



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.23.21

NOVEMBER 17, 2021

EFFECTIVE DATE

(11-17-2021)

PURPOSE

- (1) This transmits a revision to IRM 4.23.21, Employment Tax - Tax Compliance Officer Employment Tax Procedures.

MATERIAL CHANGES

- (1) IRM 4.23.21.1.6. Added information on Taxpayer Advocate Service and Disclosure.
- (2) IRM 4.23.21.3.1. Added links to Employment Tax TCO Desk Guide and TCO Job Aid for Embedded Quality.
- (3) IRM 4.23.21.5.2.4. Added (4) If the taxpayer responds that they have already filed Forms W-2, see IRM 4.19.4.3.28, Reply States Taxpayer Already Filed Forms W-2, to submit a Form 9337, Social Security Administration (SSA) Reconciliation Referrals, to SSA.
- (4) IRM 4.23.21.6.1. Added "140 – Mandatory Issues Check Sheet in ET Examinations" to the list of exempt leadsheets, per IGM SBSE-04-1219-0047.
- (5) IRM 4.23.21.6.2. Additional expansion notification explained. The ET TCO must notify the taxpayer of the examination of all periods and returns in which adjustments are being proposed prior to the issuance of the 30-day letter and report and document the action in the case file.
- (6) Editorial and technical changes have been made throughout this section.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 4.23.21, dated March 22, 2019. This IRM incorporates SBSE-04-1219-0047, Exempted Lead Sheets for Tax Compliance Officers (TCOs) in SB/SE Specialty Examination, Employment Tax (ET), dated December 12, 2019.

AUDIENCE

Tax Compliance Officers and their managers within the SB/SE Employment Tax Specialty Program.

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Small Business/Self-Employed Division

4.23.21

Tax Compliance Officer Employment Tax Procedures

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4.23.21.1
(11-17-2021)
Program Scope

- (1) **Purpose:** This IRM provides guidance to the Tax Compliance Officer (TCO) Program in SB/SE Specialty Examination, Employment Tax (ET).
- (2) **Audience:** This section contains instructions and guidelines for Small Business/Self-Employed (SB/SE) examiners and managers.
- (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 (ET-WSD)(SE:S:DCE:E: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:SP:ETP)
- (6) **Program Scope:** The mission of Employment Tax Policy is to establish effective policies and procedures and to support compliance with employment tax laws.

4.23.21.1.1
(03-22-2019)
Background

- (1) The purpose of this section is to provide instructions unique to the Tax Compliance Officer (TCO) Program in SB/SE Specialty Examination, Employment Tax (ET). IRM 4.23.21 serves as a starting point for consistent administration of employment taxes by ET TCOs. It is intended that ET TCOs rely on the direction contained in this section for unique procedures that pertain to the assignment, audit, and closure of ET TCO cases. Any instructions or procedures not addressed in this section indicate there is no difference between the ET TCO process and other current employment tax and/or field procedures, and the ET TCO should rely on IRM 4.23, Employment Tax, or IRM 4.10, Examination of Returns.

4.23.21.1.2
(03-22-2019)
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 Service personnel regardless of operating division. The Policy Statements found in IRM 1.2.1, Servicewide Policies and Authorities - Servicewide 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, Delegation Orders and Policy Statements by Process, located at <https://www.irs.gov/privacy-disclosure/delegation-orders-and-policy-statements-by-process>, summarizes data contained in the applicable IRM sections under

IRM 1.2.1 and IRM 1.2.2, Servicewide Policies and Authorities, Servicewide Delegations of Authority, in a single electronic source.

- (4) IRM 4.23 provides Servicewide 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 Service greatly reduces philosophical and procedural inconsistencies.

4.23.21.1.3
(03-22-2019)

Responsibilities

- (1) Director, Specialty Examination Policy is responsible for the procedures and updates addressed in this IRM.
- (2) Director, Examination Specialty Tax, is the executive responsible for Specialty examination operational compliance.

4.23.21.1.4
(03-22-2019)

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 1.1.16.3.3.3, Employment Tax Examination and for Employment Tax Policy, found in IRM 1.1.16.3.5.2.2, Employment Tax Policy.
- (2) Program Effectiveness: Program goals are measured with Employment Tax Embedded Quality 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.

4.23.21.1.4.1
(03-22-2019)

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.

