



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.1.7

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EFFECTIVE DATE

(06-16-2016)

PURPOSE

- (1) This transmits revised IRM 5.1.7, *Field Collection Procedures, Government Agencies, Federal Employees/Retirees, Military Personnel and Department of Defense Employees*.

MATERIAL CHANGES

- (1) Minor editorial changes made throughout the text.
- (2) Added guidance in IRM 5.1.7.6(5) regarding the Federal Agency Delinquency program.
- (3) Added guidance in IRM 5.1.7.6(6) about the process to validate IDRS employment codes.
- (4) Added guidance in IRM 5.1.7.9(12) that per IRC 7508(e)(3) the ten-year collection period is not extended due to the deadline postponement in IRM 5.1.7.9(5) during any period of continuous qualified hospitalization as a result of injury received while serving in the combat zone or contingency operation and the following 180 days.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 5.1.7, dated October 14, 2015.

AUDIENCE

The intended audience is Small Business and Self Employed Collection and Compliance.

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Small Business/Self Employed

5.1.7

Government Agencies, Federal Employees/Retirees, Military Personnel and Department of Defense Employees

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5.1.7.1
(10-09-2008)
Overview

- (1) This IRM provides instruction and guidelines for working cases involving government entities, federal employees and retirees, IRS employees, military personnel, and civilian employees of the Department of Defense residing overseas. Additionally, it provides guidance for accounts of taxpayers who serve in a combat zone, contacting the U.S. Secret Service and U.S. Citizenship and Immigration Service, and obtaining and maintaining compelled information. The procedures are written specifically for revenue officers. Other employees in SBSE and employees in other functions may refer to these procedures.

5.1.7.2
(10-09-2008)
Small Business Administration (SBA) and Small Business Investment Companies (SBICs)

- (1) Revenue officers will use procedures found in IRM 5.1, *Field Collecting Procedures*, when working business cases involving Small Business Administration (SBA) and Small Business Investment Companies (SBICs) loans.
- (2) Financial and loan balance due information will be obtained from the bank that funded the loan. Should revenue officers need other information from the SBA, their requests should be submitted on IRS letterhead to: SBA, Portfolio Management Division, Mail Code 7024, 409 3rd Street SW, 8th Floor, Washington, D.C. 20416.

5.1.7.2.1
(10-09-2008)
Disclosure to SBA

- (1) Collection employees are authorized by IRC 6103(k)(6) and Treasury Regulation 301.6103(k)(6)-1 to disclose return information to the extent necessary to obtain information which may be related to a Collection investigation and which is not otherwise reasonably available. No special permission or authorization is needed to make investigative disclosures under the circumstances and conditions described in Treasury Regulation 301.6103(k)(6)-1, so long as the Collection employee is performing official duties for Collection activity. It is important to note that IRC 6103(k)(6) and Treasury Regulation 301.6103(k)(6)-1 permit the disclosure of return information in the investigatory process, but do not authorize the disclosure of the taxpayer's return. See IRM 11.3.21, *Investigative Disclosure*, for more detail on investigative disclosures.

Note: Authorization to disclose the taxpayer's return information under IRC 6103 should not be confused with authorization to contact third parties under IRC 7602(c). If the IRS contacts a third party to obtain information about the taxpayer, then the advance notice and record keeping requirements of IRC 7602(c) must be met unless the taxpayer authorizes the contact.

5.1.7.3
(07-01-2005)
U.S. Secret Service Guidelines

- (1) During the course of an investigation, Collection may learn of situations which should be reported to the U.S. Secret Service. These situations would involve the Secret Service's duties regarding protective services, forgery or counterfeiting.
- (2) Report emergency information, especially regarding threats against the President, Vice President, etc., immediately by telephone to the nearest U.S. Secret Service office or the U.S. Secret Service Intelligence Division, Washington, DC 202-406-8000.
- (3) In any case where an employee is concerned that the disclosure may involve a return, return information, or taxpayer return information as defined in IRC 6103(b), contact the Disclosure Officer for guidance as to the proposed disclosure.

- (4) Send routine reports to the office of the Director, Collection Policy (SE:S:C:HQC:P), who will forward them through liaison channels to the U.S. Secret Service Headquarters.

5.1.7.3.1
(06-16-2016)

**Protective
Responsibilities**

- (1) Under Title 18, U.S. Code, Section 3056, the U.S. Secret Service is charged with protecting:
 - The President, the Vice President, (or other individuals next in order of succession to the Office of the President), the President-elect and Vice President-elect.
 - The immediate families of the above individuals.
 - Former Presidents and their spouses for their lifetimes, except when the spouse remarries. In 1997, Congressional legislation became effective limiting Secret Service protection to former Presidents for a period of not more than 10 years from the date the former President leaves office.
 - Children of a former President get protection for 10 years or until they turn 16, whichever occurs first.
 - Visiting heads of foreign states or governments and their spouses traveling with them, other distinguished foreign visitors to the United States, and official representatives of the United States performing special missions abroad.
 - Major Presidential and Vice Presidential candidates, and within 120 days of a general Presidential election, their spouses.
 - Former Vice Presidents, their spouses, and their children who are under 16 years of age, for a period of not more than six months after the date the former Vice President leaves office.

5.1.7.3.2
(01-24-2001)

Protective Information

- (1) To carry out its protective duties the U.S. Secret Service has requested that the Service provide information (follow IRM 5.1.7.3(4) above to transmit the information):
 - a. That pertains to a threat, plan, or attempt by an individual, a group, or an organization to physically harm or embarrass the persons protected by the U.S. Secret Service, or any other high U.S. Government official at home or abroad.
 - b. That pertains to individuals, groups, or organizations who have plotted, attempted or carried out assassinations of senior officials of domestic or foreign Governments.
 - c. That concerns the use of bodily harm or assassination as a political weapon. This should include training and techniques used to carry out the act.
 - d. On persons who insist upon personally contacting high Government officials for the purpose of redress of imaginary grievances, etc.
 - e. On any person who makes oral or written statements about high Government officials in the following categories: (1) Threatening statements, (2) Irrational statements and (3) Abusive statements.
 - f. On professional gate crashers.
 - g. That pertains to "Terrorist" bombings.
 - h. That pertains to the ownership or concealment by individuals or groups of caches of firearms, explosives, or other implements of war.
 - i. In regards to anti-American or anti-U.S. Government demonstrations in the United States or overseas.
 - j. In regards to civil disturbances.

5.1.7.3.3
(07-01-2005)
**Counterfeiting and
Forgery Information**

- (1) To carry out its duties regarding investigations of counterfeiting and forgery, the U.S. Secret Service has requested that the Service supply information (follow IRM 5.1.7.3 (4) above to transmit the information):
 - a. That regards the counterfeiting of U.S. or foreign obligations, i.e., currency, coins, stamps, bonds, U.S. Treasury checks, Treasury securities, Department of Agriculture food coupons, debit cards and postage stamps.
 - b. That relate to the forgery, alteration and fraudulent negotiation of U.S. Treasury checks and U.S. Government bonds.

5.1.7.4
(01-24-2001)
**U.S. Citizenship and
Immigration Services
(USCIS)**

- (1) There is ongoing contact between U.S. Citizenship and Immigration Services (USCIS) and the Service. Programs cover two areas:
 - a. Aliens legally admitted to the U.S.
 - b. Aliens who entered the U.S. illegally
- (2) Returns and return information are confidential pursuant to IRC 6103. Disclosure of returns or return information to USCIS is statutorily authorized only in very limited circumstances; if such disclosure is contemplated, contact the Disclosure Office. See IRM 11.3, *Disclosure of Official Information*, for information on the disclosure of returns and return information.
- (3) 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.
- (4) Other efforts are geared to aliens who have entered the country illegally and are apprehended by USCIS. Many of the illegal aliens are paid low wages and have limited tax potential. However, those illegal aliens apprehended with the potential for significant tax liabilities are referred to IRS.

