

## Common Questions and Answers Regarding Interactions Between the U.S. Probation Office and the Internal Revenue Service in Supervision Cases

### **Q1: What IRS functions are involved in probation matters and what issues do they handle?**

**A1:** The IRS has three main functions that work together on probation matters in cases that involve tax or tax-related offenses –

- Criminal Investigation (CI) (Special Agents) – CI assists in the presentencing and sentencing phases of a case, and monitors the case post-conviction until the supervisory period expires;
- Collection (Revenue Officers, Collection Advisors) – Collection handles collection determinations and takes appropriate action to collect outstanding civil tax assessments, including arranging for payment of past due taxes. In appropriate cases, Collection may also attempt to secure delinquent returns.
- Exam (Revenue Agents, Technical Services Fraud Coordinators) - Exam coordinates with the CI Special Agent, when appropriate, to calculate the amount of tax loss resulting from the criminal offense(s) for which the defendant is convicted; determines whether civil assessments of tax, interest, and/or penalties are appropriate; and ensures that appropriate examination action is taken on cases requiring the filing of additional returns or the assessment of additional tax and/or penalties.
- A fourth IRS function, Disclosure, may assist the other three functions when disclosure of taxpayer information is required. The Return and Income Verification Services (RAIVS) assists with requests for photocopies of returns and other information.

### **Q2: How do I find the IRS function contact assigned to an offender's case?**

**A2:** In criminal tax cases, (see Q/A8 below), a CI Special Agent will be assigned to the case. Contact the Assistant United States Attorney (AUSA) for contact information for the CI Special Agent assigned to the case. If the AUSA has no IRS contact, contact the Collection Advisor for the area in which the case was decided. The Collection Advisor is your contact point for collection issues. The Technical Services Fraud Coordinator is your contact point for exam issues.

### **Q3: Who can assist in preparation of the presentence investigation report?**

**A3:** The CI Special Agent can recommend special conditions of probation that might be appropriate, including: cooperate with the IRS in an examination, file past due and current tax returns, amend false returns, pay or make arrangements to pay past due taxes, pay restitution to the IRS, etc.

### **Q4: What IRS function monitors IRS-related conditions of supervision?**

**A4:** CI, Collection and Exam all monitor IRS-related conditions of supervision. Exam monitors assessment-related probation conditions, such as examinations.

Collection monitors collection-related supervision conditions, including filing returns and the collection of unpaid civil tax assessments. Noncompliance is reported to CI, and CI will seek probation's assistance to enforce any IRS-related conditions of supervision.

### **Q5: How can I determine if an offender is in compliance with IRS-related conditions of supervision?**

**A5:** Contact the CI Special Agent assigned to the case or the Collection Advisor or Technical Services Fraud Coordinator for the area in which the case was decided. Refer to Q/A8 for documentation needed to obtain taxpayer-specific information.

### **Q6: Who do I contact regarding restitution ordered payable to the IRS?**

**A6:** In a tax or tax-related case, the court may order the defendant to pay restitution to the IRS. The Judgment and Commitment Order normally specifies that restitution payments are to be paid to the office of the clerk of court in the district in which the defendant was sentenced. The clerk of court forwards the money to the victim(s) listed in the restitution order, including the IRS. All restitution payments made to the IRS are processed in a centralized office. The CI Special Agent or Collection Advisor can assist you regarding questions as to whether the IRS received restitution payments by contacting this centralized office on your behalf.

### **Q7: If an offender pays the full amount of restitution ordered payable to the IRS, has the offender satisfied all of his/her obligations to the IRS?**

**A7:** The amount of restitution ordered payable to the IRS in a criminal case is not the same as the civil tax liability that an offender may owe, although restitution payments will be applied to assessed civil tax liabilities for the same years for which restitution was ordered. Offenders responsible for paying restitution remain subject to tax return filing requirements and possibly to examination. An offender's civil tax liability is established only when the IRS makes an assessment. The IRS may assess additions to tax, penalties and interest pursuant to a tax return or examination. Full payment of restitution may not fully satisfy an offender's civil tax liability.

### **Q8: Under what circumstances can the IRS make disclosures of taxpayer-specific information?**

**A8:** The circumstances in which the IRS may disclose taxpayer-specific information depend on whether the case is a *criminal tax* case or a *non-tax criminal* case. Although criminal tax cases generally involve a violation of Title 26 (the Internal Revenue Code), other offenses under Title 18 or Title 31, such as money laundering, concealment of property, and false claims, may be considered criminal tax cases if they involve tax administration.

