



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.23.2

MARCH 20, 2024

EFFECTIVE DATE

(03-20-2024)

PURPOSE

- (1) This transmits a revision to IRM 4.23.2, Employment Tax Responsibilities and Coordination with Other Functions.

MATERIAL CHANGES

- (1) This IRM was revised to reflect the following changes:

SUBSECTION	MATERIAL CHANGE
IRM 4.23.2.1.2	Content was updated in paragraph (3) on where to search for delegation orders issued by the Commissioner of the Internal Revenue.
IRM 4.23.2.1.6	Added, modified, and removed acronyms.
IRM 4.23.2.1.7	Added paragraph (5) disclosure and privacy provisions and paragraph (6) that provided the overall responsibility for civil penalty programs is assigned to Office of Servicewide Penalties (OSP).
IRM 4.23.2.2.1.2	Revised paragraph (1) content to reflect transition to SharePoint from Shared Drives.
IRM 4.23.2.2.2	Modified paragraph (1) item e for clarity by removing SB/SE.
IRM 4.23.2.2.3	Revised paragraph (2) item c to clarify that SRS is to be used when consultation or assistance is need from Indian Tribal Governments. Removed item d in paragraph (2) since the information can be found in IRM 4.23.2.2.3.1.
IRM 4.23.2.2.3.1	Revised the title of the subsection. Added content to subsection for clarity and removed outdated procedures. Added referrals to Tax Exempt and Government Entities will be securely emailed to Exempt Organization Classification and requests for consultations will be done through Specialist Referral System.
IRM 4.23.2.2.4	Updated the title of the subsection.
IRM 4.23.2.2.5	Added new subsection for the referral of cases to the Taxpayer Advocate Service.
IRM 4.23.2.3.1	Revised paragraph (1) for clarity.
IRM 4.23.2.3.1.1	Removed information from paragraph that is no longer current.

SUBSECTION	MATERIAL CHANGE
IRM 4.23.2.3.3	Revised paragraph (1) content to reflect transition to SharePoint from Shared Drives.
IRM 4.23.2.4	Revised subsection to incorporate guidance provided in IGM SBSE-04-0722-0048, <i>Emailing documents to Employment Tax-Workload Selection and Delivery</i> , dated July 15, 2022.

- (2) Editorial changes were made throughout the IRM to add clarity, readability, correct typographical errors, and eliminate redundancies. Editorial changes included update to website addresses, legal references, titles, IRM references, and IRS organization or organization terminology to business unit as necessary.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 4.23.2, dated February 28, 2022. This IRM incorporates Interim Guidance Memorandum SBSE-04-0722-0048, *Emailing documents to Employment Tax - Workload Selection and Delivery*, issued July 15, 2022.

AUDIENCE

This section contains instructions and guidelines for Large Business & International (LB&I), Tax Exempt/Government Entities (TE/GE), and Small Business/Self Employed (SB/SE) employees dealing with employment tax issues.

Daniel R. Lauer
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4.23.2

Employment Tax Responsibilities and Coordination with Other Functions.

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4.23.2.1
(11-19-2018)
Program Scope

- (1) **Purpose:** This section details the coordinated programs both internally and externally of the Employment Tax organization.
- (2) **Audience:** This section contains instructions and guidelines for all Large Business & International (LB&I), Tax Exempt/Government Entities (TE/GE), and Small Business/Self-Employed (SB/SE) employees dealing with employment tax issues.
- (3) **Policy Owner:** Director, Specialty Examination Policy of the Small Business/Self-Employed Division.
- (4) **Program Owner:** Program Manager - Employment Tax Policy. The mission of Employment Tax Policy is to establish effective policies and procedures, to support compliance with employment tax laws.
- (5) **Primary Stakeholders:**
 - Employment Tax - Workload Selection and Delivery (SE:S:DCE:HQ:ECS:S:ETEGCS:EWSD)
 - Specialty Examination - Employment Tax (SE:S:DCE:E:SE:ET)
 - Specialty Examination Policy, Employment Tax Policy (SE:S:DCE:E:HQ:SEP:EMTP)
 - Other areas that are affected by these policies and procedures include Independent Office of Appeals, Counsel, SB/SE Examination, LB&I, and TE/GE.