5.1.7.5
(01-24-2001)
**Information Compelled
From A Witness Under
Grant of Immunity**

- (1) Occasionally, revenue officers may need information that an immunized witness was compelled to supply under a grant of immunity from prosecution. This immunity can be granted by:
 - Congressional Committees
 - Certain federal and state agencies
 - Courts
 - Grand juries
- (2) Information that is directly or indirectly derived from evidence or testimony which an immunized witness was compelled to supply cannot be used against that witness in a criminal tax case now or in the future.

Caution: To ensure that any criminal tax case against an immunized witness is not inadvertently jeopardized, revenue officers must exercise caution when they:

1. Obtain compelled information.
2. Maintain compelled information in Collection case files.

5.1.7.5.1
(07-01-2005)
**Revenue Officer
Procedures for
Obtaining Compelled
Information**

- (1) Prepare a memorandum to the Criminal Investigation (CI), Director, Field Operations and forward it through the Field Territory Manager. The memorandum will state:
 - a. What information is needed,
 - b. Who has the information, and
 - c. Why it is needed for a case.
- (2) With the advice of Criminal Tax Counsel, the CI Director, Field Operations will respond to the request by:
 - a. Approving,
 - b. Disapproving, or
 - c. Placing limitations on the request.
- (3) Compelled testimony and other information may not be used in any other civil action during the pendency of the criminal aspects of the investigation without express written consent of the Director, Field Operations.
- (4) If a prosecution referral to the Department of Justice is in effect, the concurrence of the Tax Division must be obtained prior to the non-injunctive civil use of the testimony or information.

5.1.7.5.2
(01-24-2001)
**Revenue Officer
Procedures for
Maintaining Compelled
Information**

- (1) Maintain any Collection case file containing compelled information so that:
 - a. The compelled information and any additional information derived from it is identifiable as such.
 - b. All information developed through unrelated, independent investigation is also identifiable and segregated from the compelled information.
 - c. This compelled information should not be entered into an ICS case history but retained in paper form.
- (2) Do not give CI personnel access to compelled information without a request in writing from the CI Director Field Operations to the Territory Manager.
- (3) Maintain a chronological record of all Service personnel who had access to compelled information in any open case file.
- (4) Revenue officers who have access to compelled information should not be subsequently assigned to any joint criminal investigation on the witness who furnished it.

5.1.7.6
(06-16-2016)
**Federal, State and Local
Government Agencies**

- (1) Federal, state and local governments are exempt from income tax, but are required to comply with other tax laws except where the Internal Revenue Code provides specific exemptions. Your objective is to bring delinquent government taxpayers into full compliance.
- (2) Federal, state, and local government entities are identified on IDRS by Business Operating Division (BOD) Code **TE** and the following Employment Codes:
 - a. Code A: government entity for government fiscal agents
 - b. Code F: federal government agency
 - c. Code G: state or local government subject to income tax and Medicare withholding for employees hired after March 31, 1986
 - d. Code Q: quasi-government entity

- e. Code T: state or local government entered into a Section 218 Agreement in accordance with the Social Security Act (Form 941 filing requirements)

Note: Employment code “I” indicates the entity is an Indian tribal government. See IRM 5.1.12.24, *Indian Tribal Governments*, for procedures for these types of cases.

Note: After July 1, 1991, mandatory Social Security coverage was extended to all state and local government employees who were not covered by a Section 218 Agreement and were not covered by a qualifying public retirement system.

- (3) The Master File Employment Codes appear in the following:
 - a. Master File History Section of a Bal. Due
 - b. Del. Ret Information section of a Del. Ret
 - c. IDRS command codes ENMOD, TDINQ, and TXMOD
- (4) Prior to contacting a state or local government entity, the revenue officer and/or their manager should contact the Federal, State and Local Government (FSLG) division of the Tax Exempt Government Entities (TE/GE) business operating division. See IRM 5.1.7.6.3 for contact procedures.
- (5) Federal agency entities in collection status are systemically assigned to the Federal Agency Delinquency program (FAD), centralized in the Brookhaven Campus. These entities are assigned on ICS under assignment of 0100-8300, and have a Field assignment code on IDRS as 2100-8300. Revenue officers do not work federal government agency cases except in special circumstances when a referral is received from FAD during their escalation process. See IRM 5.1.7.6.2 for further guidance.
- (6) Since issuance of EINS to governmental entities is a self identified process, it may be necessary to validate the employment code assigned on IDRS upon assignment in inventory. If the assigned employment code is questionable, contact FSLG via an encrypted e-mail to FSLG coordinator: *TE EEF GE Group 7241. Indicate reason for validation of the employment code in the e-mail request. Include any research completed and documentation to support referral to FSLG for validation of employment code. Continue case processing while waiting for response.

5.1.7.6.1
(06-16-2016)
**State and Local
Government Agencies**

- (1) State and local governmental entities are generally exempt from federal income tax, but are required to file employment tax and information return reporting. Unlike Federal entities, state and local government segments are subject to enforcement type actions if all resolution attempts have been exhausted. Due to structure of governmental entities, additional research and contact with other areas within the IRS (CAWR, EXAM, FSLG) may be required. If there is a CAWR related discrepancy, contact with CAWR and / or SSA may be required to reconcile the account.
- (2) Since July 1, 1975 penalties and interest have been assessed and collected from state and local governments.
- (3) Work with the state or local government agency to obtain voluntary compliance.

- (4) Consider reasonable cause for penalties if the agency has taken action that will assure compliance in the near future, generally within the next six months.
- (5) Contact a state or local government official who has the authority to resolve the tax delinquencies and offer assistance for resolution.
- (6) Prior to taking action to either file a Notice of Federal Tax Lien (NFTL) or levy, the following must be addressed:
 - a. Ensure all resolution attempts have been exhausted.
 - b. Review all pre-action considerations for NFTL filing or levy issuance. See IRM 5.12.2.3, *Notice of Federal Tax Lien Filing Determination (Pre-Filing Considerations)*, and IRM 5.11.1.3.1, *Pre-Levy Considerations*.
 - c. Notify the Territory Manager (TM) prior to NFTL filing and/or levy issuance.
 - Route the TM notification through your group manager.
 - Include any research conducted with the notification.

Note: The taxpayer must receive an LT 11 or a Letter 1058, *Final Notice - Notice of Intent to Levy and Notice of Your Right to a Hearing*, before a levy can be issued, even if the TM has agreed to the levy issuance.

- (7) Do not make referrals to Headquarters regarding the assertion or collection of penalties and interest against state and local government agencies.

Exception: If the issue involved is significant to tax administration, a referral can be made.

5.1.7.6.2
(06-16-2016)
**Federal Government
Agencies**

- (1) Federal agencies in collection status are to be re-assigned to the centralized Federal Agency Delinquency (FAD) team in the Brookhaven campus. If the case is on ICS, it needs to be re-assigned to FAD, refer to next paragraph for additional guidance. The role of FAD is to assist federal agencies with all compliance related issues, including resolving delinquencies, monitoring compliance, reconciling accounts as well as education to prevent future compliance issues. The CFO office and Federal, State and Local Governments (FSLG) support the program by assisting with case resolution when appropriate. Federal agency delinquency cases should not be worked in Field Collection, except in special circumstances. If you receive a federal agency delinquency case in your inventory without indication the case is an official referral, inform your group manager as soon as possible. **Do not contact the federal agency.** See IRM 5.1.7.6.2.1 for further guidance.
- (2) As of July 2015, FAD inventory was transitioned and is currently monitored on ICS under ICS assignment code 0100-8300. Since cases are not subject to enforcement actions, a final notice is not issued and the module is accelerated to status 26 within 5-6 weeks from the assessment date.
- (3) Federal agencies will have an "Employment Code - F." To confirm the entity is a federal agency, review the following:
 - ICS "Other entity information" screen for BMF taxpayers.
 - IDRS "ENMOD" screen.
- (4) Detailed information regarding federal agencies filing, paying and reporting requirements is in IRM 5.19.15, *Federal Agency Delinquency (FAD) Program*.