4.23.21.1.5
(03-22-2019)

Acronyms

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

| Acronym | Definition |
|---------|---|
| CAWR | Combined Annual Wage Reporting |
| COBRA | Consolidated Omnibus Budget Reconciliation Act |
| ET | Employment Tax |
| ET-WSD | Employment Tax - Workload Selection and Delivery Unit |
| ETER | Employment Tax Examination Report |

| Acronym | Definition |
|---------|--------------------------------------|
| ETLS | Employment Tax Lead Sheet |
| EUP | Employee User Portal |
| FEA | Fraud Enforcement Advisor |
| FICA | Federal Insurance Contributions Act |
| FTS | Fast Track Settlement |
| FUTA | Federal Unemployment Tax Act |
| IDR | Information Document Request |
| ITM | Integrated Talent Management |
| IMS | Inventory Management System |
| FITW | Federal Income Tax Withholding |
| POD | Post of Duty |
| RRTA | Railroad Retirement Tax Act |
| SB/SE | Small Business/Self-Employed |
| TAS | Taxpayer Advocate Service |
| TBOR | Taxpayer Bill of Rights |
| TCO | Tax Compliance Officer |
| TE | Tax Examiner |
| WSD | Workload Selection and Delivery Unit |

4.23.21.1.6
(11-17-2021)

Related Resources

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

| Source | Title | Description of Guidance |
|----------|--------------------|--|
| IRM 4.23 | Employment Tax IRM | IRM sections 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) Other helpful information sources include:

- The SB/SE Knowledge Management home page for Employment Taxes <https://portal.ds.irsnet.gov/sites/vl014/pages/default.aspx>.
- The Specialist Referral System 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: *Policy Analysts*.
- The web site “Examining an Employment Tax Case” at: [https://portal.ds.irsnet.gov/sites/vl014/pages/home.aspx?bookshelf=examining an employment tax case](https://portal.ds.irsnet.gov/sites/vl014/pages/home.aspx?bookshelf=examining%20an%20employment%20tax%20case).

(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), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR. See IRC 7803(a)(3). For additional information about TBOR, see <https://www.irs.gov/taxpayer-bill-of-rights>.

(4) The Taxpayer Advocate Service (TAS) is an independent organization within the IRS whose employees assist taxpayers experiencing economic harm, who are seeking help in resolving tax problems that have not been resolved through normal procedures, or who believe that an IRS system or procedure is not working as it should. Pub 1546, Taxpayer Advocate Service - We Are Here to Help You, provides contact and additional information. The program is designed to alleviate taxpayer hardships that arise from systemic problems or the application of the Internal Revenue Code. In addition, see IRM 13.1.7, Taxpayer Advocate Service (TAS) Case Criteria, and IRM 13.1.19, TAS Operations Assistance Request (OAR) Process, for additional information.

(5) Employment tax examiners should consider the disclosure provisions when preparing agreed and unagreed case reports. See the Privacy, Governmental

Liaison and Disclosure web site at: <https://irssource.web.irs.gov/PGLD/Pages/Home.aspx> for additional information.

4.23.21.2
(10-23-2014)
Overview – General

- (1) ET TCO groups increase compliance through the use of remote audit techniques and limited scope employment tax examinations. Initial assignment of cases to ET TCOs will be based on limited identified issues (e.g., ET non-filer, officer compensation, or unique focused issues such as COBRA) that require less extensive audit development than more complex employment tax issues. The utilization of a limited scope approach increases the amount of employment tax compliance coverage directly impacting filing, payment, and reporting compliance.

4.23.21.3
(03-22-2019)
ET TCO Cases - General

- (1) ET TCO case assignments are generally post of duty (POD) neutral, recognizing that the audit is conducive to being worked using the remote audit process. The remote audit criteria were developed specifically for use by ET TCO examiners.

- (2) Remote audit features include:

- a. Interviews conducted by telephone to discuss the audit process and develop the identified issues with the appropriate party.
- b. The request of limited source documents, including books and records to be supplied via mail or fax, for the examiner's review.
- c. Expansion of the pre-identified scope of audit to include multiple years, related pick-ups, or expansion to additional issues when approved by the group manager.

See IRM 4.23.19, Employment Tax - Employment Tax Case Assignment and Grading Criteria, for a full discussion on remote audit criteria.

