked on a case-by-case basis.

If	And	Then
Frivolous Return	Invalid for processing purposes	Issue 3176C letter with 12C Paragraphs and any other applicable paragraphs to outline the frivolous behavior that needs to be corrected.

25.25.10.8.3   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

If	And	Then
Frivolous claim	The argument selected is 47 (C File claim) or 29 and meets C file criteria	Follow IRM 25.25.10.8.5, C-Filings.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.8.3**
Any line marked with a #
is for **Official Use Only**

If	And	Then

Frivolous return, claim, or submission	The account contains an un-reversed O freeze	Review IRM 25.16, Disaster Assistance and Emergency Relief, for policy guidance and/or treatment considerations for disaster affected taxpayers.
		• Review disaster specific memo information to determine established suspense time frames.
		   Caution: **Do not** assess tax or penalties on impacted accounts until after the suspense time of the notice expires (letter must be issued after disaster suspense lifted) **unless**, exigent circumstances apply.
		   Example: Exigent circumstances include circumstances involving the loss of opportunity for the government to collect taxes due, such as the expiration of the statute of limitations or assets being placed beyond the reach of the government.
		• Issuance of a 3176C letter prior to disaster suspense expiration date must include the following paragraph: As a result of the recent disaster in your area, the strict time frames to respond do not apply, as there will be no adjustments made on your account until after (Insert the FEMA Memo suspense expiration Date). If the refund was held on your account and you do not contact IRS, we will continue to hold your refund until after we send additional correspondence.
		• Following the FEMA memo expiration date, 3176C must be issued (in addition to other 3176C that may have been issued). Do not include FEMA paragraph. Letter suspense time frames apply but requests for extension will be reviewed on a case-by-case basis.
		• Audit case considerations for disaster treatment are found in IRM 4.19.13.27, Disaster relief.

Any line marked with a #
is for **Official Use Only**

If	And	Then
Frivolous claim	Account contains an unre-versed Z or -T freeze or other CI indicators are present. ***Note:*** Research IDRS for case controls, freezes and histories to determine if fraud case is in development)	• Secure permission from CI to work or route as directed below. • Attach IDRS print to the mail that reflects the most recent, open TC 91X and Agent ID number. • Route to FRP CI POC to coordinate liaison.
Non-frivolous with FRP actions (this includes any Form 843 with open or closed FRP issues)	FRP still has open issues	• Open CC TXMOD control to "1486900000", using CRMMD-DYYYY for activity and update category code to FRPR if appli-cable. • Route to TT Team for processing. ***Note:*** Refer to IRM 25.25.10.10.2 and IRM 25.25.10 for additional guidance for Form 843 treatment specifics.
Non-frivolous with FRP actions (excluding Form 843)	FRP issues have been closed **and** there is no bearing on the penalty deter-mination ***Note:*** If there is a bearing on the penalty, follow open issue above	1. Do Not input or scan to FRP Master. 2. Release any FRP freezes. 3. For R coded returns with a 971-089 input before January 1, 2016, archive RGS, short close CC AMDIS with Disposal code 33 and send apology Letter 544C. 4. Route using the Mail Routing Guide.
Non-frivolous	Response to FRP pre-notification notice CP 72 was received before the original frivolous return (due to systemic processing) ***Note:*** If Frivolous determi-nation can be made through IDRS research, ensure FRP issue has been input. ***Note:*** Issuance of the CP 72 and the establish-ment of Aims was discontinued on January 1, 2016.	• Open CC TXMOD control to "1486x00000", using CRMMD-DYYYY for activity code and update category code to FRPR if appli-cable. • Route to TT Team for processing.

\#
\#

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.8.3**
Any line marked with a #
is for **Official Use Only**

(12) Ensure any returns input to the FRP Master have the most current known address and that the CC ENMOD address matches.

- • If the return address does not match, ensure both systems are updated to the most current address.

  Note: If an address change is required on FRP Master, move the former address to the "Alt Address" tab and input the correct address on the record.

Exception: For BMF returns/claims **DO NOT** update addresses on CC ENMOD, add the new address to FRP Master as "ALT address."

Note: If altered jurat is an issue, make sure that taxpayer was afforded the opportunity to properly sign the return (using Letter 12C).

Note: In June 2017, the 3176C letter was modified to include specific criteria for three letter iterations including altered jurat. Each iteration has specific language to notify the filer of actions required to comply with law and prevent 6702 penalty assessments. Updates include a description of behavior that resulted in frivolous return determination.

25.25.10.8.3.1
(08-04-2021)
Technical Assistance Request (TAR)

(1) The Technical Assistance Request (TAR) generated through the FRP Master Database is a written record of technical guidance requests with the supportive research performed and the guidance provided. This includes requests for re-evaluation of arguments.

   a.   Title the TAR using: scheming clarification and issue number NNNNNN.
   b.   The body of the TAR needs to clearly and concisely identify the issue and provide sound reasoning as to the concern.
   c.   The employee will then send the TAR for management review and assignment to FRP Technical Coordinator.
   d.   FRP Technical Coordinator will address the concern with sound reasoning for the determination and document the decision
If a decision is made to change the scheming, the scheming will be updated accordingly by the FRP Technical Coordinator.
If based upon the response, further dialogue needs to occur (either with counsel or HQ), it needs to be documented within the TAR.

25.25.10.8.4
(08-13-2015)
Employee Frivolous Filings

(1) Frivolous filings received from IRS employees may be identified through FRP employee research, outside referrals such as CI, Customer Service, TAS, Field Agent reports, computer database matching, etc.

(2) Under the guidelines for working RRA 98 Section 1203 allegations, frivolous filings received from IRS employees will be reported promptly and directly to TIGTA, with clear annotation that the audit needs to be referred to their local PSP per IRM 4.1.1.6.7, Employee Audits. When referring to TIGTA, annotate that the IRC 6702 penalty will need to be addressed at the conclusion of the field audit, if the employee maintains their frivolous position. Take no actions until the field office provides the request for penalty assessment.

(3) Any frivolous return meeting these criteria must be processed, regardless of its validity before referral. Refer to IRM 25.25.10.8.7, Editing Return Instructions for processing. Once processing is completed, original returns will be

25.25.10.8.3.1   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

forwarded to TIGTA. Forward a copy of the return to Field Function for Audit.

25.25.10.8.5 (06-08-2018) **C-Filings**	(1) C-Filings (generally considered confused filings) are broken down into the four categories listed below.

  a. Those that make claims for various types of deductions, credits or overpayments/refunds that have no relation to reality.
  b. Those that have entity information, but lack sufficient information to determine the tax liability.
  c. Those that present nonsensical or rambling statements that do not reflect a good faith attempt to comply with the federal tax laws.
  d. Those that have no identifying information for the taxpayer that would allow the IRS to correspond. Treat as having no legal value and destroy.

(2) C-filings that meet the criteria listed in a, b, or c will follow normal frivolous return procedures on at least one frivolous return filing per tax period. Any subsequent C-filing will be scanned into FRP Master, but the IRC 6702 Penalty will not be proposed at this time.

  • C-Filed Returns that are not subject to the IRC 6702(a) Penalty based upon a Counsel opinion or a subsequent filing within the same tax period will close with "subsequent C-File"
  • Initial C-Filed Return subject to IRC 6702(a) will close with "C-File"

Note: Verify at least one penalty assessment is applied for the return tax period prior to selecting subsequent C-file as your action code if applicable.

(3) Ensure all FRP activities are updated/closed (i.e., FRP Master, AIMS, IDRS etc.)

25.25.10.8.6 (11-01-2021) **Identity Theft Screening**	(1) The following subsection contains procedures for screening Identity Theft (IDT) on IMF Returns.

Note: Refer to IRM 25.25.10.17, Business Master File (BMF) Procedures.

(2) IDT is a crime that occurs when someone uses another individual's personal information such as name, Social Security Number (SSN), or other identifying information, to commit fraud or deception.

(3) Cases that have frivolous account indicators are referred to the FRP for any tax period that may have had the Frivolous Return Penalty Assessed. These civil penalty assessments can only be abated by the Frivolous Return Program and prior to abatement, case specific account research must be completed to support the determination that the IDT claim is valid.

Note: Tax Periods that have no FRP involvement are resolved prior to referring the filing years that FRP must address.

(4) Referrals are generally received as one of the following:

  a. Form 4442
  b. Operations Assistance Requests (OAR)
  c. Form 14039
  d. Form 14103

e.   Form 14027-B
f.   Correspondence that states the filer did not file the return and is a victim of IDT

(5)   IDVA referrals to FRP that need to be addressed by multiple functions will be coordinated with RIVPM P&A to streamline case resolution. These referrals will be forwarded to FRP using the following process:

- An IDRS Control will be assigned to 0586911111 with Category Code FRPI

#

As outlined in IRM 25.23.2.2.2, Priority Handling of Identity Theft Cases, cases involving IDT will receive priority treatment. If a referral cannot be resolved within 30 days or less, a summary that addresses the case specifics and the estimated completion date will need to be forwarded to RIVPM P&A on a weekly basis. Once all actions have been completed on a referral, close the CC TXMOD control with "IDTRSLVED".

(6)   Review IDRS to consider all account information that impacts case resolution. Check the tax module for prior indication that the taxpayer is a victim of ID Theft. If the taxpayer states they are a victim of Id theft or if they state they did not file the tax return, then check CC ENMOD for any prior or current ID theft indicators and follow the procedures in IRM 25.23.2, Identity Protection & Victim Assistance - General Case Processing, for any account corrections. If there are no prior or current ID theft indicators on CC ENMOD, advise the taxpayer to send a completed Form 14039, Identity Theft Affidavit and input a TC 971 AC 522 PNDCLM on CC ENMOD per IRM 25.23.2-10, IMF Only TC 971 AC 522 Tax-Related Identity Theft, Case Status (Initial Claim/Suspicion).

(7)   Review the table below for guidance as it relates to IDT statuses found while performing research. Referrals that do not meet FRP criteria will be worked as a misroute.

Note: If you identify an existing IDRS Control assigned to 0586911111 with Category Code FRPI, do not establish a new control. Update the existing control with the appropriate updates.

If	And	Then
Confirmed IDT is the original filing document or TC 150 document	TC 971 AC 501/ AC 506 on CC ENMOD for tax period and no prior FRP action (e.g., FRP penalty assessments or pre-notifications)	1. Release with notation "FRP cleared" on paper posted returns and route as appropriate. 2. Release any FRP freeze condition.
Confirmed IDT	TC 971 AC 501/ AC 506 on CC ENMOD for tax period and had FRP actions	1. Open IDRS control to IDT: C#,FIRSTREAD,A,FRPI 1486X00000,*. 2. Route to TT Team for IDT treatment.

25.25.10.8.6   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
                                                          Any line marked with a #
                                                            is for **Official Use Only**

If	And	Then
Suspected IDT	With pending TC 971 AC 522 or history of suspected IDT for the tax period	1. Open IDRS control to IDT: C#,FIRSTREAD,A,FRPI 1486X00000,*. 2. Route to TT team for IDT treatment.
Suspected IDT	No prior indicators	1. Input TC 971 AC 522 with MISC field per IRM 25.23.2-10, IMF Only TC 971 AC 522 Tax-Related Identity Theft, Case Status (Initial Claim/Suspicion) under (14) BOD: WI IVO. 2. Open IDRS control to IDT: C#,FIRSTREAD,A,FRPI 1486X00000,*. 3. Route to TT team for IDT treatment.
Confirmed Original Return IDT	Subsequent return is a frivolous filing (or vice versa)	1. Follow normal frivolous return procedures.

25.25.10.8.7
(06-08-2018)
Editing Return Instructions

(1)   Current year IMF returns requiring processing will be edited as follows:

Exception: Edit prior year returns with tax year underlined in red and the line-item numbers must be corrected to match current filing year returns.

Note: For BMF returns see individual BMF subsections for editing instructions.

- Notate received date in red on the return. Circle out any other dates. See IRM 3.11.3.8.2.1, Types of Received Dates, when editing a received date.
- Verify withholding. (Taxpayers may include amounts withheld for social security, Medicare, or state tax as Federal Withholding. Do not allow.) Edit correct withholding amount on Form 4227.
- Notate return "FRP cleared", include last 5 digits of IDRS number on top left corner of the return.
- Notate return with Computer Condition Code (CCC) "3" in red below the entity portion in the center of the return.

  Note: This code freezes refunds.

- Notate blank returns with Return Processing Code (RPC) "L" in the right-hand margin next to Total Income (Line 22 on Form 1040).

  Note: This code indicates the return is blank or contains all zeros or insignificant entries other than entity information.

- Notate returns that reflect withholding with RPC "G" in right-hand margin next to Total Income.

  Note: This code forces the return to post and bypass certain error checks.

- Notate return with Action Code "331" edit in red in the bottom left margin of the return.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.8.7**
Any line marked with a #
is for **Official Use Only**

Note: This code causes the return to reject for further handling.

- Complete Form 4227, Intra SC Reject or Routing Slip, and staple to return in the center left side.

- Name-Unit – enter your TE number and "FRP"
- Date – enter current date
- Route to – check "Reject Correction"
- Other activity – write "Attention Rejects"
- Other (explain) – enter the argument code used, "CCC-3 and 331"

25.25.10.8.8 (09-30-2016) **Editing Amended or Converted Returns**	(1) The Form 1040X or other informal claim constitutes the taxpayer's (TP's) original filing: a. Use Form 6114, Prior Year and Conversion Form 1040 Edit Sheet for Tax Year 2013 to convert the information from the amended return to Form 1040 for the appropriate year. **Reminder:** Do Not verify. Enter all data as listed (except the false Form 2439 amount). b. Edit an "X" in red next to the Form 2439 amount on each line that it was included. Write "0" to the left of the X. c. Attach Form 6114 to the front of the Form 1040X just below the entity portion. d. Attach Form 4227, Intra-SC Reject or Routing Slip. In the "Other" box on Form 4227, write "Do not allow credit of $XXX." Disallowed in FRP. In the "Other Activity" notate "Frivolous F2439".
25.25.10.9 (12-13-2023) **Case Processing Overview**	(1) Returns not eliminated from FRP inventories during initial review should be timely processed according to their filing type. Research should be conducted to determine suitability for continued FRP processing based upon income verification and related account attributes. (2) Process cases as follows: a. Ensure all taxpayer issues are addressed as appropriate. b. Ensure any taxpayer responses are associated and considered prior to determining next action. c. Research IDRS for relevant case controls, T-signs, freezes and histories that may affect processing the case. Coordinate as appropriate. **Note:** See IRM 4.19.13.4, Researching Cases. d. Review each document to determine if frivolous. (3) If filings appear potentially frivolous but do not fall under existing processing guidance, elevate through FRP Technical Coordinator to RICS HQ Analyst for appropriate action. (4) If not frivolous, review IRM 25.25.10.8.3, Handling of Returns and Claims, to process as appropriate ensuring all taxpayer issues are addressed. (5) If frivolous, determine if the return is processable, See IRM 25.25.10.8.3, Handling of Returns and Claims.

25.25.10.8.8   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

    a.   Control cases on IDRS and FRP Master within five business days of FRP received date. See IRM 25.25.10.9.4, Control of Inventory, for additional information.

    b.   Ensure appropriate notification is sent to taxpayer on each year of each tax period within 30 days of FRP received date.

    c.   Pursuant to IRC 6751(b), written supervisory approval must be indicated before assessing the IRC 6702 penalty. This written supervisory approval should be indicated on Form 8278. Written supervisory approval should be obtained after the 30 day period provided in Letter 3176C has expired. This supervisory approval must be obtained before sending any further written communication regarding the penalty to the taxpayer. The supervisor's signature must be the same name as the printed name in the Manager's Signature Block. See IRM 20.1.1.2.3.1 for the timing of the supervisory approval.

Complete Form 8278 as follows:

- Taxpayer's name
- Tax Period
- TIN
- Next to "6702 (a) Frivolous tax return" input the form type of the frivolous return and the IRS received date
- Input "X" (X=number of penalties being assessed) or "Number of Violations"
- Input "$X" for the "Amount Assessed", (X= $5,000 times the number of penalties being assessed)
- Provide at least one argument number as basis for the penalty in the remarks section
- signature date - the earliest date the return/claim was signed by the taxpayer. If no signature, write "N/A"
- "Originator:" Technician's name
- Date: today's date
- Organization Code: Employee IDRS number
- Phone: Technician or manager's phone number
- Manager Signature and Approved Date

Note: If assessing more than one tax period, fill out a separate Form 8278 for each tax period. Multiple assessments of identical penalties for the same taxpayer in the same tax period may be consolidated on Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties, as a single assessment if assessed at the same time.

When the IRS receives what it determines to be a frivolous filing under IRC 6702, the IRS issues Letter 3176C. The Letter 3176C informs taxpayers that their return is frivolous and subject to a $5000 civil penalty under Section 6702. The letter outlines frivolous behavior and gives the taxpayer the opportunity to provide corrected information within 30 days of the date of the letter to avoid assessment of the penalty. This letter and the 30-day period from the date of this letter (within which the taxpayer is permitted to file corrected returns to avoid the penalty) should end before obtaining written supervisory approval and assessing an IRC 6702 penalty. Although IRC 6702(b)(3) mentions only penalties under IRC 6702(b), it is IRS practice to issue Letter 3176C before assessing a penalty under either IRC 6702(a) or IRC 6702(b).

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.9**
Any line marked with a #
is for **Official Use Only**

Note: Note: Prior to preparing Letter 3176C, complete research to identify the argument code category, and expected response type for the tax period in question. Account compliance must be a corrected return, a statement withdrawing position, or a signed declaration.

Note: Unprocessable returns pulled into treatment must afford the filer the opportunity to provide the necessary information to process. Include 3176C paragraphs that clearly outline the frivolous behavior to be corrected and cover all frivolous items that must be addressed.

Note: Frivolous Amended Returns and Claims require formal disallowance regardless of 3176C issuance. See IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures, for more information.

(6)   Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS). Use "Frivolous Return Program General" when choosing an issue. Document all actions taken on FRP Master and IDRS

25.25.10.9.1
(07-07-2022)
Prenotification Purge

(1)   The clerk(s) assigned to Letter 3176C Purge will review the purge listing and divide the work for assignment according to local procedures.

(2)   Update IDRS CC and FRP Master to the designated team following normal update and assign procedures. The Action Text input will be "Assign3176".

25.25.10.9.2
(08-13-2015)
Civil Fraud

(1)   See IRM 25.1.6, Civil Fraud and IRM 4.19.16.2.3, Criminal Investigations (CI) Referral Non-EITC 1040X for processing cases with potential civil fraud.

(2)   Frivolous filings will be carefully reviewed to determine if appropriate to refer for potential civil fraud.

(3)   Route any cases meeting the established criteria for civil fraud referral through the RICS HQ FRP Analyst.

25.25.10.9.3
(09-12-2019)
Identity Theft Processing

(1)   All cases involving IDT will receive priority treatment. IRM 25.23.2, Identity Protection and Victim Assistance - General Case Processing provides service wide guidance on IMF IDT issues. Unless specific guidance is outlined within this subsection, refer to IRM 25.23.2.4.4, Initial Allegation or Suspicion of Tax-Related Identity Theft - IMF Identity Theft Indicators, for guidance on addressing IDT claims.

(2)   Refer to IRM 4.19.13.28, Campus Exam Identity Theft, for functional guidance to address IDT issues for any return being worked as an audit within FRP.

(3)   Account corrections to address all tax and penalty assessments that are related to a frivolous filer determination will be handled within FRP once the IDT claim is determined to be valid.

(4)   If the IDT is confirmed, complete all closing actions to correct the account and protect it from future IDT.

- Update the account with the appropriate IDT indicators and corrections located in IRM 25.23.2.6, Closing Identity Theft Issues.

25.25.10.9.1   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
                                                                      Any line marked with a #
                                                                      is for **Official Use Only**

- Refer to IRM 4.19.13.28, Campus Exam Identity Theft, to address exam notices that are issued regarding IDT determinations.
- Abate any penalty assessments related to IDT filings.
- Remove all FRP Master issues tied to IDT filings.

Reminder: Ensure all FRP activity is directly related to IDT before full FRP Master Record deletion is requested.

Note: As of January 1, 2016, the CP 72, Exam Frivolous Filer Notice stopped being issued on frivolous returns.

(5) If the taxpayer does not prove IDT or provides information appearing to be fraudulent, i.e., indications of the same signature on the IDT form and the tax return submitted, issue Letter 105C, Claim Disallowed, disallowing the claim and indicate it was a false claim. Continue processing the frivolous filing in a normal manner. Reverse any ID Theft indicator input for the tax year, follow procedures in IRM 25.23.2.6.4, Manually Reversing TC 971 AC 506, to reverse the indicator.

Caution: Careful consideration needs to be used in making determinations on Form 14039 or other claims of IDT from SSN owners when it appears the claim is invalid, or the individuals do not appear to be victims. The determination will need to contain clear and concise reasoning to support with high confidence that the claim is not valid.

25.25.10.9.4
(07-07-2022)
Control of Inventory

(1) Maintain current inventory information on FRP Master to ensure taxpayers receive accurate and consistent treatment. Individuals not in compliance for two consecutive years (filing and paying taxes) will be monitored for subsequent compliance.

   a. Cases will be introduced to inventory using IDRS controls within five business days of the FRP received date. FRP Master issues will be added as new inventory receipts within 15 business days of FRP received date.

Note: During periods of high volume, adjustments to inventory control time frames will be coordinated and adjusted by management and HQ as needed.

   b. To initially control cases on specific IDRS accounts, determine the following using Document 6209 (Section 14) and the IDRS Command Code Job Aid on SERP as needed; Status code - A, Control Category - FRP3, Activity Code - ASSIGN, Unit or employee IDRS number, Earliest IRS Received Date of frivolous document.

Note: Multiple FRP Acton Control Categories have been established to segment FRP treatment streams and any new or updated controls must contain all necessary field updates to ensure accurate inventory counts.

(2) Input TC 599-17 within 15 business days of FRP received date on non-processable frivolous returns. Input of the TC 599-17 indicates a return has been secured and prevents issuance of collection notices requesting a return be filed for the delinquent tax module.

(3) Input a TC 810, using jurisdiction code "4" on any year with an open RSED, if a FRP freeze condition is not posted. TC 810 will post as a -E freeze on IMF Modules and a Q- freeze on BMF Modules.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.9.4**
Any line marked with a #
is for **Official Use Only**

(4) When a return does not meet FRP criteria, FRP Clear the filing. Update the Category Code to "FRP3" for inventory reporting purposes and perform all clean up actions to prevent further misroutes.

(5) Review the module and address any held credits prior to closing the case. If applicable, input a TC 811 with 'Freeze-Release-Amt' for ″.00″ to remove the -E freeze.

Note: A TC 811 will systemically post once an RSED expires as long as a held credit amount is not present

25.25.10.9.5
(09-12-2019)
Conducting Compliance Checks

(1) Cases will be researched to establish compliance with filing requirements based on income verification and appropriate return expenses and credits on filed processed returns to identify any potential frivolous returns that were processed in error. Ensure all related TINs and prior/subsequent years filing history are researched for compliance, as well as additional sources of income such as K-1s, income reported on related business TIN's, income from erroneous refunds, etc.

Note: Compliance Checks are to be conducted when an erroneous refund, offset, or transfer is identified in IDRS research and on specific arguments as specified by HQ.

Note: Frivolous argument #44 and #46 are currently designated by HQ for required compliance checks. Refer to Exhibit 25.25.10-1, Frivolous Arguments, and IRM 25.25.10.9.5, Conducting Compliance Checks

(2) Compliance check is an analysis of all tax periods where IRP is currently available to identify any potential frivolous returns that were processed in error. Non-filed tax years are addressed through an automated process. Review Posted Return column on CC IMFOLI on primary and secondary TIN to determine which years will require additional research.

  a. Some indicators for potentially processed frivolous returns are:

  - TC 150 for .00
  - TC 150 amount drops drastically from previous years, or
  - TC 291 for the exact amount of the TC 150.

  b. If any of the conditions above apply, additional research using CC RTVUE should be performed to determine if the TC 150 for .00 is frivolous. If there is indication that the return is frivolous and it's a paper filing, input command code ESTAB to secure the return for assessment of the IRC 6702 penalty and tax.

