



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.7.5

MAY 30, 2025

EFFECTIVE DATE

(05-30-2025)

PURPOSE

- (1) This transmits revised IRM 5.7.5, Trust Fund Compliance, Collectibility Determination.

MATERIAL CHANGES

- (1) IRM 5.7.5 has been updated to include language consistent with presidential executive order 14151.
- (2) Fixed formatting errors throughout the IRM.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 5.7.5, dated December 19, 2023.

AUDIENCE

Small Business/Self-Employed Collection Employees

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Small Business/Self-Employed

5.7.5

Collectibility Determination

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5.7.5.1
(12-19-2023)
Program Scope and Objectives

- (1) **Purpose:** This IRM section provides instructions for Collection employees making a collectibility determination during a Trust Fund Recovery Penalty (TFRP) investigation.
 - (2) **Audience:** The primary users of this IRM are Field Collection revenue officers and their group managers.
 - (3) **Policy Owner:** Director, Collection Policy, Small Business/Sell-Employed Division (SB/SE).
 - (4) **Program Owner:** Collection Policy, SB/SE, Employment Tax (ET) is the program owner of this IRM.
 - (5) **Primary Stakeholders:**
 - Revenue officers (RO)
 - Revenue officer group managers (GM)
 - (6) **Program Goals:** The Trust Fund Recovery Penalty (TFRP) is based on IRC 6672. It serves three purposes:
 - Encourages prompt payment of income and employment taxes withheld from employees and other collected taxes
 - Makes the responsible person liable for 100% of the unpaid trust fund taxes
 - Facilitates collection of trust fund taxes from secondary sources
- Note:** By following the procedures in this IRM, ROs and GMs will be able to make, justify, review, and approve appropriate collectibility and/or nonassertion determinations as part of a TFRP investigation.
- (7) **Contact Information:** Email recommendations and suggested changes for this IRM to the Content Product Owner. The owner is listed on the Product Catalog Information page which is found in the Forms/Pubs/Products IRM listing of the Media and Publications web site, *Find a Product*.

5.7.5.1.1
(12-19-2023)
Background

- (1) The Trust Fund Recovery Penalty (TFRP) is based on IRC 6672 and facilitates the collection of tax and enhances voluntary compliance. The TFRP serves as an alternative means of collecting unpaid trust fund taxes when taxes are not fully collectible from the company/business that failed to pay the withheld taxes. Internal Revenue Manual (IRM) 5.7.5, Collectibility Determinations, provides procedures and guidance for employees tasked with making a collectibility determination during a TFRP investigation.

5.7.5.1.2
(12-19-2023)
Authority

- (1) IRC 6103, Confidentiality And Disclosure Of Returns And Return Information.
- (2) IRC 6323, Validity And Priority Against Certain Persons.
- (3) IRC 6672, Failure To Collect And Pay Over Tax, Or Attempt To Evade Or Defeat Tax.
- (4) IRC 7521, Procedures Involving Taxpayer Interviews.
- (5) IRC 7602, Examination Of Books And Witnesses.
- (6) IRC 7609, Special Procedures For Third-Party Summonses.

5.7.5.1.3
(12-19-2023)**Roles and
Responsibilities**

- (1) The Director, Collection Policy, is the executive responsible for the policies and procedures utilized by Collection personnel.
- (2) Field Collection group managers and ROs are responsible for ensuring compliance with the guidance and procedures described in this IRM.
- (3) Group managers have the authority to review and approve TFRP recommendations, including the recommendation to nonassert the TFRP based on collectibility.
- (4) ROs are responsible for making collectibility and/or nonassertion determinations during a TFRP investigation.
- (5) Field Collection is responsible for ensuring taxpayers are informed of their rights in accordance with the Taxpayer Bill of Rights (TBOR) adopted in June of 2014.

