



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

25.26.1

AUGUST 25, 2021

EFFECTIVE DATE

(08-25-2021)

PURPOSE

- (1) This transmits revised IRM 25.26.1, Restitution, Criminal Restitution and Restitution-Based Assessments.

MATERIAL CHANGES

- (1) The table below identifies the significant changes in content since the March 24, 2014 revision of this IRM.

Reference	Descriptions of Change
IRM 25.26.1.1	Added new content to describe the internal controls framework required by IRM 1.11.2.2.5, Address Management and Internal Controls.

Reference	Descriptions of Change
IRM 25.26.1.2	<ul style="list-style-type: none"> • Added a note to explain there may be other debts owed by the taxpayer other than restitution. • Added an example to that the Trust Fund Recovery Penalty may have been previously assessed on MFT 55 which represents the duplicate employment tax liability from MFT 01. • Added corporation as a defendant who may be ordered to pay restitution. • Added a note to explain there is no separate MFT 31 account for RBA. • Clarified that interest and IRC 6651(a)(3) penalties should not be assessed on RBAs; unless the interest and penalties are included in the restitution amount ordered by a federal district court. Documents such as the J&C and plea agreement may indicate whether interest and penalties are components of the restitution amount. • Added a note to explain after the Klein decision TS utilizes Transaction Codes (TC) 270 for \$0.00 and TC 340 for \$0.00 respectively to prevent Failure to Pay (FTP) penalty and interest to be assessed or accrued on RBA accounts if no court order of FTP or interest. • Explained the FTP and interest can only be assessed if court ordered. • Added a note that if interest on an RBA was assessed prior to the Klein decision, the taxpayer may file Form 843, Claim for Refund and Request for Abatement, to request interest abatement. In addition, if the criminal restitution (CRC) becomes aware that interest or FTP was assessed after the Klein decision, it will correct the taxpayer's module • Deleted guidance where the court cannot waive the Title 26 interest when an RBA is court ordered.
IRM 25.26.1.3.1	<ul style="list-style-type: none"> • Clarified final adjudication. • Added a note on the amounts for interest and penalties that should only be included when these amounts are included in the amount of restitution ordered by the court. • Added a note to have the special agent identify any case where restitution is ordered solely as a condition of supervised release or probation. See <i>Westbrooks Outline</i> dated 5/18/2020 issued by IRS Counsel. • Added a note on Questionable Return Project cases that can be Return Preparer Projects instead.
IRM 25.26.1.3.2	Added a note for the issuance of Letter 4885, Final Notice and Demand for Restitution Payment, when applicable and referred to IRM 4.8.11.6.

Reference	Descriptions of Change
IRM 25.26.1.3.2.1	<ul style="list-style-type: none"> • Clarified by added to check IDRS for the automatic issuance of the Notice CP94. • Added a note to issue Letter 4885 if CP94 was not issued to the taxpayer.
IRM 25.26.1.3.2.2	Clarified that fraud and grand jury cases held in TS suspense and sent to Field exam must be returned to TS for mandatory review and release of the P freeze.
IRM 25.26.1.4	Changed Revenue Account Control System (RACS) to General Ledger 6400 Account since it is most commonly named.
IRM 25.26.1.5	Clarified the Firearms Excise Tax Improvement Act of 2020 on assessing and collection of the restitution amount ordered under Title 18.
IRM 25.26.1.5.1	Added to the list of Campus Collections responsibilities that they input linkages on restitution based assessments and civil modules.
Throughout IRM	<ul style="list-style-type: none"> • Made minor editorial changes. • Used tables to organize different processes and procedures. • Added Technical Services IRM sections to improve Field Examination's responsibilities when reviewing Restitution Based-Assessment cases from Technical Services.

EFFECT ON OTHER DOCUMENTS

IRM 25.26.1 dated March 24, 2014 is superseded.

AUDIENCE

All operating division employees that work with criminal restitution payments.