4.23.2.1.1
(11-19-2018)
Background

- (1) The Internal Revenue Service administers the employment taxes imposed by Chapters 21 through 25 of the Internal Revenue Code and the self-employment taxes imposed by Chapter 2. An important phase of administration of employment taxes is interpreting the sections of the Code applicable to these taxes. The IRS refers questions relating to:
 - a. Eligibility for and computation of social security benefits ► to the Social Security Administration (SSA), Baltimore, Maryland, or to their nearest local field office.
 - b. Unemployment benefits ► to the appropriate State Unemployment Compensation Board.
 - c. Railroad employee retirement benefits ► to the Railroad Retirement Board (RRB), Chicago, Illinois.
- (2) In carrying out these duties, the IRS shares with these agencies a joint responsibility for administering the tax aspects of these programs. This requires close coordination between the IRS and these agencies at the national level to assure uniform interpretation and application of the various provisions of the law.

4.23.2.1.2
(11-19-2018)
Authority

- (1) Employment tax provisions are found at Internal Revenue Code Subtitle C:
 - Chapter 21, Federal Insurance Contributions Act (FICA),
 - Chapter 22, Railroad Retirement Tax Act (RRTA),
 - Chapter 23, Federal Unemployment Tax Act (FUTA),
 - Chapter 24, Federal income tax withholding (FITW), and
 - Chapter 25, General Provisions relating to employment taxes and collection of income taxes at source.

- (2) The Employment Tax Program is governed by Policy Statements and other internal guidance that apply to all IRS personnel regardless of operating division. The Policy Statements found in IRM 1.2.1, *Service-wide Policy Statements*, apply to all employment tax issues and examinations. Examiners should review these Policy Statements to properly perform their examination duties.
- (3) A website, Search Service-wide Delegation Orders, located at <https://irm.web.irs.gov/irm/del/search.aspx> provides a searchable list of Service-wide Delegation Orders issued by the Commissioner of the Internal Revenue, or on their behalf the deputy commissioners. Delegation Orders pertaining to each IRS business process can be found in IRM 1.2.2, *Service-wide Delegations of Authority*.
- (4) IRM 4.23 provides Service-wide instructions for all operating divisions with employees involved with the correct filing, reporting, and payment of employment taxes. IRM 4.23 serves as the foundation for consistent administration of employment taxes by various IRS operating divisions. By providing one source of authority for all operating divisions, the IRS greatly reduces philosophical and procedural inconsistencies.

4.23.2.1.3
(02-28-2022)
Responsibilities

- (1) Director, Specialty Examination Policy is responsible for employment tax policy and procedures, including updates addressed in this IRM.
- (2) Director, Specialty Examination is the executive responsible for examination operational compliance.
- (3) Chief, Employment Tax Examination, is responsible for ensuring employment tax examiners follow the guidance included in this IRM.

4.23.2.1.4
(02-28-2022)
Program Objectives and Review

- (1) Program Goals: The processes and procedures provided in this IRM are consistent with the objectives or goals for Employment Tax - Examination that are addressed in IRM 1.1.16.5.3.3, *Employment Tax Examination* and for Employment Tax Policy, found in IRM 1.1.16.5.2.2, *Employment Tax Policy*.
- (2) Program Effectiveness: Program goals are measured with Employment Tax National Quality and Embedded Quality (EQ / NQ) Performance Reports that monitor whether quality attributes are applied uniformly and consistently.
- (3) Annual Review: Employment Tax Policy - Program Manager, is responsible for reviewing the information in this IRM annually to ensure accuracy and promote consistent tax administration.

4.23.2.1.4.1
(11-19-2018)
Program Reports

- (1) Program Reports: Information regarding the reporting of program objectives are included on, but not limited to, the following reports:
 - Headquarters Examination Monthly Briefing,
 - Program Manager Monthly Briefing,
 - Examination Operational Review, and
 - Business Performance Reviews.
- (2) The quality of the examinations will be measured by reviewers utilizing the Embedded Quality Review System (EQRS).

4.23.2.1.5
(11-19-2018)

Terms and Definitions

(1) The following chart contains terms and their definitions used in this IRM:

Term	Definition
Delegations of Authority	The official documents used by the IRS to delegate authority are published as Delegation Orders.
Policy Statements	Publicize specific values of the Internal Revenue Service, guide the administration of the Internal Revenue Service, and form the basis for procedures and instructions in the Internal Revenue Manual (IRM).
SRS System	The purpose of the SRS system is to request the assistance of a specialist from one of the available specialties by submitting a referral or a request for consultation.