5.7.5.1.4
(12-19-2023)**Program Management
and Review**

- (1) Program Reports: The Automated Trust Fund Recovery (ATFR) program is used for group controls of imminent assessment statutes and timely TFRP case actions. ATFR pulls data from the Integrated Collection System (ICS) and the Integrated Data Retrieval System (IDRS). ATFR is also supplemented by the ENTITY Case Management System (ENTITY). The following reports assist GMs and ROs to monitor the progress of TFRP investigations, to identify potential issues on cases with imminent Assessment Statute Expiration Dates (ASEDs), and to take the appropriate actions to protect the statute:

Report Type	Report Name
ATFR	<ul style="list-style-type: none"> • ASED Report • Pending Determination Report • Pending 1153 Report • Pending 2749 Report • Pending 4183 Report • HQ Reports (Managerial reports)
ENTITY	<ul style="list-style-type: none"> • Imminent Statute Report • Trust Fund Recovery Control Report • ASED Query 04/15/YYYY • ASED Query Uncommon

Note: IRM 1.4.50.11.3, ASED Accounts, provides additional guidance on ATFR and ENTITY reports.

- (2) Program Effectiveness: Embedded Quality (EQ) reviews conducted by GMs assess the timeliness of TFRP case actions. Collection Automation Support and Security (CASS) provides monthly ATFR timeliness reports that measure TFRP program timeliness goals. These reports provide the information necessary to allow ROs the opportunity to make timely and appropriate TFRP recommendations and assessment actions. Collection Policy does periodic program reviews to identify trends and opportunities to improve timely and effective TFRP case actions.

5.7.5.1.5
(12-19-2023)
Program Controls

- (1) ATFR tracks and records TFRP assessment actions and history. Field Collection employees are generally the primary users of ATFR, based on the employees' duties and responsibilities.
- (2) Field Collection employees use ICS for inventory control and history documentation.
- (3) Managers approve TFRP determinations, assessment, and/or nonassertion recommendations.
- (4) Territory Managers (TM) and Area Directors (AD) include TFRP timeliness trends in operational reviews.
- (5) Managers are required to follow program management procedures and controls addressed in IRM 1.4.50, Collection Group Manager, Territory Manager and Area Director Operational Aid.

5.7.5.1.6
(12-19-2023)
Acronyms

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

Acronym	Definition
ATFR	Automated Trust Fund Recovery Penalty Program
BMF	Business Master File
CASS	Collection Automation Support and Security
CIS	Collection Information Statement
CPM	Control Point Monitoring
IA	Installment Agreement
IBTF-IA	In-Business Trust Fund Installment Agreement
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IRM	Internal Revenue Manual
IRSN	Internal Revenue Service Number
NFTL	Notice of Federal Tax Lien
OI	Other Investigation
RO	Revenue Officer
SB/SE	Small Business/Self Employed
TFRP	Trust Fund Recovery Penalty

- (2) Additional acceptable acronyms and abbreviations are found in the ReferenceNet Acronym Database, which may be viewed at: *ReferenceNet Legal and Tax Research Services*

5.7.5.1.7
(12-19-2023)

Related Resources

(1) IRM resources

IRM	Title
IRM 3.13.5	Individual Master File (IMF) Account Numbers
IRM 5.1.8	Courtesy Investigations
IRM 5.1.18	Locating Taxpayers and Their Assets
IRM 5.6.1	Collateral Agreements and Security Type Collateral
IRM 5.7.4	Investigation and Recommendation of the TFRP
IRM 5.7.6	Trust Fund Penalty Assessment Action
IRM 5.12	Federal Tax Liens
IRM 5.14.5	Streamlined, Guaranteed and In-Business Trust Fund Express Installment Agreements
IRM 5.14.7	BMF Installment Agreements
IRM 5.15.1	Financial Analysis Handbook
IRM 5.16.1	Currently Not Collectible
IRM 5.19.14	Trust Fund Recovery Penalty (TFRP)
IRM 25.5	Summons
IRM 25.27	Third Party Contacts

- (2) 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 TBOR see: *Taxpayer Bill of Rights* and IRM 1.2.1.2.36, Policy Statement 1-236, Fairness and Integrity in Enforcement Selection.

5.7.5.2
(11-12-2014)

Collectibility Determinations

- (1) A collectibility determination must be made in order to determine if the TFRP should be assessed. The decision not to assess based on collectibility determination will be noted in the “Non-assertion” block of Form 4183, Recommendation re: Trust Fund Recovery Penalty Assessment, for all responsible persons against whom the TFRP is not being recommended by checking the “Responsible-not collectible (Form 9327 required for inability to pay)” box. See IRM 5.7.6.14(2), Case File Documentation, for TFRP case file documentation requirements.

