



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

13.1.24

AUGUST 29, 2025

EFFECTIVE DATE

(08-29-2025)

PURPOSE

- (1) This transmits revised IRM 13.1.24, Taxpayer Advocate Service, Taxpayer Advocate Case Procedures, Advocating for Case Resolution. The IRM section applies advocacy techniques for different types of TAS cases and explains how to think with an advocacy focus to facilitate relief and resolve taxpayer issues.

MATERIAL CHANGES

- (1) IRM 13.1.24.4.1.3 Added reference with link to IRM 13.1.12.2.2, Requesting Assistance from Technical Advisors.
- (2) IRM 13.1.24.5.3.5(1) Updated TAO language from “will issue” to “may issue”. IPU 23U1064 issued 11-02-2023.
- (3) IRM 13.1.24.5.5.5 Deleted subsection; the procedure is no longer in use.
- (4) IRM 13.1.24.5.6 Added new subsection Advocating for Taxpayers in Seizure Cases. IPU 23U0399 issued 03-15-2023.
- (5) IRM 13.1.24.5.6(3) Updated TAO language from “will issue” to “may issue”. IPU 23U1064 issued 11-02-2023.
- (6) IRM 13.1.24.6.2(4) Added new paragraph 4 and previous paragraph 4 is now paragraph 5. New content provides current example and links to more examples on CABIC 060, IRS Offset and links to the new “Determining if time is available to advocate for an Offset Bypass Refund (OBR)” video.
- (7) IRM 13.1.24.6.2(5) Removed outdated Figure 13.1.24-1.
- (8) IRM 13.1.24.6.2.5.2(6) Added new paragraph to address delays by an IRS and/or TAS employee in timely working a request for assistance, such as an AMS e911 request.
- (9) IRM 13.1.24.6.4 Added new subsection, Guidance for Cases Involving Potential Schemes. IPU 23U0904 issued 08-21-2023.
- (10) IRM 13.1.24.6.4.1 Added new subsection. Introduction. IPU 23U0904 issued 08-21-2023.
- (11) IRM 13.1.24.6.4.2 Added new subsection, Identifying Cases or Requests for TAS Assistance Involving Potential Schemes. IPU 23U0904 issued 08-21-2023.
- (12) IRM 13.1.24.6.4.3 Added new subsection, Reporting Emerging Schemes. IPU 23U0904 issued 08-21-2023.
- (13) IRM 13.1.24.6.4.4 Added new subsection, TAS Case Acceptance Criteria for Inquiries Involving a Potential Scheme. IPU 23U0904 issued 08-21-2023.
- (14) IRM 13.1.24.6.4.5 Added new subsection, Discuss the Research Results with the Taxpayer. IPU 23U0904 issued 08-21-2023.
- (15) IRM 13.1.24.6.4.6 Added new subsection, Decide How to Advocate. IPU 23U0904 issued 08-21-2023.