5.1.7.6.2.1
(08-25-2014)

Federal Government Agency Cases and Special Circumstances

- (1) Federal agency delinquency cases in status 26 are assigned to FAD using assignment code 21008300 on the Integrated Collection System (ICS). National Headquarters may request, through the Area Director's office, that an Other Investigation (OI) be issued on ICS for a revenue officer to take specific actions regarding a federal agency's delinquency. See IRM 5.19.15.6, *Escalation/Referral Process Overview*, for additional information.

Note: IRS internal policies limit collection actions on delinquent accounts for federal agencies. Federal agencies do not receive final Balance Due Notices, CP504, LT11 or LT1058(C). IRS policy also prohibits enforcement actions (such as lien, levy, or Federal Payment Levy Program (FPLP), assertion of Trust Fund Recovery Penalty and seizure). Policy Statement 20-2 (Formerly P-2-4), provides for nonassertion of penalties and interest against instrumentalities of the United States.

- (2) Perform the requested actions within the specified time frame indicated on the OI. If the actions cannot be completed within the time frame, inform your group manager as soon as possible.
- (3) When all specified actions have been completed, document a brief closing summary in the case history. The summary should include:
 - All contact information, i.e., person contacted, their telephone number, position or rank within the agency, where the contact occurred (if different from the OI address)
 - The specific documents received or actions taken
- (4) After completing the summary statement, submit the closed OI for approval by the group manager.
- (5) Once approved, inform the Headquarters analyst who issued the original request of the actions taken on the case.

Note: You may contact the Headquarters analyst directly if you have questions regarding the requested actions or any difficulties involving the OI.

5.1.7.6.3
(10-14-2015)

Contact Procedures for the Federal, State and Local Government (FSLG) Analyst

- (1) Prior to contacting a federal, state, or local government entity, the revenue officer and/or manager should contact FSLG. An **encrypted** e-mail will be sent to *TE/GE-FSL-CPM; Subject-Assignment of FSLG Collection Case. Provide the EIN and entity name in the body of the e-mail.
- (2) Upon receipt of the e-mail, the FSLG analyst will provide the following information:
 - Whether or not FSLG has had any prior contact with the Government Entity (GE), or
 - Whether or not FSLG currently has an open case with the GE, and
 - The FSLG field group to which the case is assigned and FSLG field manager's name and phone number

5.1.7.7
(08-25-2014)
**Federal
Employee/Retiree
Delinquency Initiative**

- (1) The Federal Employee/Retiree Delinquency Initiative (FERDI) program was developed in 1993 by the Internal Revenue Service to promote federal tax compliance among current and retired federal employees. The program incorporates the purpose and intent of Office of Government Ethics regulation 5 C.F.R. 2635.809 which addresses the responsibility of federal employees to “satisfy in good faith their obligations as citizens, including all just financial obligations, especially those such as federal, state, or local taxes that are imposed by law.” The following section contains instructions for handling federal employee and retiree delinquencies.
- (2) The procedures in this section apply to all taxpayers currently receiving a salary or pension from the federal government. This includes the following:
 - Civilian employees, including U.S. Postal Service
 - Civil Service or Federal Employee Retirement System retirees
 - Active duty military
 - Military retirees
 - National Guard/Reservists

Note: These procedures do not apply to survivors of federal retirees.

- (3) Interview procedures for these taxpayers are the same as for any other taxpayer: use the tiered interview to obtain full payment and filing of delinquent returns **today**, or the best arrangement you can get.
- (4) However, other procedures are different for federal employees and retirees, and are outlined in this section.

5.1.7.7.1
(08-25-2014)
**Identification of FERDI
Cases**

- (1) FERDI taxpayers are identified by matching the primary Social Security Number (SSN) and secondary SSN (if joint liability) of balance due and/or return delinquency accounts against:
 - U.S. Office of Personnel Management (OPM) Central Personnel Data File (CPDF)
 - Department of Defense military and civilian personnel records maintained by Defense Manpower Data Center (DMDC)
 - U.S. Postal Service (USPS) employment file
 - Selected internal Form W-2, *Wage and Tax Statement*, records
- (2) Systemic Master File processing of the matched records generates a transaction code (TC) 016 with Document Locator Number (DLN) 38263-996-00100-y, (where “y” is the last year digit of the year the DLN was assigned). This transaction will cause a FERDI indicator to be set on the Individual Master File(IMF). The FERDI indicator may also be manually set by input of TC 971 AC 51.

Note: The FERDI indicator is an entity indicator. On joint accounts, the FERDI indicator posts to the primary SSN, regardless of whether the primary, the secondary, or both taxpayers are federal employees or retirees.

- (3) Our computer systems display the indicator by the following literals:
 - IDRS IMF ENMOD screen: **FED-EMP>F**
 - ICS Case Summary Screen: **FED**
 - IDRS TDINQ: **SELECTION CODE 12**

- IDRS LEVYS: **FR** (federal retiree); **FE** (federal employee); **DM** (current military/reserve/national guard), **PS** (US Postal Service)
- Accounts Management System (AMS) summary screen: "Federal Employee" in "Alerts" section
- Automated Collection System (ACS) Case Overview screen: **FE** and status message 139 FERDI ACCOUNT
- ACS levy screen: **FR** (federal retiree), **FE** (federal employee), **PS** US Postal Service, **DMDC** (Department of Defense civilian and military)
- ACS TDI screen: **SELECTION CODE 12**
- CFOL CC IRPOL and CC SUPOL: **federal agency name** (payer); CC SUPOL also indicates **SELECTION CODE 12**
- Del. Ret **SELECTION CODE 12**
- CP 515 through 518, after the notice number: **F**
- W-2, 1099R: **federal agency payor**

- (4) FERDI Del. Ret cases are further identified by SELECTION CODES 12 or 93. Cases for Tax Years 2000 and prior are identified by SELECTION CODE 93. Tax Years 2001, 2002 and 2003 cases are identified by SELECTION CODE 12 where the BOD is WI and SELECTION CODE 93 where the BOD is SB/SE. Starting with Tax Year 2004, SELECTION CODE 12 will be used to identify all FERDI Del. Ret cases.

Note: In some instances, a FERDI case may be assigned a different selection code during IMF Return Delinquency case creation. Look for the federal indicator code to confirm that it is a FERDI case.

- (5) If a code is not present and contact with the taxpayer reveals that he/she or his/her spouse is a federal employee or retiree, input the federal indicator code to IDRS with TC 971, Action Code 51. On joint balance due assessments, input the federal indicator code on the primary SSN.
- (6) If taxpayer contact on a case with a federal indicator reveals the taxpayer receives no federal salary or retirement benefit, confirm this by checking IDRS cc IRPOL, IRPTR, and/or SUPOL.

Note: If the federal indicator was set after the Information Returns Processing (IRP) tax year you are researching, the taxpayer is, in all likelihood, a current federal employee or retiree. Research ENMOD to see when the indicator posted to the account.
See (2) above for instructions on identifying the indicator.

- (7) If this research is inconclusive, contact as needed:
- a. Defense Finance and Accounting Service, Cleveland, OH
 - b. OPM, Washington, D. C., for retiree cases, or
 - c. Former federal employer
- (8) Once a year, FERDI indicators are systemically removed from accounts of taxpayers who are no longer federal employees or retirees. This is accomplished by matching FERDI taxpayer records (both the primary and secondary SSN for joint entities) against federal sources to identify those individuals no longer employed, or in the case of retirees, deceased. In order to systemically remove the indicator, **both** the primary and secondary SSN must not match the federal sources. Master File processing generates a TC 016 with DLN

38263-995-00100-y, (where “y” is the last year digit of the year the DLN was assigned) which removes the FERDI indicator.