- (3) ET TCOs may conduct face-to-face examinations when the taxpayers are within their geographic location. These face-to-face examinations may be conducted in the IRS office or, in rare circumstances, at the taxpayer's place of business.
- (4) ET TCOs are not generally required to conduct a tour of the business, since the majority of the examinations are worked using the remote audit process. However, in examinations where ET TCOs conduct the examination at the taxpayer's place of business, the ET TCO will request and conduct a tour.
- (5) If the development of the pre-identified or subsequently identified issues indicates a more in-depth on-site examination is warranted, the ET TCO will consider transferring the case to an employment tax field group. The ET TCO will discuss such cases with their manager to determine the best course of action. The factors considered and decisions made must be documented in the case file.

4.23.21.3.1
(11-17-2021)
Reference Material

- (1) An *Employment Tax TCO Desk Guide* and a *TCO Job Aid for Embedded Quality (EQ)* are both available for use by ET TCOs when working their cases. These documents provide a more in-depth discussion of the ET TCO procedures and provide examples of best practices.

4.23.21.4
(10-23-2014)

Case Assignment

- (1) Appropriate case selection for ET TCO examinations is critical to the success of the program. Cases must:

- Be conducive to the remote audit process, and
- Involve limited scope of not more than one or two issues identified during classification.

These types of issues can be reconciled generally with minimal review of books and records.

- (2) Cases conducive to remote audit include, but are not limited to, Combined Annual Wage Reporting (CAWR) and officer compensation cases.

- CAWR cases involve employers that failed to file Employment Tax returns or has a discrepancy between the reported amounts and forms filed.
- Officer compensation cases involve Form 1120S returns where little or no officer compensation is noted on the face of the S Corporation income tax return; distributions may or may not be indicated on the 1120S return or attachments.

IRM 4.23.19 contains a more detailed discussion of work conducive for ET TCOs.

4.23.21.4.1
(09-20-2016)

Establishing Case Files

- (1) When a case is assigned to the ET TCO, initial set-up in Inventory Management System (IMS) must take place to organize the case file and allow the examiner time to perform pre-contact analysis. See "Issue Management System (IMS) –New User Introduction," ITM Course 40486a or Training Publication 56523-102, for additional assistance.
- (2) ET TCOs will complete their daily time report contemporaneously to account for all hours of the day. Examiners must use action codes and purge dates for the completion of the daily time report. See Exhibit 4.23.21-1, Action Codes and Purge Dates, for the specific action codes, definitions, and purge dates.
- (3) Examiners must utilize the ETLs - Employment Tax Lead Sheets for all examinations. See IRM 4.23.21.6.1, Workpapers, for more information on the use of these lead sheets in ET TCO examinations.
- (4) The scope of an ET TCO case is initially limited to issues shown on the classification sheet. Examiners must review the case file and other relevant information prior to contacting the taxpayer. If this pre-contact analysis leads to a change in the scope of the examination, either removing issues identified during classification or adding issues found during the pre-contact analysis, the examiner will discuss these changes with the manager. This discussion and conclusions reached will be documented on Form 9984, Examining Officer's Activity Record.

4.23.21.5
(09-20-2016)

Conducting the Examination – General

- (1) ET TCO audits are based on the premise of a limited scope approach utilizing a remote audit process; pre-planning activities are critical in every examination. Before making contact with the taxpayers, ET TCOs will research internal sources to determine:

- The taxpayer's filing history,
- Prior audit results,

- The identified issues, and
- Documents needed.

- (2) External sources should also be researched.
- (3) Use the action codes and purge dates in Exhibit 4.23.21-1, to maintain the Microsoft Outlook planning calendar throughout the examination; this ensures cases are timely worked and meet all established time-frames.
- (4) The “Employment Tax TCO Desk Guide” provides a more detailed discussion of pre-planning actions.

4.23.21.5.1
(03-22-2019)
Contacting the Taxpayer

- (1) Letter 3850-T, Employment Tax TCO Appointment, will be issued to schedule a date and time for a telephone interview; this letter was specifically developed for use in a remote audit.
- (2) When a taxpayer is located in the same area as the ET TCO, face-to-face appointments may be conducted. If a face-to-face appointment is scheduled, use the normal appointment letter, Letter 3850, Employment Tax Appointment Letter.
- (3) Both Letter 3850-T and Letter 3850 will include Pub 1, Your Rights as a Taxpayer, Pub 5146, Employment Tax Returns: Examinations and Appeal Rights, and Notice 609, Privacy Act Notice. During the initial conversation with the taxpayer, ET TCOs must ensure the taxpayer received these documents and have no questions concerning them. This discussion must be documented in the case file.
- (4) The ET TCO must attach a Form 4564, Information Document Request (IDR), to the Letter 3850-T or Letter 3850. The IDR will be tailored to each taxpayer, requesting specific information and documents to assist in developing the issues identified through both classification and pre-planning. IDRs should:
 - Be specific to the classified issues and any additional issues that were approved by the group manager,
 - State the tax periods covered by the examination,
 - Include a date and method of submission for the information requested (e.g., via mail/fax or bring to initial appointment), and
 - Include a request for copies of appropriate income tax returns when electronic copies are not available for review (e.g., returns available in the Employee User Portal (EUP)). The ET TCO will be able to review these documents for other employment tax issues or potential referral to income tax, when warranted.
- (5) In a remote audit, the requested information will be due to the ET TCO prior to the initial telephone interview. If a face-to-face appointment is scheduled, the taxpayer will be asked to provide the information at the initial appointment.