Note: Do not ESTAB for returns if there is a subsequent TC 300 or TC 290 with the appropriate amount assessed or the statute for assessment has expired or will expire within one year, unless tax can be assessed using one of the exceptions by IRC 6501 (e.g., 25 percent omission) or with managerial approval for returns that appear to be an invalid, frivolous return. To determine the validity of the return, the technician should order the document. The technician must receive managerial approval to extend the statute.

25.25.10.9.5   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

If	And	Then
Electronic Return	Frivolous issue **CAN** be identified	• Work from MEF, CC TRPTR or CIS images when available. • If MEF, CC TRPTR or CIS is not available work from CC RTVUE or CC TRDBV. • Scheme return. • Input to FRP Master. • Initiate FRP case processing.
Electronic Return	Frivolous issue **CANNOT** be identified	• Release FRP controls and freezes. • Send apology letter 544C, "Apology for IRS Error,"; if necessary.
Paper Return	Frivolous issue can or cannot be identified **AND** the CIS return is available. Review the CIS image to determine if frivolous.	IF determined to be frivolous: • Scheme CIS return. • Input to FRP Master. • Initiate FRP case processing. If determined **NOT** frivolous: • Release FRP controls and freezes. • Send apology letter 544C, "Apology for IRS Error,"; if necessary.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.9.5**
Any line marked with a #
is for **Official Use Only**

If	And	Then
Paper Return	Frivolous issue cannot be identified **AND** the CIS return is not available.	ESTAB for paper return three times using the following process: 1. Complete a history item. 2. Suspend the case. 3. Monitor for 30 days. If the return is not received, make a second request: 1. Suspend the case 2. Monitor for 45 days If the return is not received, do a "special search:" 1. Suspend the case. 2. Monitor for 30 days. *Note:* If one year or less remains on statute **DO NOT** bring case into inventory. *Exception:* If you have a high dollar case, take to your manager for a determination. If return is **NOT** received: Work from either CC RTVUE or CC TRDBV to determine if frivolous.

25.25.10.9.6
(05-05-2016)
Frivolous Form 2439s and Other Frivolous Improper Credits Filings

(1) Reparations claims are subject to assertion of IRC 6702 penalties consistent with all other frivolous filings.

(2) When working a return or claim containing a fraudulent Form 1099-OID or 1099-MISC, **DO NOT** use either the income or the withholding as entered on the document for purposes of determining deficiency. In the event the false Form 1099(s) were processed and show on IRP, ignore it completely.

Note: Enter the amount claimed as a refund in the "revenue protected" field on FRP Master.

(3) Never update an address to a Federal office address. Do not update a name line to any Treasury executive or managerial official. In the event that the address or name line has been updated with either of these scenarios, take corrective action to reflect the taxpayer's correct information.

(4) Routine research will be performed when working the claims. CC TXMOD/ CC IMFOL should be used to determine if the filing is an original return, if there is a record of an original filing, and if there are any freeze codes present that may affect processing of the claim. Account research will be performed to ensure the taxpayer has not filed any additional frivolous returns. If there is an indication of Criminal Investigation (CI) involvement, route the cases to the

\#
\#

the case to the team lead for further action.

(5)   To determine processing of the claim, refer to IRM 25.25.10.10.2, Processing Amended Returns and Claims.

25.25.10.9.7
(07-07-2022)
Fraud Penalty Returns

(1)   Returns and/or documentations will be reviewed for potential fraud penalty assertions. This subsection pertains to frivolous filing promotions approved to be worked as fraud penalty cases within FRP. Approval to work frivolous filing promotions as fraud penalty cases within the FRP must be secured by HQ before initiation.

(2)   HQ will coordinate with FRP Technical Coordinator, local Campus Fraud Coordinator (CFC) and Area Counsel in the development of Form 886A language for specific promotions before fraud cases are assigned for development within FRP.

(3)   Determine validity of filings and, if appropriate, correct accounts of processed returns. See IRM 25.25.10.12.1.1, Backing off Accounts.

(4)   Determine whether the filing was received from a community property state. If so, coordinate with campus CFC for appropriate split.

(5)   Prepare and send applicable pre-notification letters. Letter 3164 and any other letters or attachments as specified for the particular promotion.

Note: Per IRC 7602(c)(1), effective August 15, 2019, do not make any contact with a third party until the 46th day following the date of Letter 3164. This increases the prior requirement of 15 days to 45 days.

(6)   Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. Document AMS with suitable information (i.e., X-reference SSN, compliance history and statute date.) Initiate audit procedures as appropriate for specific promotion using AM424 to establish AIMS.

(7)   Prepare and forward Form 12175, Third Party Contact Report, to campus coordinator.

(8)   Prepare third party contact letter, if applicable to specific promotion. Suspend case for 45 days.

(9)   If no response received from third party contact, initiate follow up communication telephonically if possible, by mail if not. Suspend case for 15 days.

(10)   Upon confirmation of income or expiration of second suspense period, prepare Forms 13549 and Form 11660, updating AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. Forward case to FFC/CFC for approval.

(11)   Upon approval for fraud development, update AIMS to project code 0076 and status 17 using applicable tracking codes.

(12)   Prepare Form 4700 Examination Work papers, updating as appropriate.

(13)   Prepare report to include assertion of applicable fraud penalties (i.e., IRC 6651(f) or IRC 6663 as appropriate), Form 886A (developed for specific promotion), Letter 1862 and Form 4549. (Include any other applicable penalties in alternate position as well.) Consider all applicable income. Suspend case for 30-day review by CFC and FTA.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.9.7**
Any line marked with a #
is for **Official Use Only**

(14) Once 30 day suspense period has expired, prepare 90-day Packet (Form 4549 with abbreviated Form 886A language pulled from FRP Master). Report will require hand-typing.

(15) Once Fraud Technical Advisor (FTA) approval has been given, forward case file to Area Counsel for review, updating work papers accordingly.

(16) Once Counsel has approved fraud penalty case, forward to appropriate function for 90 day suspense period. Once suspense period has expired, close case accordingly.

25.25.10.9.8
(08-13-2015)
Area Office Procedures

(1) If the compliance check reveals case meets criteria for deficiency potential for area office examination, process as follows:

    a.   Continue frivolous filing procedures, pre-notify and assess penalty using IRM 25.25.10.11.1, Penalty Case Creation.
    b.   If referral to classification and/or compliance check results in referral to area office exam, transship to area office PSP via Form 3210.
    c.   If case has an open AIMS in an area office – AMSOC to appropriate PBC, SBC, and EGC, then send case to area office.

25.25.10.9.9
(11-01-2021)
Statutes

(1) Every effort will be made to work returns within the normal three year statute of limitations for assessment under IRC 6501. See IRM 25.6, Statute of Limitations for additional information.

(2) Statute of limitation on original returns will be determined as follows:

    a.   Processable frivolous return filings may be valid returns and begin the assessment statute of limitations under IRC 6501.
    b.   Invalid frivolous return filings do not begin the assessment statute of limitations under IRC 6501. Although these returns do not begin the limitations period, every attempt will be made to work the cases within three years of the filing date. A non-processable return is likely invalid, but not necessarily so.

(3) Specific cases may fall under the extended statute of limitations provided in IRC 6501(c) (1). To rely on this extended statute of limitations, the IRS must have proof that the taxpayer has filed a false or fraudulent return. The government must prove fraud or that actions taken by the taxpayer show intent to evade or defeat the tax. The IRS has the burden of proof on this issue. Determinations under this code Section must be made on a case-by-case basis by Counsel.

(4) Statute of limitations on penalty assessments will be determined as follows:

    a.   Generally, the IRS should make every effort to assess the IRC 6702 penalty within three years of the processable return filing received date. If that period has expired, the IRS should consider whether any exception in IRC 6501 applies and contact Counsel for assistance as needed.
    b.   Frivolous amended returns and claims may be assessed an IRC 6702(a) penalty for three years after their filing date.

Note: ASED expired amended returns will not exclude them from IRC 6702 considerations. If the amended return filing date is less than three years old, follow penalty treatment procedures. The three-year period for an amended return

25.25.10.9.8   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

or claim is not based on the filing date of the original return or the ASED for the tax year. Consider only the filing date of the amended return.

25.25.10.9.9.1
(07-07-2022)
FRP Statute Expired Cases

(1) Follow the chart below for processing Statute Expired accounts.

(2) Frivolous returns that have been determined to be non-processable filings by Counsel are subject to the frivolous return penalty, but do not begin the statute of limitations under IRC 6501. Refer to IRM 25.6.1.6.14, Criteria for Establishing a Statute of Limitation Period.

Note: If non-processable return was processed in error, seek Counsel opinion for reversal of filing.

(3) Frivolous returns that have been determined to be processable filings are subject to the frivolous return penalty and should be treated as beginning the statute of limitations under IRC 6501.

(4) Control case for Assessment Statute Expiration Date (ASED). ASED begins with receipt of processable returns requiring proper control and timely processing (see IRM 25.6, Statute of Limitations).

Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**
Internal Revenue Manual
25.25.10.9.9.1

If	Then
Statute is expired	• Send Letter 105C with the appropriate paragraphs. • Input a second adjustment with a Transaction Code (TC) 290/.00 with Blocking Series (BS) 98/99, Source Code (SC) ″0″, HC ″4″, for the disallowance letter. • Notate return with "Considered in FRP" in lower left margin of the front of the return. • Move the overpayment for the disallowed amount to Excess Collections using Form 8758. See IRM 3.12.38.5.19.4.1, Preparing Form 8758. • Input a closed control history, with activity ″87582EXCES″, and category ″MISC″, to track the Form 8758 submission to Excess Collection. • Close all RIVO control bases. • Update FRP Master as required. • Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. **Note:** If the taxpayer later provides sufficient documentation to support the claim, move the overpayment back to the account from Excess Collections using Form 8765 and allow the refund to be issued. See IRM 3.17.220.2.12, Applying Amounts From the XSF - General.

25.25.10.10
(07-07-2022)
Processing of Responses

(1)   Responses to Frivolous Return letters should be processed using the table below.

Note: Responses to amended returns or subsequent filings will follow IRM 25.25.10.10.2, Processing Amended Returns and Claims, in addition to the scenarios identified in the table below.

(2)   Taxpayers are allotted a 60 day suspense time from the date the letter is issued. If the taxpayer or the taxpayer's representative requests additional time to gather information to submit a corrected return, inform the taxpayer or taxpayer(s) representative that the extension is granted and document the

25.25.10.10   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

extension request. See IRM 4.19.13.11.7, Taxpayer Requests Additional Time to Respond regarding extensions of time.

Note: Any account impacted by a disaster that contains an O or S freeze requires additional considerations prior to assessment. Review IRM 25.25.10.8.3, Handling of Returns and Claims, for guidance.

Note: For receipts with Form 843, follow Form 843 procedures in IRM 25.25.10.11.4, Post Penalty Assessment Processing.

If	And	Then
1 The response is received with a processable frivolous return	the response is considered a subsequent filing or amended return/claim	1. Issue Letter 105C for Claim Disallowance to satisfy the requirement of IRC 7422 to formally disallow claims and do not include appeal rights. See IRM 21.5.3.4.6, No Consideration and Disallowance of Claims and Amended Returns. 2. Assess penalty on both frivolous returns. 3. Input an adjustment with a Transaction Code (TC) 290/.00 with Blocking Series (BS) 98/99, for the disallowance letter on MFT 30. 4. Update FRP Master. 5. Ensure all FRP IDRS control bases are closed. 6. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.10**
Any line marked with a #
is for **Official Use Only**

If	And	Then
2 The response is received timely with a processable, non-frivolous return	the original return was not processed	Process through regular return procedures and: a. Do not assess the frivolous return penalty. b. Verify taxpayer filed a correct and accurate return. c. Stamp non-frivolous returns with "FRP cleared", include last 5 digits of IDRS number in the upper left corner. Attach original frivolous return to the back of the non-frivolous return. Indicate "Do Not Detach" on top of the frivolous return. d. If return has questionable expense/credit items, refer to Campus Classifier for determination of case selection and referral to area office. e. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. f. Update FRP Master and ensure revenue protection is recorded. g. Close all FRP case controls.

Internal Revenue Manual

If	And	Then
3 The response is not received timely (late response) with a processable, non-frivolous return *Note:* Ensure an extension was not granted before processing as a late response.	the original return was not processed,	Process through regular return procedures and: 1. Ensure frivolous return penalty assessment is made on the original frivolous return, per IRM 25.25.10.11.2, Penalty Assessment. 2. Verify taxpayer filed a correct and accurate return. 3. Stamp non-frivolous returns with "FRP cleared", include last 5 digits of IDRS number in the upper left corner. Attach original frivolous return to the back of the non-frivolous return. Indicate **Do Not Detach** on top of the frivolous return. 4. If return has questionable expense/credit items, refer to Campus Classifier for determination of case selection and referral to area office. 5. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. 6. Update FRP Master and ensure revenue protection is recorded. 7. Close all FRP case controls.

If	And	Then
4 A frivolous or no response is received	the original frivolous return was **not** processed,	a. Ensure that neither return is processable. ***Note:*** If either return is processable follow directions in box 3 above Input precautionary freeze codes to prevent erroneous refunds. b. Ensure frivolous return penalty assessment is made immediately on the original frivolous return as well as any frivolous return received in response to the Letter 3176C/CP 72, "Frivolous Returns Response", IRM 25.25.10.11.2, Penalty Assessment. c. Update FRP Master. d. Ensure all FRP IDRS control bases are closed. e. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue.

If	And	Then
5 A frivolous or no response is received	the original frivolous return was processed,	a. Ensure frivolous return penalty assessment is made immediately on the original frivolous return as well as any frivolous return received in response to the Letter 3176C/CP 72, "Frivolous Returns Response", IRM 25.25.10.11.2, Penalty Assessment. b. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. c. Review all available account information and determine the adjustment type that will address the Frivolous issue and assess the tax. (Audit, Online Adjustment, or Claim Disallowance procedures.) Review all available account information and determine the adjustment type necessary to address any compliance issue and correctly assess tax. ***Note:*** Claim disallowance procedures do not apply to processed frivolous returns. d. Update IDRS, RGS and FRP Master with actions taken. Update or close FRP IDRS control bases as applicable.
6 The response is received timely with a processable, non-frivolous return	the original frivolous return was processed,	a. Do Not assess a penalty. b. Refer to IRM 25.25.10.10.2, Processing Amended Returns and Claims to process the subsequent filing as a claim. c. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. d. Update IDRS, RGS and FRP Master with actions taken.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.10**
Any line marked with a #
is for **Official Use Only**

If	And	Then
7 The response is not received timely (late response) with a processable, non-frivolous return	the original frivolous return was processed,	a. Ensure frivolous return penalty assessment is made immediately on the original frivolous return as well as any frivolous return received in response to the Letter 3176C/CP 72, "Frivolous Returns Response", IRM 25.25.10.8.2, Penalty Assessment. b. Refer to IRM 25.25.10.10.2, Processing Amended Returns and Claims to process the subsequent filing as a claim. c. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. d. Update IDRS, RGS and FRP Master with actions taken.
8 Rescind Letter was received timely	frivolous return was **not** processed, or there is no filing requirement	a. Do Not assess a penalty. b. For cases with no TC 150, follow alpha procedures to send documentation to files See IRM 3.5.61.21.10, Identity Theft Returns - Alpha Files, substitute "FRP" for all "Identity Theft" notations. All others follow claim procedures. c. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. d. Update IDRS, RGS and FRP Master with actions taken.

25.25.10.10   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
                                                          Any line marked with a #
                                                          is for **Official Use Only**

If	And	Then
9 Rescind Letter was not received timely	frivolous return was **not** processed, or there is no filing requirement	a. Ensure frivolous return penalty assessment is made immediately on the original frivolous return as well as any frivolous return received in response to the Letter 3176C/CP 72, "Frivolous Returns Response", IRM 25.25.10.11.2, Penalty Assessment. b. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. c. Update IDRS, RGS and FRP Master with actions taken.

Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

Internal Revenue Manual

25.25.10.10

If	And	Then
10 Rescind Letter was not received timely	frivolous filing that generated the Letter 3176, is an amended return or claim	a. Ensure frivolous return penalty assessment is made on the frivolous claim filing, per IRM 25.25.10.11.2, Penalty Assessment. b. Issue Letter 105C for Claim Disallowance to satisfy the requirement of IRC 7422 to formally disallow claim. See IRM 21.5.3.4.6, No Consideration and Disallowance of Claims and Amended Returns. ***Note:*** Include open paragraph: "We received your response to Letter 3176 that includes your intent to rescind the frivolous position. The received date of your response is MM/DD/YYYY which falls after the final date to respond." c. Input an adjustment with a Transaction Code (TC) 290/.00 with Blocking Series (BS) 98/99, for the disallowance letter on MFT 30. d. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. e. Update IDRS, RGS and FRP Master with actions taken.

If	And	Then
11 Rescind Letter was received timely	frivolous filing that generated the Letter 3176, is an amended return or claim	a. Do Not assess a penalty. b. Issue Letter 105C for Claim Disallowance to satisfy the requirement of IRC 7422 formally disallow claim. See IRM 21.5.3.4.6, No Consideration and Disallowance of Claims and Amended Returns. *Note:* Include open paragraph: "We received your response to Letter 3176 on MM/DD/YYYY that includes your intent to rescind the frivolous position. As a result, the frivolous return penalty will not be assessed. The frivolous claim you filed on MM/DD/YYYY is being disallowed." Include any additional paragraphs as required per existing procedures." c. Input an adjustment with a Transaction Code (TC) 290/.00 with Blocking Series (BS) 98/99, for the disallowance letter on MFT 30. d. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. e. Update IDRS, RGS and FRP Master with actions taken.
12 Rescind Letter was received timely	frivolous return was processed, and the frivolous issue(s) has been previously corrected	a. Do Not assess a penalty. b. Attach documentation to MFT 30 TC 150. c. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. d. Update IDRS, RGS and FRP Master with actions taken.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.10**
Any line marked with a #
is for **Official Use Only**

If	And	Then
13 Rescind Letter was not received timely	frivolous return was processed, and the frivolous issue(s) has been previously corrected	a. Ensure frivolous return penalty assessment is made immediately on the original frivolous return as well as any frivolous return received in response to the Letter 3176C/CP 72, "Frivolous Returns Response", IRM 25.25.10.11.2, Penalty Assessment. b. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. c. Update IDRS, RGS and FRP Master with actions taken.

Note: If a good return/claim is received and cannot be worked within the 30 day time frame, a Letter 1721C," Refund/Form Inquiry", must be generated to notify the taxpayer that a refund is being held.

Reminder: If a non-processable return is received with a SFR TC 150 on the module and no assessment has been completed, refer for SFR assessment.

25.25.10.10.1
(07-07-2022)
Form 4442 Referrals

(1) Form 4442 Referrals and case controls are to be worked per the following table:

Note: Other referral controls such as ARG 45, SCHA/REFER, etc. may be present on the module. These controls will be treated the same as the PS70 control.

If	And	Then
the return is determined to be frivolous	there is also an open INCOM/PS70 control	• Work and close the 4442 in AMS. Closing the 4442 in AMS will automatically close the 4442 control in IDRS. • Update the PS70 control to "PS70INPUT" and category "FRP1". Updating the control will eliminate the possibility of the same case showing up on a PS70 listing, which would result in unnecessary research and a possible duplicate referral. • Refer return to clerical team as shown below.
the return is determined to be frivolous	there is NOT an open INCOM/PS70 control	• Work and close the 4442 in AMS. Closing the 4442 in AMS will automatically close the 4442 control in IDRS. • Open CC TXMOD control to "1486900000", using activity "4442REFER" and category "FRP3", Date: Date of referral. • Refer return to clerical team as shown below.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   25.25.10.10.1
Any line marked with a #
is for **Official Use Only**

If	And	Then
the return is determined NOT to be frivolous	there is also an open INCOM/PS70 control	• Work and close the 4442 in AMS. Closing the 4442 in AMS will automatically close the 4442 control in IDRS. • Update and close the PS70 control to "FRPCleared". Updating the control will eliminate the possibility of the same case showing up on a PS70 listing, which would result in unnecessary research. • Reverse -E and -R freezes if present on the module.
the return is determined NOT to be frivolous	there is NOT an open INCOM/PS70 control	• Work and close the 4442 in AMS. Closing the 4442 in AMS will automatically close the 4442 control in IDRS. • Reverse -E and -R freezes if present on the module.

(2) Refer return to clerical team per the following criteria:

• Electronically filed return: print to .pdf a copy of the return from EUP.
• Paper filed return: print to .pdf all pages from TRDBV or RTVUE.

(3) Save the .pdf using the following naming convention: TIN, Name Control, Tax Period, and ARG code.

(4) Send an email, with the .pdf attached, to "*W&I EEF IVO T609" with subject line "4442 REFERRAL" and include Argument Code and the IDRS control number in the body of the email.

25.25.10.10.2
(12-16-2019)
Processing Amended
Returns and Claims

(1) Forms 1040X, Forms 843 that purport to be returns and subsequent filings to original Form 1040s will be worked per IRM 21.5.3.4, General Claims Procedures or IRM 21.5.3.4.5, Math and Master File Verification of Claims and Amended Returns, as applicable.

Exception: If claim/amended return is frivolous and non-processable, issue 105C for Claim Disallowance, include paragraph explaining frivolous position.

<div align="right">
#
#
#
#
#
#
</div>

(3) Frivolous Form 2439 claims will be worked following IRM 25.25.10.12.1.3, Form 2439.

(4) Non-frivolous amended returns received after original FRP assessments will be treated as Audit Reconsideration.

25.25.10.11
(09-28-2020)
Frivolous Return
Penalties Overview

(1) Frivolous Submissions that meet the criteria discussed in this IRM should be assessed a penalty pursuant to IRC 6702. However, written supervisory approval must be obtained prior to assessment. See IRM 20.1.1.2.3.1, Timing of Supervisory Approval.

(2) IRC 6702 provides for an immediate assessment of a $5,000 civil penalty against individuals who file frivolous documents. The penalty is not based on tax liability. There does not need to be an understatement of liability in order for the penalty to be imposed and the penalty is imposed in addition to any other penalty.

(3) Penalties will be assessed on each frivolous filing received for which the filer does not file a corrected return or rescind the frivolous position within the prescribed time period. This includes additional frivolous filings received.

(4) Penalties will be assessed without regard to whether the claim is a copy or an original, whether the signature on the claim is a copy or an original or whether there has been an IRC 6702 penalty previously assessed for the same tax period.

Reminder: A claim does not need a signature to be frivolous.

(5) If unable to determine whether the filing is an additional claim for refund (secondary filing) or a response to a IRS request for a copy of a previous filing, **Do Not** assess the penalty.

(6) Do not assess the penalty on any identical copy of a return received by the IRS as a secondary filing prior to the issuance of Letter 3176C with respect to the initial filing and the expiration of the 30 day period provided by that Letter.

Note: Assess the penalty on a photocopy of an initial return only if the initial return has been lost and the taxpayer provides a copy of that return. See *Smith v. Commissioner*, T.C. Memo. 2021-29.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.11**
Any line marked with a #
is for **Official Use Only**

(7)   The penalty should be assessed against each spouse (both primary and secondary taxpayers) who file a purported joint return that is frivolous.

25.25.10.11.1
(09-28-2020)
Penalty Case Creation

(1)   Frivolous returns/claims will have been screened and forwarded for penalty processing after one of the following scenarios:

a.   Taxpayer responded to the Letter 3176C/CP 72, but the response was not received timely (late response).