- (9) If you are sure the taxpayer is not receiving a federal salary or pension, reverse the federal indicator code with TC 972, Action Code 51. After three cycles, the system will no longer block case closures listed below in IRM 5.1.7.7.2 (2)..

Reminder: On joint liabilities, either the primary or secondary spouse or both, may be federal employees or retirees.

5.1.7.7.2
(08-25-2014)
**FERDI Case Processing
Criteria**

- (1) In most instances, FERDI cases, with the exception of IRS employee cases and cases with an aggregate assessed balance of \$1,000,000 or more will be worked in ACS. Assignment to the field will be based on the current inventory prioritization guidelines applied to all cases.

Note: FERDI cases with a balance due below \$1,000,000 may be appropriately assigned and worked in Field Collection in a variety of circumstances.

- (2) The following balance due module dispositions are blocked:

- Unable to Locate, TC 530 closing code (CC) 03
- TC 530 CC 39 (if the 23C date is more than six months from the latest Collection Statute Expiration Date (CSED) or the total module balance is greater than \$25)

Note: In addition to the above types of disposition, ICS blocks the reassignment of FERDI cases to the Queue.

- (3) The following delinquent return module dispositions are blocked:

- Unable to Locate, TC 593
- Surveyed, TC 597
- Shelved, TC 598

- (4) Attempts to close cases in these ways will cause an unpostable condition and result in an error message or re-issuance of the case.

5.1.7.7.3
(06-16-2016)
**Procedures on FERDI
Cases**

- (1) Follow normal collection and taxpayer interview procedures with the exceptions listed below. The objective of FERDI cases is the full payment and filing of returns as soon as possible, as with any other case. Because of the sensitivity of FERDI cases and the requirements of the Office of Government Ethics regulation 5 C.F.R. 2635.809, which addresses the responsibility of federal employees to satisfy their financial obligations, take extra care when granting FERDI taxpayers additional time to pay.
- (2) You **MUST** determine the cause for the delinquency and take corrective actions to prevent future delinquencies. .
- (3) Secure all required returns. For delinquent return modules previously closed with TC 593, TC 595 (unless the assessment is pending or the case is assigned), TC 597, or TC 598, reverse the transactions with a TC 592 with no closing code.

- (4) When entering into installment agreements with federal employees, use of payroll deduction agreements (PDIA) is encouraged, but not required.
 - a. The U.S. Department of Agriculture, National Finance Center (NFC), the U.S. Department of Interior, Interior Business Center (IBC), the Defense Finance and Accounting Service (DFAS), the General Services Administration (GSA), and the U.S. Postal Service (USPS) provide payroll services for most federal employees.
 - b. See IRM Exhibit 5.11.7-1, *FPLP - Federal Employee Salary Paying Agencies: NFC, NBC, GSA, and DFAS*, to determine which payroll provider services the taxpayer's employing federal agency.

Note: DFAS accepts payroll deduction agreements for civilian employees only.

- c. IFC, NBC and GSA accept Form 2159, *Payroll Deduction Agreement*. PDIA's with USPS and DFAS can be established by using Letter 3676, *Payroll Deduction Installment Agreement Letter*, in lieu of Form 2159.
- (5) A FERDI case may be closed Currently Not Collectible (CNC) (hardship), if the taxpayer is unable to pay reasonable basic living expenses. Generally, these cases involve insufficient income and insufficient equity in assets to make any payment without causing hardship. See 5.16.1.2.9, *Hardship*. Conduct a full financial analysis in order to determine the correct resolution of the case.
- (6) To resolve accounts when the taxpayer meets the criteria for CNC (hardship) but has unfiled returns, ACS employees will follow the guidance in IRM 5.19.18.5.10.2, *Currently Not Collectible (CNC) - Hardship*, and Field Collection employees will follow the guidance in IRM 5.16.1.2.9, *Hardship*.
Reminder: Levies cannot be issued or left in place if the taxpayer meets the criteria for CNC (hardship).
- (7) Open delinquent return modules maybe resolved by closing as little or no tax due, refund due or income below filing requirement (P-5-133), if warranted by the facts of the case. See the provisions in IRM 5.1.11, *Delinquent Return Investigations*, that explain the various methods of "resolving" open modules. If the taxpayer is required to file and refuses, a referral to Examination or summons may be appropriate. See IRM 25.5.5, *Summons for Taxpayer Records and Testimony*, for summons procedure.
- (8) Refer taxpayers to the Taxpayer Advocate Service (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. Do not refer "same day" cases to TAS unless the taxpayer asks to be transferred to TAS and the case meets TAS criteria. See IRM 13.1.7.4, *Same Day Resolution by Operations*. When you refer cases to TAS, use Form 911, *Request for Taxpayer Advocate Service Assistance and Request and Application for Taxpayer Assistance Order* and forward to TAS.

5.1.7.7.3.1
(06-16-2016)

Offers In Compromise

- (1) Offers in Compromise from **employees of the IRS** will be considered. However, due to the sensitivity of issues related to the tax delinquencies of federal employees, public policy implications must be considered in all cases. The authority to accept or reject offers in compromise involving employees of the Internal Revenue Service is delegated to SB/SE Director, Collection Policy; SB/SE National Program Manager (OIC); SB/SE Director, Specialty Collection Offers & Liens; Appeals Director, Field Operations, Appeals Director, Campus Operations; Appeals Director, Specialty Operations; and SB/SE Examination Area Directors . See IRM 1.2.44.2, *Delegation Order 5-1 (Rev 4)*.

5.1.7.7.3.2
(06-21-2011)

Federal Employee Levy Procedures

- (1) Form 668-W, *Notice of Levy on Wages, Salary, and Other Income*, may be issued or taxpayers may be subject to the Federal Payment Levy Program (FPLP):
 - a. Use Form 668-W, *Notice of Levy on Wages, Salary, and Other Income*, to attach pension income and the Retirement and Disability Survivors insurance portion of Social Security benefits. Delegation of approval authority for these levies to call site unit managers and GS-9 revenue officers is suggested. See IRM 5.11.6, *Notice of Levy in Special Cases*, for levy procedures for federal employees.

Note: IRC 6343(e) requires the release, as soon as practicable, of a levy on salary or wages due a taxpayer upon agreement with the taxpayer that the tax is not collectible. Steps should be taken to accomplish the release immediately. Case histories must be reviewed to ensure that wage levies are released prior to declaring an account uncollectible under hardship closing codes. The case history must be documented.

- b. Form 668-W, *Notice of Levy on Wages, Salary, and Other Income*, has a continuing effect on the salary of National Guard/Reservists. Defense Finance and Accounting Service offices should not return these levies without remittance when the taxpayer is an active member of the National Guard/Reserves, unless the taxpayer's allowance exemptions from levy equal or exceed his or her pay.

Note: Take no enforcement action if the case shows that the taxpayer is serving in a qualified combat zone. See IRM 5.1.7.9 for more information on accounts of taxpayers who serve in a qualified combat zone.

- c. The FPLP systemically matches and levies up to 15% (100% with respect to payments due a vendor for goods or services sold or leased to the federal Government) of certain federal payments disbursed by the Department of Treasury, Financial Management Service (FMS). In most instances FERDI taxpayers may already be subject to the FPLP levy. Revenue officers must decide whether to utilize the FPLP levy in their case resolution strategy. See IRM 5.11.7.2, *Federal Payment Levy Program*, for guidance in recognizing and handling FPLP cases.