Note: Please see IRM 5.7.5.4.2, Assertion with Pre-Assessed Form 53, for additional information.

- (2) The TFRP will normally not be assessed when:
- There is no present or future collection potential, or
 - Neither the responsible person nor their assets/income sources can be located.
- (3) When investigation has determined there is no collection potential, the aggregate trust fund balance is below the amount in IRM 5.7.4.2, TFRP Determinations, Interviews and Investigations, there are no unfiled employment tax returns, and there is no potential the taxpayer will accrue additional liabilities, the Automated Trust Fund Recovery Penalty (ATFR) system case should be closed as “Below IRM 5.7.4 Criteria”. Preparation and submission of Form 4183 and Form 9327, Nonassertion Recommendation of Uncollectible Trust Fund Recovery Penalty or of Uncollectible Personal Liability for Excise Tax, is not necessary.

5.7.5.3
(06-28-2011)
Collectibility

- (1) Secure Form 433–A, Collection Information Statement for Wage Earners and Self-Employed Individuals, in order to determine collectibility. Form 433-F, Collection Information Statement, may be used instead of Form 433-A if the individual is a wage earner and the potential TFRP liability is less than \$100,000.

Note: Although a Collection Information Statement (CIS) is not required if one was obtained within the past twelve months, current research of the responsible person’s information is still required.

- (2) If the responsible person will not complete the CIS, determine if a summons can be issued (if there are other open existing assessments IRM 25.5.2, Preparation) or if the financial analysis can be completed using the sources in IRM 5.7.5.4.
- (3) As part of the collectibility investigation, current compliance with IMF filing requirements will be verified.

5.7.5.4
(12-19-2023)
Verification of Ability to Pay

- (1) The following factors will be considered when determining collectibility of the TFRP:
- Current financial condition
 - Involvement in a bankruptcy proceeding
 - Income history and future income potential
 - Asset potential (likelihood of increase in equity in assets and responsible person’s potential to acquire assets in the future)
 - The potential of refund offsets on the responsible person’s account, that may facilitate payment of the TFRP.
- (2) Research the responsible person’s information by using the following internal and external sources, as well as any other applicable sources, to verify and determine collectibility:

To Verify:	Use the Following Source(s):
Income	IRPTR and Employment Records

To Verify:	Use the Following Source(s):
Income and assets, e.g., income tax interest deduction for real property, IRA contributions, etc.	RTVUE or BRTVUE
Addresses	INOLE
Motor Vehicles	Motor Vehicle Records
Real Estate	Property Records

Caution: Do not request a full credit bureau check on the responsible person if there is no assessment against the individual (See IRM 5.1.18.19.2, Limitations on Ordering Consumer Credit Reports.)

- (3) Below are guidelines to assist in determining whether to assert the penalty based on collectibility:

If responsible person financial analysis shows. . .	Then. . .
Any present or future ability to pay	Assess the penalty and take the appropriate collection action based on an analysis of the responsible person's financial condition.
No present, but future ability to pay	Assess the TFRP based on future income potential and possible refund offset. Prepare a pre-assessed Form 53, Report of Currently Not Collectible Taxes and file a Notice of federal Tax Lien (NFTL) if appropriate.
The responsible person cannot be located or contacted but internal research identifies assets or income sources	Assess the TFRP since there is a good possibility of some collection from the assets/income sources that were located.
No present or future collection potential exists over the collection statute period	Do not assess the TFRP since the financial analysis shows there is little prospect that the responsible person will receive any increase in income or acquire assets that will enable the IRS to collect any of the penalty.

5.7.5.4.1
(12-19-2023)

Nonassertion Based on Collectibility

- (1) If there is no present or future collection potential after reviewing and verifying the financial information, do not recommend assertion of the TFRP.

Note: Information secured as part of the collectibility determination, including the analysis of the factors in IRM 5.7.5.4(1), must be included in the TFRP case file. If the information is included in the history and not as a separate

document, the TFRP case history should include a reference to the date the collectibility determination is documented in the ICS history.