4.23.2.1.6
(03-20-2024)

Acronyms

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

Acronym	Definition
ACM	Appeals Case Memorandum
AIMS	Audit Information Management System
Appeals	Independent Office of Appeals
BOD	Business Operating Division
CCP	Centralized Case Processing
CP&C	Compliance Planning and Classification
EO	Exempt Organizations
EO/GE	Exempt Organizations / Government Entities
EOE	Exempt Organizations Examinations
EP	Employee Plans
ET-WSD	Employment Tax - Workload Selection and Delivery
EWETP	Enterprise Wide Employment Tax Program
FICA	Federal Insurance Contributions Act

Acronym	Definition
FinCEN	Financial Crimes Enforcement Network
FITW	Federal Income Tax Withholding
FSL/ET	Federal, State & Local / Employment Tax
FUTA	Federal Unemployment Tax Act
IRM	Internal Revenue Manual
ITG	Indian Tribal Governments
LB&I	Large Business & International
POMS	Program Operation Manual System
QETP	Questionable Employment Tax Practices
RRB	Railroad Retirement Board
RRTA	Railroad Retirement Tax Act
SB/SE	Small Business/Self-Employed
SRS	Specialist Referral System
SSA	Social Security Administration
SWA	State Workforce Agencies
TBOR	Taxpayer Bill of Rights
TE/GE	Tax Exempt and Government Entities
TEB	Tax Exempt Bond
USCIS	United States Citizenship and Immigration Services

4.23.2.1.7
(03-20-2024)

(1) The following table lists the primary sources of guidance:

Related Resources

Source	Title	Description of Guidance
IRM 4.23	Employment Tax IRM	IRM sections, the majority owned by SB/SE Specialty Examination Policy. Provides Servicewide instructions for employees of all operating divisions involved with the correct filing, reporting, and payment of employment taxes. IRM 4.23 serves as the foundation for consistent administration of employment taxes by various IRS operating divisions.

(2) Helpful information sources include:

- The SB/SE Employment Tax Small Business Knowledge Base home page is located at <https://irsgov.sharepoint.com/sites/ETD-KMT-KB014>.
- The Specialist Referral System (SRS) home page: <https://srs.web.irs.gov/>.
- A list of SB/SE Employment Tax Policy Analysts, their contact information and program assignments, are found at *Employment Tax Policy Contacts*.

(3) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3). For additional information about the TBOR, see <https://www.irs.gov/taxpayer-bill-of-rights> or <https://irssource.web.irs.gov/SitePages/TaxpayerBillOfRights.aspx>.

(4) The Taxpayer Advocate Service (TAS) is an independent organization within the Internal Revenue Service (IRS), led by the National Taxpayer Advocate. Its job is to protect taxpayers' rights by striving to ensure that every taxpayer is treated fairly and knows and understands their rights under the TBOR. TAS offers free help to taxpayers, including when taxpayers face financial difficulties due to an IRS problem, when they are unable to resolve tax problems they haven't been able to resolve on their own, or when they need assistance to address an IRS system, process, or procedure that is not functioning as it should. TAS has at least one taxpayer advocate office located in every state, the District of Columbia, and Puerto Rico.

(5) Examiners should consider the disclosure and privacy provisions when preparing agreed and unagreed case reports. For further information, see the

Privacy, Government Liaison and Disclosure (PGLD) maintained knowledge base at <https://irs.gov.sharepoint.com/sites/ETD-KMT-KB003>.

- (6) Overall responsibility for civil penalty programs is assigned to the Office of Servicewide Penalties (OSP). OSP is charged with coordinating policy and procedures concerning the civil penalty program administration, ensuring consistency with the penalty policy statement, reviewing and analyzing penalty information, researching penalty effectiveness on compliance trends, and determining appropriate action necessary to promote voluntary compliance. For further understanding of the civil penalty program and penalty relief refer to the *Penalties Knowledge Base Homepage* (<https://irs.gov.sharepoint.com/sites/ETD-KMT-KB015>).