   Note: Ensure an extension was not granted before processing response as untimely.

b.   Taxpayer responded to the Letter 3176C/CP 72 with frivolous return or correspondence.

c.   Suspense period of Letter 3176C has expired and no response received.

(2)   Create a new issue on FRP Master and select applicable action code, for each penalty being assessed from the list available on FRP Master.

(3)   Research account for the specific tax period to ensure that all receipts are considered in the determination.

Reminder: **DO NOT ESTAB** for documents if the return is electronic. ESTAB all paper returns. Prior to receipt, if research supports that a paper return is frivolous, create issue and follow established work process. Upon receipt of return, scan into FRP Master Database and attach image to issue number.

(4)   Review any taxpayer replies to ensure that penalties are not assessed if any corrected, non-frivolous returns were filed in a timely manner.

(5)   Review taxpayer account for pertinent freezes or controls and work accordingly.

(6)   Prepare Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties, indicating:

- Taxpayer's name
- Tax Period
- TIN
- Next to "6702 (a) Frivolous tax return" input the form that is frivolous and the received date
- Input 'X' (X=number of penalties being assessed) or "Number of Violations"
- Input "$X" for the "Amount Assessed",(X= $5,000 times the number of penalties being assessed)
- Provide at least one argument number as basis for the penalty in the remarks section
- signature date - the earliest date the return/claim was signed by the taxpayer. If no signature, write "N/A"
- "Originator": Technician's name
- Date: today's date
- Organization Code: Employee IDRS number
- Phone: Technician or manager's phone number

Note: If assessing more than one tax period, fill out a separate Form 8278 for each tax period. Multiple assessments of identical penalties for the same taxpayer

Any line marked with a #
is for **Official Use Only**

in the same tax period may be consolidated on Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties, as a single assessment if assessed at the same time. Pursuant to IRC 6751(b), written supervisory approval must be indicated before assessing the IRC 6702 penalty. This written supervisory approval should be indicated on Form 8278. Written supervisory approval should be obtained after the 30 day period provided in Letter 3176C has expired. This supervisory approval must be obtained before sending any further written communication regarding the penalty to the taxpayer. The supervisor's signature must be the same name as the printed name in the Manager's Signature Block.

(7)   Update activity on the CC TXMOD control to "2APPROV".

(8)   Submit case for written approval on Form 8278, "Assessment and Abatement of Miscellaneous Civil Penalties".

25.25.10.11.2
(09-12-2019)
Penalty Assessment

(1)   Upon verifying that written managerial approval for penalty assessment on Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties, was completed, establish a CC TXMOD control on MFT 55 using CC ACTON with the activity "8278APPRVD". Scan the approved Form 8278 into FRP Master and attach to applicable penalty issues when selecting the appropriate closing code.

Reminder: For joint filing status frivolous returns, assess penalty on each taxpayer by creating CC TXMOD MFT 55 on each TIN.

(2)   Input the adjustment using the IAT CC REQ54 Tool. Use the following:

- Blocking Series 52 (Blocking series 53 if subsequent penalty assessment input the same day)
- Category - FRPP
- Activity - Civil Penalty Argument Number "CVPN/Arg#__" (# = Number that corresponds with the argument in Exhibit 25.25.10–1, Frivolous Arguments)
- CD – (Penalty Reference Code) 666 or 543 Collection Issues
- Amount - 5,000.00 (If assessing more than one penalty, input the total amount for all penalties)
- Remarks section notations:
  " IRC 6702 penalty, (specify Form) dtd MM-DD-YYYY"

     Note: If more than one penalty is being assessed, input all the received dates separated with a comma.

     Note: MFT 55 CC TXMOD control will close with activity "CVPN/Arg#__" when adjustment is input.

When assessing the Penalty on MFT 55 follow the chart below for associating the source documents:

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.11.2**
Any line marked with a #
is for **Official Use Only**

If	And	Then
MFT 30 has TC 150 that does **not** need to be adjusted	the controlling DLN is paper (This is the DLN located under the CC TXMOD)	• Associate all penalty assessment documents to the MFT 30 controlling DLN (This is the DLN located under the CC TXMOD).
MFT 30 has TC 150 that does need to be adjusted	the controlling DLN is paper (This is the DLN located under the CC TXMOD)	• Hold penalty assessment documentation until TC 290/300 adjustment is completed. • SD all penalty assessment documents by inputting TC 290 /300 with BS 18/00 on the MFT 30 associate with the controlling DLN.
MFT 30 has TC 150 does **not** need to be adjusted	the current controlling DLN is electronic	• SD all penalty assessment documents by inputting TC 290 .00 with BS 00 on the MFT 30 account to designate as the controlling DLN.
MFT 30 has TC 150 that does need to be adjusted	the current controlling DLN is electronic	• Hold penalty assessment documentation until TC 290/300 adjustment is completed.
MFT 30 has TC 150 but no tax related adjustment is needed (disallowance of frivolous claim or amended return)	the controlling DLN is electronic or paper	• SD all return and penalty related documents to TC 290 disallowance adjustment. Input TC 290 /300 with BS 98/99 on the MFT 30 account to designate as the controlling DLN.
MFT 30 has no TC 150		• Source Document (SD) all penalty assessment documents to the TC 240 adjustment on the MFT 55 account.
The penalty is being assessed on a secondary taxpayer of a joint return and a TC 150 exists on the Primary account (MFT 30)	the TC 150 does **not** have to be adjusted	• Associate all penalty assessment documents to the Primary MFT 30 controlling DLN (This is the DLN located under the CC TXMOD.) • Input TC 971 AC 057 to reference the primary SSN on the secondary's MFT 55.

If	And	Then
The penalty is being assessed on a secondary taxpayer of a joint return and a TC 150 exists on the Primary account (MFT 30)	the TC 150 has to be adjusted	• Hold penalty assessment documentation with Primary account documents. • Input TC 971 AC 057 to reference the primary SSN on the secondary's MFT 55.
The penalty is being assessed on a secondary taxpayer of a joint return and a TC 150 does not exist on the Primary account		• SD all penalty assessment documents to TC 240 adjustment on the Primary MFT 55 account. • Input TC 971 AC 057 to reference the primary SSN on the secondary's MFT 55.

25.25.10.11.3
(07-07-2022)
Penalty Case Closing Actions

(1) Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue, with comments, action taken.

(2) Stamp frivolous filing with "Frivolous Tax Penalty Assessed" in lower left margin of the front of the return.

(3) Notate return with "Considered in FRP" in lower left margin of the front of the return.

(4) Update activity on the MFT 30 CC TXMOD control to "FRVPNMFT55" to show the penalty has been assessed.

Note: If category code is "AUDT", update the control base to reflect updated category code "FRPP".

    a.   If no audit potential, update MFT 30 CC TXMOD control to closed "C". If there is a TC 599-17 (non-processable Return has been secured), it needs to be satisfied with a Collection Status Code.

    b.   If the case is going to be set up as an audit, update MFT 30 CC TXMOD control activity to "needsaudit" and update category code to "FRPA".

(5) Select appropriate closing action code on FRP Master, include penalty assessment amounts.

Note: Ensure there are no additional case actions required prior to closing.

(6) If there is audit potential, refer to IRM 25.25.10.12.2, Audits.

(7) If no audit actions on paper cases, assemble the penalty case file in the following order:

    • REQ54 adjustment completed print or Form 12775, ADJ54 Adjustment Format
    • Original filing, only if a paper return

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.11.3**
Any line marked with a #
is for **Official Use Only**

- Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties

Note: For paperless cases, only Form 8278 is required.

| 25.25.10.11.4
(07-07-2022)
Post Penalty Assessment Processing | (1) Responses to IRC 6702 penalty assessments commonly fall into one of three categories:

   • Request for Abatement
   • Requests for Appeals
   • Requests for Management Intervention, see IRM 25.25.10.12.3.1, Managerial Referral for Penalty Abatement Requests |

(2) Refer to the table below for instructions on handling requests for abatement. (Form 843).

Note: Requests for abatement will be granted **ONLY** in cases involving IRS error, also referred to as service error. Team Manager approval is required before abating the IRC 6702 penalty.

If	And	Then
A claim for a refund/abatement on a non-frivolous Form 843 or statement is received	The penalty will be abated due to a IRS error	1. Abate the penalty per IRM 25.25.10.12.3, Penalty Abatements. 2. Update FRP Master. 3. Ensure all FRP IDRS control bases are closed. 4. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General", when choosing an issue.

If	And	Then
A timely claim for a refund/ abatement on a non-frivolous Form 843 is received. For timeliness determination, see IRM 25.6.1.10.2.7, Claims for Credit or Refund - General Time Period for Submitting Claim.	The taxpayer pays the entire penalty **and** the penalty will **not** be abated	1. Issue Letter 105C for Claim Disallowance, include taxpayer appeal rights and information regarding right to file a refund suit. 2. Input an adjustment with a Transaction Code (TC) 290/.00 with Blocking Series (BS) 98/99, for the disallowance letter on MFT 30. 3. Update FRP Master. 4. Ensure all FRP IDRS control bases are closed. 5. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General", when choosing an issue.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.11.4**
Any line marked with a #
is for **Official Use Only**

If	And	Then
An untimely claim for a refund/abatement on a non-frivolous Form 843 is received. *Note:* To be considered timely, taxpayer must file a claim for a refund on Form 843 within three years from the time a return associated with the penalty is filed or two years from the date the penalty was paid, whichever period expires later.	The taxpayer has or has not paid the entire penalty **and** the penalty will **not** be abated	1. Issue Letter 105C for Claim Disallowance, include paragraph explaining time for refund has expired. 2. Input an adjustment with a Transaction Code (TC) 290/.00 with Blocking Series (BS) 98/99, for the disallowance letter on MFT 30. 3. Update FRP Master. 4. Ensure all FRP IDRS control bases are closed. 5. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. 6. If penalty is not full paid, include information to seek reduction agreement of the IRC 6702 penalty by submitting Form 14402. Revenue Procedure 2012-43 allows a one-time reduction of all unpaid IRC 6702 penalties to $500 if a taxpayer meets the requirements shown in IRM 25.25.10.13.1, Eligibility Requirements for Reduction under IRC 6702(d).

If	And	Then
A claim for a refund/abatement on a non-frivolous Form 843 is received. *Note:* To be considered timely, taxpayer must file a claim for a refund on Form 843 within three years from the time a return associated with the penalty is filed or two years from the date the penalty was paid, whichever period expires later.	The taxpayer has not paid the entire penalty	1. Issue Letter 105C for Claim Disallowance, include paragraph explaining the penalty must be full paid and do not include appeal rights. 2. Include information to seek reduction agreement of the IRC 6702 penalty by submitting Form 14402. Revenue Procedure 2012-43 allows a one-time reduction of all unpaid IRC 6702 penalties to $500 if a taxpayer meets the requirements shown in IRM 25.25.10.13.1, Eligibility Requirements for Reduction under IRC 6702(d). 3. Input an adjustment with a Transaction Code (TC) 290/.00 with Blocking Series (BS) 98/99, for the disallowance letter on MFT 30. 4. Update FRP Master. 5. Ensure all FRP IDRS control bases are closed. 6. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.11.4**
Any line marked with a #
is for **Official Use Only**

If	And	Then
A claim for a refund/abatement on a frivolous Form 843 is received	The taxpayer pays the entire penalty **and** the penalty will **not** be abated	1. Issue Letter 105C for Claim Disallowance, include paragraph explaining frivolous position, and refer to Pub 5, Your Appeal Rights and How To Prepare a Protest If You Don't Agree, which states that Appeals cannot consider reasons that do not come within the scope of the tax laws (for example, if you disagree solely on moral, religious, political, constitutional, conscientious, or similar grounds). 2. Input an adjustment with a Transaction Code (TC) 290/.00 with Blocking Series (BS) 98/99, for the disallowance letter on MFT 30. 3. Update FRP Master. 4. Ensure all FRP IDRS control bases are closed. 5. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. ***Note:*** See IRM 25.25.10.11, Frivolous Return Penalties Overview, to determine if Form 843 is subject to 6702(a) penalty.

If	And	Then
A claim for a refund/abatement on a frivolous Form 843 is received	The taxpayer has not paid the entire penalty **and** the penalty will **not** be abated	1. Issue Letter 105C for Claim Disallowance, include paragraph explaining frivolous position. Do not include appeal rights. 2. Input an adjustment with a Transaction Code (TC) 290/.00 with Blocking Series (BS) 98/99, for the disallowance letter on MFT 30. 3. Update FRP Master. 4. Ensure all FRP IDRS control bases are closed. 5. Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue. ***Note:*** See IRM 25.25.10.11, Frivolous Return Penalties Overview, to determine if Form 843 is subject to 6702(a) penalty.

(3)   Requests for Appeals will be reviewed as follows:

Note: There are no administrative appeals provisions for requests based on frivolous positions. See IRM 20.1.1.3.3.2, Administrative Waivers.

If	And	Then
The taxpayer pays the entire penalty	Files a timely claim for a refund/abatement on a non-frivolous Form 843 **and** IRS issues a notice of claim disallowance (which included appeal rights) For timeliness determination, see IRM 25.6.1.10.2.7, Claims for Credit or Refund - General Time Period for Submitting Claim	• The taxpayer may file a claim for Appeal or • The taxpayer must file suit in a United States District Court or the United States Court of Federal Claims within two years of the date the IRS mails the notice of disallowance denying the refund claim

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.11.4**
Any line marked with a #
is for **Official Use Only**

If	And	Then
The taxpayer pays the entire penalty	Files a timely claim for refund/ abatement on a frivolous Form 843 **and** IRS issues a notice of claim disallowance (which would not include appeal rights) For timeliness determination, see IRM 25.6.1.10.2.7, Claims for Credit or Refund - General Time Period for Submitting Claim.	The taxpayer must file suit in a United States District Court or the United States Court of Federal Claims within two years of the date the IRS mails the notice of disallowance denying the refund claim. (DO NOT send to Appeals)
The claim has been pending for six months or more	IRS has not issued a notice of claim disallowance	The taxpayer may file suit in a United States District Court or the United States Court of Federal Claims to contest the assertion of the penalty at any time
The taxpayer has not paid the entire penalty	Files a timely claim for refund/ abatement on a non-frivolous Form 843 **and** IRS issues a notice of claim disallowance. For timeliness determination, see IRM 25.6.1.10.2.7, Claims for Credit or Refund - General Time Period for Submitting Claim.	- Explain the taxpayer must full pay the penalty prior to filing the Appeal - Explain the possibility of a reduction of the penalty and provide instructions to the taxpayer
The taxpayer has not paid the entire penalty	Files a timely claim for refund/ abatement on a frivolous Form 843 **and** IRS issues a notice of claim disallowance. For timeliness determination, see IRM 25.6.1.10.2.7, Claims for Credit or Refund - General Time Period for Submitting Claim.	- Treat frivolous Form 843 as correspondence per IRM 25.25.10.7.1, Frivolous Correspondence **Do Not Respond** to taxpayer

25.25.10.12
(06-20-2017)
Account Assessments/ Adjustments/Reversals

(1) Types of assessments/adjustments:

- Online adjustments
- Audits
  If tax assessment would meet or exceed established tolerances, back off the account and initiate audit procedures per IRM 25.25.10.14.1, Statutory Notice of Deficiency Procedures.
- Penalty abatement
- Credit offset reversals

Note: All adjustments can fall under multiple categories.

Note: Arguments that are **NOT** likely to be subject to deficiency procedures would be 6, 29 (Excess Credits), 33, 46 and 66.

25.25.10.12   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

25.25.10.12.1
(08-04-2021)
Online Adjustments

(1) Categories:

  a.   Backing Off Accounts
  b.   Form 1099
  c.   Form 2439
  d.   Complete Back Outs

(2) There are two methods for performing on-line adjustments of accounts on frivolous filings: One is for accounts on which the refund is held. The other is for accounts on which the refund was issued in error.

Note: It is critical that FRP Technicians recognize the difference and the appropriate handling of each.

(3) **Accounts on which the refund is held:** When a refund is held and the filing is not subject to deficiency procedures, simply reverse the erroneous information with the correct transaction codes (i. e., TC 807, TC 767, TC 291, etc.) by using CC REQ54 to input an adjustment to reverse the erroneous information reported on the tax return.
Input the following fields:

  - TC 290 for $.00
  - Item Reference Code 807 to reverse only the amount of overstated withholding
  - Activity: "W/H-REVRSL"
  - Blocking series 00 (18 or 05, as appropriate)
  - Source Code 2
  - Reason Code 051 (and any others that apply)
  - Hold Code 0
  - Priority Code 1 (If open TC 420 and L freeze)
  - Remarks field: "reverse overstated withholding"

Caution: Only modify AGI, TXI, and/or tax amounts according to a compliant return that supports the corrections.

Reminder: Adjusting withholding credit requires consideration of possible computer generated penalty computations. For example: Include TC 170 to prevent Failure to Pay Estimated Tax Penalty.

(4) **Accounts on which the refund is issued:** Input an assessment of tax for the amount of the overstated withholding. The input results in a legal assessment that allows the IRS to correct the overstated withholding using the provisions of I. R. C. Section 6201 (a)(3). The assessment should not include any amount of income tax withholding withheld from the taxpayer's wages/earnings.
Using CC REQ54:

  - Input TC 290 for the amount of the overstated withholding (posted as TC 806, minus any legitimate withholding posted on IRP, being careful not to include fraudulent Form 1099 information that may be posted therein)
  - In the activity, use "W/H REVRSL"
  - Blocking series 00 (18 or 05, as appropriate)
  - Source Code 2
  - Reason Code 051 (and any others that apply)
  - Hold Code 0

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.12.1**
Any line marked with a #
is for **Official Use Only**

- Priority Code 1 (If open TC 420 and L freeze)
- Do not use reverse or otherwise address the AGI, TXI, or tax until the taxpayer files a correct return requesting the correction
- In the Remarks field, input:" IRC 6201A3 assessment to reverse overstated withholding"
- Since the withholding credit (TC 806) is addressed with the input of the TC 290, do not input TC 807

Reminder: Adjusting withholding credit requires consideration of possible computer generated penalty computations. For example: Include TC 170 to prevent Failure to Pay Estimated Tax Penalty.

Note: In the event that an account is being audited for other issues requiring deficiency procedures, remember that the withholding has already been addressed in the assessment (TC 290) to recapture the overstated withholding credit. Therefore, TTs should not include any withholding credit on the Examination Report (Form 4549), include the penalty portion of the report. However, an explanation of the adjustment to recapture the excess withholding credit must be included on the Form 886A (or inserted in the remarks section of the Form 4549). See IRM 25.6.1.10.2.4, Overstated Estimated Tax or Withholding Credits.

(5) If a manual assessment has already posted (IDRS shows an adjustment starting with TC 370) or is pending (a closing action on FRP Master showing 2859/3552 is present), take the following actions:
If the TC 290 is equal to the TC 807:

- Take no further action.

If the TC 290 is equal to the TC 807, minus the TC 290 or TC 150:

- Input a separate adjustment to adjust income using CC REQ54
- Input an additional TC 290 for the amount of legitimate income, per any legitimate, attached Forms including W-2s and 1099s or IRP data
- Input TC 806 for any legitimate withholding from attached W-2 or from IRP
- In the Activity Field of CC ADJ54, input "CORRCTINC"
- Block in series 00 (18 or 05 as appropriate)
- Source Code 0
- Reason Code 99
- Hold Code 3
- Priority Code 1 (if open TC 420 and L freeze exists)
- Input applicable Reference Codes to adjust AGI (Reference Item 888), TXI (Reference Item 886), etc., with a minus sign following the amount

    Note: Ensure only the frivolous portion of the Form 1099 income is removed. When removing frivolous Form(s) 1099-DIV, 1099-INT or 1099-OID income, use Reason Code 008. When removing Form 1099-MISC income, reported as Other Income on the return, use Reason Code 021.

- Post delay one cycle
- In the remarks field of CC ADJ54, input the following: "Frivolous Return Processed in Error, account backed off"

25.25.10.12.1　　　　Internal Revenue Manual　　　　Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

Note: When researching IRP transcripts, consider only legitimate income and withholding. Do not include income or withholding from fraudulent 1099s that have posted to IRP. Fraudulent documents posted to IRP could be, but are not limited to Form 1099-OID, Form 1099-MISC, Form 1099-A or Form 1099-C.

25.25.10.12.1.1
(09-12-2019)
Backing Off Accounts

(1) If a taxpayer files a non-processable return and the IRS processes the return and issues a refund, the account should be backed off unless one of the following applies:

   a. If there is no IRP or no other income source and taxpayer is not liable for tax, do not zero out the account. Address the IRC 6702 penalty only.
   b. If the SFR would result in a refund, but an audit (that includes the accuracy-related penalty) would not, proceed with the audit and address the 6702 penalty. Do not back off account.

(2) If tax assessment would meet or exceed established tolerances, back off account and initiate audit procedures in IRM 25.25.10.14.1, Statutory Notice of Deficiency Procedures, using the following guidelines. **If Federal income tax withholding or Excess Social Security Tax refunded, then:**

   1. An assessment must be made (TC 290) for the amount of the overstated withholding credit. Per IRM 3.14.1.6.7.2, Category B ERRF Resolution, and IRM 21.4.5.5, Erroneous Refund Categories and Procedures. A TC 290 results in a legal assessment that allows the IRS to correct the overstated credits using the provisions of IRC 6201(a)(3). The assessment amount should not include any amount of income tax withholding actually withheld from the taxpayer's wages. The IRS only makes this assessment for amounts of erroneous withholding claimed by the taxpayer on the return.
   2. Use CC REQ54 to input an IRC 6201(a) (3) assessment to recover the overstated portion of federal income tax withheld:
   - Input TC 290 for the amount of overstated withholding being recovered use activity: "W/H-REVRSL"
   - Blocking series 00 (or 05 as appropriate)
   - Source Code 2
   - Reason Code 051 (and any others that apply)
   - Hold Code 0
   - Priority Code 1 (If open TC 420 and L freeze)
   - Do not use Item Reference Code 807
   - In the Remarks field, input: "IRC6201A3 assessment to reverse overstated withholding"
   3. Since the withholding credit (TC 806) has already been allowed and posted on CC TXMOD and the IRS has only made an assessment (TC 290) to recapture the amount of the overstated withholding credit, TTs should not include any withholding credit on the Examination Report (Form 4549), include the penalty portion of the report. However, an explanation of the adjustment to recapture the excess withholding credit must be included on the Form 886A (or inserted in the remarks section of the Form 4549). See IRM 25.6.1.10.2.4, Overstated Estimated Tax or Withholding Credits.
   4. Adjusting withholding credit requires consideration of possible computer generated penalty computations. Example: Include TC 170 to prevent Failure to Pay Estimated Tax.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.12.1.1**
Any line marked with a #
is for **Official Use Only**

5.   A separate adjustment will need to be input to back off income, credits and exemptions using CC REQ54:
- Input TC 290 for .00 if TC 150 amount is .00
- Input TC 291 for the exact amount of the TC 150 with a minus following the amount if other than .00
- In the Activity field of CC ADJ54, input: "FRV/RVRSL"
- Blocking series 00 (or 05 as appropriate)
- Source Code 0
- Reason Code 099
- Hold Code 3
- Priority Code 1 (If open TC 420 and L freeze)
- Input applicable reference codes as shown below with a minus following the amount
- Post delay one cycle -In the remarks field of CC ADJ54, input: frivolous return processed, account backed off

25.25.10.12.1.2
(06-20-2017)
Form 1099

(1)   When researching IRP transcripts, do not include income or withholding from fraudulent Form 1099 documents that have posted to IRP. The fraudulent documents posted to IRP could be, but are not limited to Form 1099-OID (Original Issue Discount), Form 1099-MISC, Form 1099-A or Form 1099-C.