Note: IRS policy prohibits the FPLP levy on active duty and retired military pay. See IRM 5.19.18.5 *FERDI Inventory Processing*.

- d. **DO NOT** serve Form 668-A, *Notice of Levy*, or Form 668-W, *Notice of Levy, on Wages, Salary, and Other Income*, to the federal agency source, when the FPLP is simultaneously levying the same payment from FMS. In such instances the federal agency will return the Notice of Levy to the originator.

- e. If a Notice of Levy is the preferred method of collection, the FPLP levy must be blocked or electronically released before service. See IRM 5.11.7.2.6, *Blocking or Releasing FPLP Levy*, for instructions on blocking or releasing the FPLP levy.

5.1.7.7.3.3
(08-25-2014)
CNC Unable to Contact

- (1) Close FERDI cases using TC 530 CC 12 when the taxpayer's ability to pay cannot be determined because they cannot be contacted and income and assets cannot be identified.
- (2) In addition to research and actions required by IRM 5.16.1.2.1, *Unable to Locate and Unable to Contact*, you must address all ICS levy sources. Issue levies or confirm that the taxpayer is not owed any funds from the levy sources.

5.1.7.8
(08-25-2014)
IRS Employee Cases

- (1) IRS employees have both a federal employee indicator and an IRS employee indicator on their accounts. Our computer systems identify IRS employee cases by the following literals:

- Bal. Due — **IRS EMPLOYEE**
- ENMOD — **IRS- EMP**
- TXMOD — **IRS- EMP**
- IMFOL — **IRS EMPL**
- Del. Ret — **SELECTION CODE 02**
- ICP — **ALERT INDICATOR on primary screen**

Note: Del. Ret cases for Tax Years 2000 and prior are identified by SELECTION CODE 92. Tax Years 2001, 2002 and 2003 cases are identified by SELECTION CODE 02 where the BOD is WI and SELECTION CODE 92 where the BOD is SB/SE. Starting with Tax Year 2004, SELECTION CODE 02 will be used to identify all IRS employee Del. Ret cases.

- (2) Also, IRS may be shown as an employer on IDRS cc LEVYS and IRPOLE.
- (3) IRS employee coded cases are designated as:
- 1- Primary taxpayer is an IRS employee
 - 2- Secondary taxpayer is an IRS employee
 - 3- Both taxpayers are IRS employees
- (4) Area offices will designate an experienced revenue officer and back-up to work IRS employee cases.
- a. Bal. Due and Del. Ret cases with IRS employee indicators are systematically assigned to the Area ICS/Entity Quality Analyst (IQA) via the Integrated Collection System (ICS).
 - b. The IQA is responsible for receipt, control and assignment of these cases. The IQA will notify the Area Director (AD), or a designated member of the AD's staff, by secure E-mail of all IRS employee cases within their area. These cases will be identified by Taxpayer Identification Number, name, and address as shown on the tax return.
 - c. The AD is ultimately responsible for identifying any conflict of interest in assignment of IRS employee cases.

- (5) Due to the sensitive nature of IRS employee cases, revenue officers designated to work them are advised to protect themselves against inappropriate disclosures.
- (6) See IRM 5.1.11.4.7, *IRS Employee Return Delinquency*, for additional guidance in working return delinquency cases on IRS employees.
- (7) Revenue officers making installment agreements with IRS employees should do so by Payroll Deduction Agreement on Form 2159, *Payroll Deduction Agreement*. Forward the agreement to the National Finance Center for payment.
- (8) Due to the sensitive nature of IRS employee cases, all IRS Employee Tax Compliance cases sent to Appeals must be routed using "Form 3210", *Documental Transmittal*, to the Atlanta Appeals Office, 401 W. Peachtree Street NW, Suite 1455, Mail Stop 1100-D, Atlanta, GA 30308-3539 . In the remarks section of Form 3210 , enter "Employee Tax Compliance Case."

5.1.7.8.1
(08-25-2014)
**Removal of the IRS
Employee Indicator**

- (1) Remove the IRS employee indicator using TC 972 AC 191 if, after investigation, you determine that:
 - a. The employee no longer works for the IRS, or
 - b. The secondary coded case is now an ex-spouse and there are no outstanding liabilities with the ex-spouse.
- (2) If the above conditions are met and you determine the taxpayer is not a federal employee or retiree, also remove the FERDI indicator using TC 971 AC 51. See IRM 5.1.7.7.1(9).

Note: On joint liabilities, do not remove the FERDI indicator if either the primary or secondary spouse is a federal employee or retiree.

5.1.7.9
(06-16-2016)
**Accounts of Taxpayers
Who Serve in a Combat
Zone**

- (1) Combat Zone accounts, identified by a -C freeze, indicate a taxpayer who is or was serving in a designated combat zone area.

Note: The -C freeze stays on the account even after the taxpayer is no longer in the combat zone. When working an account that contains a -C freeze, additional research is required to determine the taxpayer's combat zone status. Research CC IMFOLE for the Combat indicator on Line 11.

- (2) See IRM 5.19.10.6.3 , *Combat Zone Freeze Code*, for evaluating the status of -C Freeze accounts.
- (3) If Combat indicator is "1", then the taxpayer is still serving in a combat zone. Any compliance activity such as assessing or collecting tax is prohibited. However, if the taxpayer has other issues or requests information, you may work these other issues and contact the taxpayer if needed.
- (4) If Combat indicator is "2", then the taxpayer is no longer a combat zone participant. Follow normal IRM procedures to work the case.
- (5) Individual taxpayers who have been identified as Combat Zone personnel receive certain allowances under IRC 7508. Section 7508 postpones the time for taxpayers to perform certain time sensitive acts. These time sensitive acts include:

- Filing tax returns
- Paying taxes
- Filing claims for refunds
- Taking other actions with the Internal Revenue Service (IRS)

The postponement period is for the period of service in the combat zone and any period of continuous hospitalization from such service (limited to five years of hospitalization inside the United States) as a result of injury received while serving in the combat zone plus 180 days following such service. The IRS will also cease **all enforcement** actions during the postponement period.

The postponement under IRC 7508 is in effect while the individual is serving the United States in the following circumstances:

- a. Serving in the United States Armed Forces (Armed Forces) or in support of the Armed Forces in an area designated as a “combat zone” by the President of the United States (President) in an Executive Order.
 - b. Serving in the Armed Forces or in support of the Armed Forces when deployed outside the United States away from the individual’s permanent duty station while participating in an operation designated as a “contingency operation” by the Secretary of Defense.
 - c. Serving in the Armed Forces in an area designated by Congress as a “qualified hazardous duty area.”
 - d. The spouses of combat zone personnel listed under (a) (b), and (c) above. This does not apply if the individual considered as combat zone personnel is hospitalized inside the United States.
- (6) Individuals who serve in support of the Armed Forces in a combat zone also receive the postponement period under IRC 7508. These individuals include the following:
- Merchant Marines serving aboard vessels under the operation and control of the Department of Defense
 - Red Cross personnel
 - Accredited Correspondents
 - Civilian personnel acting under the direction of the Armed Forces in support of those Forces
- (7) Military Service performed outside a combat zone but within a “qualified hazardous duty area” is treated in the same manner as if the area was a combat zone if:
- a. The service is in direct support of the military operations in a combat zone, and
 - b. The service qualifies the individual for special military pay for duty subject to hostile fire or imminent danger
- (8) See IRM 5.19.10.6.2, *Combat Zone Qualified Individuals and Areas*, for additional information and a listing of combat zones and qualified hazardous duty areas.
- Note:** See Pub. 3, *Armed Forces’ Tax Guide*, for additional information and qualified hazardous duty areas that may qualify for similar relief.
- (9) IRC 692(a) provides that any individual who dies while in active service as a member of the Armed Forces of the United States (if such death occurred

while serving in a combat zone or as a result of wounds, disease or injury incurred while serving) is not liable for any income tax for the taxable year in which the date of death falls or with respect to any prior taxable year ending on or after the first day of the period in a combat zone as well as any income tax which is unpaid for any prior years at the date of death (including interest, additions to the tax and additional amounts). Such tax shall not be assessed and if assessed shall be abated, and if collected shall be credited or refunded as an overpayment.