4.23.2.2

(11-19-2018)

Coordination Between Operating Divisions

- (1) Every function in the IRS has a role in proper employment tax administration. It is essential that each function conduct operations with an emphasis on promoting voluntary compliance. Appropriate reviews should be conducted to ensure consistency with the employment tax policy statements and philosophies. Attention should be given to the coordination of employment tax programs between operating divisions to ensure approaches are consistent.
- (2) Information should be continuously reviewed to suggest changes in employment tax compliance and examination programs, training courses, educational programs, and employment tax administration.
- (3) All employees should keep the following guidelines in mind when handling each employment tax case:

Guidelines
Treat taxpayers in a consistent manner.
Give each taxpayer the opportunity for their interests to be heard and considered.
Strive to make a substantially correct initial decision. A wrong decision, even though eventually corrected, negatively impacts voluntary compliance.
Properly document actions, correspondence, and both taxpayer and government positions to reflect the reasons for decisions and to best enable effective enforcement, if necessary.
Provide the opportunity for taxpayer rebuttal, and ensure the rebuttals are adequately considered.
Enforce employment tax laws in an impartial manner.
Educate taxpayers to help them understand their legal obligations and rights.
Assist the taxpayer in understanding their appeal rights and, in all cases, observe the taxpayer's procedural rights.
Endeavor to promptly process and resolve each taxpayer's case.
Resolve each employment tax case in a manner which promotes voluntary compliance.
Identify systemic problems and recommend ways to reduce taxpayer burden.

- (4) Managers will work together in a cross-functional, cooperative manner to ensure that cases referred from one division to the other are evaluated and assigned in a manner consistent with improving taxpayer compliance while

making the best use of available resources. If agreement cannot be reached regarding the acceptance of a referral, the next-level managers will work together to resolve the dispute.

4.23.2.2.1
(11-19-2018)
**Coordination Within
SB/SE**

- (1) SB/SE Employment Tax coordination with other SB/SE examination functions:
- If another SB/SE examination function determines that SB/SE Employment Tax support is needed for an examination, a request will be made to the appropriate SB/SE employment tax manager via the SRS to determine the type and level of support that can be provided.
 - If SB/SE Employment Tax determines it will provide consultation services only, the employment tax returns will be controlled on Audit Information Management System (AIMS) by the referring SB/SE examination function.
 - If SB/SE Employment Tax determines it will provide examination support beyond consultation services, the employment tax returns will be controlled on AIMS by the SB/SE employment tax group. Identification of the returns and periods to be examined will be jointly determined by the SB/SE Employment Tax manager and referring SB/SE examining function.

4.23.2.2.1.1
(11-19-2018)
**Enterprise Wide
Employment Tax
Program (EWETP)**

- (1) Coordination is necessary to effectively and efficiently administer the employment tax law. Through the EWETP Team, the IRS will continue to develop and strengthen EWETP by working across Business Operating Division (BOD) lines. EWETP will apply a corporate approach utilizing current enforcement techniques, prospective approaches, enhanced automation, improved systems and process changes, as well as appropriate legislative recommendations. It is based on the following guiding principles:

Guiding Principles
Aligning filing, reporting, and payment compliance on a national level
Matching employee skill sets with work streams
Considering both downstream and upstream consequences
Leveraging current IRS systems and processes
Providing balanced coverage within approved workplans
Promoting front-end compliance
Increasing third party information reporting
Addressing known gaps in IRS processes
Leveraging federal and state relationships
Supporting internal and external communication
Supporting outreach and education
Committing to multi-year research
Developing measures of success

- (2) The employment tax program's emphasis on work streams and activities identified by the EWETP will reduce the tax gap across a broad spectrum of noncompliance, including:

- a. Non-filers,
- b. Worker classification,
- c. Officer compensation,
- d. Fringe benefits,
- e. Tip income reporting, and
- f. Payment of amounts due.

4.23.2.2.1.2
(03-20-2024)
**Employment Tax
Returns Filed by LB&I
Taxpayers**

- (1) SB/SE has the primary compliance responsibility for the employment tax returns filed by SB/SE and LB&I taxpayers. The SB/SE Employment Tax Small Business Knowledge Base has current information regarding group locations and geographic areas of responsibility. See *Employment Tax Groups Contacts Area of Coverage*.
- (2) The SRS should be used by non-employment tax employees to request examination resources and/or consultation services from employment tax specialists. See <https://srs.web.irs.gov/>.

4.23.2.2.1.3
(11-19-2018)
**Centralized Case
Processing (CCP)**

- (1) Centralized Case Processing (CCP) in Florence, KY, will be responsible for processing all closed case files submitted from field employment tax groups located within SB/SE Examination, Specialty, Employment Tax (Area 212). In addition, CCP will process:
- Form 3870, *Request for Adjustment*, and Form 2363, *Master File Entity Change*, on all cases worked by employment tax examiners, and
 - Partial requests and prompt assessments made on open employment tax examinations.
- (2) Employment tax cases closed by groups outside of SB/SE Examination, Specialty, Employment Tax (Area 212) will be closed to their respective CCP area for closure.