4.23.21.5.2
(11-17-2021)
Conducting the Interview

- (1) Interviews are required in ET TCO examinations. The interview will help determine:
 - If there are other employment tax issues,
 - If there are any related entities with potential employment tax issues,
 - The reasons for non-compliance with employment tax filing or reporting requirements, and

- If the non-compliance is intentional, i.e., the identification of the badges of fraud.
- (2) During the initial interview, the ET TCO will gain an understanding of the taxpayer's business and the taxpayer's understanding of employment tax laws by asking questions specific to the taxpayer and the classified issues.
 - (3) Interviews are used to probe for other employment tax non-compliance and to help determine the applicability of penalties, including fraud. Therefore, some type of interview will be conducted in all ET TCO cases except when the taxpayer cannot be located, is unresponsive to the request for an appointment, or refuses to participate in an interview. See IRM 4.23.21.5.3 (2) for additional information.
 - (4) If the taxpayer responds that they have already filed Forms W-2, see IRM 4.19.4.3.28, Reply States Taxpayer Already Filed Forms W-2, to submit a Form 9337, Social Security Administration (SSA) Reconciliation Referrals, to SSA.

4.23.21.5.3
(10-23-2014)

Developing the Issue(s)

- (1) When conducting a remote audit, ET TCOs should have the requested books, records, and supporting documentation prior to the initial interview. If documents were not received prior to the initial interview, the reasons for the delayed receipt must be fully documented. If after the receipt of the non-filed return(s) or interview, the ET TCO decides not to pursue obtaining the books and records previously requested, the rationale to discontinue the examination must be fully documented.
- (2) When taxpayers are unresponsive or uncooperative, ET TCOs must consider all options, (e.g., whether to issue a "no-show report" based on the information available or use appropriate enforcement actions such as issuance of a summons). These decisions will be based on the facts and circumstances and be documented in the case file.
- (3) In all non-filer cases, the ET TCO must determine the reasons for non-filing during the interview. If facts and circumstances warrant, the ET TCO will discuss the case with their manager to determine the following:
 - a. Are additional books and records required to fully develop the issue?
 - b. Can the ET TCO obtain the additional books and records or should the case be transferred to a field specialist to complete the audit?
- (4) Follow-up IDRs may be required. The IDR will include a request for specific information needed to continue the development of the issues and include a specific due date and delivery method. Prior to issuance of this IDR, ET TCOs will attempt to discuss this request to ensure the taxpayer fully understands why additional records are being requested. This discussion will also allow the examiner to clarify the information that is needed. If attempts to discuss the request are unsuccessful, ET TCOs should document the case file and issue the IDR.
- (5) Appropriate research should be conducted to assist the examiner in developing the issue. This can include making third party contacts when warranted. See IRM 4.11.57, Examining Officers Guide (EOG) - Third Party Contacts, for information on making third party contacts.

4.23.21.5.4
(03-22-2019)