Note: Ensure only the frivolous portions of the Form 1099 Income is removed.

(2)   When removing Frivolous Form 1099 DIV/INT/OID income use Reason Code 008 and when removing Frivolous Form 1099-MISC income listed as Other Income use RC 021 per Document 6209.

25.25.10.12.1.3
(03-02-2022)
Form 2439

(1)   Form 2439, Notice of Shareholder of Undistributed Long-Term Capital Gains.

If	And	Then
Form 2439 only	TP did not provide Form 1040X	This is an information document and should be treated as frivolous correspondence refer to IRM 25.25.10.7.1, Frivolous Correspondence.
Original Return Processed and Refund Held	TP filed original return claiming frivolous Form 2439 credit that was R coded during processing or the refund was held by other means	1. Update CC TXMOD control (if needed). 2. Research for open AIMS: Short close using Disposal Code (DC) 32 on open AIMS. *Exception:* If TC 576 is present, AIMS should not be surveyed and TC 300 should be utilized for the adjustment. 3. Input TC 290 for .00 and TC 767 for Form 2439 claim amount using: a. Source Code 2 b. Reason Code 057 c. Hold Code 0 (allow the notice) d. Priority Code 1 if there is an unre-versed TC 420 or TC 424 4. Issue Letter 105C, Claim Disallowed.

25.25.10.12.1.2   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

If	And	Then

Refund is less than
 	
issued more than two months ago
	TPs original or amended return was processed and the Form 2439 credit refunded	1. Review CC TXMOD for refund offsets.
		    Note: All offsets must be pulled back.
		2. Input TC 290 for the overstated Form 2439 amount.
		    Reminder: Do Not suppress notices. Use Source Code 2 and Reason Code 057. If there is an unreversed TC 420 or TC 424, use Priority Code 1.
		3. Input CC ENMOD history "MATHERR" (this indicates math error procedures will be used to recover the credit).
		4. Issue Letter 474C, "Math Error Explained", using the appropriate paragraphs.
		5. Suspend for sixty (60) days.
		6. After suspense period expires, close controls.
		7. Attach Letter 474C to the 150 DLN using TC 290 .00 with B/S 98/99 with hold code 3 for disallowance association.

Refund claimed is more		Refer to FRP Technical Coordinator for processing.
Subsequent Correspondence after Claim Disallowance	TP requests Appeals or other formal hearing	Refer to IRM 21.5.3.4.6.2, Appeals and Responses to Letter 105C and Letter 106C. 1. Close CC TXMODA control. 2. Transfer all documents included with the request to the Appeals Office nearest the TP's physical address. 3. Inform TP when case is sent to Appeals. ***Reminder:*** Managerial review is required before cases are forwarded to Appeals.
Subsequent Correspondence after Claim Disallowance	TP submits claim after disallowance of previous claim	Refer to IRM 21.5.3.4.6.2, Appeals and Responses to Letter 105C and Letter 106C. 1. Assess frivolous submissions penalty against the TP for each document filed.

(line marks)
The right margin contains a `#` symbol next to the first row and next to the "Refund claimed is more" row.

25.25.10.12.1.4
(09-30-2016)
Complete Back Outs

(1) If a taxpayer files an invalid return and the IRS processes the return, the account must be adjusted to back out the following return categories:

- C-Filings
- Prisoners
- Form 1041 used as in lieu of Form 1040 return

(2) Remove frivolous income and credits only when they cannot be verified through research.

Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

Internal Revenue Manual

25.25.10.12.1.4

(3)   To remove frivolous income or credits perform an online adjustment. Ensure the correct transaction codes and credit reference numbers are used. Refer to Document 6209 for further information on codes.

25.25.10.12.2
(11-01-2021)
Audits

(1)   Categories:

   a.   Understated Income
   b.   Fuel Tax Credit

Note: IRC 6751(b)(1) requires supervisory approval. For Accuracy Related Penalties, written supervisory approval must be obtained at the time the penalty is being asserted. Ensure the manager approval is included in the case file prior to issuance of Form 4549. See IRM 20.1.1.2.3.1, Timing of Supervisory Approval.

If	And	Then
The original tax on the return is zero and unreported income or disallowed refundable credits results in a tax change greater	unallowable portion of the refundable credits are being disallowed and tax on underreported income is being pursued	Prepare and issue Statutory Notice of Deficiency (SNOD) to: 1. Remove the credits 2. Assess the tax 3. Assess the accuracy penalty for substantial understatement of income
The original tax is greater than zero, no withholding and refundable credits are greater than the tax	unallowable portion of the refundable credits are being disallowed	Prepare and issue SNOD to: 1. Remove the credits 2. Assess accuracy related penalty against the underpaid tax
The original tax is greater than zero, no withholding and refundable credits are greater than the tax	tax is being removed and unallowable portion of the refundable credits are being disallowed	Prepare and issue SNOD to: 1. Remove the credits 2. Assess accuracy related penalty on any deficiency
The original tax is greater than zero, withholding is greater than the tax amount	unallowable portion of the refundable credits are being disallowed	Prepare and issue SNOD to: 1. Remove the credits 2. Assess accuracy related penalty on any deficiency

(Note: # mark appears in right margin beside first table row)

25.25.10.12.3
(09-30-2016)
Penalty Abatements

(1)   Penalty abatements fall into four separate categories:

•   Reasonable cause
•   Statutory Exceptions
•   Administrative waivers
•   Correction of IRS error

IRC 6702 penalties **Do Not** meet reasonable cause criteria and should only be abated if IRS error is identified. For additional information see IRM 20.1.1.3, Criteria for Relief From Penalties.

25.25.10.12.3.1
(09-30-2016)
Managerial Referral for Penalty Abatement Requests

(1) Requests for face-to-face meetings will not be granted when the taxpayer position is based upon a frivolous argument.

(2) Refer administrative abatement requests to management when contacted by the taxpayer for assistance, and research indicates the taxpayer made attempts to comply, but the taxpayer was given incorrect information by the IRS or the information was sent, and the IRS lost it.

(3) Responses must be worked within 30 days from receipt.

    a. If response results in the abatement of penalty or requires additional development of the case, coordinate with team manager.

    b. If response results in the sustaining of the original assessment, send a 105C letter to disallow penalty abatement and explain taxpayer rights.

       Note: As a general rule, once the IRS issues a notice of claim disallowance, the taxpayer must file suit in a United States District Court or the United States Court of Federal Claims within two years of the date the IRS mails the notice of disallowance denying the refund claim. See IRC 6532(a)

25.25.10.12.3.2
(03-21-2018)
Penalty Abatement Procedures

(1) Prepare Form 8278, "Assessment and Abatement of Miscellaneous Penalties", indicating:

Reminder: Ensure, if a joint return, to prepare a Form 8278 for both taxpayers

- Taxpayer's name
- Tax Period
- TIN
- Next to "6702 (a) Frivolous tax return" input the form number and the received date
- Under "Number of Violations" input "X "(X= number of penalties being abated)
- Under "Amount Abated" input "$X". (X= $5,000 times the number of penalties being abated)
- Signature date - the earliest date the return/claim was signed by the taxpayer. If no signature, write "N/A"
- "Originator": Technician's name
- Date: today's date
- Organization Code: Employee IDRS number
- Phone: Technician or manager's phone number

(2) Select appropriate action on FRP Master

(3) Send Form 8278 to manager for approval

(4) Upon Manager approval of Form 8278, input adjustment using the IAT CC REQ54 Tool:

- Blocking Series 53
- Reason code for MFT 55 place 65 in 1st position and 45 in the 4th position for MFT 13 RC 45 only in the 4th position
- Category - FRPP
- Activity - "ABATEPEN"
- CD – (Penalty Reference Code) 666 or 543 Collection Issues

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.12.3.2**
Any line marked with a #
is for **Official Use Only**

- Amount – (5,000.00) (If abating more than one penalty, input the total amount for all penalties)
- Remarks section notations: Reason why penalty is being abated
  See IRM 25.25.10.11.2, Penalty Assessment, for association of documentation

(5) Ensure all offsets are reversed to the appropriate tax period

(6) Select appropriate action on FRP Master

25.25.10.12.4
(06-08-2018)
Credit Offset Reversals

(1) If the overstated withholding was credited to another tax year or to an outstanding federal agency debt, child support debt, state income tax debt or unemployment compensation debt (TOP Offsets), the credit should be reversed by an entry that will post to the Summary Record of Assessment.

Note: Governing Regulations have changed the time frames the treasury has to collect on offsets of tax refunds for child support payments. For special instructions on offsets greater than five months old, see IRM 21.4.6.4.2.4, Child Support TOP Offsets

(2) If the offset did not result in a refund, use CC REQ54 to reverse the applicable amount of income, withholding, credits and exemptions:
- Input TC 290 for .00 if TC 150 amount is .00
- Input TC 291 for the exact amount of the TC 150 with a minus following the amount
- In the Activity field of CC ADJ54, input: "W/H-REVERSAL"
- Blocking series 00 (or 05 as appropriate)
- Source Code 0
- Reason Code 099
- Hold Code 4
- Priority Code 1 (If open TC 420 and L freeze)
- Input applicable reference codes as shown below with a minus following the amount
- In the remarks field of CC ADJ54, input: "frivolous return processed, account backed off"

(3) Since the IRS has not issued a refund, the verifiable amount of withholding credit will go on the Statutory Notice of Deficiency.

25.25.10.13
(12-16-2019)
Reduction of the
Frivolous Return Penalty
IRC 6702(d)

(1) IRC 6702(d) authorizes the reduction of the frivolous tax submission penalties assessed under IRC 6702 if it is determined that a reduction would promote compliance with and administration of the Federal tax laws. Revenue Procedure 2012-43 allows a one-time reduction of all unpaid IRC 6702 penalties to $500 if a taxpayer meets the requirements shown in IRM 25.25.10.13.1, Eligibility Requirements for Reduction under IRC 6702(d).

(2) When a taxpayer requests a reduction on Form 14402, IRC 6702(d) Frivolous Tax Submissions Penalty Reduction or similar written statement, the request must be evaluated within 15 calendar days. If the reduction is granted, the IRC 6702 penalties must be reduced within 30 calendar days unless the taxpayer is on a full pay Installment Agreement (IA). Review case to verify or create an open IDRS control on MFT 55 with activity "14402" using the Form 14402 received date. Verify that Form 14402 has been input and scanned into FRP

25.25.10.12.4　　　　Internal Revenue Manual　　　　Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

Master. When acceptance or rejection is determined, close the control on MFT 55 to reflect acceptance, rejection or pending IA status.

Note: For pending IA's, after closing case control, input TC 971 AC 544 on MFT 30 to alert other IRS functions of IRC 6702(d) monitoring in FRP.

(3)   If the assessment of an IRC 6702 penalty was based on a jointly filed submission, each spouse interested in a reduction must submit a separate Form 14402 and a separate payment of no less than $250 or the full reduction payment of $500 per filer.

(4)   The following letters are used to respond to requests for reduction and are available on the Publishing website.

- Letter 4940, Request for Penalty Reduction - use to notify the taxpayer of the proper procedures for requesting a reduction under IRC 6702; enclose a copy of Form 14402, IRC 6702(d) Frivolous Tax Submission Penalty Reduction.
- Letter 4941, Rejection of Penalty Reduction Request- use to deny a request for reduction under IRC 6702(d) and explain to the taxpayer the reason(s) the IRS denied the reduction request.
- Letter 4942, Acceptance of Penalty Reduction Request- use to approve a request for reduction under IRC 6702(d) only if the taxpayer meets all the prerequisites for reduction of the penalty. The letter has an option for taxpayers who have an installment agreement, which must be paid before the penalty is reduced.

25.25.10.13.1
(12-16-2019)
Eligibility Requirements
for Reduction under IRC
Section 6702(d)

(1)   A person must meet all of the requirements of Rev. Proc. 2012-43 to receive a reduction of unpaid IRC 6702 penalty liabilities. Deny any request for reduction that does not comply with all the requirements of Rev. Proc. 2012-43. See IRM 20.1.10.12.3, IRC 6702(d) Reduction of Frivolous Submission IRC 6702 Penalties for additional information.

(2)   Form 14402 needs to be controlled within three days of receipt. The receive date is the date the request is received by FRP.

(3)   The following table is a guide for eligibility requirements:

Caution: **ALL** requirements must be completed prior to approval of the reduction.

Requirement	Check
Written request for reduction	Form 14402 with signed under penalty of perjury.
Partial payment of at least $250	Payment must be enclosed with request for reduction unless taxpayer has entered into a full pay installment agreement or refund offset per Revenue Procedure 2012-43.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.13.1**
Any line marked with a #
is for **Official Use Only**

Requirement	Check
Exception: Partial Payment requirement not applicable if research shows the taxpayer has an existing IA to fully pay all federal tax liabilities, including IRC 6702 penalty liabilities	CC IADIS for IA indicators, if present and taxpayer meets all other requirements for reduction, forward to Collection CCP to be manually monitored. *Note:* Ensure TC 971 AC 544 has been input on MFT 30. This indicator alerts other IRS functions of IRC 6702(d) monitoring in FRP.
Filed all Federal tax returns (IMF and BMF) for the last six years	See IRM 25.25.10.17.3, Conducting BMF Compliance Checks and IRM 5.19.1.4.4.1, Full Compliance Check, for details on how to complete a full compliance check. Remember to check CC ENMOD or CC TXMOD for cross-reference accounts.
Fully paid all Federal tax liabilities (other than the IRC 6702 penalty liabilities)	CC IMFOLI and CC BMFOL for balances
Deposits by employer of Federal employment taxes for current quarter and prior two quarters	CC BMFOLT 94X deposit history, if current deposits are not consistent with deposit history, give business taxpayer an opportunity to provide reasonable explanation for change.

(4)   The following table contains events that disqualify the taxpayer from receiving a reduction of the IRC 6702 penalty liabilities.

Note: A taxpayer may receive a reduction of IRC 6702 penalty only once.

Deny Requests where:	Exception:	Research
The taxpayer has previously received a reduction of any IRC 6702 penalty liabilities		MFT 55 or 13 for all periods for a TC 240 with a PRN of 543 or 666 showing reduction of penalty to $500

Deny Requests where:	Exception:	Research
The taxpayer has submitted an Offer-In-Compromise (OIC) that includes any IRC 6702 penalty liabilities	the Offer-In-Compromise will not be considered due to one of the following reasons: • the taxpayer has withdrawn the offer in writing • the IRS has returned the offer to the taxpayer without accepting it • or the IRS rejected the offer and the taxpayer is not pursuing an administrative appeal of the rejection	CC IMFOLT for: • TC 480, Open OIC • TC 780, Accepted OIC • TC 481, Rejected OIC • TC 482, Withdrawn OIC
The taxpayer has entered into a Partial Payment Installment (PPIA) agreement that includes the IRC 6702 penalty liabilities		CC IADIS for a PPIA indicator, Row 3 column 45 "PPIA ASSET CD" 1 or 2 is a Partial Pay IA.
The taxpayer has entered into a closing agreement under IRC 7121 with the IRS that includes the IRC 6702 penalty liabilities		AIMS for EGC 58XX or 54XX with a closing code of 02, 03, or 04 request closing package to determine if it includes IRC 6702 penalties
The taxpayer has an open bankruptcy case that includes the dischargeability of the penalty		TC 520 Stat 72 with a -V freeze. Form 982, "Agreement between Government Attorneys and Defendant."

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.13.1**
Any line marked with a #
is for **Official Use Only**

Deny Requests where:	Exception:	Research
The taxpayer has suit filed by United States to collect IRC 6702 penalty liabilities or to reduce assessment of IRC 6702 penalty to judgement		CC TXMOD for a TC 520 followed by a TC 521 with a DC 04 and an extended collection statute
The taxpayer has defaulted on a Full Payment Installment Agreement after submitting a request for a reduction.	If the IA is defaulted the taxpayer is required to submit a new reduction request and provide the additional payment.	Default will be identified by tax module showing Collection Status 64 (defaulted IA) 22, 24, or 26.
The taxpayer has submitted a frivolous filing after FRP received the reduction request and before the reduction is granted		CC TXMOD, CIS, AMS for any identified frivolous filing received after FRP received a request for the reduction

(5) A person must make a written request for reduction on Form 14402, IRC 6702(d) Frivolous Tax Submission Penalty Reduction.

Note: Treat any written statement signed under penalties of perjury that includes the same information prescribed by Form 14402 and its instructions as a valid request for reduction.

25.25.10.13.2
(12-16-2019)
Partial Payment of IRC Section 6702 Penalty Liabilities

(1) If the taxpayer meets the eligibility requirements discussed in IRM 25.25.10.13.1, Eligibility Requirements for Reduction under IRC 6702(d). The IRC 6702 penalty liabilities will be reduced to $500. The taxpayer must pay the reduced liability by either:

    a.   submitting at least $250 with the request for reduction or
    b.   paying the reduced penalty as part of a full payment installment agreement
    c.   by refund offset - per Revenue Procedure 2012-43

      Note: Research CC TXMOD or Remittance Transaction Research (RTR) for payment.

(2) Unless the taxpayer is making payments pursuant to a full payment installment agreement the taxpayer must submit at least $250 with the request for reduction, even if that person has already paid a portion of the penalty. A person who chooses to pay the $250 or more but less than $500 will remain liable for the balance of the reduced penalties.

Caution: IRS employees are not to transfer credits to satisfy the reduction payment fee and will not use freeze codes to hold an overpayment for

25.25.10.13.2   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

the purpose of allowing the taxpayer time to provide Form 14402 and/or the balance of the reduction fee amount. Do not prevent overpayments from offsetting against unpaid section 6702 penalty liabilities.

Note: Interest will continue to accrue on the unpaid and unabated IRC 6702 penalty liabilities that are the subject of the reduction request. If, however, a taxpayer submits $500 with a request for reduction and the IRS grants the request, abate any interest that has accrued on the unpaid IRC 6702 penalty liabilities.

(3)   If a taxpayer submits a payment with a request for IRC 6702 penalty reduction, the partial payment will be applied to the taxpayer's assessed IRC 6702 penalty liabilities whether or not the IRS grants the reduction request.

(4)   Issue Letter 4942, Acceptance of Penalty Reduction Request to the taxpayer.

(5)   If a taxpayer is paying the reduced IRC 6702 penalty as part of a full pay installment agreement and the taxpayer meets all other requirements, forward the information for Collection CCP to manually monitor the installment agreement and provide Letter 4942, Acceptance of Penalty Reduction Request to the taxpayer.

(6)   FRP will determine the new estimated Reduction Completion Date (RCD) based upon the reduced penalty.

   a.   Calculate the new estimated full pay date by dividing the amount of the pending penalty reduction by the current monthly amount on CC IADIS.

      Note: This represents the number of months to subtract from the CC IADIS completion date and provides the RCD.

   b.   Provide the RCD with the CC IADIS to give Collection CCP an estimated date of completion.
   c.   Send a copy of the signed and PENDING reduction request.

                                                                                      #
                                                                                      #

   e.   Input TC 971 AC 544 on MFT 30. This indicator alerts other IRS functions of IRC 6702(d) monitoring in FRP.
   f.   When the taxpayer has fulfilled the requirements of the installment agreement, except for the portion attributed to the rest of the penalty and

                                                                                      #
                                                                                      #

   g.   If the taxpayer does not complete the Manually Monitored Installment Agreement (MMIA) or fails to file a return or files additional frivolous return(s), send the taxpayer a Letter 4941, Rejection of Penalty Reduction Request advising him/her the reduction request is no longer valid and the reason why.

      Note: Such taxpayers may request another reduction provided they submit another reduction request with the required partial payment.

   h.   If the taxpayer completes the IA and has filed returns as required while in the IA, complete the actions to reduce the penalty and abate appropriate interest. See IRM 25.25.10.13.4, Approval of Reduction Request Under IRC Section 6702(d).
   i.   Update IDRS history and FRP Master with the date and status of the reduction request.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.13.2**
Any line marked with a #
is for **Official Use Only**

25.25.10.13.3
(09-12-2019)
**Manually Monitored
Installment Agreements**

(1)   When the taxpayer has an approved installment agreement FRP will provide Collection CCP with a copy of CC IADIS. The CC IADIS installment agreement amount includes the tax balance, accruals and the total amount of the penalty.

(2)   FRP will determine the new estimated Reduction Completion Date (RCD) based upon the reduced penalty.

   a.   Calculate the new estimated full pay date by dividing the amount of the pending penalty reduction by the current monthly amount on CC IADIS.
   b.   This represents the number of months to subtract from the CC IADIS completion date and provides the RCD.
   c.   Provide the RCD with the CC IADIS to give Collection CCP an estimated date of completion.
   d.   Send a copy of the signed and PENDING reduction request (i.e., Form 14402.)

                                                                                      #
                                                                                      #

   f.   Input TC 971 AC 544 on MFT 30. This indicator alerts other IRS functions of IRC 6702(d) monitoring in FRP.
   g.   When the taxpayer has fulfilled the requirements of the installment agreement, except for the portion attributed to the rest of the penalty and

                                                                                      #
                                                                                      #

   h.   If the taxpayer does not complete the MMIA or fails to file or files additional frivolous return(s), send the taxpayer a Letter 4941, Rejection of Penalty Reduction Request advising him/her the reduction request is no longer valid and the reason why. Such taxpayers may request another reduction provided they submit another reduction request with the required partial payment.
   i.   If the taxpayer completes the IA and has filed returns as required while in the IA, complete the actions to reduce the penalty and abate appropriate interest. See IRM 25.25.10.13.4, Approval of Reduction Request Under IRC Section 6702(d).
   j.   Update IDRS history and FRP Master with the date and status of the reduction request.

25.25.10.13.4
(09-12-2019)
**Approval of Reduction
Request under IRC
Section 6702(d)**

(1)   If the taxpayer meets the requirements detailed above, reduce any unpaid IRC 6702 penalty liabilities to $500.

Note: Installment Agreement (IA) must be satisfied prior to reduction of penalty, see IRM 25.25.10.13.3, Manually Monitored Installment Agreements, for detailed procedures.

(2)   Update CC TXMOD control on MFT 55 using CC ACTON with the following activities: "6702(d)", "APPROVED", "ABATEPEN", "4942LTR".

(3)   Use the IAT CC REQ54 Tool to abate the IRC 6702 penalties on each MFT 55 module included on Form 14402 with the exception of any remaining portion of the $500 liability.

   •   Blocking Series 53
   •   Reason code for MFT 55 place 65 in 1st position and 45 in the 4th position
   •   Category - FRPR
   •   Activity - "REDUCED"

25.25.10.13.3   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
                                                                    Any line marked with a #
                                                                    is for **Official Use Only**

- • CD – (Penalty Reference Code) 666 or 543 Collection Issues
- • Amount – (5,000.00) (If reducing more than one penalty, input the total amount of the penalty portion that is to be reduced)
- • Remarks section notations: IRC 6702(d) Reduction Approved
  See IRM 25.25.10.11.2, Penalty Assessment, for association of documentation

(4) Issue Letter 4942, Acceptance of Penalty Reduction.

(5) Do not refund to the taxpayer any amount of the penalty paid, either by refund offset or voluntary payment prior to the date IRS received the request for reduction on Form 14402, IRC 6702(d) Frivolous Tax Submissions Penalty Reduction.

Note: Consider the reduction request filed on the date it is stamped received by the IRS. If the taxpayer's account reflects an overpayment that has not been applied to the penalty before the reduction request is received by the IRS and the taxpayer meets the requirements for a reduction, the overpayment should be applied to any unpaid amount of the reduced penalty. Any remaining overpayment should be refunded based on the cycle date (TC 706) of the refund offset. If, however, the overpayment had already been applied to any IRC 6702 penalties before the reduction request was received, those amounts may not be refunded, regardless of whether the taxpayer qualifies for the penalty reduction. TC 706 indicates the date an offset post to a taxpayer's account.