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 SE:S:DCE:E:FE
 Small Business/Self-Employed

25.26.1

Criminal Restitution and Restitution-Based Assessments

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25.26.1.1
(08-25-2021)
**Program Scope
Objective**

- (1) **Purpose:** This IRM section describes the procedures for criminal restitution (CR) and restitution-based assessments (RBA) made by Technical Services (TS). Specifically, IRM 25.26.1 outlines responsibilities of the TS group that is designated to make all of the CR assessments.
- (2) **Audience:** These procedures apply to the TS employees assigned to the CR Program and local Technical Services fraud coordinators (LTSFCs) who monitor the related conditions of probation or fraud suspense cases. These procedures also apply to Field Examination, Kansas City (KC) Accounting, Collection (Collection Field Areas, Campus Collection and Collection Advisory).
- (3) **Policy Owner:** The Director of SB/SE Field Examination.
- (4) **Program Owner:** The SB/SE Field Examination Area Director, South Atlantic Area.
- (5) **Contact Information:** To recommend changes or make any other suggestions related to this IRM section, see IRM 1.11.6.6, Providing Feedback About an IRM Section - Outside of Clearance.
- (6) **Program Goal:** To provide an overview of Criminal Restitution, SB/SE Field Examination - Technical Services Legacy and Collection responsibilities on court ordered criminal restitution based-assessment.

25.26.1.1.1
(08-25-2021)
Authority

- (1) In a criminal tax case, a court can require a defendant to pay the losses incurred by the government. The amount of the restitution ordered by the court is calculated from evidence submitted at trial, or from information contained in the plea agreement, and presented to the court at sentencing.
- (2) Public Law No. 111-237 amended IRC 6201, Assessment Authority, to provide that the IRS shall assess and collect the amount of restitution ordered in a tax case for failure to pay any tax imposed under the Internal Revenue Code in the same manner as if such amount were such tax. IRC 6201(a)(4), Certain Orders of Criminal Restitution, requires criminal restitution ordered after August 16, 2010 to be assessed as if it were a civil tax. Whether criminal restitution can be assessed as a tax under IRC 6201(a)(4) depends on whether the restitution ordered derived from a failure to pay any tax imposed by Title 26. Restitution ordered for a criminal violation of IRC 7201, Attempt Evade or Defeat Tax, IRC 7202, Willful Failure to Collect or Pay Over Tax, IRC 7203, Failure to File or Failure to Pay, IRC 7206(1), False Return, as well as several other criminal tax violations under the Internal Revenue Code and Title 18 may meet the requirement necessary to be assessed as a tax. The applicability of IRC 6201(a)(4) will be determined by Criminal Investigation (CI) with input from Criminal Tax Counsel and will be reflected on Form 14104, Notification of Court Ordered Criminal Restitution Payable to IRS.
- (3) Public Law No. 111-237 also amended IRC 6213(b), Exceptions To Restrictions on Assessments, to provide that a notice of assessment of restitution is not a notice of deficiency and may not be petitioned to Tax Court and IRC 6501(c), Exceptions, to provide a proceeding in court for the collection of such amount may be begun without assessment, at any time.
- (4) The United States Tax Court opinion, Klein v. Commissioner, 149 T.C. No. 15 filed on October 3, 2017, held that "IRC 6201(a)(4) does not authorize the IRS

to add underpayment interest or Failure to Pay penalty to a Title 18 restitution award, and may not assess or correct from taxpayer's underpayment interest or additions to a tax without first determining their civil tax liabilities.”

- (5) Under section 18 USC section 3363(a)(3), restitution may be ordered as part of the sentence (including in criminal cases) pursuant to a plea agreement. In the Fifth Circuit case, *United States v. Westbrooks*, 58 F. 3d 317, 328 (5th Cir. 2017), the court held that restitution ordered solely as a condition of either supervised release or probation is only enforceable beginning with the first day of the period (the first day of supervised release following a prison term or the first day of probation, respectively) and ending with the last day of that conditional period as directed by the sentencing court. The amount of restitution ordered solely as condition of supervised release or probation will not be assessed until the taxpayer is under the supervision of a Probation Officer (supervised release or probation).