- (16) IRM 13.1.24.6.4.7 Added new subsection, Whether to Issue OARs or TAOs. IPU 23U0904 issued 08-21-2023.
- (17) IRM 13.1.24.6.4.7(5) Updated TAO language from “will issue” to “may issue”. IPU 23U1064 issued 11-02-2023.
- (18) IRM 13.1.24.8.2(1) Removed indexed annual inflation amount and will link to Revocation or Denial of Passport in Case of Certain Unpaid Taxes IRS web page that lists annual inflation amount. IPU 23U0291 issued 02-22-2023.
- (19) IRM 13.1.24.8.4(1) Removed indexed annual inflation amount and will link to Revocation or Denial of Passport in Case of Certain Unpaid Taxes IRS web page that lists annual inflation amount. IPU 23U0291 issued 02-22-2023.
- (20) IRM 13.1.24.10.1 Added new content for new subsections relating to, Advocating for Taxpayers Who Received a Refund Claim Disallowance Letter from the IRS and Form 907, Agreement to Extend the Time to Bring Suit. IPU 24U1144 issued 11-19-2024.
- (21) IRM 13.1.24.10.1.1 Added new subsection, Identifying IRC 6532(a) Statute Issues. IPU 24U1144 issued 11-19-2024.
- (22) IRM 13.1.24.10.1.2 Added new subsection, TAS Advocacy in Cases Involving the IRC 6532(a) Limitation. IPU 24U1144 issued 11-19-2024.
- (23) IRM 13.1.24.10.1.3 Added new subsection, Determining the Disallowance Date. IPU 24U1144 issued 11-19-2024.
- (24) IRM 13.1.24.10.1.4 Added new subsection, Discussing the IRC 6532(a) Statutory Deadline With the Taxpayer. IPU 24U1144 issued 11-19-2024.
- (25) IRM 13.1.24.10.1.5 Added new subsection, Advocacy Using the Form 907 Extension. IPU 24U1144 issued 11-19-2024.
- (26) IRM 13.1.24.10.1.6 Added new subsection, When the IRC 6532(a) Statute Has Expired. IPU 24U1144 issued 11-19-2024.
- (27) IRM 13.1.24.10.1.7 Added new subsection, Responsibilities. IPU 24U1144 issued 11-19-2024.
- (28) IRM 13.1.24.11 Added new subsection, TAS Policies/Procedures to Be Considered in the Event of an Emergency. IPU 23U1064 issued 11-02-2023 .
- (29) Exhibit 13.1.24-6 Added additional acronyms. IPU 23U0399 issued 03-15-2023.
- (30) Exhibit 13.1.24-8 Added new exhibit, Script for When the IRC 6532(a) Statute Has Less Than a Month Left, and moved previous Exhibit 13.1.24-8 to Exhibit 13.1.24-9. IPU 24U1166 issued 11-27-2024.
- (31) Exhibit 13.1.24-9 Moved here from 13.1.24-8 for better flow, Policies/Procedures to Be Considered in the Event of an Emergency. IPU 23U1064 issued 11-02-2023.
- (32) Various grammatical or editorial changes, and corrections to links made throughout.

EFFECT ON OTHER DOCUMENTS

IRM 13.1.24 dated October 31, 2022, is superseded. The following IRM Procedural Updates (IPUs) issued from February 22, 2023 through November 27, 2024, have been incorporated into this IRM: 23U0291, 23U0399, 23U0904, 23U1064, 24U1144, 24U1166.

AUDIENCE

Taxpayer Advocate Service employees.

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13.1.24

Advocating for Case Resolution

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13.1.24.1
(05-11-2018)
Program Scope and Objectives

- (1) *Purpose:* The section provides guidance and helps Taxpayer Advocate Service (TAS) employees use critical thinking skills to better advocate on behalf of taxpayers to facilitate relief and resolve taxpayer issues. It encourages TAS employees to consider the issues from the taxpayer's perspective and act with empathy as they work to resolve the taxpayer's case.
- (2) *Audience:* These procedures apply to TAS Case Advocacy employees working TAS cases.
- (3) *Policy Owner:* The Executive Director Case Advocacy, Intake and Technical Support (EDCA-ITS), who reports to the Deputy National Taxpayer Advocate (DNTA).
- (4) *Program Owner:* The Director, Technical Analysis and Guidance (TAG), who reports to the EDCA-ITS.

13.1.24.1.1
(05-11-2018)
Background

- (1) This IRM discusses ways to advocate on specific issues. It contains examples and suggested Operations Assistance Request (OAR) and Taxpayer Assistance Order (TAO) language to present the taxpayer's position and show the facts, supporting documentation, and procedures or tax law supporting that position. TAS employees can apply the tips, techniques, and principles to many other types of issues in resolving cases.
- (2) Effective TAS advocacy includes:
 - Knowing the facts – What exactly is the taxpayer asking TAS to do?
 - Using the facts – What do the Internal Revenue Code (IRC), IRMs, and procedures allow?
 - Delivering a clear message – Problem – Facts – Resolution.
 - Utilizing existing resources and procedures – OARs and TAOs.
 - Acting with empathy for the taxpayer by considering how the issue impacts the taxpayer's everyday life and why this issue is important to the taxpayer.

13.1.24.1.2
(08-29-2025)
Responsibilities

- (1) All TAS employees are responsible for following the procedures set forth in this IRM when determining how to best advocate for taxpayers. TAS's advocacy goal is to facilitate relief and resolve taxpayer issues, acting with empathy and appropriate urgency.

13.1.24.1.3
(05-11-2018)
Authority

- (1) Pursuant to IRC 7803(c), the Office of the Taxpayer Advocate (known as the Taxpayer Advocate Service (TAS)) assists taxpayers to resolve problems with the IRS.