- (10) For military personnel reported as Missing-In-Action (MIA) and later determined to have died at an earlier date, IRC 692(b) provides for forgiveness of income taxes through the taxable year in which the missing status is changed rather than just through the year of actual death. However, such taxes will not be forgiven for any year beginning more than two years after termination of combatant activities (in the case of Vietnam, no later than January 2, 1978).
- (11) Suspend all payment and collection activity when it is determined that the taxpayer is entitled to a postponement under IRC 7508. Information documenting when service in the combat zone began (combat zone entry date), is sufficient to suspend collection activity. If a joint assessment is involved, suspend collection activity from both spouses during the period provided by IRC 7508. The case file should be annotated accordingly. Examples of collection activity which are to be *suspended* are:
 - Conducting investigations to pursue a Trust Fund Recovery Penalty (TFRP) assessment(s) against the taxpayer deployed to the combat zone (TFRP interview, summoning bank records, etc.).
 - Conducting investigations to locate assets and sources of funds for potential levy and/or seizure action.
 - Conducting investigations to determine the value of assets for potential levy and/or seizure action.
- (12) Per IRC 7508(e)(3) the ten-year collection period is not extended due to the deadline postponement in IRM 5.1.7.9(5) during any period of continuous qualified hospitalization as a result of injury received while serving in the combat zone or contingency operation and the following 180 days.

5.1.7.9.1
(08-21-2006)
**Business Masterfile
(BMF) Accounts of
Taxpayers Deployed to a
Combat Zone.**

- (1) Although IRC 7508 applies to individual taxpayers the Service allows business taxpayer accounts to be postponed if the account meets the criteria in (3) below. The postponement includes the suspension of all collection activity (including the assessment of the Trust Fund Recovery Penalty) during the period of time in which the criteria of (3) below applies plus 180 days.
- (2) Collection personnel (revenue officers) will use the following procedures to suspend BMF Del. Ret. and Bal. Due accounts of taxpayers deployed to a Combat Zone.
- (3) To suspend BMF accounts of taxpayers deployed to a Combat Zone, the taxpayer must meet all of the following criteria:
 - The business entity is a sole proprietorship, a partnership, or a personal service corporation (e.g., doctor, dentist, certified public accountant) where the key individual/partner is in the combat zone, and
 - The business ceased operations from the time the key individual/partner entered the combat zone.

Note: Business operations are considered to have ceased even if some business activity has occurred after the **key individual** has been deployed to the combat zone (i.e., an office manager billing customers, preparing final tax returns, or making final payroll).

- (4) Document the case history to indicate that the taxpayer meets all of the criteria to qualify for combat zone status.

5.1.7.9.2
(07-01-2005)
**Substantiation
Procedures for Section
7508 (Combat Zone)
Postponement**

- (1) When it is common knowledge or apparent that the taxpayer is Combat Zone personnel, oral testimony is acceptable proof that the taxpayer is entitled to the Combat Zone special tax treatment.
- (2) When it is not common knowledge or apparent that the taxpayer is Combat Zone personnel, written substantiation, such as a copy of the military or civilian orders or a statement issued by the Department of Defense (DOD) attesting that the Combat Zone qualifications are met, is acceptable.
- (3) A signed statement secured by the taxpayer or a contact, such as a spouse or attorney, may be accepted as substantiation when a copy of the military or civilian orders or a DOD statement is not easily accessible. (Note: Falsely claiming special treatment for Combat Zone relief can be used as evidence of willfulness should the issue arise later.)
- (4) In addition, the Internal Revenue Service may have previously identified the taxpayer as Combat Zone personnel by entering a "C" freeze on Masterfile.

5.1.7.9.3
(06-21-2011)
**Combat Zone Freeze
Codes**

- (1) The Combat Zone freeze code suspends:
- a. Accrual of interest and penalties for all tax periods.
 - b. Assessment Statute Expiration Date (ASED).
 - c. Refund Statute Expiration Date (RSED).
 - d. Collection Statute Expiration Date (CSED).
 - e. Any collection activity (levy, liens, seizures, assessment of the trust fund recovery penalty).
- (2) Request input of TC 500 (-C Freeze) with the appropriate closing code(CC) to **initiate** the combat zone freeze, complete Form 4844, *Request for Terminal Action*, and include the combat zone entry date:
- TC 500, CC 52 (Desert Storm Combat Zone)
 - TC 500, CC 54 (Bosnia/Former Yugoslavia or Allied Force)
 - TC 500, CC 56 (Afghanistan or Iraqi Freedom)

Note: If the combat zone entry date is not known, use the date of contact on the Form 4844, *Request for Terminal Action*.

- (3) As of January 2008, TC 598 cc 70 will systemically be input on delinquent return modules upon the input of TC 500 with the above closing codes. The TC 598 cc 70 closes the module during the administrative relief period. The module will be identified on IDRS with a -C freeze code.

- (4) When it is determined that the TC 500 (-C Freeze) is no longer appropriate, complete Form 4844, *Request for Terminal Action*, and include the combat zone exit date. Use the following transaction and closing codes to **reverse** the combat zone freeze code:

- TC 500, CC 53 (Desert Storm Combat Zone)
- TC 500, CC 55 (Bosnia/Former Yugoslavia or Allied Force)
- TC 500, CC 57 (Afghanistan or Iraqi Freedom)

5.1.7.9.3.1
(10-09-2008)

**Procedures to Suspend
BMF Balance Due
Accounts**

- (1) The following steps are to be adhered to when suspending collection of BMF balance due accounts, when the **key individual** is deployed to a Combat Zone.

- a. Prepare Form 53, *Report of Currently Not Collectible (CNC) Taxes*. Use closing code (CC) 14 with a mandatory follow-up. Complete item 7b of Form 53 by checking the "Yes" box.

Note: Prepare and send a paper Form 53 to CCP for input since CC 14 is currently not an available closing code on ICS.

- b. If the Combat Zone exit date is known, add 180 days to the combat zone exit date as the mandatory follow-up date.
- c. If the Combat Zone exit date is unknown, use 6 months from the date the Form 53 is prepared as the mandatory follow-up date.
- d. Annotate Form 53, item 22 with the following: "Determine the taxpayer's combat zone status."

- (2) When conducting follow-up procedures on these cases, follow procedures in IRM 5.16.1.6, *Mandatory Follow-Up*. During the follow-up investigation, determine the taxpayer's combat status. If they:

- a. Continue to be Combat Zone personnel, then revise the mandatory follow-up date to the combat zone exit date plus 180 days. If the combat zone exit date is unknown, use 6 months from the date the investigation is completed as the new mandatory follow-up date.
- b. No longer are Combat Zone personnel, then revise the mandatory follow-up date to the actual combat zone exit date plus 180 days.

5.1.7.9.3.2
(10-09-2008)

**Procedures to Suspend
BMF Delinquent Return
Accounts with related
BMF Balance Due
Accounts**

- (1) When the **key individual** is deployed to a Combat Zone select Transaction Code (TC) 590, CC 50 - Not Liable for Return "Option C" from the "F6-Close Del. Ret." menu on the Integrated Collection System to close the Del. Ret. tax periods.

- (2) Use TC 590 for the first tax period that includes the date the taxpayer will enter the Combat Zone. For subsequent tax periods, use TC 590 for the next three tax periods.

- (3) Document the case history that the taxpayer has been deployed to the Combat Zone. If the taxpayer has provided an entry date for deployment to the Combat Zone, annotate the case history accordingly.