25.26.1.1.2
(08-25-2021)

Roles and Responsibilities

- (1) The Director, Field Examination, is the executive responsible for Technical Services for Exam. The Area Director, South Atlantic Area, is responsible for the Criminal Restitution Program for Exam.
- (2) TS centralized restitution assessment group has been designated to make all of the assessable restitution based-assessments. This group will receive all criminal investigation (CI) closing packages which consist of Form 14104, Notification of Court Ordered Criminal Restitution Payable to IRS, Form 13308, Criminal Investigation Closing Report and the Judgement and Commitment Order (J&C) which include court ordered restitution payable to the IRS that are assessable per IRC 6201(a)(4), Assessment Authority. These tasks will be accomplished by tax examiners (TE) and centralized criminal restitution coordinators (CRC) in this TS group.
- (3) The group manager of the centralized criminal restitution site will monitor the group's inventory to ensure all procedures are followed per IRM 4.8.6, Criminal Restitution and Restitution Based-Assessment. TS territory group managers that work RBA cases are responsible to ensure their fraud coordinators follow criminal restitution procedures outlined in IRM 4.8.11.7, Special Features For Civil Resolution Cases with Restitution Based-Assessment and IRM 4.8.6.3, Roles and Responsibilities of the Local Technical Services Fraud Coordinators.

25.26.1.1.3
(08-25-2021)

Acronyms

- (1) The following table lists the acronyms used throughout this IRM section.

Acronym	Definition
APL	Advisory Probation Liaison
AUSA	Assistant United States Attorney
CCP	Centralized Case Processing
CI	Criminal Investigation
COP	Condition of Probation
CR	Criminal Restitution
CRC	Criminal Restitution Coordinator

Acronym	Definition
DOJ	Department of Justice
DOJ FLU	Department of Justice Financial Litigation Unit
DPC	Designated Payment Code
ERCS	Examination Returns Control System
FETI	Firearms Excise Tax Improvement Act of 2010
FTP	Failure to Pay
J&C	Judgment and Commitment Order
KC	Kansas City Accounting (Restitution Unit)
NMF	Non-Master File
PSP	Planning and Special Programs
QRP	Questionable Return Project
RACS	Revenue Accounting Control System
RAR	Revenue Agent Report
RBA	Restitution-Based Assessments
RO	Revenue Officer
RPP	Return Preparer Project
SAR	Special Agent Report
TC	Transaction Code
TS	Technical Services
USPO	United States Probation Officer

25.26.1.1.4
(08-25-2021)

Related Resources

- (1) The following table list related resources throughout this IRM.

IRM Section	Title
IRM 4.8.6	Technical Services, Criminal Restitution and Restitution-Based Assessments
IRM 4.8.11	Technical Services, Fraud Program Responsibilities
IRM 25.1.6	Fraud Handbook - Civil Fraud

25.26.1.2
(08-25-2021)
Restitution Debt

(1) The amount of ordered restitution payable to the IRS creates two separate debts for the same liability. These two separate debts provide two different means for collection, but the liability cannot be collected twice. See IRM 21.6.8, Split Spousal Assessments (MFT 31), for more information on splitting accounts and applying payments.

- a. The first debt is the “restitution judgment” which the Department of Justice Financial Litigation Unit (DOJ FLU) is responsible for collecting.
- b. The second debt is the “restitution-based assessment” (RBA) which will be assessed and collected by the IRS in the same manner as if it was a tax.

Note: There may be additional debts that represent the same liability due to possible duplicate civil assessments that have previously been assessed but not limited on MFT 30, 01, 02 or 10 accounts as liabilities.

Example: A Trust Fund Recovery Penalty (TFRP) may be previously assessed on MFT 55, which represents the duplicate employment tax liability from MFT 01. The employment tax liability, which is the same amount ordered as restitution based-assessment, can be assessed four different times as follows:

- The restitution judgement.
- The restitution based assessment.
- The MFT 01 civil assessment.
- The MFT 55 TFRP.

(2) More than one defendant may be ordered to pay restitution, including but not limited to the following:

- Individual taxpayer (filing either an individual return, a separate return, or a joint return).
- Officer or employee of a corporation.
- Partner or employee of a partnership.
- Employee of a sole proprietorship.
- Corporate director.
- A corporation.
- Client of a return preparer.
- Return preparer.
- Tax shelter promoter.