4.23.2.2.2
(03-20-2024)
**Large Business &
International (LB&I)**

- (1) SB/SE Employment Tax coordination with LB&I:
- a. When SB/SE Employment Tax independently selects a taxpayer identified as part of a controlled LB&I case, the SB/SE Employment Tax manager will confer with the appropriate LB&I manager to determine the degree of coordination necessary.
 - b. If an LB&I manager determines that SB/SE Employment Tax support is needed for an LB&I examination, a request will be made to the appropriate SB/SE employment tax manager via SRS to determine the type and level of support that can be provided.
 - c. If SB/SE Employment Tax determines it will provide consultation services only, the employment tax returns will be controlled on AIMS by LB&I.
 - d. If SB/SE Employment Tax determines it will provide support beyond consultation, the employment tax returns will be controlled on AIMS by the SB/SE Employment Tax group. Identification of which returns and periods to be controlled will be jointly determined by the SB/SE Employment Tax manager and LB&I.

- e. LB&I Exam can and should address employment tax issues identified on their cases even if an Employment Tax specialist is not available to perform consultation or examination activities.

4.23.2.2.3 (03-20-2024) **Tax Exempt and Government Entities (TE/GE)**

- (1) SB/SE and TE/GE have been assigned the similar task of developing their own employment tax programs. To ensure consistency both in the approach and in the interpretation and application of law, on-going communication between the operating divisions is essential.
- (2) TE/GE has primary compliance responsibility for the employment tax returns filed by TE/GE taxpayers. TE/GE work units responsible for employment tax compliance include the following functions:
 - a. The Exempt Organizations Examinations (EOE) has compliance responsibility for IRC 501(c) organizations, IRC 521 organizations, IRC 527 organizations, and IRC 529 organizations.
 - b. Federal State Local / Employment Tax (FSL/ET) has compliance responsibility for Federal government entities, U.S. Possessions, state agencies, local governments, and quasi-governmental entities.
 - c. The Indian Tribal Governments (ITG) office has compliance responsibility for employment tax and all other aspects of Federal tax administration as it applies to Indian and Alaska Native tribal governments. All IRS employees are required to contact ITG before making initial contact on Indian tribal government or enterprise. When consultation or assistance is required examiners will make a submission through the SRS (<https://srs.web.irs.gov>). See IRM 4.70.11.2.6, *Indian Tribal Governments Consultation Policy and Protocol Requirements*.

Note: Employee Plans (EP) does not conduct employment tax examinations but will coordinate with the above functions when the employment tax examinations of the above entities affect retirement plans, such as IRC 403(b) or IRC 457 plans.

Note: The Tax Exempt Bond (TEB) office has compliance responsibility for municipal debt issuances, including tax-exempt bonds, tax credit bonds, and direct pay bonds.

4.23.2.2.3.1 (03-20-2024) **Consultation Requests or Referrals to Employee Plans and Exempt Organizations / Government Entities**

- (1) The relief provisions under section 530 apply only to the relief of federal employment taxes for the employer. Therefore, even if section 530 relief applies, the worker should be treated as an employee for all other purposes (if the worker is determined to be an employee). If an examiner encounters an employer entitled to the relief provisions of section 530, there remains the potential that an Employee Plans (EP) issue exists and a referral should be considered. See Exhibit 4.23.2-1, *Employee Plans (EP) Referral Checklist*.
- (2) If a referral to TE/GE - EP is required as a result of a compliance check or an examination, the examiner will prepare a Form 4632, *Employee Plans Referral*. The referral should be securely emailed to the TE/GE Referrals Groups at ***Manager EO Classification** (EOClass@irs.gov). Include "EP Referral" in the subject line of the email. For more information, see IRM 4.70.11.15.4, *Referrals to TE/GE Functions*.

- (3) If an employer that is being examined is recognized as a tax-exempt organization (files a Form 990 series return), is a federal, state or local government or Indian tribal government or enterprise, make a referral to Exempt Organizations / Government Entities. The examiner will do the following:

- a. The examination is surveyed.
- b. Complete a Form 5666, *TE/GE Referral Information Report*.

Note: For instructions on completing Form 5666 see IRM 4.5.1-12, *Instructions for Preparing Form 5666, TE/GE Referral/Information Report*.