5.1.7.9.3.3
(10-09-2008)
**Procedures to Suspend
Stand Alone BMF
Delinquent Return
Accounts**

- (1) Use TC 598 CC 70 to close stand-alone BMF Delinquent Return Accounts when the taxpayer is on active duty in a Combat Zone. Do not work the account until the taxpayer exits the combat zone. When the taxpayer exits the combat zone, the TC 598 will be reversed.

5.1.7.9.3.4
(06-21-2011)
**Combat Zone
Computation of
Suspense Period**

- (1) The start date of the combat zone suspense period begins on the transaction date of the TC 500 Closing Code 52, 54, or 56.
- (2) The ending date of the suspense period is calculated 180 days from the date of the TC 500 Closing Code 53, 55, or 57 (combat zone exit date). The 180 days begin on the day following the combat zone exit date. The suspense period is extended by an additional 105 days (106 in a leap year) if the taxpayer was in the combat zone the entire filing season.

Example: For a taxpayer in the combat zone at any time between January 1 and April 15 of the year in which the return was due, the suspense period is extended by the number of filing season days the taxpayer was in the combat zone. The suspense period is calculated systemically. If the taxpayer was in the combat zone more than one filing season, the suspense period is calculated for each tax year.

- (3) Send Letter 2761(C), *Request for Combat Zone Service Dates*, to the taxpayer requesting the combat zone exit and/or entry date if TC 500 Closing Code 53, 55, or 57 is not present.
- (4) Balance due accounts systemically return to normal processing when the suspense period expires.

Note: The entry and exit dates must be present for the system to determine when to reactivate these accounts.

5.1.7.9.3.5
(10-21-2011)
**Military Power of
Attorney (POA) for
Representation of
Deployed Military
Personnel**

- (1) A military POA is sufficient authorization to permit an individual to represent a deployed member of the military before the IRS.
- (2) An individual holding a military POA is often the spouse of the deployed military member. Since the military POA is broader and cannot be input into the CAF, it is acceptable for the IRS to require the non-deployed spouse (or other military POA holder) to complete a Form 2848, *Power of Attorney and Declaration of Representative*. The spouse (or other military POA holder) should be permitted to sign the Form 2848 for the military member and as the deployed military member's authorized representative. See IRM 5.1.23.3.5, *Military Power of Attorney (POA) for Representation of Deployed Military Personnel*.
- (3) Attach a copy of the military POA to the completed Form 2848 before submission to the IRS.

Note: A Form 2848 signed by the military member and his or her authorized representative, including a spouse or other family member, is sufficient for representation before the IRS.

5.1.7.10
(06-16-2016)

**Military Personnel and
Civilian Employees of
Department of Defense
Residing Overseas**

- (1) The Department of Defense (DOD) has issued instructions to their payroll officers to transfer a Notice of Levy to the proper payroll officer when military personnel change their duty station anywhere in the world. As a result, it is not necessary to have the Bal. Due follow the taxpayer who is transferred to a new duty station.
- (2) In an agreement with DOD on processing accounts of military personnel having APO or FPO addresses, the Service also agreed to a similar understanding on processing accounts of DOD civilian employees residing overseas. Both agreements provide for the acceptance of service of levies by mail in the United States and forwarding to the payroll officer overseas. This includes all military personnel and DOD civilian employees residing overseas with the exception of those in Hawaii, Alaska, and Puerto Rico where the local payroll offices continue to accept service of the levy.
- (3) All Bal. Dues on military personnel stationed outside the area in which the Bal. Due is located and those Bal. Dues on civilian employees of DOD residing overseas require a waiting period of 40 days before issuing a Notice of Levy after the date of the notice of intent to levy described in IRC 6331(d)(1); e.g., the Letter 1058, *Final Notice - Notice of Intent to Levy and Notice of Your Right to a Hearing*, or the LT11, *Final Notice - Notice of Intent to Levy and Your Notice of a Right to a Hearing*, sent by ACS. There is no provision in the International Postal Manual for sending certified mail to a foreign address. Registered Mail is the replacement service to USPS Certified Mail. See IRM 1.22.2.3(4), *International Mail*. However, mail addressed to APO (Army Post Office) and FPO (Fleet Post Office) boxes for military personnel and DOD civilians residing overseas should be sent by certified mail since these addresses are considered domestic rather than foreign. Bal. Dues on military personnel stationed within the area/territory where the Bal. Due is located also require a waiting period of 40 days.

5.1.7.11
(07-01-2005)

**Securing Addresses of
Military Personnel**

- (1) Form 2223, *Request for Information from Military*, is used to obtain a current or prior address of a taxpayer who is in, or was recently separated or discharged from, the Armed Forces. Military personnel will only respond to a completed Form 2223 with an accurate social security number. Send inquiries for all Military Service Branches to the pre-printed address provided on the Form 2223.
- (2) Care must be taken to ensure that the Service's return address appears on each Form 2223. The Form 2223 must be completed accurately, failure to do so will result in a non-response.
- (3) Because the Military Branches receive numerous requests for addresses, allow 90 days before considering a follow-up request. If after 90 days a follow-up is necessary, a second Form 2223 should be mailed to the proper Military Service Branch. The second Form 2223 should not be identified as a second request, and no reference should be made to the original form.
- (4) To find the address of a retired or active member of the Military, inquiries should be sent to the specific Military Service including the United States Coast Guard. Addresses may be found on the IRS SERP web-site at <http://serp.enterprise.irs.gov>.

5.1.7.12
(06-16-2016)
Military Deferments

- (1) Under the Servicemembers Civil Relief Act of 2003 (referred to below as SCRA), the collection of any income tax due from any person in the military service, whether falling due before or during military service, may be deferred if ability to pay the tax is “materially affected” because military service described in (6) below. See 50 U.S.C.A. § 4000, effective for cases that were not final before 12/19/2003 (formerly cited as 50 App. USCA § 573 relating to the Soldiers’ and Sailors’ Civil Relief Act of 1940). Collection may be deferred during the taxpayer’s period of military service and up to 180 days afterward.
- (2) The taxpayer is eligible for military deferment only for an initial period of military service. See Rev. Proc. 57–25, 1957–2 C.B. 1092:
 - a. The period of active duty for which the taxpayer is inducted into the military service under any selective service act.
 - b. The period of active duty under the first enlistment of a taxpayer in the armed service.
 - c. The first period of reenlistment, for a taxpayer who has been out of the service for one year or more.
 - d. The period of service, prior to any reenlistment, following recall of the taxpayer to active duty from an inactive reserve or National Guard unit, for a taxpayer who has been out of military service for one year or more.

Note: In the case of an officer, the initial period of service will be limited to the first two years following entry into the service under one of the above-mentioned occurrences.

- (3) A *Servicemember* is a member of the uniformed services, as the term is defined in section 101(a)(5) of title 10, of the United States Code. See 50 U.S.C.A. § 3911(1). These are individuals who are members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, and the commissioned corps of the Public Health Service.
- (4) “Materially affected” means, if the taxpayer’s current monthly income (military income) is less than the monthly income immediately prior to active duty, their ability to pay the balance due has been “materially affected” by reason of active military status.

Note: Current monthly expenses incurred by the taxpayer as a result of military service should be deducted if current monthly earned income is more than monthly earned income immediately prior to military service.

- (5) The spouse of a servicemember is also granted military deferment for the same term as the servicemember for jointly filed returns, when his/her request has been approved.
- (6) A deferment of collection of income tax under SCRA will be granted if:
 - a. The taxpayer submits a written request for deferment to either the IRS office making demand for payment or the office with which the taxpayer has a payment agreement in effect
 - b. The taxpayer establishes that he or she is serving a period of military service, and

- c. The taxpayer submits satisfactory proof that their ability to pay the tax has been materially affected because of the taxpayer's military service.
- d. The taxpayer's written request must be made within the period of military service plus 180 days
- e. The request for deferment includes the following information:
 - Name
 - SSN
 - Monthly income and source of income before military service
 - Current monthly income
 - Description and amount of expenses incurred because of military service if current monthly income is greater than monthly income before military service
 - Military rank
 - Date entered into military service
 - Date they are eligible for discharge

Note: Inform the taxpayer it is also helpful if they submit a copy of their orders.