(3) Because restitution debts stem from the same underlying tax liability, the full amount can only be collected once. Therefore, any payments that wholly or in part satisfy the RBA must also be applied against the underlying tax liability for the same type of tax and tax periods (duplicate civil and/or co-defendant assessments), provided that the RBA relates to that underlying tax liability.

Example: If the restitution is for tax period X but relates to the defendant’s business’s income tax and not his own personal income tax for the same period, the payment would be credited to his RBA and the business’s income tax liability. It would not be credited to his personal income tax liability for the same period.

- (4) Duplicate assessments include the RBA made on the appropriate MFT 31 account, and civil tax and or fraud penalties assessed on each respective parties' underlying tax account.

Note: A separate MFT 31 account is not used by the TS CR group for assessing court ordered criminal restitution. The MFT 31 account may be established and utilized by other business units for both civil and restitution assessments, such as for bankruptcy discharge, innocent spouse relief, (when one spouse agrees), offer in compromise, and other reasons. Therefore, related civil tax and penalties are posted on the same module for the culpable taxpayer or entity.

- (5) Two responsible parties may owe different duplicate assessment amounts for the same period. The duplicate assessment may or may not be equal to the RBA amount. Those accounts include, but are not limited to, the following:

- Form 1040, U.S. Individual Income Tax Return (MFT 30).
- Form 941, Employer's Quarterly Federal Tax Return (MFT 01, 17*).
- Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return (MFT 10).
- Form 1120, US Corporation Income Tax Return (MFT 02).

Note: *Indicates Non-Master File (NMF).

- (6) RBAs are assessed and collected the same as any civil tax assessment. Interest and IRC 6651(a)(3) penalties should not be assessed on RBAs; unless the interest and penalties are included in the restitution amount ordered by a federal district court. Documents such as the J&C and plea agreement may indicate whether interest and penalties are components of the restitution amount.

Note: After the Klein decision, if the J&C does not include to assess FTP or interest, TS utilizes Transaction Codes (TC) 270 for \$0.00 and TC 340 for \$0.00, respectively, to prevent the assessment or accrual of the FTP penalty and interest. See IRM 20.1.2.3.8.9, Failure to Pay Penalty for Restitution-Based Assessments.

- (7) Interest can only be assessed by the IRS on RBA if it is included in the J&C or the plea agreement. Interest is assessed by the IRS per IRC 6601, Interest on Underpayment, Nonpayment, or Extensions of Time for Payment, of Tax. See IRM 20.2.7, Interest, Abatement and Suspension of Debit Interest, for procedures on filing interest abatement claims due to errors or delays because of ministerial or managerial acts or for adjusting the RBA MFT 31 account by TS criminal restitution group. However, deficiency procedures do not apply to RBAs, so IRC 6601(c) interest suspension does not apply to the restitution amount ordered by the court (IRC 6601(c) may apply only if a waiver of restrictions on the assessment of a deficiency under IRC 6213(d), typically shown on Form 870, Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment has been filed).

Note: If interest on an RBA was assessed prior to the Klein decision, the taxpayer may file Form 843, Claim for Refund and Request for Abatement, to request

interest abatement. In addition, if the CRC becomes aware that interest or FTP was assessed after the Klein decision, it will correct the taxpayer's module.

25.26.1.3
(03-24-2014)

**Restitution-Based
Assessment Functional
Responsibilities**

- (1) Several functions are involved in restitution based assessments. The responsibility for each function is outlined below.

25.26.1.3.1
(08-25-2021)

Criminal Investigation

- (1) Criminal Investigation (CI) assist in providing evidence to the courts for the amount of the restitution to be assessed as taxes. The evidence presented to the courts depends upon the court proceeding. The amount of restitution may be presented in the following circumstances:

Circumstances	Detail
Criminal Indictment	The criminal indictment or information that charges the defendant with a criminal tax offense may contain the specific amount of tax loss.
Criminal Tax Trail	During a criminal tax trial, testimony may be introduced and summarized by the special agent or examiner on the amount of tax loss to the IRS. Documents that summarize the tax at trial include the following: <ol style="list-style-type: none"> Special agent report (SAR). Revenue agent report (RAR). Trial exhibits. Transcript of testimony by the special agent, examiner, or revenue officer.
Defendant May Provide...	The Defendant may agree to the amount of tax loss through one or more of the following: <ol style="list-style-type: none"> A signed plea agreement: The plea agreement is submitted to the court for acceptance. The plea agreement may or may not contain specific information for the amount of tax loss. In some circumstances, the plea agreement may be sealed by the court and cannot be forwarded to any IRS civil function. A proffer: A proffer is submitted (this is evidence in support of your position) to the government containing a statement of facts. A statement of facts: A statement of facts is presented to the court by the Assistant United States Attorney (AUSA).
Prior to Sentencing	Prior to the defendant's sentencing hearing in U.S. District Court, the United States Probation Officer (USPO) requests the amount of tax loss to the government from either the special agent or the AUSA. In both cases, the special agent is responsible for providing the amount of tax loss to the USPO
During Sentencing	During sentencing, the government is required to present a factual basis to the court that contains the amount of tax loss to the IRS.

- (2) CI is required to close its case and notify the IRS civil functions of the amount of restitution ordered no later than 30 days after the case has reached final

adjudication. The court issues and files a Judgment and Commitment Order (J&C) shortly after the sentencing hearing in court. When final adjudication takes place:

With a Waiver of Appeals	Without a Waiver of Appeals
For cases where there is a waiver of appeal for an example, a plea agreement, final adjudication occurs on the sentencing date at which time the closing package can be prepared and sent to the civil functions.	For cases without a waiver of appeals for an example, a trial conviction, final adjudication occurs on the day <i>after</i> the period to file an appeal expired. After sentencing the defendant has 14 calendar days in which to file an appeal. If the defendant files an appeal for any reason, CI will not close its case or send any documents to the civil functions until there is final adjudication by the court. For cases where an appeal is filed, final adjudication occurs on the day after all appeals have been exhausted.

The J&C often only specifies a single amount of restitution that covers multiple tax years or periods. When notifying the civil functions of the amount of restitution via Form 14104, Notification of Court Ordered Criminal Restitution Payable to IRS, it is the responsibility of the special agent to specify the amount of restitution attributable to each tax year or period.

- a. The amount of restitution as specified should list the type of tax, and tax year or period that was included in the calculation of the amount of restitution.
- b. The special agent should specify the amount of restitution attributable to tax, interest, and penalties for each tax period or year.

Note: The amounts for interest and penalties should only be included when these amounts are included in the amount of restitution ordered by the court.

Note: The special agent will specifically identify any case where restitution is ordered solely as a condition of supervised release or probation. The amount of restitution ordered by the court will not be assessed until the taxpayer is not incarcerated but is under the supervision of a Probation Officer. See *Westbrooks Outline* dated 5/18/2020 issued by IRS Counsel.

- c. For all return preparer project (RPP) cases, the amount of restitution is ordinarily based upon the erroneous tax refunds claimed by the clients of the return preparer. The amount of restitution may be calculated by using a specific group of clients and/or an additional amount computed by extrapolating the pattern of erroneous tax refunds to the total population of the preparer's clients. Therefore, in all RPP cases, the special agent must attach a list of all clients whose tax liability was used to determine the amount of restitution ordered by the court. The clients must be identified by name and social security number. The clients' liability for each year must be shown separately. The amount of restitution that is based upon the erroneous refunds claimed by the clients is not necessarily assessed on the individual tax returns of the return preparer for each of the respective years.

- d. In questionable return project (QRP) cases, where refunds are fraudulently obtained through the use of stolen, misappropriated, or fictitious identities that do not involve a “real” taxpayer or an actual liability, and are not traceable to a tax imposed under Title 26 on the defendant, restitution ordered cannot be assessed as a tax. For all QRP cases, the amount of restitution is based upon the total amount of tax refunds falsely claimed. These false claims include fictitious tax returns consisting of stolen or fabricated identities and returns filed by the defendant and/or other co-conspirators using their true identity.
- e. For QRP cases, where the amount of restitution ordered by the court is attributable to tax returns filed by the defendant and/or co-conspirators using their own true identity, the amount of restitution is considered a tax imposed under Title 26. Therefore, this amount can be assessed as if it was a tax under IRC 6201(a)(4), Assessment Authority, and should be specified when notifying the civil functions.