13.1.24.1.4
(02-04-2020)
Program Reports

- (1) Reports to monitor the quality of TAS cases are derived from the Business Objects Environment (BOE) and the TAS Case Quality Review System (CQRS).
 - The CQRS generates monthly and fiscal year cumulative reports as well as specific queries for data analysis.
- (2) TAS conducts managerial reviews, as described in IRM 1.4.13.9, Managerial Reviews. TAS designed many of these reviews to ensure TAS employees are taking actions with advocacy efforts to facilitate case resolution.

13.1.24.1.5
(08-29-2025)

Terms

- (1) Exhibit 13.1.24-5 contains a list of terms used throughout this IRM.

13.1.24.1.6
(08-29-2025)

Acronyms

- (1) Exhibit 13.1.24-6 contains a list of acronyms and their definitions used throughout this IRM.

13.1.24.1.7
(08-29-2025)

Related Resources

- (1) Exhibit 13.1.24-7 contains a list of relevant IRMs TAS Case Advocacy employees will use in conjunction with this IRM.

13.1.24.2
(10-31-2022)

Advocacy Using the Taxpayer Bill of Rights (TBOR)

- (1) The IRS adopted the *Taxpayer Bill of Rights (TBOR)* in June 2014.

The Taxpayer Bill of Rights:

1. The Right to Be Informed
2. The Right to Quality Service
3. The Right to Pay No More Than the Correct Amount of Tax
4. The Right to Challenge the IRS's Position and Be Heard
5. The Right to Appeal an IRS Decision in an Independent Forum
6. The Right to Finality
7. The Right to Privacy
8. The Right to Confidentiality
9. The Right to Retain Representation
10. The Right to a Fair and Just Tax System

- (2) TBOR lists rights that already exist in the tax code, putting them in simple language and grouping them into ten 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 <https://www.taxpayeradvocate.irs.gov/get-help/taxpayer-rights/>.
- (3) When appropriate, TAS should reference these rights when advocating through Operations Assistance Requests (OARs) and Taxpayer Assistance Orders (TAOs).
- (4) For more information on how these rights might apply to specific situations, see <https://www.taxpayeradvocate.irs.gov/get-help/taxpayer-rights/>.

13.1.24.3
(08-29-2025)

Advocacy Through Case Research on Internal Systems

- (1) TAS employees should secure all required documentation to support case resolution. The IRS Operating Division (OD)/Function or TAS may require this documentation to take an action (e.g., issuing manual refunds) per IRM or other procedural guidance.
- (2) TAS employees have tools that can provide information to assist with advocating on behalf of taxpayers. Excessive documentation requests to taxpayers can be unnecessarily burdensome, cause delays, or cause taxpayers to not respond to our communications. Therefore, it is important to understand what aspects of the taxpayer's issues are in question as well as what documents the IRS might already possess.

(3) Some of the internal tools available to TAS employees are:

- Integrated Data Retrieval System (IDRS) (*e.g.*, ESTAB, RTVUE);
- Accounts Management System (AMS) ;
- Correspondence Imaging Inventory (CII)LexisNexis;
- Correspondence Examination Automation Support (CEAS));
- Report Generation Software (RGS);
- Integrated Collection System (ICS);
- Automated Collection System (ACS)
- Remittance Transaction Research (RTR) System
- Automated Offer in Compromise (AOIC) ;
- Control D
- Lexis Nexis);
- Accurint.
- PACER;
- Bloomberg and
- Westlaw .

Note: Many county and state records, such as property assessments and deeds, are available online.

13.1.24.3.1 (08-29-2025) **Advocating Through Person-to-Person Contact**

- (1) Initial and subsequent contacts by phone allow for more opportunities to understand the taxpayer's situation, explain the importance of providing documentation, develop a rapport, and gain a commitment from the taxpayer to provide documents to advocate on their behalf. Phone contact will eliminate barriers in written communication (*e.g.*, it allows TAS employees to ask follow-up questions, gather facts about the taxpayer's situation, or identify sources of taxpayer confusion).
- (2) To increase the likelihood of reaching a taxpayer by telephone, consider taking the following actions:
 - a. TAS employees should unmask their phone number so their desk number appears on caller ID;
 - b. On the first contact, explain the importance of phone interaction and obtain any alternate numbers, such as cell phones, and ideal times of the day to call. Advise taxpayers to remove call block or they may not receive future calls;
 - c. Make more than one attempt to contact the taxpayer by phone;
 - d. Call at various times of the day;
 - e. When leaving a message, indicate the best time to return the call and commit to being available at that time;
 - f. If the taxpayer gives you permission to leave a voice message, be specific in any requests for information; and
 - g. If the taxpayer leaves a voice message, attempt to call back before sending a letter.