25.25.10.13.5
(03-21-2018)
Rejection of Reduction Request under IRC Section 6702(d)

(1) If the taxpayer does not meet the qualifications, deny the request using Letter 4941, Rejection of Penalty Reduction Request. Indicate on Letter 4941 the reason(s) the taxpayer's request for reduction was denied.

(2) Letter 4941, Rejection of Penalty Reduction Request gives the taxpayer an opportunity to meet eligibility requirements. Denial of a reduction request does not preclude a taxpayer from submitting another request. With each request the taxpayer must pay at least $250 or have entered into a full payment installment agreement.

(3) Update IDRS history and FRP master database with the date of the rejection so the technician can determine the amount of the penalty.

25.25.10.14
(03-11-2019)
Examination Case Processing

(1) The following information describes procedures that are specific to the Frivolous Return Program. Unless otherwise stated, normal case processing procedures will be followed.

(2) Update control on CC TXMOD with action "AUDITREQ" and category code "FRPA".

Note: Open control must be updated to reflect status changes as case progresses through Examination Process. For example: SNT525L or "SNT90DAYS".

(3) AIMS controls include but are not limited to:

- • Project code 310, Source Code 20 for Processed Returns.
- • Project code 311.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.14**
Any line marked with a #
is for **Official Use Only**

(4) AIMS activity codes (Exam Classes) used will be determined using the ADP Document 6209.

(5) Prepare case folders for each paper case initially controlled in FRP. These folders will include the following applicable documents, in order:

- Form 3198, Special Handling Notice for Examination Case Processing if applicable
- Copies of letters mailed to taxpayer
- Any appropriate taxpayer correspondence in descending date order
- Pertinent IDRS prints such as: IRP that may drop from the system
- Penalty approval form

Caution: Case file folders will not include anything that is stored electronically. This includes IDRS prints.

Note: For paperless cases, Include only the Form 8278

(6) Input a TC 810, using jurisdiction "4" on any year with an open RSED unless a -E freeze specific to FRP is already posted.

(7) Review the module and address any held credits prior to closing the case. If applicable, input a TC 811 with 'Freeze-Release-Amt' for ″.00″ to remove the -E freeze.

Note: A TC 811 will systemically post once an RSED expires as long as a held credit amount is not present.

(8) If account research identifies a compliant return that was selected in error, take the following actions:

- If FRP notices have been issued, send the taxpayer an apology letter stating they are not being examined for frivolous issues.
- Close out FRP Database issue with action code specific to "error" to assist with inventory report count accuracy.
- Review IDRS and reverse or close out any FRP controls and indicators necessary for case cleanup.

(9) If account research identifies a compliant return and no questionable criteria is present, but other modules reflect continued frivolous behavior including recent frivolous correspondence receipts, take the following actions:

- Update AMS with case facts including any research performed to substantiate the determination that the refund is to be released.
- Input TC 811 to release -E freeze.
- Input TC 810 with a jurisdiction code "4" and a post delay code "1" to reapply the precautionary freeze code which allows FRP to review questionable filings prior to refund being released.

25.25.10.14.1
(09-30-2016)
Statutory Notice of Deficiency Procedures

(1) Once it has been determined that a case will be forwarded for Statutory Notice of Deficiency (SNOD) issuance, the tax technician will research all necessary IDRS command codes to verify and secure the taxpayer's last known address and any POA information.

Note: All cross-reference taxpayer accounts will also be researched.

25.25.10.14.1   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

(2)   Review the report to ensure all issues are included and correct tax/penalty computation amounts are indicated including any funds received resulting from a refund issued on a frivolous filing. Fraudulently claimed excessive credits received by the taxpayer constitute an increase of wealth over which the taxpayer exercised control; hence, it is income under IRC 61.

(3)   An original statutory notice must be provided to both spouses on married filing joint filings, including their separate POAs, if applicable. See IRM 4.8.9.12.1, Separate Notices to Joint Filers and IRM 4.8.9.9.1, Taxpayer Name for additional information.

(4)   Process as follows:

   a.   Assemble the 90-day package and update RGS, AIMS, FRP Master Daily, case folder, and IDRS control to "Send 90-Days," ensuring Form 5344, "Exam Closing Record" includes correct collectable codes and any other appropriate codes.
   b.   Forward case for statutory notice issuance.
   c.   Close case controls.

25.25.10.14.2
(03-11-2019)
Case File Assembly

(1)   All Examination case file folders will be assembled in the following order:

Caution: Case file folders will not include anything that is stored electronically. This includes IDRS prints.

   •   Form 5344
   •   Form 1040 Labels (if any)
   •   Letters and enclosures waiting to be sent to the taxpayer
   •   No Change letter, when applicable
   •   Closing examination report
   •   Closing document with signature/agreement
   •   File copies of correspondence in most recent date order
   •   Workpapers
   •   For paper cases only original print, amended return, or CIS image
   •   Form 5546, "Examination Return Charge-out" or current CC AMDIS print
   •   Form 12616

(2)   When applicable, Form 895, Notice of Statute Expiration, will be placed on the top of all other documents.

(3)   Remove extraneous material such as routing slips, excess prints, etc.

(4)   Indicate closing action code and time on outside of case folder.

(5)   Ensure FRP Master Daily is updated appropriately for FRP cases.

(6)   90-day notices should never be destroyed. If the 90-day notice is no longer valid, attach a note to indicate "Void, Do Not Assess". If the 90-day notice is valid, but the report has been revised, attach a note to the 90-day notice to indicate "Do Not Assess."

(7)   See Exhibit 4.4.1-2, Case Assembly.

Note: If a case is worked on RGS, printing of the entire closing file package is not necessary, RGS maintains an electronic file copy. See IRM 4.19.13.20, RGS Case File Assembly.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.14.2**
Any line marked with a #
is for **Official Use Only**

25.25.10.15
(12-13-2023)
**Processing Frivolous
Returns Claiming Fuel
Tax Credit (FTC)**

(1) To promote voluntary compliance with the tax laws, the IRS identifies certain deductions and credits that may be susceptible to abuse by individuals improperly claiming them. Criteria is developed to identify those returns that appear to be questionable so they may be carefully reviewed during processing and, when appropriate, referred to compliance functions before refunds are issued. Claims and filings requesting an amount of fuel tax credit that is so disproportionately excessive to the income reported on the individual's return as to be unallowable or where the claim reflects an impossible quantity of fuel given the business use for the occupation reported are subject to the IRC 6702(a) penalty. FRP treatment on FTC is specific to the form type as shown below:

  a. Frivolous IMF original returns are referred to FRP for assessment of the IRC 6702 penalty only and audits are performed by Exam.
  b. Frivolous IMF amended returns are referred to FRP for all tax and penalty assessment considerations.
  c. Frivolous BMF returns and/or claims are reviewed for IRC 6702 penalty criteria and if applicable, tax adjustment determinations are based upon form type.

<div align="right">

\#
\#
\#
\#

</div>

(2) Frivolous FTC returns will be treated as valid for processing purposes. Normal procedures will be followed through the penalty stage of the case.

(3) FTC claimed for fuel used for off-highway business use is not allowed for vehicles that are registered or required to be registered, for use on a public highway. Taxpayers must establish that they have a legitimate business use for the fuel. Substantiation for use requires:

  a. a list of vehicles or equipment designated for the fuel usage claimed
  b. the name and taxpayer identification number of the seller of the fuel
  c. the dates the fuel was purchased
  d. invoices and receipts showing the cost and number of gallons purchased

Note: The amount of the excise tax must be included in the purchase price.

(4) If any of these items are refused or otherwise not provided, the credit will be disallowed in full.

25.25.10.15.1
(10-11-2023)
**Post Audit FTC Penalty
Treatment**

(1) On a monthly basis, Designated employees will pull reports in AIMS Centralized Information System (ACIS) for PC 1505 defaults and unagreed case closures.

Note: IRC 6702 penalties will not be imposed on Agreements or No Changes

(2) Frivolous Fuel Tax Credit includes the following criteria:

  • fuel tax credit so disproportionately excessive to the reported income that it is unallowable, and/or
  • the claim reflects an impossible quantity of fuel given the business use for the occupation reported

25.25.10.15   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
                                                                Any line marked with a #
                                                                is for **Official Use Only**

(3) Frivolous Return Selections will be added to treatment stream in accordance with IRM 25.25.10.8, Screening Returns and Claims. Issue 3176C Letter with Rescind Paragraphs if the tax and penalty assessments were previously addressed in an Audit and no additional account corrections are required.

25.25.10.16 (03-11-2019) **Erroneous Refunds**	(1)	See IRM 21.4.5, Erroneous Refunds, and IRM 4.19.14.9.3, QRP Examination Process, for additional information.

(2) This subsection provides information on erroneous refunds resulting from frivolous filings. They commonly fall under one of two types - taxpayer claim for improper credits and/or taxpayer claim understating tax liability.

(3) All refunds, resulting from frivolous filings, must be entered into FRP Master by selecting action code "ASSIGN/ERR REF" and completing the erroneous refund tab with the amount of the erroneous refund, the first two digits of the TC 846 DLN, and the cycle the refund was issued.

   a. FRP Master Erroneous Refund Reports will be generated weekly (less often if no new refunds are identified) by the FRP Analyst. The report will include the taxpayer name, SSN, amount of refund and cycle issued, argument code, Campus location that processed the refund, and the area or process that allowed the refund. Send the report to the HQ Policy Analyst and FRP Technical Coordinator.

   b. The FRP Technical Coordinator will provide the Erroneous Refund Report to the appropriate Campus that allowed the refund, requesting a reply with a time frame of one week. The reply will include the following questions:
   1. What IRM guidance provides for the processing that allowed the refund?
   2. Was IRM guidance properly followed in the processing of the refund?
   3. Is there a need for an IRM revision to prevent additional erroneous refunds?
   4. Is there a need for additional or revised training to prevent additional erroneous refunds?

   c. If no response is received after one week, one follow-up will be attempted. If no response is received to the follow-up, elevate request to HQ.

   d. If response from Campus does not resolve the processing error that allowed the refund, elevate the report to the HQ Policy Analyst for resolution.

   e. HQ Policy Analyst will report back to Ogden Fraud and Referral Evaluation (FRE) Analyst with final disposition. Disposition shall include resolution to processing error(s) that caused the refund, follow-up actions required of Ogden FRE, Ogden FRP Technical Coordinator, and/or FRP Revenue Agent for review and approval.

(4) Every effort will be taken to avoid the issuance of a refund based on the filing of a frivolous return. However, when such filings result in erroneous refunds to taxpayers, the IRS has several options available to recover these refunds.

(5) If an erroneous refund is identified prior to systemic generation of check or direct deposit, NOREF processing will be utilized to prevent issuance, if the refund has not posted to IDRS.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.16**
Any line marked with a #
is for **Official Use Only**

(6) If an erroneous refund is identified within sufficient time to recover payment at financial institution or post office but outside the CC NOREF processing time frames, intercept procedures will be utilized.

(7) If an erroneous refund is identified after the cycle cutoff and intercept procedures were not successful, the IRS has options to recover through:

- • On-line Assessment
- • Mathematical or Clerical Error
- • Statutory Notice of Deficiency
- • Erroneous Refund Litigation

25.25.10.16.1
(09-28-2020)
CC NOREF Processing

(1) It is critical that the following actions be taken during the appropriate cycle. The command code must be input by the time frames outlined in IRM 21.4.1.5.10, Refund Intercept CC NOREF with Definer "P". Refer to IRM 2.4.37.2, Refund Delay Notice, for additional guidance.

Note: For IMF, NOREF can only be used if there is not a TC 846, or the TC 846 is showing as pending (PN). For BMF the TC 846 must not be posted. The cycle date of the TC 846 must be the current cycle.

(2) CC: NOREF/NOREFEP posts with all 5s in the DLN (blocking series, etc.). This input creates a P freeze and a TC 841 posts on the module. It does not post for up to four weeks after the input of the CC NOREF. TC 841 with all 9s in the DLN (blocking series, etc.) indicates the check was re-deposited.

(3) Input NOREF as follows:

a. For paper check, CC TXMODA must precede each NOREF input request
NOREF 30 TXYRMM NAME
C#,CYCLEP,M,RFDL – Example: 200924P (current refund cycle followed by a P for paper)
* *
,
* Space down two blank lines
DO Code
99

Note: For a complete list of reason codes, See IRM Exhibit 2.4.37-2, Error Reason Codes

b. For direct deposit refund, input TXMODA
NOREFE30 TXYRMM NAME
C#,CYCLEE,M,RFDL
(current refund cycle followed by a E for Electronic Direct Deposit Filing)
* *
,
* Space down two blank lines
DO Code
99
Routing Transit Number

Note: CC:NOREF must be input upon identification of initial filing. If direct deposit is not identified immediately after filing, it will not stop regardless of the use of CC NOREF.

25.25.10.16.1   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
                                                                 Any line marked with a #
                                                                 is for **Official Use Only**

25.25.10.16.2
(09-12-2019)
Intercept Procedures

(1) Refer to IRM 21.3.8.3.5.1, IRM Refund Intercepts; IRM 3.17.20, Refund Intercept Program.

(2) There are options available to stop an erroneous refund. Payments can be intercepted at a financial institution (Bank Indemnification process for direct deposit), Bureau of Fiscal Services (BFS), post office (Recall of Mail for a paper check) or through intervention from Revenue Officer (RO) (Coordination with Collection for RO Assignment). If FRP has issued a Bank Indemnification letter to a bank that has failed to comply in the past, FRP should not wait to contact a RO. The RO should be told the letter was issued, but during past interactions with the Bank, they have failed to comply.

1. Bank Indemnification Process - An indemnification letter is appropriate only if a direct deposit refund is issued and CC NOREFE is unsuccessful, or CC IMFOL indicates Customer Account Data Engine (CADE) processing:

   a. Determine the location of the bank to which the refund will be deposited by accessing CC TRDBV and/or CC IMFOBT to determine the routing transit and account number of the claimant's corresponding bank account. Multiple deposits can be identified by the posting of Form 8888, "Allocation of Refund" on CC TRDBV.
   b. Access the Internet at *www.fedwiredirectory.frb.org/* to determine a phone number for the receiving bank using the RTN for identification.
   c. Call bank and ask for Automated Clearing House (ACH) Department. IRS identity should be made, and an explanation of our intention should be given.
   d. Request the bank's fax number and name of direct contact (ATTN:).
   e. Prepare letter of indemnification.
   f. Fax letter requesting the amount of the refund to ACH Department at bank.
   g. Monitor for refund to post back to taxpayer's account.
   h. Reverse credit and work case as if no refund were issued.
   i. Case should be controlled as "BKINDEM" until TC 841 posts.

2. BFS- Checks are mailed on the refund date (located on IDRS). A special handling request from signed by a certifying officer of the Service Center who released the refund must be sent to BFS prior to the refund pay date. The request must be sent to Kansas City Special handling BFS or to Philadelphia depending on the issuing site.

3. Recall of Mail - If unable to stop erroneous refund using CC NOREF, and check has not actually reached the taxpayer, attempt to recover paper check refund by recall of mail. Per postal procedures, "Mail deposited in a collection box or at a post office may be recalled with proper identification by the sender or the sender's representative. [Postal] Form 1509 must be submitted to the postmaster at the office of mailing". Therefore, after Notice Review and CC NOREF cycle cutoffs or during accelerated cycles, the U.S. Post Office can be contacted (usually on Friday) to stop delivery of an erroneous refund check.

Note: Postal Form 1509 can be found at *www.usps.gov.*

   a. Follow-up daily with postmaster to inquire as to the status of the refund check
   b. Request for assistance from an RO may be made

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.16.2**
Any line marked with a #
is for **Official Use Only**

 c. If the check is recovered, it should be voided and the following should be written in bold, "Fraudulent refund - do not reissue" and sent for redeposit in an envelope marked "Personal" ATTN: FRP Technical Coordinator at:

Ogden FRP

1973 N. Rulon White Blvd.

M/S 4450

Ogden, UT 84404

 d. TC 844 should be input and coordinated with the Erroneous Refund Function
 e. Control case as *CKPULL@PO* until TC 841 posts

4. Intervention from RO.

Follow the If and then tables below for intercept procedures:

If	And	Then	
	the refund was generated based on false withholding	1. Input TC 290 for overstated withholding amount.	#
	the refund was generated based on a false Form 2439	1. Input TC 290 for the amount of the Form 2439 credit, minus the tax. Consider negligence penalty. 2. Prepare and send letter 474C and suspend the case for 60 days to allow the TP to dispute the assessment. If no dispute is received, move case to next step in FRP process. 3. If dispute is received, abate the assessment and issue SNOD.	#
	the refund was generated based on a credit that is subject to deficiency procedures (e. g., Fuel Tax Credit)	1. Prepare and issue SNOD, assessing tax in the amount of the overstated credit. Consider negligence penalty.	#

25.25.10.16.2

Internal Revenue Manual

Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

If	And	Then
A copy of the return has been secured and a summary of the facts of the case has been prepared	Scanned image has been sent to FRP Technical Coordinator	Technical Coordinator or Revenue Agent will: 1. Prepare memorandum to Counsel requesting authorization to initiate jeopardy assessment/jeopardy levy procedures. 2. Include a summary of the facts of the case, pertinent account research and a scanned image of the return. *Note:* To determine whether a jeopardy condition exists, refer to IRM 4.15.1.5, Conditions.

\#

all manual/jeopardy assessments into FRP master database using program code 91859. Update the "Error Filing Tab"

If	And	Then
Refund claimed is more than indemnification letter	Bank returns money	Apply money to the appropriate module.	\#
Refund claimed is more than follow postal recall procedures	Post Office returns check	Void check then send check to refund inquiry.	\#
Refund claimed is more than	Bank or Post Office does not return refund and refund was issued less than two months ago	Initiate jeopardy assessment/ jeopardy levy procedures: 1. Secure a copy of the return. 2. Prepare a summary of the facts of the case (i.e., TP filed a frivolous Form XXXX return for tax period 200X claiming a refund of $XX,XXX from a Form 2439 credit. A refund was issued in error on XX-XX-XXXX). 3. Forward a scanned image of the return and the facts of the case to the Sr. Technical Coordinator and the FRP-RA.	\#

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.16.2**
Any line marked with a #
is for **Official Use Only**

If	And	Then	
		Coordinate with Abusive Tax Avoidance Transaction (ATAT) Collection for Revenue Officer (RO) Assignment.	#
	the refund was generated based on false withholding	1. Input TC 971 AC 460. 2. Request interest computation from designated function on tax and penalty. 3. Prepare Form 2859, Request for Quick or Prompt Assessment, in the amount of the overstated withholding. *Note:* This allows for an immediate assessment. The 23C date will post that day. 4. Provide Revenue Accounting the completed Form 2859, to request preparation and return of Form 3552. 5. Provide the completed Form 2859 and Form 3552 to the RO.	#
	the refund was generated based on a false Form 2439	1. Input TC 971 AC 460. 2. Input TC 290 for the amount of the Form 2439 credit, minus the tax. Consider negligence penalty. 3. Prepare and send letter 474C and suspend the case for 60 days to allow the TP to dispute the assessment. If no dispute is received, move case to next step in FRP process. 4. If dispute is received, abate the assessment and issue SNOD. 5. Once suspense period has expired, notify ATAT Collections for RO assignment.	#

If	And	Then
	the refund was generated based on a credit that is subject to deficiency procedures (e. g., Fuel Tax Credit)	1. Input TC 971 AC 460. 2. Prepare and issue SNOD, assessing tax in the amount of the overstated credit. Consider negligence penalty. *Reminder:* **DO NOT** issue initial contact letter. 3. Once suspense period has expired, notify ATAT Collections for RO assignment.

\#

Note: For jeopardy assessments

If	And	Then
Note: These cases are considered on a case-by-case basis and the tolerances may be flexible.	issued within the last 12 months **and** the refund was based on a false credit that is subject to deficiency procedures	Initiate a jeopardy assessment: 1. Secure a copy of the return that caused the refund. 2. Secure asset information from ATAT Collections including name and contact information for assigned RO. 3. Prepare a memo for Counsel, summarizing the facts of the case, Include the following in the memo: • Taxpayer's name. TIN and address • The facts surrounding the issuance of the refund • What prompted the refund • What actions have been taken to determine the authenticity of the refund • Secured Asset information received from ATAT Collections • Why the collection is in jeopardy

\#

If	And	Then
Authorization is granted:		1. Request interest computation from designated function on tax and negligence penalty. ***Note:*** Ask that the calculation be computed for five business days from the date of the request. 2. Prepare Form 2859, Request for Quick or Prompt Assessment, in the amount of the tax, penalty, and interest. 3. Prepare Form 2644 and secure required signatures. 4. Prepare Notice of Jeopardy Assessment of Income Tax Under IRC 6861 and secure Director's signature. 5. Provide the completed Form 2859, Form 2644 and Notice of Jeopardy Assessment of Income Tax Under IRC 6861 to RACS requesting jeopardy assessment. 6. Immediately send Notice of Jeopardy Assessment of Income Tax Under IRC 6861 by certified mail. 7. Forward entire case to POC for SNOD issuance. 8. POC will Immediately prepare and issue SNOD, assessing tax in the amount of the overstated credit. Consider negligence penalty.

(3) Once check is intercepted and returned to FRP, take the following actions:

1. Prepare Form 3244, "Payment Posting Voucher", directing Payment Perfection Area to deposit check as TC 720, "Other Credit". In remarks section, add, "Recovery of refund issued in error as a result of frivolous filing".
2. Prepare Form 4287, "Record of Discovered Remittances" and forward check, Form 3244, "Payment Posting Voucher" and Form 4287, "Record of Discovered Remittances" to Payment Perfection Area.
3. Input TC 844 on account to indicate an erroneous refund was issued.
4. Monitor account for TC 844 to post and take necessary actions to prevent re-issuance of refund unless a freeze already exists on the module and work case as if no refund were issued.
5. Case will be controlled as "BKINDEM" until reversal and payment (TC 720) posts.
6. Once all transactions have posted, contact Erroneous Refund area and have them reverse the TC 844.

25.25.10.16.3
(08-13-2015)
Recovering Refunds by Statutory Notice of Deficiency

(1) When recovering refunds issued from a valid, frivolous return by statutory notice of deficiency, audit to determine deficiency which takes into account the rebate to the taxpayer.

(2) Issue statutory notice of deficiency.

(3) Include amount of refund as income to the taxpayer in the year of receipt of the money. If necessary, initiate tax audit for the year of the receipt of the erroneous refund. Input TC 971 AC 460 at the time the assessment is made.

(4) If taxpayer submits a subsequent claim after filing a previous claim, a frivolous return penalty should be assessed for each claim filed, including those referencing the same tax year.

25.25.10.16.4
(03-11-2019)
Recovering Refunds by Erroneous Refund Suit

(1) The IRS may ask the Department of Justice to bring legal action against the taxpayer to recover the erroneous refund issued from a valid, frivolous return or as directed by FRP management. See IRM 25.3.2, Litigations and Judgments, Suits by the United States, and IRM 21.4.5.15, Collection Methods for Category D Erroneous Refunds. An erroneous refund suit must be filed within two years of when the refund was made or five years if the taxpayer induced the issuance of the erroneous refund through fraud or misrepresentation of a material fact.

(2) When an erroneous refund suit to recover refunds is initiated, the case will be worked under Program Code 91859. Obtain the following information and forward it to the FRP Technical Coordinator: Secure and certify a copy of refund check by submitting a Pacer research request to the refund inquiry unit. Refer to IRM 21.4.2.4.15.2, Request for Administrative Photocopy.

- Secure and certify a copy of the return filed that generated the refund - use Form 2866.
- Certified transcripts of account - Requested using Form 4338 faxed to Revenue Accounting function after TC 844 and TC 520 have posted to the account.