- (7) As described in (1) above the deferment will be equal to the service member's period of military service and not more than 180 days after termination of or release from military service, if the servicemember's ability to pay the income tax liability is materially affected by the military service. The term "military service" means the period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember is released from military service or dies while in military service. See 50 U.S.C.A. § 3911(2). The period of military service differs between servicemembers (see 50 U.S.C.A. § 3911(3)) and is described below:
 - a. In the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, (1) active duty, as defined in section 101(d)(1) of title 10, United States Code, and (2) in the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by federal funds;
 - b. In the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service; and
 - c. Any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

5.1.7.12.1
(08-25-2014)
**Military Deferment
Procedures**

- (1) If a taxpayer requests a military deferment, send the taxpayer Letter 1175 (DO), *Form Letter and Request for Deferment of Collection of Income Tax*, and request any delinquent returns be filed. All delinquent returns should be filed through the revenue officer to ensure expedited processing.
- (2) Suspend collection action for 60 days to allow the taxpayer to respond to Letter 1175 (DO). If the completed Letter 1175 (DO) is not received after 60 days, resume collection action with the group manager's approval. You should document the case file indicating approval by the group manager and the date the approval was received. If information becomes available indicating that the

taxpayer is not in military service or is merely seeking unjustifiably to delay payment, resume collection action after receiving the approval of the Territory Manager.

- (3) If received, review the completed Letter 1175 (DO) to determine the taxpayer's eligibility for a deferment. The letter should include the taxpayer's name, social security number, affected tax periods, monthly income and source of income before military service, current monthly income, description and amount of expenses incurred because of military service if current monthly income is greater than monthly income before military service, military rank, date entered into military service, and date they are eligible for discharge. A copy of the taxpayer's orders is helpful but not required. Review the taxpayer correspondence for the following information:
- Prior and current income (current military income is less than earned income immediately prior to their military status); check CC RTVUE for AGI
 - If the current earned income is more than earned income prior to military status, review the taxpayer correspondence to determine if the taxpayer's expenses incurred as a result of military service reduces current income to below earned income immediately before military status.

Example: After reviewing the taxpayer's prior and current income, the taxpayer is earning \$200 more a month, but if storage costs for storing furniture (\$60 per month) and dog boarding costs (\$200 per month) incurred as a result of military service are deducted, then the taxpayer is effectively making less income by \$60 and is thus materially affected.

Base your decision on whether their ability to pay the tax is "materially affected" because of the taxpayer's military service. See IRM 5.1.7.12(2) for the definition of "materially affected." Resolve "borderline" cases in favor of the taxpayer.

- (4) If the taxpayer is entitled to a deferment:
- a. Prepare Letter 289, *Approval of Military Deferment*, granting the deferment for signature of the group manager. Advise taxpayers that overpayments may still be offset. Include the following paragraph when preparing Letter 289:
 - If you have overpaid your taxes for one tax period, but owe taxes for another, the law allows us to apply your refund to reduce the unpaid tax. If you are a non-liable spouse and we offset a federal income tax refund belonging to you and your liable spouse, you may request return of your share of the refund by filing Form 8379, *Injured Spouse Allocation*. See Pub. 4183, *Injured Spouse Claims*, for more information.
 - b. Retain a copy of the letter in the case file.
 - c. Prepare Form 4844, *Request for Terminal Action*, requesting the input of TC 500, CC 51. Write the date that the deferment ends on the front of the Form 4844. (This is the length of military service plus 180 days after the discharge date. For officers, the deferment period is limited to the first two (2) years of military service plus 180 days). Any paper documents sent to

Centralized Case Processing (CCP) for input will be sent via Form 3210, *Document Transmittal*. The preferred method by CCP is to submit Form 4844 electronically by e-mail.

- d. Ensure that the interests of the Government are protected during the period of deferment, including the filing or refiling of a Notice of Federal Tax Lien, if necessary. Submit the Bal. Due case file, along with the input form and a routing slip addressed to Centralized Case Processing Operation - Field Office Resource Team (FORT), 2970 Market Street, Mail Stop: 5-E04.114, Philadelphia, PA. 19104, marked "MILITARY DEFERMENT", with Form 795 B, *Closure / Document Transmittal*, for closed case transmitting.

Note: When forwarding the case for processing ensure that Letter 1175, Letter 289, and a copy of the taxpayer's orders are included with any additional case documentation.

- (5) Territory manager approval is required to deny the taxpayer's request for military deferment. If the taxpayer is not entitled to a deferment, prepare Letter 3079C, *Denial of Military Deferment*, for the signature by the Territory Manager. If the taxpayer provided a copy of his or her military orders or reporting instructions no later than 180 days after the date of termination or release from military service, include the optional sentence in Letter 3079C that the taxpayer is eligible for the reduced interest rate. Follow the procedure in IRM 5.1.7.12.2(3) to provide the taxpayer with the reduced interest rate. Enclose a copy of Pub. 1, *Your Rights As a Taxpayer* and Pub. 594, *Understanding the Collection Process*. Place a copy of the letter in the case file and resume collection action.

5.1.7.12.2
(06-16-2016)

Interest and Limitations on Collection

- (1) If a deferment on collection is granted under SCRA, the statutory collection period is suspended during the taxpayer's military service plus an additional 270 days after the day following military service. See 50 U.S.C.A. § 4000(c).
- (2) Interest (and failure to pay penalties) do not accrue during the deferment on any tax for which collection is deferred under SCRA. See 50 U.S.C.A. § 4000(b). See IRM 20.2.7.10 *Military Deferment*. However, the taxpayer remains liable for any interest which accrued before the beginning date of military service. Interest will also accrue while the tax remains unpaid after deferment ends.

Note: Interest deferment does not apply to the service member's share of Social Security and Medicare taxes they may owe; for additional information see Publication 3.

- (3) If the deferment is denied, no more than 6% interest (unless the applicable interest rate is below 6%) per year will be charged while the taxpayer is in active military service. See 50 U.S.C.A. § 3937 (formerly cited as 50 App. USCA § 527 relating to the Soldiers' and Sailors' Civil Relief Act of 1940). However, the liability must have been incurred before the taxpayer entered active military duty. The reduced rate applies regardless of whether the military service materially affects the taxpayer's ability to pay. To substantiate the claim for reduced interest rate, the service member must furnish the IRS a copy of their orders or reporting instructions detailing the call to military service. They must do so no later than 180 days after the date of their termination or release from military service.

- a. If the taxpayer is eligible for the reduced interest rate, include the optional sentence in Letter 3079C, *Denial of Military Deferment*, that the taxpayer is eligible for the reduced interest rate.
- b. If the taxpayer provided a copy of his or her military orders or reporting instructions no later than 180 days after the date of their termination or release from military service, he or she qualifies for the reduced interest rate. Input TC 340 using a zero amount with activity code "Military (appropriate %)" using command code REQ54.

5.1.7.12.3
(07-01-2005)
**Processing Notice
Responses**

- (1) Direct all responses from the taxpayer as a result of notices sent out, to the campus.
- (2) Military accounts where the taxpayer makes a specific inquiry about a military deferment in response to a notice request for payment of individual income tax, the campus will accelerate the account to Bal. Due status, place the correspondence in the suspense file for attachment to the Bal. Due when assigned to Field Collection and process in accordance with procedures in IRM 5.1.7.12.1.