13.1.24.3.2 (08-29-2025) **Advocating Through Enhanced Communication and Rapport With the Taxpayer**

- (1) Once you reach the taxpayer, take advantage of the opportunity to display exceptional service through consistent and clear communications. In most cases, TAS can only discern the specific details of the taxpayer's situation by listening to the taxpayer and asking thoughtful and appropriate questions. Try to engage the taxpayer in a conversation. Discuss the documents previously provided and the type of additional records that will help support the taxpayer's particular circumstances. Maintain an open dialogue and communicate TAS's

13.1 Taxpayer Advocate Case Procedures

commitment to help resolve the issue. Be compassionate, and if the taxpayer grows frustrated with the discussion, gently remind the taxpayer that you understand their frustration, but you are trying to obtain the information necessary to address the tax issue and help them.

Note: Refer to IRM 13.1.6, Casework Communications, and IRM 13.1.5, Taxpayer Advocate Service (TAS) Confidentiality.

(2) The following are some suggested actions that may help taxpayers provide the appropriate information you need to effectively advocate on their behalf:

- Agree on a due date by discussing the amount of time the taxpayer reasonably needs to obtain the information and why it is important to provide the documents by that date;
- Commit to a time and method the taxpayer will deliver the documents, **e.g.**, mail, fax, email. Refer to IRM 13.1.6.4(5), Written Communication, for guidance on using encrypted email;
- Emphasize the need for the taxpayer to contact you timely in case of any trouble in obtaining the documents;
- Agree on a reasonable date and time to make subsequent contacts;
- Ask the taxpayer to explain in their own words what you have agreed upon and gently correct or restate any misunderstandings or confusion;
- Consider following up with a letter confirming the request for specific documents including the due date and time of the next contact; and
- If you send a follow-up letter, include information about the Document Upload Tool (DUT), emails with password protected documents, secure fax, etc.

13.1.24.3.3 (10-31-2022) Advocating Through TAS's Internal Technical Advisor Program (ITAP)

- (1) ITAP Technical Advisors assist TAS employees in resolving technically or procedurally complex or sensitive issues using effective research, communication, coordination, and negotiation skills.
- (2) Upon request, ITAP advisors will review case files, case-related documents, and technical research material to provide timely, thorough, and technically accurate advice about proper case development and resolution. Employees may request advice at any stage of case handling.
- (3) When appropriate, TAS employees should use the ITAP Technical Advisors to assist in developing clear, concise, and well-developed advocacy action plans, OARs, or TAOs. See IRM 13.1.12, Internal Technical Advisor Program, for additional information. **Note:** Refer to IRM 13.1.10.2, Obtaining Legal Advice from Chief Counsel, for issues requiring legal advice.

13.1.24.3.4 (10-31-2022) Advocating Through Low Income Taxpayer Clinics

- (1) Sometimes a taxpayer may be unable to effectively comprehend or complete the steps necessary to resolve the tax issues, especially when the issues are complex, nonstandard, or novel. A taxpayer may need to obtain a representative and file a Form 2848, Power of Attorney and Declaration of Representative. The representative (*e.g.*, attorney, CPA, or enrolled agent) may be able to help the taxpayer work more effectively with TAS.
- (2) Discuss with the taxpayer the availability of free or nominal fee representation from Low Income Taxpayer Clinics (LITCs) and suggest that they may be greatly helped by contacting a local LITC and seeking assistance. Reassure the taxpayer that TAS will continue to work with the taxpayer and the LITC representative on the case. Provide the taxpayer with the contact information for

all of the LITCs listed for the taxpayer's geographic area in Pub 4134, Low Income Taxpayer Clinic List, by mailing the taxpayer a copy of that publication or directing the taxpayer to <https://www.irs.gov/litc> if they have internet access.