Note: CI makes the determination of QRP based on how they are first made aware of the case. However, during the investigation, it turns out some cases identified by CI as QRP are really RPP, which have restitution based on a tax return(s) filed for others with their knowledge or concurrence without being treated as a co-conspirator. These situations needed to be treated as RPP cases in Technical Services following RPP processing procedures.

- f. In some cases, a reasonable allocation of restitution may be necessary when specifying the amount of restitution. This would be applicable where restitution is not directly determined from a specific document and the special agent needs to determine a reasonable allocation of restitution applicable to each tax year or period. For example, the restitution amount is set by agreement between an AUSA and a defendant and the amount of taxes due is somewhere between the amounts determined by the IRS and the amount otherwise shown on the J&C.

(3) CI notifies the IRS civil functions of the amount of restitution ordered by completing Form 13308, Criminal Investigation Closing Report, and Form 14104, Notification of Court Ordered Criminal Restitution Payable to IRS.

(4) When restitution is ordered by the court, CI is required to send both Form 13308 and Form 14104 to the following civil functions:

- a. Territory Manager, Technical Services
- b. Collection Advisory Probation Liaison
- c. SB/SE Technical Services at **SBSE TECH Svs Criminal Restitution*
- d. Kansas City Restitution Unit at **W&I Criminal Restitution*

Note: Restitution cases designated as a return preparer project (RPP) investigations should also be sent to the following functions:

- Territory Manager, Planning and Special Programs (PSP)
- Return Preparer Office at **Preparer*

25.26.1.3.2
(08-25-2021)
**Examination
Restitution-Based
Responsibility**

- (1) All closed CI investigations are routed to SBSE Examination Technical Services (TS) via a closing package within 30 days of closure by CI for appropriate civil examination disposition. For those investigations with court ordered criminal restitution payable to the IRS, a civil audit may be conducted. See IRM 4.8.11.6, Special Features for Civil Resolution Cases with Tax-Related Conditions of Probation.

25.26.1.3.2.1
(08-25-2021)
**Examination Technical
Services
Restitution-Based
Responsibility**

- (1) Technical Services (TS) is responsible for the following actions:
 - a. Preparing and submitting Form 3177, Notice of Action for Entry on Master File, to Centralized Case Processing (CCP) to establish RBA MFT 31 account(s).
 - b. Notifying Kansas City (KC) Accounting of creation of MFT 31 account(s).
 - c. Preparing and submitting Form 3870, Request for Adjustment, and Form 3177 to CCP to make assessment and cross reference related and duplicate assessment accounts/modules.
 - d. Checking IDRS to make sure the systemically generated Notice CP94, Criminal Restitution Final Demand Notice was issued to the taxpayer.

Note: If Notice CP94 was not issued, then the criminal restitution coordinator (CRC) must manually prepare and issue Letter 4885, Final Notice and Demand for Restitution Payment, to the taxpayer. In addition, the CRC will prepare and submit Form 3177 to CCP to record the manual issuance of Letter 4885 on IDRS.

- e. Notifying Collection Advisory of the RBA.
 - f. Forwarding the case file, where appropriate, for necessary civil actions.
 - g. Reviewing the civil examination case file at the conclusion of the examination.
 - h. Preparing and submitting Form 3177 to CCP to cross reference related and duplicate assessment accounts/modules, when necessary.
- (2) All forms are faxed to Examination CCP in Memphis. A designated team in CCP inputs the Form 3177 and Form 3870, as requested by TS. See IRM 4.10.8.12.3, Separate Assessments on Joint Taxpayers for information regarding Form 3177 and IRM 5.1.15.5, Adjustments—General Procedures, for information regarding Form 3870. Visit Knowledge Management for *CCP Exam E-Fax Numbers*.