\#
\#
\#
\#

(3) Input TC 844 via CC REQ77 to indicate an erroneous refund has been issued using date of erroneous refund in transaction date field.

Note: The input of TC 844 will generate transcripts anytime a refund return is filed subsequent to the input. Actions will be taken to debit the credit module and credit the 6800 account to ensure available credit is not refunded. Coordinate this action with the FRP.

(4) Input TC 520 via REQ77 with closing code 70 and ULC code 87 indicating refund litigation.

(5) FRP Technical Coordinator will prepare a referral memo and forward documents to Associate Area Counsel, authorizing the suit approved by Operations Manager.

(6) Make no adjustments to module to reverse credit that caused the refund.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.16.4**
Any line marked with a #
is for **Official Use Only**

25.25.10.17
(08-13-2015)
**Business Master File
(BMF) Procedures**

(1)   This subsection provides specific guidance for Business Master File (BMF) returns and correspondence.

Note: BMF and IMF procedures overlap in many areas. See specific subsections for complete guidance.

25.25.10.17.1
(08-13-2015)
BMF Correspondence

(1)   For BMF correspondence only:

a.   Determine if mail is frivolous. See IRM 25.25.10.7, Screening Correspondence, and IRM 25.25.10.7.1, Frivolous Correspondence.

#
#
#

25.25.10.17.2
(08-13-2015)
**BMF Return/Claim
Filings**

(1)   Screen new BMF returns and claims to determine if frivolous within two business days of FRP received date.

Note: BMF returns require expedite handling (2 business days) to reduce interest on legitimate refunds.

(2)   Screen returns and claims per IRM 25.25.10.8, Screening Returns and Claims, and IRM 25.25.10.8.3, Handling of Returns and Claims.

(3)   Review frivolous receipts for:

•   potential promoter/preparer investigation referrals
•   appearance of entity changes to that of an Abusive Tax Avoidance Transaction (ATAT) promoter/preparer

Note: Do not change entity. Add new address to FRP Master as an alternate address.

(4)   Ensure all actions taken on each case are thoroughly documented on FRP Master and that all control bases are updated appropriately, including any cross-reference TINs.

25.25.10.17.3
(08-13-2015)
**Conducting BMF
Compliance Check**

(1)   Conduct compliance check by researching IDRS command codes as follows:

a.   Research CC BMFOLE to determine filing requirements.
b.   Research CC BMFOLI to determine which tax periods have been satisfied.
c.   Research CC BMFOLU – to determine the number of employees reported on the Forms 941, "Employer's QUARTERLY Federal Tax Return", for that year, the number of Forms W-2 filed by the taxpayer, as well as the detail of the wages paid by the taxpayer during that year (gross wages, taxable, etc.).

Note: This will assist in determining if wages have decreased from prior years.

Reminder: This can be pulled by calendar year. This is generally not available until approximately September following the calendar year end.

d.   Research CC BMFOL (T) and (R) – to determine the wage amounts and the taxes paid each quarter.

   Note: These two command codes will be used for any quarter/year where the CC BMFOLU is not yet available.

e.   Research CC BRTVU or CC RTVUE – to compare the wages shown on the Forms 941, "Employer's QUARTERLY Federal Tax Return" versus what is claimed on the income tax return (Form 1040-Schedule C, Form 1120, "U.S. Corporation Income Tax Return", Form 1120S, "U.S. Income Tax Return for an S Corporation", or Form 1065, "U.S. Return of Partnership Income ").

   Note: This may also identify other potential employment tax issues on the return, such as lack of corporate officer wages. Resulting in incorrect treatment of payments made as dividend or capital gain distributions.

f.   Research CC PMFOL – to determine if the taxpayer has filed any Form(s) 1099.

   Note: This information can be used to determine if the taxpayer may not be espousing the IRC 861 argument, but rather shifting the amounts paid from wages to independent contractor payments.

g.   Research CC IRPTR – to review the Forms W-2 to identify whether any of the payers have names similar to the return in question.

   Note: This may indicate a name change for the entity which might explain the difference in wages reported.

(2) The satisfaction of all filing requirements does not necessarily indicate a non-frivolous filing. Other criteria will be considered such as potential for stop-filer and appearance that business is an ongoing entity.

Note: Often in the case of an IRC 861 case, you will not see a taxpayer gradually reducing their wages but rather reducing them to zero.

25.25.10.17.4
(03-11-2019)
Potentially Frivolous BMF Filings

(1) Potentially frivolous filings or those that do not fall under existing processing guidance will be worked as follows:

a.   Elevate through FRP Technical Coordinator or other designated employee to RICS HQ Analyst for coordination with HQ ATAT Program Analyst responsible for BMF filings for appropriate action. Determination will be made whether to treat filing as frivolous and/or any special processing requirements.

b.   The FRP Technical Coordinator or other designated employee will ensure coordination is made with RICS HQ, ATAT Collection Policy Analysts and Chief Counsel to obtain counsel opinion or advice that filing type is frivolous.

c.   Ensure appropriate areas are contacted to educate IRS employees of new argument. See IRM 25.25.10.19, Coordination with Program Stakeholders.

d.   If unable to determine whether frivolous within two business days, return to Submission Processing for timely processing and refund issuance with instructions to refer case back to FRP for potential examination.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.17.4**
Any line marked with a #
is for **Official Use Only**

e. Ensure return is processed as filed. Refer to instructions for frivolous filing below with the exception that any refund should be issued to avoid paying additional interest. **Do not include** Computer Condition Code (CCC) "X" on Form 4227, "Intra–SC Reject or Routing Slip".

(2) Suspend case until determination is made by RICS HQ.

25.25.10.17.5 #
(09-12-2019) #
Questionable Frivolous #
BMF Filings

(2) Criteria used to establish area office referral are:

#
#
#
#
#
#

(3) If filing does not meet criteria for area office referral, but has been determined to be frivolous, work as follows:

a. Select for examination returns citing recognized or potentially frivolous arguments

Note: New issues associated with BMF filings will be elevated through the FRP Technical Coordinator or other designated employee to RICS HQ for coordination with the appropriate HQ BMF form analyst and ATAT.

b. Consider for examination referral, accounts with unsatisfied filing requirements

(4) All BMF filings selected for examination will be routed via Form 3210 to the appropriate Classification group for processing.

(5) When routing, ensure all pertinent materials are included that support the filing is frivolous such as: Counsel Opinions, Issue Management Team guidance, etc.

(6) Returns will be processed, if possible. Form 4227, "Intra–SC Reject or Routing Slip", will be used to advise Rejects of appropriate return processing including: freezing refund with CCC "X" and returning filing to FRP. Action Code 331 will be used to cause the return to reject.

(7) Filings selected for examination will be processed as follows:

If	Then
Return has been processed:	Input into FRP Master.

25.25.10.17.5   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

If	Then
Return has not been processed and is processable:	Send to Receipt and Control (R&C) for processing ensuring refund is not issued. 1. Attach Form 4227, "Intra–SC Reject or Routing Slip", and check "Reject Correction" box. 2. Check "Other Activity" box and enter "Attention Lead". 3. Check "Other" box and enter CCC "X", "331 Do not allow refund. When completed, return to FRP M/S 4450". 4. Include in "Name Unit" box "FRP M/S 4450".

(8)   When returns are returned from Rejects, input into FRP Master.

25.25.10.17.6
(12-16-2019)
Non-Frivolous BMF
Filings

(1)   If filings are not selected for examination as frivolous or any other Exam criteria, the taxpayer's return will be accepted as filed.

(2)   If return was processed, close all FRP controls and release all FRP freezes, then return to files.

Note: Update to Category "FRP3" at the time the case is closed for inventory reporting purposes.

(3)   If return was not processed, return to Receipt and Control for regular processing. Stamp upper left corner of return, "FRP CLEARED", include last 5 digits of IDRS number.

(4)   If the taxpayer received a Letter 3176C. Send an apology letter to advise the taxpayer's return was reviewed for (fill-in) and the item is not frivolous.

25.25.10.17.7
(09-30-2016)
Forms 94X, Employment
Tax Return Processing

(1)   Returns claiming no wages paid and requesting a refund of Federal Tax Deposits (FTD) or credits previously paid are worked as follows:

a.   Research for subsequent periods filed. If the taxpayer filed subsequent quarterly returns, then it is very likely that the case is NOT a "true" IRC 861 return since the taxpayer has not stopped filing and has not withdrawn from the system.

b.   If CC BRTVU shows the employer filed and claimed a deduction for wages paid, the employer should be filing Form 94X to report any employment tax due on those wages. If the employer did not file Forms 94X for this time period or filed Forms 94X showing zero wages and the deposits were refunded to him, the employer may be involved in the IRC 861 scheme.

c.   Research if the return is requesting a refund with a statement similar to "not liable for tax" written anywhere on the return or attachments.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.17.7**
Any line marked with a #
is for **Official Use Only**

d.   Research any return with a copy of a notice to the taxpayer from IRS attached requesting the taxpayer file a zero tax return in order to claim refund of an FTD or credit that was previously posted to the account with no return filed.

e.   Research for earlier quarters in an entity's existence where the taxpayer states they paid no wages but where IDRS research of more recent quarters shows a consistent pattern of filing employment tax returns and paying tax.

f.   Research Forms 94X if overpayment box "Applied to next return" is checked.

g.   Research Forms marked "Final" and research indicates ongoing business activity.

(2)   Returns not deemed frivolous will be routed to appropriate area for processing.

(3)   Returns that are determined not to be frivolous but have examination potential. See IRM 25.25.10.9.8, Area Office Procedures.

(4)   Returns selected for FRP processing will be worked as follows:

If	Then
Return has been processed:	1. Send Letter 3176C. 2. Input a history on CC TXMOD that the letter has been sent. 3. Suspend the case for 60 days.
Return has not been processed and is deemed a valid frivolous return:	1. If employer has indicated return is a final return, circle out in red ink. 2. Attach Form 4227 and check "Reject Correction" box. 3. Check "Other Activity" box and enter "Attention Lead". 4. Check "Other" box and enter CCC "X", "331, Do not allow refund. When completed return to FRP M/S 4450." 5. Include in "Name-Unit" box "FRP M/S 4450". 6. Send Letter 3176C. 7. Input history on CC TXMOD that letter has been sent. 8. Suspend for 60 days.

(5)   If taxpayer responds or suspense period expires:

If	Then
Response substantiates return is not frivolous:	Accept as filed. 1. Input TC 290 .00 with blocking series 00 for original/electronic and 18 to associate to the original, attach as source document. 2. Release all FRP freezes. 3. Close all FRP controls. 4. Update FRP Master.
Response substantiates return is frivolous or no response is received:	1. Assess the penalty on MFT 13. *Note:* Consider referring to Classification if questionable items indicate examination potential.

25.25.10.17.8
(02-01-2017)
Processing Frivolous Form 1041, "U.S. Income Tax Return for Estates and Trusts", with Argument Code 33, 34 and 46

(1) Forms 1041, "U.S. Income Tax Return for Estates and Trusts", based on frivolous arguments will be worked under this category as claims. Input the document to FRP Master, regardless of whether the filing is an original or a subsequent filing on MFT 05.

(2) Any Form 1041 that is filed with an SSN, (no legitimate EIN available) must be edited to a Form 1040 and processed as an IMF form. Any Form 1041 with a legitimate EIN must be processed under that EIN and worked as BMF.

Note: For editing information refer to IRM 3.12.14.25.4, Converting Form 1040, Form 1040-SR, Form 1040-A and Form 1040-EZ to Form 1040 - No Reply, IRM 3.12.14-1, (2022) U.S. Income Tax Return for Estates and Trusts (Field Designations)Form 1041- Field Designators and IRM 3.12.14-2, Form 1041 (2020) U.S. Income Tax Return for Estates and Trusts (Field Designations).

25.25.10.17.9
(03-21-2018)
Frivolous BMF Forms

(1) Frivolous BMF filings (excluding Forms 1041 with Argument Code 33, 34 or 46) will be loaded and scanned into FRP Master ensuring the EIN and XREF SSN is included. Ensure the appropriate form number is selected (e.g., 941, 1120, 1041, etc.). One of the following scenarios will apply:

If	And	Then
the return is determined to be valid and processable	potentially frivolous	1. Send to processing. Attach Form 4227 to advise of appropriate return processing. Include: • CCC "X" • Action Code 331 • Notate "Return to FRP M/S 4450 after processing"

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.17.9**
Any line marked with a #
is for **Official Use Only**

If	And	Then
the return is determined to be invalid or unprocessable	was processed in error, **and** the refund was issued on false withholding	1. Assess tax in the amount of the withholding. *Note:* If the frivolous issue resulted in the amount of overstated withholding, no further action is necessary.
the return is determined to be invalid or unprocessable,	was processed in error, **and** the refund is held on the account,	1. Correct the account on the applicable MFT to avoid any potential erroneous refund. 2. If the credit is withholding, reverse with a TC 290 for .00 and TC 807. *Caution:* If the entire amount of withholding is being reversed, also input a TC 170 for .00 to avoid an estimated tax penalty assessment. *Note:* This is applicable only to Form 990C, Form 1041, Form 990PF, and Form 1120. Withholding is not subject to Statutory Notice of Deficiency procedures, and no other action is necessary.

(2) When asserting the IRC 6702 penalty on BMF, a corresponding action code on FRP Master will be input as "ASSESSPEN52/FRVBMF" or "ASSESSPEN53/FRVBMF".

(3) Accounts with returns processed must either be corrected with an online adjustment, a FRP audit or examined by a field office. If examination is warranted, complete and attach a checksheet indicating what research was conducted. Route case for specialized BMF Classification processing to M/S 4450 Attn: FRP BMF classifier.

(4) C-Filings will be worked the same as IMF, following guidance found in IRM 25.25.10.8.5, C-Filings. No C-filings will be forwarded to field offices for audit.

25.25.10.18
(09-15-2017)
Civil Investigations of Abusive Promoters and/or Preparers

(1) The IRS uses several IRC Sections to address promotions of frivolous arguments and fraudulent or unscrupulous tax return preparers. Refer to IRM 20.1.1, Introduction, and Penalty Relief, and IRM 20.1.6, Preparer and Promoter Penalties, for additional information.

(2) Related Internal Revenue Code Sections are:

- IRC 6694 - Understatement of taxpayer's liability by tax return preparer
- IRC 6695 - Other assessable penalties with respect to the preparation of tax returns for other persons

- IRC 6700 - Promoting abusive tax shelters, etc.
- IRC 6701 - Penalties for aiding and abetting understatement of tax liability
- IRC 7402 - Jurisdiction of District Courts
- IRC 7407 - Action to enjoin tax return preparers
- IRC 7408 - Actions to enjoin specified conduct related to tax shelters and reportable transactions

(3) Civil preparer, promoter, material advisor Investigations - Understatements of tax resulting from abusive shelters are curbed through the assertion of penalties under this subsection, the issuance of injunctions under IRC 7408, and the issuance of pre-filing notices to investors. See IRM 4.32.2, Abusive Transactions, The Abusive Transactions (AT) Process for additional information.

(4) Penalties under section 6700 may be asserted against any person who organizes (or assists in the organization of) a partnership, any investment plan or arrangement, or any other plan or arrangement, or who participates (directly or indirectly) in the sale of any interest in an entity or plan or arrangement, and makes or furnishes or causes another to make or furnish:

- a statement with respect to the allowance of any deduction or credit, the excludability of any income, or the security of any tax benefit by reason of participating in the entity, plan or arrangement when the person knows or has reason to know that the statement is false or fraudulent as to any material matter, or
- a gross valuation overstatement as to any material matter.

Caution: If an aiding and abetting penalty is imposed under IRC 6701, no preparer understatement penalty under IRC 6694 or penalty for promoting an abusive tax shelter under IRC 6700 can be imposed.

25.25.10.18.1
(09-15-2017)
Screening Filings for Potential Civil Investigations to LDC

(1) The Lead Development Center (LDC) authorizes civil investigations on abusive promotions for referral to investigating offices.

(2) All frivolous filings will be considered for potential civil investigation when promotions, promoters, or preparers are associated with them. Initial screening of returns, claims, and correspondence may determine the need to consider further development of case referrals for civil investigations. When a filing is associated with a reasonable number of continuous frivolous filings that are potentially attributable to a specific promotion, promoter, or preparer, FRP shall forward Referral Memo to LDC for determination of further processing.

#
#
#
#

Note: Ensure authentication requirements are met per IRM 11.3.2.3.2, Requirements for Verbal or Electronic Requests and IRM 21.1.3.2.3, Required Taxpayer Authentication.

(4) On rare occasions, generally when there is not a signed return preparer, but finite promoter filing characteristics can be determined, it may be necessary to

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.18.1**
Any line marked with a #
is for **Official Use Only**

secure EFDS research. Requests for EFDS queries will be made through RICS research analyst staff assigned to FRP.

Note: Inventory queries versus Information queries

(5)   When promoter/preparer identity is obtained without TIN, attempt to secure TIN via IDRS. If unable to secure TIN, provide comments in Referral Memo.

(6)   When positive identification of a promoter/preparer is made, provide documentation if possible that indicates extent of activity and whether it is ongoing. This may include but is not limited to:

- Copies of tax returns (if the case will not be worked by FRP)
- Advertisements
- Attachments to returns
- Promotional materials
- Correspondence
- POAs
- Purchase agreements
- Informant items

(7)   Research IDRS/RPVUE to determine if additional returns were submitted but not referred to FRP or otherwise not identified. If returns are identified that need to be ordered from CC RPVUE research, order them.

(8)   If it appears that the preparers or promoters of frivolous arguments require income tax audits of their individual filings, refer the case the Area Office PSP. Order promoter/preparer's personal returns to determine if they have participated in the scheme.

25.25.10.18.2
(09-30-2016)
Referrals of Potential Civil Investigations to LDC

(1)   When a reasonable number of continuous filings from one promoter/preparer are identified, prepare a three-section brown case file folder with label containing promoter/preparer identification; to be maintained by the Campus until the case is closed and include:

- A participant list compiled from all available sources including FRP Master containing:
  - TIN
  - TP Name
  - Tax year(s) for associated tax returns for which preparer may be enjoined or penalties may be assessed
  - Claim amount
- Copies of all returns associated to promotion, if investigation is being conducted in FRP
- LDC Referral Memo including the following
  - Subject: IRC 7402/7407/7408 Investigation(s)
  - Taxpayer name (including Doing Business As (DBAs))
  - TIN
  - Description of promotion
  - Chief Counsel position paper, if available
  - Preparer's involvement in tax promotion; e.g., promoting the argument, conducting seminars, preparer's employee's involvement, website, etc.
  - Summary of preparer's personal income tax filings; e.g., preparer's returns reflect the tax promotion, non-filer, etc.

25.25.10.18.2   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

               - Summary of preparer's tax return filings
               - Information on impact of promotion to IRS. Address violations subject to IRC 6695, if applicable.

(2) Forward, by e-mail the referral memo and participant list to LDC.

(3) All other information listed above will be kept to support an investigation as warranted.

(4) Suspend case file until response is received from LDC.

(5) Enter promotion/promoter/preparer information to FRP Master database Project Status Listing to ensure accurate identification of all similar filings and ensure periodic updates as actions are taken.

(6) LDC will consider all the factors involved in each case and determine if promoter/preparer will be investigated for injunctive action including a streamlined investigation conducted by FRP or returned to FRP to have penalties assessed only.

Note: LDC will obtain approval from Chief Counsel and Criminal Investigation to pursue a civil investigation prior to any case being forwarded on a Recommendation Memo.

25.25.10.18.3
(08-13-2015)
Approved Investigations for Injunctive Action from LDC

(1) LDC will forward all approved Civil Investigation Recommendation Memos related to frivolous filings to FRP and the appropriate IMT technical advisor for review.

(2) Ensure all related frivolous filer promoters/preparers (Including Anti-tax/Constitutional) are reflected on Project Status Listing.

(3) If determination is made that FRP will conduct the IRC 6700 investigation, the LDC will forward the case file to FRP via E-mail. Criteria used includes but is not limited to: promoter/preparer activity sufficiently developed to allow for streamlined referral, i.e., at least three filings signed by preparer or additional filings not signed by preparer but with identical characteristics, attachments or information from taxpayer indicating preparer involvement with return.

(4) If case is not selected for FRP streamlined IRC 6700 investigation, assistance will be provided to appropriate area office conducting investigation.

25.25.10.18.4
(08-04-2021)
FRP Preparer Promoter Investigation

(1) FRP preparer promoter investigations are more efficient and cost effective. These investigations result in shutting down abusive tax avoidance promotions before they proliferate. FRP will conduct all case research, document preparation and Department of Justice (DOJ) referral processes.

(2) Cases will be processed as follows:

    1. Compile evidence and secure certified copies of any returns, IRP data or Forms relevant to the injunction case. In the event that an original paper return cannot be secured for certifying, the following language will be used on the Form 2866 to certify a scanned image of previously-made copy in order to satisfy the rules of evidence: "As part of the normal business practice of the Internal Revenue Service Frivolous Return Program function, tax returns received are scanned and electronically stored or otherwise maintained. I certify that the attached copy of a

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.18.4**
Any line marked with a #
is for **Official Use Only**

return filed on [February 15, 2015] by [Taxpayer Name], Social Security Number [XXX-XX-XXXX] for tax year ending [Month DD, YYYY] received on [Month DD, YYYY] is a true and correct copy of the return filed with the Internal Revenue Service as electronically stored or otherwise maintained in the Frivolous Return Program.”

2. Prepare and send by certified mail promoter Letter 3828, “Opportunity to Present Position - Tax Shelter Promoter”, indicating date, place and time of interview and enclosing Notice 609, “Privacy Act and Paperwork Reduction Act Notice”, Letter 3164P, “Third Party Notification for IRC 6700 /6701 Investigation” and Form 4564, “Information Document Request”.

   Note: Per IRC 7602(c)(1), effective August 15, 2019, do not make any contact with a third party until the 46th day following the date of Letter 3164. This increases the prior requirement of 15 days to 45 days.

3. FRP Sr. Technical Coordinator will conduct a promoter/preparer interview by phone. After interview takes place or scheduled date passes, FRP Sr. Technical Coordinator will prepare a memo of interview or pertinent results. If participant list is obtained, FRP will forward to CWSD Gatekeeper to ensure any appropriate audit actions are taken.

4. Prepare injunction referral memo and forward case to Counsel for referral to Department of Justice or for advice as to penalty only assessments. If analysis results in determination to seek no injunctive action or penalty assessment, close case advising promoter of no change via Letter 1866, “Discontinuance”.

5. Ensure promoter/preparer income tax case is addressed.

   Note: Ensure any income derived from promotion is considered including erroneous refunds and income derived from promotional activities.

(3) Counsel will forward results of injunctive action including any rejected cases with appropriate penalty instructions.

25.25.10.18.5
(09-28-2020)
Approved Cases for Preparer Penalty Only Assessment

(1) Cases that do not result in civil investigations under section 6700 or 6701 will be considered for IRC 6694/6695 investigations if associated with a tax return preparer(s). To apply sanctions on non-compliant preparers, Penalty Policy Statement P-20-1 directs assertion of preparer penalties only after due deliberation on all facts and circumstances.

(2) Individuals who knowingly aid and abet in the understatement of the tax liability for another person may be subject to certain penalties. See IRM 20.1.6, Preparer and Promoter Penalties and IRM 20.1.6.12, Office of Professional Responsibility, for information on practitioners who file delinquent and/or frivolous returns.

(3) For purposes of imposing a penalty under IRC 6694 or IRC 6695, a tax return preparer is any person who prepares for compensation, or who employs one or more persons to prepare for compensation (other than for the person) all or a substantial portion of any return or any claim for refund of tax. The preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.