- (3) If the taxpayer is interested in obtaining representation, agree on a reasonable date and time for the taxpayer to follow up with TAS about whether the taxpayer has obtained representation from an LTC.
- (4) Section 1402 of the Taxpayer First Act (Pub. L. No. 116-25 (2019)) amended IRC Section 7526(c) to add that IRS employees may advise taxpayers of the availability of and eligibility requirements for receiving advice and assistance from one or more specific LITCs and provide information regarding the location and contact information for such clinics. This change in law allows employees to refer taxpayers to a particular LTC or practitioner affiliated with an LTC without violating the applicable standards of ethical conduct.

Note: The law no longer prohibits IRS employees from directing a taxpayer to a particular LTC, and they should do so whenever it appears a taxpayer might be eligible and in need of LTC assistance.

- (5) If the taxpayer indicates they are interested in seeking LTC representation, but are reluctant to make the contact, you may set up a conference call for you and the taxpayer to contact the clinic together.
- (6) If the taxpayer names a particular clinic for you to contact, you may proceed with contacting the clinic. The purpose of your call is simply to assist the taxpayer in scheduling an appointment to meet with the clinic.

Note: If you are contacting a clinic, you must document that contact in your case.

13.1.24.4 (08-29-2025) Introduction to Examination Issues

- (1) Examination's mission is to support the IRS by conducting timely, quality examinations of taxpayers while encouraging compliance with the tax laws. The IRS performs examinations in person, through correspondence, and by phone.
- (2) TAS's role is two-fold to ensure the IRS conducted examinations in accordance with established laws, policy and procedures and to actively advocate for the taxpayer when the IRS made errors or oversights.

13.1.24.4.1 (08-29-2025) Advocating for Taxpayers Claiming the Earned Income Tax Credit (EITC)

- (1) The EITC is a refundable credit available to taxpayers who have one or more qualifying children or any individual who does not have a qualifying child and meets the following conditions set forth in IRC 32 and IRC 152:
 - a. Any child for whom the taxpayer claims the credit must meet basic eligibility tests for a qualifying child as described in IRC 32(c) (including the Relationship Test, Residency Test, and Age Test);
 - b. The taxpayer must have earned income with an adjusted gross income below a certain dollar amount, based on inflation adjustments for the taxable year in which the taxpayer claims the credit;
 - c. The taxpayer cannot have investment income that exceeds a certain dollar amount, based on inflation adjustments for the taxable year in which the taxpayer claims the credit;
 - d. The taxpayer cannot take an exclusion under IRC 911 (relating to citizens or residents of the United States living abroad) for foreign earned income or the housing cost amount;

- e. The taxpayer must be a U.S. citizen or resident alien with a valid Social Security number. The qualifying child must live in the same home as the taxpayer in the United States for more than half the year and have a valid Social Security number;

Note: Pursuant to the Protecting Americans from Tax Hikes Act of 2015 (PATH Act), the taxpayer and qualifying child must have a Social Security number valid for employment issued on or before the due date for filing the return for the taxable year in the case of any return filed after Dec. 18, 2015.

- f. Generally, taxpayers cannot claim married filing separate filing status (MFS); and

Exception: For tax years 2021 to 2025, certain MFS taxpayers may still be eligible. See IRM 4.19.14.2.7.3, Earned Income Credit (EITC).

- g. The taxable year does not fall under a disallowance period (the two-year ban where there is a final determination that the taxpayer's disallowed EITC claim was due to reckless or intentional disregard of the tax law and regulations, or the ten-year ban where there has been a final determination that the disallowed EITC claim was due to fraud) as described in IRC 32(k)(1).

- (2) If you determine that the taxpayer is subject to the two-year ban, investigate the circumstances behind the reckless or intentional disregard determination. IRM 4.19.14.7.1, 2/10 Year Ban Guidelines for Correspondence Examination Technicians (CET), lists various indicators of reckless or intentional disregard. Some of these indicators standing alone may be insufficient evidence to warrant imposition of the ban, such as lack of acceptable records or the taxpayer agreed with the assessment and denial of EITC in the previous tax year. If the basis for the two-year ban lacks support, advocate for the removal of the ban.