- c. The Form 5666 should be securely emailed to the TE/GE Referrals Groups at ***Manager EO Classification** (EOClass@irs.gov) with any information needed by TE/GE to handle the referral. If an examination is being recommended, include a brief description of the circumstances involved, the appropriate Code section, dollar amount and statute date. The subject line should include a description of the referral, that is "EO Referral", "FSLG Referral", or "ITG Referral", in the subject line of the email.

Caution: Exempt Organization Examination will require 18 months on the statute of limitations of the return to accept the referral.

- (4) Follow paragraph (3) if an employer files no annual return, but claims to be:

- A church
- Affiliated with a church
- A non-exempt charitable trust described under IRC 4947(a)(1)
- A non-exempt charitable split-interest trust described under IRC 4947(a)(2)
- Affiliated with a governmental unit
- A political organization described under IRC 527
- A taxable private foundation
- A subordinate organization in a group exemption

- (5) If consultation or assistance is required with either identifying a tax-exempt organization, federal, state or local government, or Indian tribal government or enterprise or developing a tax issue, examiners should make a submission through SRS (<https://srs.web.irs.gov>).

4.23.2.2.3.2
(11-19-2018)
**Churches, Conventions
or Association of
Churches**

- (1) IRC 7611 provides guidelines and a procedural framework for certain examinations of churches. Also see Treas. Reg. 301.7611-1.
- (2) IRC 7611 procedures apply to employment tax inquiries. Examiners should not initiate any examinations on a church. If for some reason an employment tax examiner encounters a church employment tax issue, the examiner should immediately contact TE/GE Exempt Organizations Examinations using SRS.

4.23.2.2.4

(03-20-2024)

**Coordination
Concerning Independent
Office of Appeals
Determinations**

- (1) Each business unit should establish mutually satisfactory procedures for resolving disagreements arising from subsequent review of Independent Office of Appeals (Appeals) determinations. Formal dissents by Compliance are not appropriate in an Appeals case where “hazards of litigation” were considered in the settlement of the case. Any decision to reopen a case rests solely with Appeals. Appeals is guided by Policy Statement P-8-3 (formerly P-8-50), which covers reopening cases closed by Appeals. See IRM 8.6.4.2.10, *Disagreements with Appeals Determinations*, for more information.
- (2) For each case closed by Appeals, a copy of the Appeals Case Memorandum (ACM) will be provided to the Employment Tax Policy Analyst Appeals liaison, who will forward the ACM to the SB/SE Chief, Employment Tax Operations for distribution to the proper examination group. The ACM will usually be the only feedback vehicle.
- (3) Where Appeals feels some aspect of a closed case warrants special attention in addition to the ACM, feedback will be provided in separate memorandum.
- (4) Appeals will return the case if the taxpayer presents new information or new evidence or raises a relevant new issue that was not previously shared with the examiner, and, in the judgment of the Appeals hearing officer, merits additional analysis or investigative action by Examination. See IRM 8.6.1.7.4, *Taxpayer Raises New Issue*, and IRM 8.6.1.7.5, *Taxpayer Provides New Information*.

Note: Appeals does not return cases for further development.

4.23.2.2.5

(03-20-2024)

**Taxpayer Advocate
Service**

- (1) Refer a taxpayer to TAS (see IRM Part 13, *Taxpayer Advocate Service*) when the contact meets TAS criteria (see IRM 13.1.7, *Taxpayer Advocate Service (TAS) Case Criteria*) and you cannot resolve the taxpayer’s issue the same day. The definition of same day is within 24 hours. Same day cases include cases you can completely resolve in 24 hours, as well as cases in which you have taken steps within 24 hours to begin resolving the taxpayer’s issue.
- (2) When making a referral to TAS, the employee must prepare Form 911, *Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order)*, and forward to TAS in accordance with local procedures. For more information regarding referral to TAS see IRM 13.1.16.8.4, *Referrals from IRS Operating Divisions/Functions*.
- (3) Do not refer a case to TAS unless it meets TAS criteria, you have informed the taxpayer regarding the existence and role of TAS and the taxpayer asks to be transferred to TAS. See IRM 13.1.7.5, *Same Day Resolution by Operations*.

4.23.2.3

(11-19-2018)

**Coordination with Other
Agencies**

- (1) This subsection details employment tax coordination with other federal agencies.