25.26.1.3.2.2
(08-25-2021)
**Field Examination
Restitution-Based
Responsibility**

- (1) Field Examination is responsible for reviewing case files forwarded by TS to complete the following actions:
 - a. Taking appropriate civil actions, including the recommendation not to take further civil action, to conduct a limited or in-depth civil examination, and/or prepare applicable audit reports as warranted based on the facts and circumstances of the case. Refer to IRM 4.8.11.5.9, Responsibility of Field Examination on Civil Resolution Cases.
 - b. Recommending the assertion of any applicable civil penalties. Refer to IRM 20.1.5.16.4, Civil and Criminal and IRM 25.1.6.5, Collateral Estoppel.
 - c. Forwarding the completed examination case through TS for mandatory review prior to closure. All fraud and grand jury cases held in suspense in TS and returned to Field Exam must be returned to TS for mandatory

review and release of the P freeze by the TS fraud coordinator. See IRM 4.8.11.5.8.1, AIMS/ERCS Codes for Civil Resolution Case.

25.26.1.4
(08-25-2021)
Restitution Payment Processing

- (1) Kansas City (KC) Accounting is responsible for processing restitution payments. Restitution payments are typically submitted to the court and then forwarded to KC.
- (2) If an MFT 31 account exists, KC applies the payments directly to IDRS with a Designated Payment Code (DPC) 26. If an MFT 31 account does not exist, the payments are placed in the General Ledger 6400 Account until Field Exam advises the MFT 31 account is being established.
- (3) See IRM 3.17.243.10.9.7, MFT 31 Case Procedures.

25.26.1.5
(08-25-2021)
Restitution Payment Collection

- (1) Prior to enactment of the Firearms Excise Tax Improvement Act of 2010 (FETI) the IRS could not assess or take administrative action to collect an assessed or assessable amount of court ordered restitution. The FETI provides that the assessed amount of restitution can be collected as if it were a tax. The restitution order, however, does not cease to exist, and the Department of Justice (DOJ) retains the authority to collect the restitution amount ordered under Title 18.
- (2) Collection is responsible for monitoring compliance with the conditions of probation and supervised release ordered by the court; collecting the restitution-based assessment and other civil assessments owed by the taxpayer; and reconciling taxpayer accounts to ensure there is no overpayment as a result of duplicate assessments or parallel efforts to collect the restitution.

25.26.1.5.1
(08-25-2021)
Campus Collection

- (1) Each related account may have a liability for different amounts, and each related account may reflect different penalty and/or interest suspension periods. Consequently, MFT 31 accounts are established (TS establishes the account) to separate assessment modules based on the underlying tax liability.
- (2) When duplicate assessments have been identified against an individual or responsible party, the duplicate assessment can only be collected once from those individuals or responsible parties.
- (3) Campus Collections responsibilities include the following:
 - a. Processing RBA transcripts.
 - b. Cross-referencing all payments and credits to the related duplicate assessment(s), penalties, and interest for all MFT(s) and tax period(s).
 - c. Responding directly to taxpayers, their representatives, or both on inquiries regarding these accounts.
 - d. Inputs linkages on RBA and Civil modules.

25.26.1.5.2
(03-24-2014)
Collection Advisory

- (1) Collection Advisory has designated points of contacts that serve as liaisons to coordinate and monitor condition of probation (COP) cases to ensure timely exchange of information.
- (2) The advisory probation liaison (APL) performs the following tasks:
 - a. Monitors the conditions of probation.
 - b. Reports noncompliance with the conditions to the Department of Justice.

- c. Requests collection investigations by Field area revenue officers (ROs).
- d. Coordinates civil and criminal aspects of cases.

- (3) Issues and procedures relating to Field Collection involvement during the criminal investigation of open collection cases are listed in IRM 5.1.5, Balancing Civil and Criminal Cases. It also includes procedures for conditions of probation monitoring and for restitution on cases adjudicated prior to August 17, 2010.

25.26.1.5.3
(03-24-2014)
Collection Field Areas

- (1) Collection Field Area RO groups investigate balance due and delinquent return cases received systemically or requested by the APL.
- (2) ROs may make collectability determinations in restitution cases or may take administrative actions to collect the assessed restitution or other amounts owed by the taxpayer.
- (3) Field Collection procedures for working probation and restitution cases are found in IRM 5.1.5.