13.1.24.4.1.1
(08-29-2025)

Challenges for Low Income Taxpayers Claiming EITC

- (1) The EITC is a refundable credit administered by the IRS and designed to assist working taxpayers in lower income brackets.
- (2) EITC cases can present unique challenges due to the complexity of the IRC provisions and the varying circumstances of qualifying taxpayers. EITC taxpayers must frequently overcome numerous obstacles to obtain the credit, including limited education, communication and language barriers, difficulty documenting non-traditional family relationships or housing arrangements, and understanding the complexity of the EITC tax law.
- (3) Low-income taxpayers may not have bank accounts and conduct financial transactions using cash, limiting their ability to document expenditures. For this reason, low-income, self-employed taxpayers may have difficulty substantiating both income and support. Receiving IRS correspondence listing "acceptable" forms of traditional documentation can be daunting to taxpayers who know they cannot obtain the kinds of documents appearing on the IRS list. However, these taxpayers can use alternative documentation to prove both the Relationship Test and the Residency Test. See Exhibit 13.1.24-1, Alternative Documentation for Qualifying Child. (See also IRM 4.19.14.6.5, EITC - Personal Exemptions and Dependents, listing the traditional documentation to substantiate a qualifying child. This list is not all-inclusive.).

- (4) The IRS implemented interactive calculators and online self-help resources to assist taxpayers in determining their eligibility for EITC. Self-help resources include:
- *EITC Central* (<http://www.eitc.irs.gov>): This centralized platform provides information relative to the EITC, Child Tax Credit/Additional Child Tax Credit/Credit for Other Dependents, American Opportunity Tax Credit, and Head of Household filing status.
 - *EITC Assistant* (<http://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/use-the-eitc-assistant>): This automated tool assists taxpayers with determining EITC eligibility and amount.
 - *Who Qualifies for the Earned Income Tax Credit (EITC) Webpage* (<http://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/who-qualifies-for-the-earned-income-tax-credit-eitc>): This resource provides taxpayers with information pertaining to basic qualifying rules, special qualifying rules, and more.
- Reminder:** Many low-income taxpayers do not have access to computers and may not be aware of or able to use these self-help resources.

13.1.24.4.1.2
(08-29-2025)
**Initial Case Action for
Taxpayers Claiming
EITC**

- (1) Research the taxpayer's account using IDRS command codes (CC) (*i.e.*, RTVUE, INOLE, DDBKD) to identify certain information about the qualifying child (*e.g.*, name, date of birth, citizenship code, birth parent's name, custodial data). See IRM 4.19.13.4, Researching Cases, for a list of other IDRS command codes and research tools.
- (2) Research the taxpayer's account using IDRS CC TXMOD and request the following to obtain the examination history and explanation for denying the EITC:
 - a. In Field Examination cases (TC 420 with EGC 1XXX or 2XXX), secure the file from the Campus Examination Automated System (CEAS)-Field application; if unavailable, request the administrative file using CCESTAB (definer DV); or
 - b. In campus correspondence audits (TC 420 with EGC 5XXX), secure the file from the CEAS-Campus application; if unavailable, request the administrative file using CCESTABDV (definer DV).
- (3) Review the available documentation to identify what the taxpayer previously submitted.
- (4) Determine if the IRS properly considered the taxpayer's documents.
- (5) If warranted, determine the type of additional documents (traditional vs. alternative) required to establish EITC eligibility.

13.1.24.4.1.3
(08-29-2025)
**Advocacy Through
Securing Taxpayer
Documentation to Prove
EITC Eligibility**

- (1) Taxpayers generally need to only disclose personal information to the extent that it is relevant and necessary to the taxpayer's case. If the taxpayer is concerned that the documents that prove EITC eligibility may indicate the taxpayer is in violation of a state or local law or other rules, explain that IRC 6103 significantly limits the circumstances under which the IRS can share information with other agencies.

Example: The taxpayer used a relative's address to enroll the child in a better school district.