4.23.2.3.1
(03-20-2024)

Coordination With Social Security Administration (SSA)

- (1) The Internal Revenue Service imposes and administers employment taxes that directly affect SSA. An important phase of the administration of employment taxes, including the self-employment tax, is interpreting the sections of the IRC applicable to these taxes and issuing rulings and technical advice that clarify the intent of the sections within these chapters:
 - Chapter 21, Federal Insurance Contributions Act, for employer and employee contributions,
 - Chapter 2, Tax on Self-Employment Income
- (2) The IRS refers all questions of eligibility for and computation of social security benefits to the Social Security Administration in Baltimore, Maryland, or to their nearest local field office.
- (3) Coverage and earnings provisions are contained in both the Internal Revenue Code and the Social Security Act. Provisions in one are related to provisions in the other. If a taxpayer produces evidence of a conflicting determination made by the Social Security Administration, either as to a worker's status as an employee or concerning the taxability of any fringe benefit, the examiner must ascertain the current position of the IRS. Every effort should be made to coordinate and resolve such difference by consultation or exchange of views at the field level. If the difference of opinion cannot be resolved so as to render consistent the views of the Area office and the SSA's field office regarding the tax and benefit status of a particular case, the matter will be referred to the Office of Chief Counsel for appropriate technical advice. See IRM 4.23.15.5, *Coordination of Employment Tax Rulings with Social Security Administration, for additional instructions*.

4.23.2.3.1.1
(03-20-2024)

Employee Wage Data for SSA

- (1) The IRS makes available any information returns to the Social Security Administration for use in administering the benefit provisions of the Social Security Act. Neither the IRC nor the Social Security Act requires the preparation of information returns by the IRS.
- (2) Wage information is reported by the taxpayer on Form W-2, *Wage and Tax Statement*, which is sent to the Social Security Administration. When correcting an omission or error in a return, the taxpayer is required to file Form W-2c, *Corrected Wage and Tax Statement*.
- (3) If the correction of error is a result of an examination by the IRS, the taxpayer is required to prepare and file Form W-2 or Form W-2c.

4.23.2.3.1.2
(11-19-2018)

Processing Delinquency or Correction Notices, Forms SSA-7010

- (1) Notices on Form SSA-7010, *Notice of Determination of SSA Wages*, are sent to the Philadelphia Campus by the Social Security Administration to report errors in employer or employee accounts discovered by the SSA. Most of these notices are processed in a Campus, however, the Campus forwards to the Area Director any Form SSA-7010 case which involves a ruling question or other issue of essentially an examination nature. The Area Director will handle all cases referred under this procedure.

4.23.2.3.1.3
(11-19-2018)

Availability of SSA Program Operation Manual System

- (1) The Social Security Administration (SSA) Program Operation Manual System (POMS) is available to IRS personnel from SSA field offices.

- (2) Examiners will find the POMS helpful, particularly the examples that are provided throughout the text and the manner in which the text relates SSA actions to IRS law and procedures.

4.23.2.3.2
(11-19-2018)
**United States
Citizenship and
Immigration Services**

- (1) There is ongoing contact between the United States Citizenship and Immigration Services (USCIS) and the IRS. The programs are generally divided into two categories, those dealing with aliens legally admitted to the U. S. and those dealing with aliens who are present in the U.S. without proper documentation.
 - a. Certain programs ensure that nonresident aliens who are authorized by USCIS to enter the U.S. are aware of Federal tax requirements and are meeting their obligations. These programs are outside the scope of Employment Tax Examination.
 - b. Other efforts are geared to aliens who have entered the country without proper documentation and are apprehended by USCIS personnel. Many of the undocumented aliens are paid low wages and have limited tax potential. However, those with significant tax potential are referred to the IRS. When a referral indicates employer noncompliance, it will be routed to Employment Tax - Workload Selection and Delivery (ET-WSD), and classified for potential employment tax examination.