**Managerial Involvement
in ET TCO Cases**

- (1) ET TCOs are required to obtain managerial approval when:
 - a. Based on facts learned during the pre-contact analysis, review of the requested documentation, or interview of the taxpayer, the scope of the exam is being changed from the classified issues,
 - b. There are indications that a worker reclassification issue needs to be developed,
 - c. The taxpayer cannot be located and a decision must be made whether the audit will continue, (See IRM 4.10.2.8.6, Case Closing Procedures if the Taxpayer Cannot be Located, and IRM 4.23.21.6.3.)
 - d. The examiner cannot determine a substantially correct wage adjustment based on information available,
 - e. Transfer to a field group may be warranted, or
 - f. Penalties are being proposed that require managerial approval, (e.g., negligence).
- (2) If badges of fraud are present, the TCO will discuss the case with their manager and jointly decide when/if to contact the Fraud Enforcement Advisor (FEA).
- (3) All discussions with the manager must be documented in the case file either on the case activity record or appropriate lead sheet.
- (4) ET TCOs are not required to hold Group Manager Concurrence Meetings covered in (8) of IRM 4.23.4.3, Guide for Examiners Using ETLS – Employment Tax Lead Sheets.
- (5) ET TCO managers are encouraged to contact the taxpayer on unagreed cases being closed for assessment or issuance of Letter 3523, Notice of Employment Tax Determination Under IRC Section 7436; contact is not required on no-response cases. Managers are required to make contact on any case in which the taxpayer requests a formal appeal, unless the taxpayer specifically waived the right to a managerial conference offered by the examiner. See IRM 4.23.21.6.2 (3). The refusal must be documented in the case file.
- (6) In addition to the specific items noted here, other sections of IRM 4.23 may also apply when managerial involvement is required.

4.23.21.6
(10-23-2014)

**Workpapers, Report
Writing and Case File
Assembly**

- (1) Except as noted in this section, ET TCOs will follow the same procedures, guidelines, and time-frames that employment tax specialists use when preparing:
 - Workpapers,
 - Employment Tax Examination Report (ETER), and
 - The case for closure.

4.23.21.6.1
(11-17-2021)

Workpapers

- (1) ET TCOs are required to use the ETLS - Employment Tax Lead Sheets.
- (2) ET TCOs are exempt from using the following lead sheets that are mandatory in other ET cases:
 - 115 – GM Concurrence Meeting Check Sheet
 - 140 – Mandatory Issues Check Sheet in ET Examinations
 - 150 – Risk Analysis Workpaper

- (3) Refer to IRM 4.23.4, Employment Tax - General Procedures and Workpapers, for additional information on workpapers.

4.23.21.6.2
(11-17-2021)
**Report Writing
Procedures for Cases
with Taxpayer Contact**

- (1) The ET TCO must notify the taxpayer of the examination of all periods and returns in which adjustments are being proposed prior to the issuance of the 30-day letter and report. This notification must be documented in the case file.
- (2) The ET TCO must attempt to discuss the issues with the taxpayer to ensure the taxpayer has a full understanding of the proposed adjustments; this can be done either before or after the issuance of the 30-day letter and report.
- (3) ET TCOs must offer a managerial conference or Fast Track Settlement (FTS) to all taxpayers when a request for an appeal is received. If the taxpayer declines one or both offers, that declination must be documented in the case file.

Note: See IRM 4.10.7.5.5, SB/SE Fast Track Settlement, for additional information.

4.23.21.6.3
(03-22-2019)
**Report Writing
Procedures for
No-Response Cases (No
Show) or Unlocatable
Taxpayers**

- (1) A no-response case occurs when a “deliverable” address exists, but the taxpayer does not respond to correspondence or does not “show” for a scheduled appointment. A follow-up attempt must be made to contact the taxpayer and secure their cooperation. The examiner will make a telephone call to the taxpayer or use Letter 3850-F, Employment Tax Second Contact, in an attempt to obtain their cooperation. If the ET TCO has a valid telephone number and makes telephone contact with the taxpayer, use this opportunity to discuss as much about the case as possible, as it may be the only contact. The ET TCO will not leave a message for the taxpayer to return the call. If the ET TCO does not have a valid telephone number or the taxpayer does not answer, the ET TCO will issue the Letter 3850-F to schedule the follow-up appointment within sixteen calendar days, and the IDR response within eleven calendar days. Document all attempts to contact the taxpayer, by phone or letter, on the Form 9984, Examining Officer’s Activity Record.
- (2) If the ET TCO can determine a substantially correct wage adjustment from the information available, a 30-day letter and report will be issued, even if the taxpayer fails to keep the appointment scheduled in Letter 3850-F or makes no attempt to reschedule.
- (3) If the examiner cannot determine a substantially correct wage adjustment based on the information available, the examiner will discuss the case with their manager to determine the best course of action to resolve the classified issues, as well as any additional issues identified through the pre-contact analysis. The final decision may include:
 - Transfer of case to a field group,
 - Use of appropriate summons procedures to gain taxpayer cooperation, or
 - Closure of the case using survey procedures.

Factors used in the determination must be fully documented in the case file.