- (2) Sharing or providing traditional documentation may be challenging for certain segments of the taxpayer public when they have been or are victims of domestic violence, abuse, poverty, and other situations that hinder their ability to provide specific information. Many such taxpayers have had to flee their homes without any records and seek housing in temporary shelter. It may be virtually impossible for them to prove EITC eligibility requirements through traditional documentation, and we must work with the taxpayers creatively to construct the best case possible.
- (3) Since Exam generally does not accept oral testimony from the taxpayer to prove that the child meets Relationship or Residency Tests, TAS employees must assist taxpayers in securing records not previously submitted to support EITC eligibility. Obtaining vital records, such as birth certificates, to satisfy the Relationship Test may be difficult for taxpayers in non-traditional relationships. However, these taxpayers can use alternative documentation to prove both the Relationship Test and the Residency Test. See Exhibit 13.1.24-1, Alternative Documentation for Qualifying Child. (See also IRM 4.19.14.6.5, EITC - Personal Exemptions and Dependents, listing the traditional documentation to substantiate a qualifying child. This list is not all-inclusive.)
- (4) Help the taxpayer identify acceptable documentation and:
 - a. Obtain information from the taxpayer about the qualifying child, such as relationship, age, and residency. If the child is not the taxpayer's biological child, obtain a history of how the child became their qualifying child;
 - b. Clearly explain the reason why the IRS needs the documents (*e.g.*, "We need to demonstrate to the IRS that your child lived with you for more than half the year.");
 - c. Confirm the type of records the taxpayer possesses that could corroborate the information about the child;
 - d. Offer suggestions on alternative documentation when traditional records are not available (See Exhibit 13.1.24-1, Alternative Documentation for Qualifying Child); and
 - e. Confirm with the taxpayer that the documents cover the tax year(s) in question.
- (5) A certain document alone may not verify relationship, residency, or support but in combination with other records may assist in advocating for the taxpayer. See Exhibit 13.1.24-1, Alternative Documentation for Qualifying Child, for examples of various types of documentation and Exhibit 13.1.24-2, Case Scenarios Identifying Alternative Documentation.

Reminder: When necessary, consult a Revenue Agent Technical Advisor (RATA) to assist with identifying acceptable alternative documents. See IRM 13.1.12.2.2 , Requesting Assistance from Technical Advisors.

- (6) In any case, listen to the taxpayer and attempt to identify any challenges the taxpayer may encounter with obtaining documentation. Explain in plain language which specific eligibility requirement is at issue and suggest some ways the taxpayer can support their position. Listen for hesitation and try to determine if the hesitation is because the taxpayer doesn't understand the requirement, they have concerns about the difficulty of getting a particular

document, or they may not be eligible for the credit. To ensure that the taxpayer understands the requirements, ask the taxpayer to repeat back to you what they have agreed to provide.

13.1.24.4.1.4
(10-31-2022)

Securing Documentation for Self-Employed EITC Taxpayers

- (1) Self-employed low-income taxpayers may not have bank accounts and may not use computer software programs or prepare invoices or contracts for services performed. However, these earnings are still taxable and count toward earned income, and the taxpayer should include them to prove eligibility for the EITC.
- (2) If the taxpayer is self-employed and proof of earnings is an issue, ask relevant questions about how the taxpayer receives payment for work performed and how the taxpayer keeps track of those payments.
- (3) If the taxpayer has not been keeping receipts of expenditures, they may be able to obtain printouts of purchases from a particular supplier to substantiate business expenses. If the taxpayer is unable to obtain printouts of purchases, ask the taxpayer if they are able to secure third-party affidavits from regular customers to help establish an income pattern.

Example: The taxpayer earns a living and provides support by providing in-home childcare for their cousin's children and the children of their cousin's neighbor. The taxpayer is not a licensed childcare provider and does not have a bank account, and they base the fees charged for childcare services only on informal, verbal agreements. The taxpayer's cousin pays in cash, and the neighbor pays by check. The taxpayer takes the checks to the neighbor's bank and cashes them. The taxpayer purchases groceries and pays utility bills using cash or money orders. The taxpayer occasionally purchases snacks and groceries for the children in their care but has not kept receipts for those purchases. The taxpayer lives in a home that belonged to their deceased grandmother and pays only utilities, as their father pays the property taxes. The IRS is questioning their self-employment income and if the taxpayer provided more than half the support of their three dependents. The Case Advocate interviews the taxpayer and asks relevant questions to help identify non-traditional documentation the taxpayer may be able to provide to substantiate the earned income. The Case Advocate requests:

- Printouts from utility companies of payments made for the tax year in question. Even if the utilities are in the taxpayer's father's name, if the taxpayer can provide a collection of money order receipts that match the payment amounts on the printout, those receipts can establish taxpayer made the payments;
- A signed statement from the neighbor confirming verbal agreement on weekly rates and the date the taxpayer began providing care;
- Copies of school registration records for the cousin's children showing that the taxpayer is an Emergency Contact and that they are the after-school caregiver for purposes of registering children (who are not the taxpayer's dependents) for bus transportation to a bus stop near the taxpayer's home; and
- Copies of the calendar the taxpayer uses to record dates and amounts of payments, so they can total the amounts paid by both their cousin and the neighbor over the course of a year.