- (2) Using ATFR, prepare Form 9327 based on collectibility:
 - a. Include all recommendations of nonassertion based on collectibility.
 - b. Provide a narrative as to why the penalty should not be assessed.
 - c. Submit the form for approval by the GM for all dollar amounts above IRM 5.7.4.2 criterion along with all appropriate supporting documentation (CIS, income/expense/asset verification). See IRM 5.7.5.2(3), if the aggregate trust fund balance is below "IRM 5.7.4 criteria."

Reminder: All Form 9327 Section II items must be addressed. The action dates entered should correspond to the research or review actions in the ICS history. If an item was not completed, document ICS with the reason, such as responsible person would not provide a CIS and RO determined summons not appropriate.

- (3) Include one copy of Form 9327 with the TFRP file. Include a copy of Form 9327 with a copy of the approved Form 4183 in the balance due case file.
- (4) Nonassertion of the penalty should be recommended if a responsible person cannot be located, nor can any assets or income sources be located.
- (5) Assertion of the penalty should be recommended if the responsible person cannot be located but assets or income sources can be located.
- (6) If the TIN of the responsible person is unknown but assertion of the TFRP is still being recommended, contact the Entity Control unit at the appropriate Campus to have an Internal Revenue Service Number (IRSN) assigned (See IRM 3.13.5.23, Internal Revenue Service Number (IRSN) Format). In order to establish the account you will need to provide the initiator's name, address, and phone number, the purpose for which the number is needed (TFRP assessment), and the following information on the responsible person:
 - Name
 - Address
 - Filing Status
 - First period for which assessment is anticipated

Note: After the IRSN is assigned, the account will be established on IDRS in approximately three weeks. Once it is established on IDRS, the account can be worked on ATFR using normal assessment procedures.

- (7) Associate the case files for TFRP nonassertions based on collectibility with the balance due case file after GM's approval.
- (8) TFRP case file submission to CPM is not necessary.

5.7.5.4.2
(06-28-2011)
**Assertion with
Pre-Assessed Form 53**

- (1) If the present collection potential is minimal but future collection potential exists:
 - a. Recommend assertion of the TFRP for GM approval.
 - b. Advise the responsible person that one notice will be sent reflecting the balance due, and a NFTL will be filed, if appropriate.

- c. Prepare Form 53, Report of Currently Not Collectible Taxes, for the TFRP (enter a mandatory follow-up date in item 22 if appropriate).
- d. Forward the entire package through the GM for Form 53 approval.
- e. Document the ICS case history and annotate on Form 2749, Request for Trust Fund Recovery Penalty Assessment(s), that Form 53 was prepared.
- f. Process the TFRP assessment per IRM 5.7.6.2, Responsible Person's Response to Letter 1153. Attach part 2 of Form 53 to Form 2749 in the TFRP case file. Process the currently not collectible file per IRM 5.16.1.2, Currently Not Collectible Procedures.

Note: Please see IRM 5.16.1.4, Requesting Currently Not Collectible Input for Assessed and Pre-assessed Tax Periods.

5.7.5.5
(12-19-2023)

**Nonassertion of Trust
Fund Recovery Penalty
on Responsible Person
Residing Overseas**

- (1) The RO assigned the balance due account should determine responsibility and willfulness for all potentially responsible persons, including U.S. citizens residing overseas and foreign nationals having no assets within the United States.
- (2) If a potentially responsible officer resides overseas, the RO will conduct an investigation to determine if there are any assets located within the U.S.
- (3) If no assets are found, the RO will initiate a Courtesy Investigation, using the ICS Other Investigation (OI) process, to the office responsible for International Collection since recommendations for nonassertion of the penalty for these cases are the responsibility of this office. (See IRM 5.1.8.10, Courtesy Investigations to International).
- (4) The RO in International Collection assigned the OI will consider the facts of the case and make a decision regarding assertion of the penalty based upon treaty considerations.
- (5) If this RO determines that there is no collection potential, he or she should:
 - a. Prepare Form 9327 and forward it to their GM for approval.
 - b. Return the approved form, along with all related information, to the RO who initiated the OI.

Note: The RO who initiated the OI will handle the final disposition.

- (6) If the RO assigned the OI determines that the responsible person will return to the United States in the future and collection may be possible, assertion of the penalty should be recommended.