- (4) If a no-response occurs because the address is not valid (mail returned as undeliverable), appropriate steps must be taken to locate a valid address and make contact with the taxpayer before issuing a report. See IRM 4.10.2.8.4,

Undeliverable Initial Contact Letters, for procedures to follow when a taxpayer is unlocatable. If the taxpayer cannot be located, the ET TCO must discuss whether the audit will continue with the manager.

- (5) If taxpayer does not file a small case request or formal written protest within the time allowed but indicates their intent to do so, follow the procedures in IRM 4.23.22.8.3, Follow-Up to 30-Day Letters, and issue Letter 923-P, Letter Extending Time to File Protest – Employment Tax, within seven calendar days after the expiration of the original 30-day letter.
- (6) Refer to IRM 4.23.10, Employment Tax - Report Writing Guide for Employment Tax Examinations, for more information on report writing.
- (7) ET Tax Compliance Officers should not use Status Code 13 as outlined in IRM 4.23.22.6 (13), 30-Day Letters: Unagreed Case Procedures. Managers will use action codes and purge dates, or other case monitoring systems, to ensure timely actions are taken after the issuance of the 30-day letter.

4.23.21.6.4
(10-23-2014)
Case File Assembly

- (1) Refer to IRM 4.23.10.19.2, Assembly of Employment Tax Case File Folder - SB/SE, for information on case file assembly.

4.23.21.7
(10-23-2014)
Case Closing

- (1) ET TCO cases will be closed following the same procedures and time-frames used by all employment tax specialists:
 - Agreed, No-Change, Surveyed, or Unagreed cases not requiring the issuance of Letter 3523, Notice of Employment Tax Determination under IRC Section 7436, will be closed to the appropriate Centralized Case Processing Unit.

Note: Form 3198, Special Handling Notice for Examination Case Processing, needs to be annotated if the taxpayer is entitled to an interest-free period per IRC 6205. Also, the closing document, Form 5344, Examination Closing Record, needs to show TC 308 with the interest start date if the taxpayer is entitled to an interest-free period. See IRM 20.2.10.5, Employment Taxes.

- Unagreed cases requiring the issuance of Letter 3523, Notice of Employment Tax Determination under IRC Section 7436, "Offer In Compromise – Doubt as to Liability" cases, or a case where the taxpayer has requested a formal appeal, will be closed to the appropriate Technical Services Unit.

4.23.21.8
(09-20-2016)
Statute Control Quality

- (1) In determining whether Attribute 100, "Protection of Statute of Limitations," is met, ET TCOs will be measured on whether the employee took appropriate actions to protect the Statute of Limitations and whether the statute expired. See IRM 4.23.14, Statute Control and Extension, for more information.

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Exhibit 4.23.21-1 (09-20-2016)
Action Codes and Purge Dates

| Action Code | Definer | Meaning | Purge Date |
|-------------|------------------------------|---|-----------------|
| 01 | FIRST APPT | Interview scheduled | Set by User |
| 02 | SUBS APPT | Subsequent Appointment | Set by User |
| 03 | LOCATOR SERVICE | Locator Service required – Address Search | Today + 15 days |
| 04 | PREPARE 30 DAY | Case ready for preparation of report and 30-Day Letter | Today + 15 days |
| 06 | SCH PRE-AUDIT | Pre-audit cases – secure and review research needed and submit Form 5345-D for additional modules | Set by User |
| 07 | 30-DAY LETTER DEFAULT PERIOD | 30-Day Letter issued and default of 30 days set for monitoring. (If report/protest received earlier, case pulled for closing actions (Action code “10”); if no response, case pulled after 30-day default for unagreed, no response closure). | Today + 30 days |
| 08 | FOLLOW-UP ACT | Follow up activities/review documentation/revised report issued if applicable | Today + 10 days |
| 09 | MGR CONF APPT | Conference with manager requested | Set by User |
| 10 | CLOSING ACTIONS | Closing Actions needed on case (also used when accepted delinquent return received) | Today + 5 days |
| 12 | READY TO CLOSE | All actions completed by ET TCO, case ready to close out of the group | Today + 5 days |
| 13 | SECOND NOTICE | Second Notice Letter in no-response cases | Today + 15 days |
| 14 | SUSPENSE CASES | Case Suspense (Fraud, National Office or Counsel). Appropriate when case is in either Status Code “14” or “18”. | Set by User |
| 15 | FAST TRACK SETTLEMENT | Fast Track Settlement | Set by User |
| 16 | LOCAL DEFINITION | Reserved | N/A |
| 17 | FRAUD DEVELOPMENT | Developing a case for fraud potential | Set by User |