25.25.10.18.5   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
                                                                                      Any line marked with a #
                                                                                        is for **Official Use Only**

(4)   IRC 6701(b), imposes a $1,000 penalty against any person for aiding or assisting in the understatement of tax or overstatement of credit. If the return, affidavit, claim, or other document involved relates to a corporation, the penalty is $10,000. Consider IRC 6701(b) as a potential alternative to the IRC 6694 penalty.

(5)   All preparer penalty cases prepared by FRP will be coordinated with Associate Area Counsel to determine if the case will be considered for civil injunction, penalty assessment, or no action.

(6)   Cases referred for IRC 6694 penalties are usually those with frivolous filings that are limited in number and in which the preparer has stopped preparing returns.

- Penalty under section 6694(a): Understatements due to an unreasonable position (as defined in IRC 6694(a)(2)) are subject to a penalty for each return or claim for refund equal to the greater of $1,000 or 50 percent of the income derived (or to be derived) by the return preparer.
- Penalty under section 6694(b): Understatements due to willful or reckless conduct (as defined in IRC 6694(b)(2)) are subject to a penalty, for each return or claim for refund, equal to the greater of $5,000 or 75 percent (or 50% for a return or claim prepared for a taxable year ending on or before December 18, 2015) of the income derived (or to be derived) by the return preparer.
- The penalty under IRC 6694(a) must be assessed within three years after the return at issue is assessed was filed. The penalty under IRC 6694(b) may be assessed at any time. Therefore, if there is six months or more time remaining in the period of assessment for any applicable tax period, refer the case for penalty assessment under both section 6694(a) and section 6694(b). Refer any case for penalty assessment under section 6694(b) only, if there is less than six months remaining in the period of assessment. See IRM 20.1.6.14.4, Coordination with Other Penalties.

Note: IRM 20.1 directs that penalty cases will be conducted independently of and without regard to the determination of the income tax case. The tax case has bearing on the penalty on the IRC 6694 case only insofar as assertion of the penalty requires an understatement of tax, or overstatement of credit. A preparer penalty case is not an income tax investigation of the preparer. If there are indications that the preparer is participating in the scheme or is otherwise in need of audit (e.g., preparer fails to file own return, etc.), then refer the preparer income tax case to the applicable PSP. Assess the penalty on the year of the infraction.

25.25.10.18.6
(08-13-2015)
Preparer Penalty Case Creation

(1)   Input IDRS control to preparer TIN current CC TXMOD history, "Prep Inv" to ensure proper routing of subsequent correspondence or filings. Case file will contain:

- Injunction
- Client List for penalties
- Form 8278, "Computation and Assessment of Miscellaneous Penalties", indicating:
  - Preparer/Promoter Name
  - TIN -Tax year(s) of penalty assessment (may reflect "See Form 5816")
  - Tax Technician Number

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.18.6**
Any line marked with a #
is for **Official Use Only**

        - Computation amount of penalty
        - IRC of penalty
        - Team Manager approval and signature date
- Copies of frivolous tax returns inserted in a separate folder
- IRC 7408/7407 Investigation Memo containing:
        - Subject: IRC 7407/6694 Investigation
        - Taxpayer Name (including DBAs)
        - TIN - Description of promotion
        - Preparer's involvement in tax promotion, e.g., promoting the argument, conducting seminars, preparer's employee's involvement, website, etc.
        - Summary of preparer's personal income tax filings, e.g., preparer's returns reflect the tax promotion, non-filer, etc.
        - Summary of preparer's tax filings per IDRS/RPVUE/FRP Master
        -Information on impact of promotion to IRS
        - Address violations of IRC 6695, if applicable
        - Discussion of rationale for proposing parallel investigation with CI. Include discussion of gravity of harm, extent of preparer's participation and his degree of knowledge, likelihood of recurrence, preparer's admission of responsibility and/or willingness to cooperate to correct filings.
        - A copy of closing letter from Counsel, if available
        - Copies of frivolous tax returns inserted in a separate folder

(2)   Cases referred for IRC 6695 penalties are not as common but will be considered when appropriate. Associate Area Counsel will provide guidance on the determination of when IRC 6695 will be applied.

(3)   If case is approved for IRC 6694 penalty assessment, forward to RICS Director for approval on Form 8278 and follow IRM 25.25.10.18.7, Proposing Preparer Penalties When There is no Injunction Referral but There is an Approved Investigation.

25.25.10.18.7
(09-28-2020)
Proposing Preparer Penalties When There is no Injunction Referral but There is an Approved Investigation

(1)   Prepare Letter 1125, "Preparer Penalty 30-Day Letter", indicating:

- TIN
- Person to Contact
- Tax Examiner Name
- Employee IDRS number

(2)   Prepare Form 5816, "Report of Tax Return Preparer Penalty Case", indicating:

- Name and address of preparer
- Self-employed preparer - checked, if applicable
- Preparer's TIN
- Examining district: Area number
- Name and title of person with whom penalty was discussed
- Date of report
- In reply refer to: IDRS number
- Taxpayer's name and address: See attached list (all taxpayers with the same tax period indicated on report)
- Tax period
- Master file tax code
- Total penalties

- Other information: "Explanation of Penalty" - Use information from court injunction or specific explanation from non-enjoined penalty case, e.g., "You filed tax returns claiming credits for reparations not allowable by law"

  Note: Multiple taxpayers for the same tax period can be included on one Form 5816 with taxpayer's names attached.

- Employee's signature

(3) Prepare Form 5838, "Waiver of Restrictions on Assessment and Collection of Tax Return Preparer Penalty", indicating:

- Form number of return for which penalty is being charged - 1040, 1040X, etc. or "see attached list "
- Taxpayer's name as shown on return or "see attached list"
- TIN or "see attached list"
- Tax period or "see attached list"
- Kind of penalty - (such as IRC 6694(a) and/or IRC 6694(b))
- Amount of penalty - (Total penalty amount being assessed for each kind of penalty)
- Name and address of preparer

(4) Prepare Form 6459, "Return Preparer's Checksheet", checking all applicable boxes and including team manager's approval.

(5) Mail Letter 1125, "Preparer Penalty 30-Day Letter", Forms 5816, "Report of Tax Return Preparer Penalty Case", Form 5838, "Waiver of Restrictions on Assessment and Collection of Tax Return Preparer Penalty", Letter 3164, "Third Party Notification", (if not previously sent) and Notice 609, "Privacy Act Notice and Paperwork Reduction Act Notice", to preparer and suspend case for 45 days.

Note: Per IRC 7602(c)(1), effective August 15, 2019, do not make any contact with a third party until the 46th day following the date of Letter 3164. This increases the prior requirement of 15 days to 45 days.

(6) Annotate CC ENMOD with "LTR1125" to indicate letter has been sent.

25.25.10.18.8
(08-13-2015)
Preparer Penalty Post Assessment Processing

(1) Requests for conference:

Contact preparer and attempt to resolve the issue.

If	And	Then
Preparer disagrees with proposed assessment	the conference results in abatement of the penalty	1. Coordinate assessment reversal with manager.
Preparer disagrees with proposed assessment	the IRS position remains unchanged **and** sufficient time remains for the IRS to receive the request prior to suspense period expiring	1. Instruct the preparer to send a letter requesting Appeals Consideration indicating what they do not agree with and the reasons why they do not agree

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.18.8**
Any line marked with a #
is for **Official Use Only**

If	And	Then
Preparer disagrees with proposed assessment	the IRS position remains unchanged **and** sufficient time does not remain for the IRS to receive the request prior to suspense period expiring	1. Advise the preparer of their post assessment rights

(2)   Requests for Appeals Consideration - IRM 8.1.1.3.1, No Appeals Conference or Concession on Certain Arguments. There are no administrative appeals provisions for requests based on frivolous positions.

Note: Per Publication 5, "Your Appeal Rights and How To Prepare a Protest If You Don't Agree", Appeals cannot consider taxpayer reasons for not agreeing if they don't fall within the scope of the tax laws (e.g., if taxpayers disagree solely on moral, religious, political, constitutional, conscientious, or similar grounds), however, valid requests for post-assessment appeals consideration will be granted. See IRM 4.4.5.3, Non-Docketed Cases - Group Responsibility for guidance.

(3)   Requests for appeals that meet abatement criteria will be processed by FRP.

(4)   Claims - See IRM 20.1.1.3, Criteria for Relief from Penalties and IRM 20.1.10.9.3, Penalty Relief. Review case for specific processing requirements per IRM 21.5.3, General Claims Procedures and IRM 4.19.16, Claims for additional processing information. Claims are usually filed on Form 843, "Claim for Refund and Request for Abatement", or Form 6118, "Claim for Income Tax Return Preparers", but may be made in an informal inquiry. Claims may be for abatement or refund and will be worked as follows:

If	And	Then
Claim is for abatement	the incorrect account was assessed or taxpayer proves they were not responsible for the penalized action	1. Review case for administrative errors and abate the penalty *Note:* (See IRM 20.1.1.3.4, Correction of Service Error and IRM 20.1.1.3.5.2, Taxpayer Entitled to Relief).
Claim is for abatement	the IRS finds no administrative error	1. Send 105C, advising that the IRS was not in error and the penalty applies.
Claim is for refund	the preparer pays 15 percent of the penalty **and** the claim will be granted	1. the preparer must file the claim for refund within 30 days after the date of notice and demand
Claim is for refund	the preparer pays 15 percent of the penalty **and** the claim will be denied	1. Issue Letter 105C and include appeal rights

If	And	Then
Claim is for refund	15 percent of penalty has not been paid **and** the claim will be granted due to an incorrect account assessment or taxpayer proves they were not responsible for the penalized action	1. Review the case for administrative errors and work as accepted abatement request
Claim is for refund	15 percent of penalty has not been paid **and** the claim will be denied	1. Send 105C, advising that the preparer has not paid the required 15 percent or provided sufficient documentation to honor the claim. They are not entitled to judicial review.

Note: If valid claims are received and denied, the preparer must then bring suit in Federal District court within 30 days of receiving a Notice of Claim Disallowance or 30 days after the expiration of six months from the filing of the claim, whichever is earlier; if the preparer pays the penalty in full, they may bring a refund suit in either the U.S. Court of Federal Claims or a district court within two years of the date of denial of the claim or upon the expiration of six months after the date of filing the claim.

25.25.10.18.9 (09-15-2017) **Assessing Preparer/Promoter Penalties**	(1) Complete Form 8278, "Computation and Assessment of Miscellaneous Penalties "See IRM 20.1.9.2.2, Penalty Assessment - Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties.

(2)   If assessing under IRC 6694(a), input TC 290.00 with Penalty Reference Number (PRN) 645 for the amount of the penalties. Under IRC 6694(a), the penalty is $250 per return for returns prepared on or before May 25, 2007 and the greater of $1,000 or 50 percent of the income derived or to be derived by the tax return preparer for returns/claims prepared on or after May 26, 2007. For returns prepared for taxable years ending after 12/18/2015, the penalty was increased to 75 percent. For penalties assessed under IRC 6694(b), use PRN 650. For returns/claims prepared on or before May 25, 2007, the penalty is $1,000 per return/claim and for those prepared after May 26, 2007, the penalty is the greater of $5,000 of the income derived or to be derived by the tax return preparer.

Note: CP Notice 15 (IMF) and CP Notice 215 (BMF) will generate from this transaction.

(3)   If assessing under IRC 6695 input TC 290 .00 with PRN 626 for total amount of penalties. The amount of penalty equals $50 per return/claim under IRC 6695 (a)-(e), $500 per return/claim under IRC 6695(f), and $500 per return/claim under IRC 6695(g).

(4)   If assessing under IRC 6701 input TC 290 .00 with PRN 631 (IRC 6701) $1,000 per return/claim unless the return/claim is a corporation. Corporation return/claim is $10,000.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.18.9**
Any line marked with a #
is for **Official Use Only**

(5) Establish civil penalty name line, if necessary, per IRM 20.1.6.2.4, Civil Penalty Name Line.

(6) File case under TC 240 Document Locator Number (DLN) associated with Form 5147, "IDRS Transaction Record".

(7) Close IDRS control.

(8) Ensure Electronic Filing Coordinator is notified of all penalties asserted on return preparers per IRM 20.1.6.11.1, Standards for Tax Preparer.

25.25.10.18.10
(09-30-2016)
Preparer/Promoter Penalty Closing Actions and Follow-up Monitoring

(1) Closing Actions and monitoring follow-ups will be completed by:

- Send closing letter to Promoter/Preparer.
- Update Promoter Database via E-mail to LDC.
- LDC will notify Collections as appropriate, that penalties are being assessed by contacting the ATAT Coordinator for the area where the taxpayer resides. A list of Collection Coordinators can be found on the Abusive Shelter Web Site *http://abusiveshelter.web.irs.gov*.
- Consider referral to Office of Professional Responsibility per IRM 20.1.6, Preparer and Promoter Penalties and IRM 4.19.10.6.2, Office of Professional Responsibility.
- Consider referral to Communications Liaison.
- Submit case for quality review.
- Monitor new receipts for continued filings and/or injunction violations and refer findings to Associate Area Counsel for consideration.

25.25.10.19
(10-11-2023)
Coordination with Program Stakeholders

(1) Coordination with both internal and external stakeholders is important for a consistent approach to combat non-compliance. The nature of tax avoidance has insidious effects. When undetected, improper tax avoidance grows with long-lasting impact on compliance, such as pyramiding non-filing, erroneous refunds, and an impact on IRS resources, including TAS and Appeals involvement. When erroneous refunds result from unidentified frivolous filings, revenue is lost, but most importantly, the public trust is endangered.

(2) Timely outreach education is a program priority and includes employee and taxpayer communication through internal and external forums such as SERP, other IRS electronic alerts, Treasury/IRS websites, press releases, revenue rulings and procedures, Internal Revenue Manuals and continued professional education.

(3) Upon initial detection of new frivolous promotions, education throughout the IRS will be undertaken. Coordination will be made with the following stakeholders:

- Counsel
- Criminal Investigation
- Customer Account Services (CAS)
- SB/SE Lead Development Center (LDC)
- Communications and Liaison/TEC/SPEC
- Training
- Systemic or electronic detection systems
- Collection
- Taxpayer Advocate Service (TAS)

25.25.10.18.10   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
                                                                      Any line marked with a #
                                                                      is for **Official Use Only**

(4) When processing campuses fail to identify frivolous filings, feedback will be provided through HQ staff to prevent continued misidentification. HQ will include the appropriate Service Center FRP Coordinator when providing feedback. Refer to the FRP Website for a complete list of Service Center FRP Coordinators at *FRP Campus Contacts*.

(5) When erroneous refunds result from failure to identify frivolous filings, coordination will be made with the appropriate processing function to correct procedures.

25.25.10.19.1
(09-28-2020)
Coordination with Area Counsel

(1) The Frivolous Return Program coordinates with Area Counsel to obtain legal and/or significant advice on:

- Whether an argument is frivolous
- Whether an argument is subject to the frivolous return penalty, and
- If there is a concern, whether a return constitutes a valid return

(2) All potential frivolous arguments must be coordinated with Counsel prior to processing under FRP guidelines. Requests for Counsel opinion will be coordinated with the Technical Coordinator to prevent duplicate requests. Requests will outline the specific frivolous argument involved and must have examples provided to assist Counsel in rendering opinions and must have **Headquarters** authorization.

(3) As new frivolous arguments are identified, the FRP will coordinate with Chief Counsel to update, "The Truth about Frivolous Arguments" *https://www.irs.gov/privacy-disclosure/the-truth-about-frivolous-tax-arguments-introduction* and the "List of Frivolous Arguments" required by IRC 6702(c).

(4) All new Chief Counsel opinions will be reviewed for potential coordination on SERP/CAS alerts, updating existing training materials for employee identification and processing, coordination with TEC/CI and/or any affected processing areas.

25.25.10.19.2
(08-13-2015)
Coordination with Criminal Investigation

(1) The FRP coordinates with Criminal Investigation in Headquarters for both Refund and Financial Crimes to:

- Provide information on specific cases and trends in possible criminal activity.
- Provide support for criminal investigations leading to prosecution of frivolous preparers, promoter, and filers.
- Coordinate case processing to promote productive use of resources.

(2) Information referrals to and from Criminal Investigation will be coordinated with

#
#

25.25.10.19.3
(08-13-2015)
SERP Alerts

(1) SERP electronic alerts will be issued whenever new frivolous arguments are identified or when existing arguments resurface in significant numbers. The alert process will be used to apprise all employees to watch for filings in order to prevent processing and erroneous refunds.

(2) All alerts will be approved and published by the HQ analyst.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.19.3**
Any line marked with a #
is for **Official Use Only**

(3)   Forward information for alerts to the LDC and include all pertinent information related to the nature of the filing.

25.25.10.19.4
(09-30-2016)
Training

(1)   Outreach education for internal stakeholders on frivolous arguments is critical and will be given priority. This training will be provided annually to Submission Processing and also made available for all IRS offices. This endeavor is imperative to stop the proliferation of egregious promotions, ensure timely and accurate tax assessments, avoid erroneous refunds and provide fair and consistent treatment to all taxpayers.

(2)   RICS will coordinate with HQ CAS and W&I Learning and Education to schedule training and provide instructors during annual pipeline processing Continuing Professional Education (CPE).

(3)   RICS will provide updated training materials and IRM information to CAS HQ analysts.

(4)   Coordination will be undertaken for all affected areas and will encompass IMF and BMF original returns, amended returns and claims processing.

(5)   Training materials and supplemental support will be available on the FRP Web page listed below.

25.25.10.19.5
(10-11-2023)
FRP Point of Contact Information

(1)   The Campus FRP Coordinator contact information is now available at *FRP Campus Contacts*.

(2)   All updates to the web page must be approved by RICS HQ.

(3)   Updates from Ogden FRP will be routed through the FRP Technical Coordinator.

(4)   The FRP Technical Coordinator will sanitize any updates prior to referral to RICS HQ.

(5)   RICS HQ will secure any necessary Disclosure clearance and route to: Webmaster assigned to SE:S:CCS:CRC:EP.

25.25.10.20
(09-15-2017)
Unpostables

(1)   Refer to IRM 3.12.179, Individual Masterfile (IMF) Payer Master File (PDF) Unpostable Resolution, for additional information on unpostable conditions and procedures.

25.25.10.21
(07-07-2022)
Phone Calls Received via FRP Toll-Free line

(1)   Toll-Free Tax Technicians (TT) should perform appropriate authentication per IRM 21.1.3.2.3, Required Taxpayer Authentication, before releasing any taxpayer's account information. TTs should follow IRM 21.1.1.4, Communication Skills when communicating with taxpayers.

(2)   Most questions should be answered during the phone call on the FRP toll-free line. There should be a minimal number of telephone referrals made to TTs working the case.

Note: A request for a credit or refund may be allowed based on an informal inquiry, but if the request is denied the taxpayer should be informed that the informal inquiry does not constitute a claim for credit or refund and the informal response does not enable the taxpayer to go to court and contest the rejections. This informal inquiry should be distinguished from an informal claim for

25.25.10.19.4   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

refund which may constitute a filing within the period of limitations for filing a claim for credit or refund. See IRM 25.6.1.10.2.6.3, Informal Claims. Under the informal "claims" doctrine created by the courts, the information needed to make a formal claim may be substituted after the period of limitations has expired.

(3)   When callers inquire about available options regarding penalties, you must provide information regarding a penalty reduction by referencing the IRS.gov web site and how to search for Form 14402, IRC 6702(d) Frivolous Tax Submissions Penalty Reduction. The search results will provide the caller with access to Form 14402, the instructions and Rev. Proc 2012-43.

(4)   TTs answering the FRP toll-free line for taxpayers responding to the Letter 3176C should follow the table below:

Note: Taxpayers are allotted a 60 day suspense time from the date the letter is issued. If the taxpayer or the taxpayer's representative requests additional time to gather information to submit a corrected return, Inform the taxpayer or taxpayer(s) representative that the extension is granted and document the extension request. See IRM 4.19.13.11.7, Taxpayer Requests Additional Time to Respond, regarding extensions of time.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.21**
Any line marked with a #
is for **Official Use Only**

If the Taxpayer's Response is:	And	Then
The taxpayer agrees the return/ claim is frivolous	they have called within the 30 day time frame	• If the result will be a refund, advise the taxpayer to allow 6-8 weeks from the received date of the documentation for a refund to be issued • If a balance due will result – follow IRM 5.19.1.6, Methods of Payment *Caution:* **Do Not** provide an electronic payment option. Electronic payments are not available on MFT 55 *Note:* If not trained on balance due issues, tell the caller you will transfer them to someone who can set up an installment agreement. Transfer the caller to #92010 (English) or #92011 (Spanish). • Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue • On accounts with open audits: Input/update Correspondence Examination Automation Support (CEAS) notes per IRM 4.19.19.4, CEAS Notes

\#
\#
\#
\#
\#
\#
\#
\#

25.25.10.21   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

If the Taxpayer's Response is:	And	Then
Disagreed – Substantiated (no change)	the taxpayer has non-frivolous documentation that supports the return/claim corrected W-2,	• If the result will be a refund, advise the taxpayer to allow 6-8 weeks from the received date of the documentation for a refund to be issued • If a balance due will result – follow IRM 5.19.1.6, Methods of Payment *Caution:* **Do Not** provide an electronic payment option. Electronic payments are not available on MFT 55. *Note:* If not trained on balance due issues, tell the caller you will transfer them to someone who can set up an installment agreement. Transfer the caller to #92010 (English) or #92011 (Spanish). • Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue • On accounts with open audits: Input/update CEAS notes per IRM 4.19.19.4, CEAS Notes

\#
\#
\#
\#
\#
\#
\#
\#

Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

Internal Revenue Manual

25.25.10.21

If the Taxpayer's Response is:	And	Then
Disagreed – Substantiated (no change)	research shows appropriate documentation on the system (IRP documents available)	• Have taxpayer (TP) removed from FRP Master Database by E-mailing the FRP Coordinator • Close CC TXMOD control as "NOTFRIV" • Release all FRP related freezes • Send 544C apology letter • If the result will be a refund, advise the taxpayer to allow 6-8 weeks from the received date of the documentation for a refund to be issued • Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue • On accounts with open audits: Input/update CEAS notes per IRM 4.19.19.4, CEAS Notes.

25.25.10.21
Internal Revenue Manual
Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

If the Taxpayer's Response is:	And	Then
Disagreed –Unsubstantiated	the taxpayer has no documentation that supports the claim	• Advise TP to rescind the frivolous position ***Note:*** If frivolous return/claim processed, the TP will need to send in an amended return to correct the account. If the return/claim did not process, tell the TP they can send in a written rescind letter. NOTE: If the TP has a filing requirement and an original return has not been filed, advise the TP to file the return. • If the result will be a refund, advise the taxpayer to allow 6-8 weeks from the received date of the documentation for a refund to be issued • Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue • On accounts with open audits: Input/update CEAS notes per IRM 4.19.19.4, CEAS Notes.