4.23.2.3.3
(03-20-2024)
**Railroad Retirement
Board (RRB)
Coordination Agreement**

- (1) The IRS has responsibility for the processing of Form CT-1, *Employer's Annual Railroad Retirement Tax Return*, and Form CT-2, *Employee Representative's Quarterly Railroad Tax Return*. The IRS also provides information to the Railroad Retirement Board (RRB) for the administration of the Railroad Retirement Act of 1974 (RRA), as amended.
- (2) On October 14, 2014, the IRS and RRB signed an agreement titled "Agreement between the Railroad Retirement Board and the Internal Revenue Service" (RRB/IRS Agreement). This agreement provides the basis for coordinating the administration of the Railroad Retirement Tax Act by the IRS and the administration of the Railroad Retirement Act by the Railroad Retirement Board. For more information and resources refer to the LB&I *Industry Knowledge Base Homepage* (<https://irs.gov.sharepoint.com/sites/ETD-KMT-KB025>).
- (3) The parties agreed to explore and adopt mutually acceptable techniques and modes of information exchange to improve administration with the least possible interruption of their respective operating routines and with strict adherence to laws, regulations, and rules for protecting the confidentiality of exchanged information.
- (4) The IRS and RRB will review the RRB/IRS Agreement annually to evaluate the existing data exchange, examine the continuing need for, and uses of, the exchanged data, and determine whether the provisions of the RRB/IRS Agreement require amendment or revision.
- (5) Inquiries relating to railroad employee retirement benefits are sent to the Railroad Retirement Board in Chicago, Illinois.

4.23.2.4
(03-20-2024)**Federal/State Exchanges**

- (1) IRC 6103(d) authorizes disclosures to States for tax administration purposes. Notwithstanding the provisions of IRC 6103 or IRC 4102, the disclosure of certain returns and return information is prohibited by law. Prior to disclosure of a record or document to any authorized state or local agency representative, data related to the following must be identified and removed from the file:
 - a. Information obtained pursuant to tax treaty,
 - b. Wagering tax information as defined in IRC 6103(o)(2) and IRC 4424,
 - c. Grand jury information obtained in accordance with an order issued pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure, unless the terms of such order permit such disclosure, and
 - d. FinCEN Report 112, Currency Transaction Report, <https://bsaefiling.fincen.treas.gov/main.html> (formerly Form 4789 - obsolete), or any other Title 31, Bank Secrecy Act report (e.g., FinCEN Report 111, Suspicious Activity Report).
- (2) Any exchange agreements require the involvement and approval of the Disclosure Office.
- (3) **Questionable Employment Tax Practices (QETP):** The Small Business/Self-Employed Division (SB/SE) has Memoranda of Understanding (MOUs) with various states. The MOUs allow the IRS and the State Workforce Agencies (SWAs) to exchange audit reports and audit plans and to participate in side-by-side examinations, when appropriate. The MOUs also allow for the receipt of information and the reciprocal sharing of information to the states.
 - a. Employment Tax (ET) referrals will be forwarded to the states through the ET-WSD unit located in Florence, KY. This will provide consistent, meaningful information to the states and allow monitoring and tracking of outgoing referrals.
 - b. Examiners are in the best position to determine which work papers are essential to development of the worker classification issue. Therefore, prior to closing these cases, examiners will prepare a single Adobe (.pdf) file containing pertinent case information. Scanned documents should be reviewed to confirm scans are complete and legible. One copy of the file will be emailed to ***SBSE ET WSD Case Closing Packages** (sbse.et.wsd.case.closing.packages@irs.gov) with the subject "Closed Case – QETP Information for State Examination." Another copy of the file will be uploaded as a workpaper to the relevant issue SAIN in IMS.
 - c. ET-WSD will forward the referrals to the respective states on a monthly basis and send a disclosure accounting to a central Disclosure contact.
 - d. SB/SE - Employment Tax will capture pertinent data on outgoing referrals and collaborate with the states to develop a reporting format to measure results stemming from the use of ET data.

Note: See IRM 4.23.23.3.1.2.3, *Questionable Employment Tax Program Referrals*, for additional information.

- (4) Inquiries relating to unemployment benefits are referred to the State Unemployment Compensation Board.

Employment Tax Responsibilities and Coordination with Other Functions. 4.23.2

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Exhibit 4.23.2-1 (11-19-2018) **Employee Plans (EP) Referral Checksheet**

INSTRUCTIONS: Any “yes” answer warrants a referral to TE/GE - Employee Plans (EP).

Question:	Action:
1) Were any non-employees reclassified as employees?	If yes, please attach a list of those employees.
2) Were any plan participants' compensation adjusted?	If yes, please attach a list of the participants, their compensation, and the adjustment amount.
3) Does the employer offer plan participation of individuals other than common law employees or self-employed individuals treated as employees pursuant to IRC section 401(c)(1)?	If yes, secure a copy of the plan.
4) Are there any employees who are covered by the section 530 safe haven who have been excluded from participation in the plan?	If yes, please attach a list of the names of those employees.