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Disclosure of taxpayer specific information in criminal tax cases - any information from the defendant's tax file that is material and relevant to determining the sentence, whether it relates to the conviction year(s) or other tax years, may be disclosed in the presentence phase. Where compliance with IRS-related conditions of supervision in a criminal tax case is at issue, information regarding the years specified in the conditions of supervision may be disclosed. Information about other tax years generally may not be disclosed without the taxpayer's written consent unless the information is material for consideration of the court in revoking or extending probation or supervised release.

Disclosure of taxpayer specific information in non-tax criminal cases - the IRS will only disclose taxpayer information if presented with a written taxpayer consent. In non-tax criminal cases, Forms 4506 and 4506-T should be submitted to the RAIVS Unit for processing of copies of tax returns or transcripts of account. If additional records are needed in a non-tax case, then taxpayer consent to the disclosure of that additional information must be obtained.

### **Q9: How do I obtain taxpayer consent to disclosure?**

**A9:** Three forms can be used to show taxpayer consent.

(1) Form 4506, Request for Copy of Tax Return - used to receive a copy of a taxpayer's filed return. Clearly note on the top of Form 4506 that a copy of the return is being requested by the U.S. Probation Office so that the request will be processed free of charge.

(2) Form 4506-T, Request for Transcript of Tax Return - used to receive a transcript of tax account information. Four types of transcripts may be requested:

- Return Transcript – includes most of the line items of a tax return, does not include copies of information returns and does not reflect any adjustments made to the return.
- Account Transcript – contains information on the financial status of the account, such as payments made on the account, penalty assessments, and adjustments made after the return was filed.
- Record of Account – combination of line item information and later adjustments to the account.
- Information Return Transcript – provides data from informational returns, including Form W-2s and Form 1099s.

Form 4506-T may also be used to verify that a tax return was not filed for a particular year. See Q/A10 below.

(3) Form 8821, Tax Information Authorization - used to receive or inspect confidential information for the type of tax and year(s) designated on the form. If the only information needed is a copy of a tax return or transcript, please use Form 4506 or Form 4506-T. The Form 8821

must be filed with the appropriate IRS office within 120 days of the date it was signed by the taxpayer.

### **Q10: Which form should I use?**

**A10:** It depends on the type of case (tax v. non-tax), and the information that is needed. In criminal tax cases (see Q/A8 for a definition of "tax cases"), consent to obtain information regarding a defendant's compliance with the terms and conditions of their probation is not required. A written statement containing the period and conditions of probation should be submitted to the Collection Advisor. In non-tax cases, if the only information needed is to verify that a taxpayer has not filed tax returns, use Form 4506-T which has a check box for requesting Verification of Nonfiling. Form 4506-T will generally provide the tax account information that you need in non-tax cases. However, if you need a copy of the actual tax return that was filed, use Form 4506. Form 8821 also may be used to obtain taxpayer consent in both tax and non-tax cases.

### **Q11: Where do I send the form after the taxpayer signs it?**

**A11:** Guidance for where to send these forms is included in the general instructions that appear on the form. Generally, the filing location for Forms 4506 and 4506-T depends upon the state where the taxpayer was living when he or she filed her tax return. The filing location for Forms 8821 will depend upon where the taxpayer is living when the form is filed. These forms must be filed with the appropriate IRS office within 120 days of the date they are signed by the taxpayer.

### **Q12: Where can I obtain copies of these forms?**

**A12:** These forms are available on the IRS website at IRS.gov.

Form 8821 – Tax Information Authorization  
Form 4506-T – Request for Transcript of Tax Return  
Form 4506 – Request for Copy of Tax Return

### **Q13: Can I still obtain taxpayer specific information if I am unable to secure a consent to disclosure?**

**A13:** Yes, you can obtain limited taxpayer-specific information from the IRS, but your request for information must contain: (a) a statement that you are responsible for determining an offender's compliance with the conditions of supervision related to the internal revenue laws; (b) the supervision period; and (c) the tax-related conditions of supervision. The IRS can only disclose information related to a taxpayer convicted of a criminal tax violation, and only information limited to those years specified in the conditions of supervision issued by the court, or to the conviction years and those years for which the taxpayer is placed on supervision.