#
#
#
#
#
#
#
#

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.21**
Any line marked with a #
is for **Official Use Only**

If the Taxpayer's Response is:	And	Then
Disagreed IDT	The taxpayer claims IDT such as, "I didn't file this return "	• Follow procedures in IRM 25.23.12, Identity Theft • Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Other Exam Determinations" when choosing an issue • On accounts with open audits: Input/update CEAS notes per IRM 4.19.19.4, CEAS Notes.
The return is substantiated (Return is not frivolous, and no questionable issues are identified) The taxpayer inquires to the status of their refund; however, no correspondence has been sent (No Letter/Notice 3176C/CP72 indicated on ENMOD or FRP Master)	there is a -E freeze on the questionable tax period and account research shows precautionary -E freeze **Note:** FRP will review any filings when RSED is open if refund legitimacy exists. Applies to taxpayers that continue to send frivolous correspondence, forms, and filings.	• Input TC 811 to release FRP -E freeze • Input a TC 810 jurisdiction code "4" with a post delay code 1 to reestablish -E freeze to hold future refunds pending FRP review • Advise TP to discontinue sending frivolous information and the consequences that occur in addition to refunds being held • advise the taxpayer to allow 6-8 weeks for a refund to be issued • Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing issue type. Include supporting case research to substantiate the determination that the refund is to be released

(In right margin next to first row: # # # # # #)

25.25.10.21   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
                                                                                  Any line marked with a #
                                                                                  is for **Official Use Only**

If the Taxpayer's Response is:	And	Then
The taxpayer inquires to the status of their refund; however, no correspondence has been sent (No Letter/Notice 3176C/ CP72 indicated on ENMOD or FRP Master)	there are FRP indicators on CC TXMOD (i.e., –E/ freeze on the questionable tax period or F- Freeze, TC 971 AC 089 on another tax period that has frozen the Entity Module)	• Try to determine if/why the return/claim is frivolous by researching TRDBV/ RTVUE • If frivolous determination can be made, inform the TP of the frivolous issue and advise them to rescind their position (follow steps for Disagreed- Unsubstanti- ated) • If frivolous nature of the return/claim cannot be determined, tell the TP a letter will be sent when the return gets to the FRP department NOTE: If research does not determine why a return/ claim is frivolous, CSR should probe the TP for any indication of frivolous statements on return. • Input/Update AMS notes per IRM 21.2.2.4.5, Account Management Services (AMS), use "Frivolous Return Program General" when choosing an issue

(5)   TTs answering the FRP toll-free line for taxpayers responding to the CP 15, "Notice of Penalty Charge", should follow the table below:

If	Then
The taxpayer states they did not file the return	Follow procedures in IRM 25.23.12, IMF Identity Theft Toll- Free Guidance.
The taxpayer states they responded within the 30 day time frame and a review of all available systems indicates service error	Request an abatement of the penalty. *Note:* Requests for abatement will be granted **ONLY** in cases involving service error. Team Manager approval is required before abating the IRC 6702 penalty.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.21**
Any line marked with a #
is for **Official Use Only**

If	Then
The taxpayer states they responded within the 30 day time frame and extensive research indicates no response was received	Inform taxpayer that we have no record of the response. Request that taxpayer provide verification of proof of mailing.
The taxpayer states they never received Letter/Notice 3176C/ CP72 or states they are not liable for the Frivolous Penalty.	- Review the account to ensure the letter was sent to the correct address. **Note:** It is the TP's responsibility to make sure their address is updated. - Remind the taxpayer they were sent a Letter 3176C to the address of record. This notice provides a 30 day time frame to provide a valid response. If no response was received, or it was not received within the 30 days, then the frivolous penalty is assessed. - Advise taxpayer that they can submit reasons for abatement request in a letter or by using Form 843, Request for Penalty Abatement. - Advise TP of Penalty Reduction Procedures. IRM 25.25.10.13, Reduction of the Frivolous Return Penalty IRC 6702(d).

(6)   TTs answering the FRP toll-free line for taxpayers responding to the Letter 3175C, should follow the table below:

If the Taxpayers Response is:	And	Then
Agreed	wants to avoid the penalty	- Inform TP no penalty will be assessed for frivolous correspondence - Warn TP not to file a frivolous return

25.25.10.21   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
                                                             Any line marked with a #
                                                             is for **Official Use Only**

If the Taxpayers Response is:	And	Then
Disagreed with the frivolous determination	wants to avoid the penalty	• Inform TP no penalty will be assessed for frivolous correspondence • Warn TP not to file a frivolous return
Unsure what was sent in	wants to avoid the penalty	• Inform TP no penalty will be assessed for frivolous correspondence • Warn TP not to file a frivolous return

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **25.25.10.21**
Any line marked with a #
is for **Official Use Only**

This Page Intentionally Left Blank

25.25.10.21

Internal Revenue Manual

Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

Exhibit 25.25.10-1   (12-13-2023)
Frivolous Arguments

Frivolous arguments are currently described in Notice 2010-33, available at https://www.irs.gov/irb/2010-17_IRB#NOT-2010-33 (or its successor notice), the Truth About Frivolous Arguments, and a number of revenue rulings. Please refer to these publications for the most current listing of frivolous arguments. Recognized frivolous arguments include but are not limited to:

1. Wages/Receipts Not Income (NTR) - The filer argues that salaries and wages are not "income" within the meaning of the Sixteenth Amendment, which grants Congress the power to "Lay and collect taxes on income, from whatever source derived" The individual could also argue that labor worth a certain amount is exchanged for money worth the same amount and therefore there is no taxable income.
2. <u>Eisner v. McComber</u> - The filer reports wages but deducts them as "non-taxable receipts to reduce some or all income" referencing <u>Eisner v. McComber</u>, 252 U.S. 189 (1920). The individual may alter line items showing non-taxable compensation or non-taxable receipts to back out some or all of their income, generally resulting in a zero tax liability.
3. Zero Returns (ZERO) - The filer submits a return with zero money amounts on all or most of the line items on the form, e.g., individual may enter zeros for income and deductions but enter an amount of tax withheld by an employer and request a refund of that amount. See Rev. Rul. 2004-34. The filer may include on or attach to a return a statement claiming there is no section of the Internal Revenue Code that established an income tax liability. The statement may also contain arguments regarding the definition of income. There are several variations on this type of filing such as those bearing the words "nunc pro tunc" and "not liable." See also item 42 in this list.
4. *United States v. Long* (Z-LONG) - The filer submits a return with zero money amounts. To explain the zeros inserted on the form, the individual references <u>*United States v. Long*</u>. See *United States v. Long*. 618 F.2d 74 (9th Cir 1980).
5. Not a Citizen/Free Citizen/Not a Resident of Federal Zone - The filer argues that they are not a citizen of the United States and receives no income or benefits from sources within the United States. The individual may file a Form 1040NR to receive a refund of withheld income tax or claim citizenship of a "State Republic". Alternatively, the individual may claim that the United States does not include all or part of the physical territory of the 50 States and instead consists of only places such as the District of Columbia, Guam, Puerto Rico, the Virgin Islands, the Northern Marianna Islands, and certain other possessions, enclaves, and trust territories. See Rev. Rul. 2004-28.
Note: The aforementioned does not apply to a foreign person who has paid withholding inadvertently and has filed a claim for a refund.

6. Reparation Tax (REPTX) - The filer submits a return, an amended return, or correspondence referring to a reparation settlement based on the impact of slavery, or may refer to black taxes, reparations for African Americans, or 40 acres and a mule. It may also include a Form 2439 with fictitious RIC such as Investment Taxes or Department of the Treasury. See Rev. Rul. 2004-33.
7. Form 2555 Deduction (F2555) - The filer submits a return showing income then deducts that same amount (or a large portion of that amount) by adding "Form 2555" to line 21. Form 2555, Foreign Earned Income, is usually attached showing the individual's address in the United States as the foreign address. The filer also shows his income on Form 2555 as "foreign earned income" even though his employers address is also in the United States. Correspondence may be attached arguing the term "income" and stating that each of the several states are foreign countries.
Note: Frivolous Forms 2555 should be worked in the FRP area at the receiving Campus rather than forwarded to AUSC.

8. Not a "Person" or "Individual (NTINDV)"- The filer argues they are not a "Person" or "Individual" within the meaning of the Internal Revenue Code and is therefore not subject to income taxes. See Rev. Rul. 2007-22.
9. Sixteenth Amendment (16AMEND) - The filer argues the Sixteenth Amendment was not properly ratified and therefore the federal government does not have the legal authority to collect an income

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **Exhibit 25.25.10-1**
Any line marked with a #
is for **Official Use Only**

Exhibit 25.25.10-1 (Cont. 1) (12-13-2023)
Frivolous Arguments

tax without apportionment. Generally, the argument focuses on matters such as inconsistencies in versions ratified by the various states. See Rev. Rul. 2005-19.

10. Fifth Amendment (5AMEND) - The individual makes an improper blanket assertion of the Fifth Amendment right against self-incrimination as a basis for not providing any financial information. See Rev. Rul. 2005-19.

11. Altered Jurat/UCC 1–207 (JURAT) - The filer submits a return that contains income and deductions but the jurat (generally defined as a certification on an affidavit declaring when, where, and before whom the document was signed) has been altered or stricken. May include reference to UCC 1–207 or a statement that the return was not signed under penalties of perjury. The alteration may be located elsewhere on the return with an arrow pointing to the jurat. There may be an explanation on the return or attachments reflecting the desire to negate the effect of the jurat by showing the taxpayer did not intend to file a return in good faith. See Rev. Rul. 2004-34.

12. Altered Form (ALTFORM) - The filer submits a return altering any or all line items with the intent of facilitating non-compliance with the tax laws.

13. Unsigned Returns (UNSIGN) - The filer completes a return but fails to sign and includes a statement explaining why the return is not signed indicating, among other arguments, disagreement with the tax system, IRC 6061(a).

14. Wages Deducted in Cost of Goods Sold (F-SCHC) - The individual submits a return with a Schedule C attached claiming a deduction which is equal, or nearly equal, to the amount reported as wage income. The deduction is usually included in the cost of goods sold but could appear under a different deduction category.

15. Valuation (FAIRMV) - The filer argues that income is not taxable because of the declining fair market value of the dollar, because the dollar is not backed by gold/silver, because the value of services is offset by the value of the labor (barter income), etc.

16. In Lieu of (ILO) - The individual submits a document captioned, "statement" in lieu of U.S. income tax form 1040. Various other arguments may be used in the document. See Rev. Rul. 2004-34.

17. Disclaimer (DISCL) - The individual submits documentation which contains a disclaimer. The disclaimer states the individual, "disclaims the liability for the tax due", making the liability on the return zero. This disclaimer may be a part of a return, on a return attachment, or in other documents.

18. Protest Against Government Action/Inaction (WARTAX) - The filer argues that their refusal to file a return or pay tax is justified because they disagree with government policies or spending plans. For the return to be frivolous the individual must claim frivolous deductions or credits based on an objection to having their taxes used to support various government activities. See Rev. Rul. 2005-20.

19. Taxes are Voluntary/Law Does Not Require (VOLUN) - The filer argues on a return or specified submission that income taxes are voluntary.

20. Challenges to Authority/Title 26 or "law" in Other Documents (CONST) - The filer may argue that Title 26 of the United States Code is not law because it was never enacted as named. As a separate position, the individual may argue that other laws or documents prevent the IRS from assessing and collecting tax. This argument may reference the Bible, Bill of Rights, Declaration of Independence, Magna Carta, Northwest Ordinance, Declaration of Resolve, Federalist Papers, Mayflower Compact, Articles of Confederation of 1788, Declaration of Rights of 1765 and 1774, and others.

21. Paperwork Reduction Act - Individual argues that they cannot be penalized for failing to file a Form 1040 series return because the instructions and regulations associated with the Form 1040 do not display an OMB control number.

22. Internal Revenue Service is a Private Organization/Collects Tribute, Not Taxes (TRIBU) - The individual argues that the IRS is an entity named the Internal Revenue and Tax Service, Inc. which was incorporated in Delaware in 1933. The individual further argues that since the IRS deposits its revenues in the Federal Reserve Bank, it is a collection agency for the bank, which is in the business of making loans and conducting proprietary business, thereby removing the cloak of governmental immunity. Additionally, they argue the Department of Treasury is part of the United Nations and is clandestinely leading the tax-paying public into a "new world order."

Exhibit 25.25.10-1   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

Exhibit 25.25.10-1 (Cont. 2) (12-13-2023)
Frivolous Arguments

23. Alleged Churches/First Amendment (ALDGCH) - The individual receives income from non-religious sources and may claim a vow of poverty. The individual submits a return on which all, or substantially all, of the gross income is claimed as a contribution deduction on the return.

24. Amended Returns/Form 843 Claim for Refund and Request for Abatement (AMEND) - The individual files an amended return or a Form 843 to obtain a total refund of all taxes paid in prior years, based on a tax avoidance argument not supported by law.

25. Untaxed (UNTAX) - The individual argues that they should be "untaxed" and attempts to drop out of the Social Security system. The taxpayer will withdraw or rescind their SSN, claiming they are a sovereign citizen. See Rev. Rul. 2004-31.

26. Federal Reserve Notes Are Not Legal Tender (FEDRES) - The individual argues that their wages are not taxable because they were paid in federal reserve notes. The taxpayer argues that notes are not valid currency or legal tender and, thus, those who possess them cannot be subject to a tax on them.

27. Services Not Taxable/Thirteenth Amendment/Form of Servitude (13AMEND) - The individual argues that income results only from the sale of goods, and therefore, the value of services is not taxable. This includes indentured servitude arguments and barter offsets. The individual may also argue that the Thirteenth Amendment outlawed slavery. The taxpayer may claim to be "natural unfranchised individuals and freemen" who are residents of states, and therefore nonresident aliens for the purpose of the Internal Revenue Code.

28. Obscene, Vulgar, Harassing (OBSC) - The individual submits documents or other materials indicating that non-filing is due to dissatisfaction with tax policies or taxation in general. Often, this argument is expressed with obscene, vulgar, or crude language and characters in an extremely demeaning manner.

29. Any other position described as frivolous in any revenue ruling or other published guidance in existence when the return or the specified submission adopting the position is filed with the IRS.

30. Non-negotiable Chargeback (NNCB) - The filer attempts to sell their birthright back to the government for a large dollar amount and requests that a "Treasury Direct Account" be set up to hold the money.

31. IRC 861 for Individual Employees (IMF 861) - The individual files a return or claim stating that wages are not taxable based on 26 CFR 1.861 and requesting a refund of all federal withholding.

32. IRC 3121 (FICA) - The individual contends that IRC 3121 exempts the Federal Insurance Contribution Act (FICA) portion of earnings from the definition of wages and therefore from gross income for federal tax purposes. The individual attempts to reduce taxable income by their portion of withheld social security tax.

33. 1041 - Lifetime Social Security Claims (LFTMEARN) - The individual claims a refund for all social security paid during their lifetime. Taxpayer requests a "lifetime earnings statement" from Social Security Administration in order to list the amount of withheld social security taxes as federal income tax or other payments. See Rev. Rul. 2005-17.

34. 1041 - In Lieu of 1040 (1041 ILO) - The individual deducts personal income as fiduciary fees or other deductions on Form 1041 resulting in a zero tax liability.

35. IRC 1341 - Claim of Right (COR) - The filer claims "compensation for personal labor" is not taxed by Title 26, IRC 134 1, and takes a deduction on Schedule A or removes the amount from gross income. See Rev. Rul. 2004-29.

36. Bosnian Refugees (BOSNREF) - The individual attempts to eliminate tax liability by filing Form 1040X, removing their tax on line 10 (Total Tax) and citing under Part II that they are entitled to refunds based upon their status as Bosnian refugees.

37. Not Liable (NTLIABL) - The individual submits a return with "Not Liable" printed on it. The return also reflects zero money amounts despite indications the taxpayer has taxable income.

38. IRC 861 Business - Employment Tax (BMF 861) - This argument targets employers and advises them that wages are exempt from withholding. Based on 26 CFR 1.861, promoters of this scheme advise employers to stop withholding and paying payroll taxes on their employee's wages. In addition, some employers file amended payroll tax returns and request refunds of previously paid payroll taxes.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **Exhibit 25.25.10-1**
Any line marked with a #
is for **Official Use Only**

Exhibit 25.25.10-1 (Cont. 3) (12-13-2023)
Frivolous Arguments

39. EIC with Disability Income (FRIVEIC) - The individual reports disability income as the sole source of income to claim earned income credit but does not attach a Form W-2 or Form 1099.
40. Exempt Employees of World Bank Organization (XMTEMP) - The individual files a return with a statement attached which asserts, "World Bank Employee - Wages not Subject to Income and/or Non-Taxable Income - World Bank." The individual lists an adjustment equal to the amount of the wages and claims adjusted gross income is zero. May also cite IRC 893 which provides a tax exemption to some employees of international organizations.

Note: The World Bank qualifies as an international organization, therefore, if the individual worked for the World Bank as a citizen of another country, they may qualify for the exemption.

41. American Indian Treaty (AMERIND) - The individual attempts to eliminate tax liability by filing forms 1040 removing their income on line 21 (Other Income) and citing, "less Native American Indian Treaty" or "Native American Indian Treaty." The returns usually include Form 1099-MISC or other income documents that include withholding which can result in a refund of withholding credit.

Note: IRC 7873, various court cases and revenue rulings allow for tax free income earned either for fishing rights on treaty land, income from the land or on land held in trust for certain individual Native Americans. For more information, contact an IRS Indian Tribal Government Specialist.

42. Nunc Pro Tunc (NUNC) -The filer attempts to eliminate tax liability by filing returns citing "Nunc Pro Tunc" somewhere on the return. The return usually consists of all zeros except withholding and generally a refund is claimed. No further justification for the zero return is given. "Nunc Pro Tunc" is Latin for "Now for Then". These taxpayers appear to want the IRS to accept the frivolous return they have filed in place of what they filed previously. See Rev. Rul. 2006-17.
43. IRC 1001 (1001) - The individual attempts to eliminate tax liability by filing Form 1040X removing all or part of income as an itemized deduction on Schedule A, "Other Miscellaneous Deductions" and citing, "IRC 1001: even exchange of property - Labor (property) - Employer's (property). NO GAIN REALIZED. Butcher's Union Co. v. Crescent City Co., 111 US 746 (1884)."
44. Zero Wages on a Substitute Form: Taxpayer generally attaches either a substitute Form W-2, Form 1099, or Form 4852 that shows "$0" wages or no wage information. A statement may be included indicating the taxpayer is rebutting information submitted to the IRS by the payer. Entries are usually for Federal Income Tax Withheld, Social Security Tax Withheld, and/or Medicare Tax Withheld. An explanation on the Form 4852 may cite "statutory language behind IRC 3401 and IRC 3121", or may include some reference to the company refusing to issue a corrected Form W-2 for fear of IRS retaliation.
45. Fuel Tax Credit - A filer files a return or claim requesting an amount of fuel tax credit that is so disproportionately excessive to income (normally business income) reported on the individual's return as to be unallowable. In addition, the claim reflects an impossible quantity of fuel given the business use for the occupation reported.
46. Form 1099-OID - Individual or business files a return reporting false amounts of income (generally "Other" or "Miscellaneous" income) and claims a false amount of income tax withholding approximately equal to the amount of falsely reported income. Although the return reports income, the taxpayer does not calculate any tax due. Some of the returns have Form 1099-OID (Original Issue Discount) or Form 1099-MISC (Miscellaneous) attached and some have Forms 1096. Other false financial instruments may be filed in the place of or in addition to the Form 1099 Series such as a Form 2439, or promissory notes, bonds, sight drafts, etc.
47. C-Filings - This frivolous position includes four categories of filings as follows

a. Individual files a return claiming various types of deductions, credits, or overpayments/refunds that are clearly unrealistic and because of their outrageous character, qualify as frivolous returns.
b. Individual files a return containing the filer's identifying information but does not request a refund, often lacking sufficient information to determine a tax liability.
c. Individual files a return with various types of rambling dialogue and/or confusing arguments that no one could reasonably view as a good faith attempt to comply with the law.

Exhibit 25.25.10-1   Internal Revenue Manual   Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**

Exhibit 25.25.10-1 (Cont. 4) (12-13-2023)
Frivolous Arguments

d.   Individual files a return that attempts to send some type of message or protest to the IRS but fails to include sufficient identifying information for the IRS to determine the identity of the taxpayer or the taxpayer's return address.

48. Prisoner Filings - Individual who is incarcerated files a return with which they include a Substitute Form W-2 (Form 4852). In the explanation portion of the Form 4852 they explain the income is based on a computation of minimum wage for hours worked within the prisons and lists an amount of withholding which allegedly represents the withholding an employer would withhold from an employee working at minimum wage. The inmate claims a refund based on the data for income and withholding the prisoner alleges the prison should have reported. The claims also may include a list that includes a work log or a computer printout showing their cost of incarceration.

49. Collections Issues - Collections Issues - Individual submits documents contending, on frivolous grounds, that certain collection actions are invalid, such as: 1) the statutory notice of deficiency, notice of federal tax lien, collection due process notice, or notice and demand is invalid because it is not signed by the Secretary of the Treasury or some particular official; 2) the assessment is invalid because the taxpayer did not receive a copy of a Form 23C, because a Form 23C must be signed personally by the Secretary of the Treasury, or because the assessment was made on the basis of a 6020(b) return, which is not a valid return; 3) the form or content of a notice of federal tax lien is controlled by or subject to a state or local law, and a notice of federal tax lien that does not comply in form or content with state law is invalid; 4) Verification under section 6330 that the requirements of any applicable law or administrative procedure have been met may only be based on one or more particular forms or documents (which must be in a certain format), such as a summary record of assessment, or that the particular forms or documents or the ones on which verification was actually determined must be provided to a taxpayer at a collection due process hearing; 5) revenue officers are not authorized to seize property in satisfaction of unpaid taxes; 6) IRS employees lack authority to carry out their duties because they lack certain required credentials, such as a pocket commission or badge; or 7) a civil action to collect unpaid taxes or penalties must be personally authorized by the Secretary of the Treasury and Attorney General.

50. Non Taxable Social Security (SS) Benefits - Individual files a return reflecting non-taxable SS, or Railroad Retirement benefits and claims false or excessive withholding credit resulting in a zero return.

Cat. No. 61697H (12-13-2023)   Internal Revenue Manual   **Exhibit 25.25.10-1**
Any line marked with a #
is for **Official Use Only**

Exhibit 25.25.10-2 (12-16-2019)
FRP Master Database

Frivolous Return Program Master (FRP Master) is a database used to track and monitor current inventory and includes historical data on accounts not in filing and/or payment compliance for two consecutive years. FRP Master is a composite of several tables linked together to allow FRP employees to accurately respond to taxpayers and assists in trending frivolous filings for outreach education to internal and external stakeholders. It also provides the means to identify new abusive tax avoidance promotions in order to make referrals for civil injunctive actions, criminal investigations, and follow-up monitoring on violations of existing court orders on abusive promoters and preparers. The tables include but are not limited to:

- Daily Reports- Employee time and action taken on cases
- Project Status Listing (PSL) - Current information on new program issues, abusive tax schemes, frivolous return preparers and promoters, court actions on FRP cases, and general topical data on FRP cases
- Friv Input Form - Table used to update taxpayer compliance history, forms and letter sent to taxpayers, pre-audit compliance, frivolous arguments used by the taxpayer, etc.
- TAR Form - Used to elevate unique technical questions, data on new promotions, etc., for inclusion on PSL
- Interview Screen - Questions posed to taxpayers during telephone interviews to ascertain background on specific frivolous promotions and/or taxpayer frivolous arguments
- Weekly Reports - Inventory report data
- FRP Alerts - Sign on message to inform employees of pertinent information

Utilize FRP Master to ensure a record is made of all pertinent actions taken on accounts. Consider existing information derived from FRP Master Project Status Listing prior to taking action on existing accounts such as whether:

- PSL reflects if a return preparer is currently enjoined from return preparation
- Copy will be made of new filings by a particular promoter/preparer for referral to the Lead Development Center (LDC)
- If specific action or no action will be taken on a new receipt for a particular type of filing
- New receipts will be routed to a specific area or employee

FRP Master reports will be created on a regular basis to pro actively provide data to TEC, SB/SE Communications and Liaison, and ATAT on:

- emerging schemes
- abusive promoters and/or preparers
- trends in geographic locations of frivolous filings or specific business affiliations
- the need for outreach education on specific promotions
- any data pertinent to the overall compliance objectives of the IRS

FRP Master reports will also be used to fulfill requests made by internal and external stakeholders on program data but will be coordinated and approved through the Ogden FRP Technical Coordinator and RIVO Management.

Exhibit 25.25.10-2

Internal Revenue Manual

Cat. No. 61697H (12-13-2023)
Any line marked with a #
is for **Official Use Only**