- (4) When necessary, consult a RATA to assist with identifying acceptable alternative documents.

13.1.24.4.1.5
(08-29-2025)

**Advocacy Through
OARs and TAOs in EITC
Situations**

- (1) Once you receive all the taxpayer's information, prepare an OAR to support TAS's position to allow the EITC. Make your request specific and direct, include the supporting documentation as an attachment, and explain the purpose of any alternative documents.
- (2) Advocating for the taxpayer includes presenting the taxpayer's position, supported by facts and the law, to the Operating Division (OD)/Function so they can arrive at the correct determination. Presenting nothing more than a request for the OD/Function to make a determination does not advocate for the taxpayer's position or communicate the facts of the case. Refer to IRM 13.1.19, Advocating With Operations Assistance Requests (OARs), for more information on creating well-developed OARs.
- (3) Document the OAR using the following points:
 - a. State the action TAS is requesting (*e.g.*, allow the EITC for the qualifying child);
 - b. Provide the name and relationship of the qualifying child;
 - c. List the documents in bullet or numerical format (avoid listing documents in narrative form);
 - d. State how the taxpayer's records prove EITC eligibility (*e.g.*, "The letter from the school verifies Johnny resided with the taxpayer during the 2009 and 2010 school years."). Taxpayers often need school records from two school years to establish residency for one tax year, since school years overlap tax years; and
 - e. Incorporate the Taxpayer Bill of Rights by presenting TAS's position and identifying the impacted rights.
- (4) If the OD/Function denies the EITC for lack of adequate documentation substantiating a qualifying child, and you believe the documentation established the taxpayer's eligibility, elevate the case to your manager or the LTA for consideration of a TAO. See IRM 13.1.20, TAS Taxpayer Assistance Orders (TAOs).
- (5) Taxpayers may be eligible for EITC within the provisions of IRC 32, even if they don't have a qualifying child. If the taxpayer is not eligible to claim EITC with a qualifying child, determine if the taxpayer qualifies for EITC as an individual without a qualifying child and request the OD/Function adjust the account and allow the EITC amount for an individual without a qualifying child.

13.1.24.4.1.6
(08-29-2025)

**Other Ways to Help
Taxpayers Overcome
EITC Challenges**

- (1) Normally, the IRS conducts EITC audits by correspondence. TAS should help taxpayers seek other alternatives if the regular correspondence exam process for EITC audits present challenges that cannot be overcome through correspondence exam. Other options include helping the taxpayer get a face-to-face examination or if there is a dispute after the examination, educating the taxpayer on their appeal rights.
- (2) The IRS will consider a written request for an Examination Area Office interview. IRM 4.13.1.4.5.1(4), Transfers to an Area Office, provides guidance when taxpayers request a face-to-face interview. After you discuss with the taxpayer the type of alternative documents that will prove EITC eligibility, consider whether it might be helpful if the taxpayer could meet face-to-face with the IRS instead of having the audit conducted through correspondence.

Advocating to get the taxpayer a face-to-face interview is an alternative to the correspondence examination process and may help the taxpayer overcome the challenges in proving EITC eligibility.

- (3) Encourage the taxpayer to cooperate fully during the examination process. If the taxpayer and the IRS cannot reach an agreement, educate the taxpayer on their appeal rights and, as appropriate, assist the taxpayer to ensure Examination forwards the case to the Independent Office of Appeals. Appeals uses various conference methods to resolve tax disputes; it holds most conferences by telephone or correspondence. The Appeals technical employee has discretion on the conference method in accordance with guidance found in IRM 8.6.1, Conference and Settlement Practices, Conference and Issue Resolution. Appeals can consider hazards of litigation, including the credibility of the taxpayer as a witness if the case were to go to court. For more information on assisting taxpayers in getting their EITC case to Appeals, see IRM 13.1.24.7, Introduction to Appeal Issues.

13.1.24.5 (10-31-2022) Introduction to Collection Issues

- (1) Collection's mission is to collect delinquent taxes and secure delinquent tax returns through the fair and equitable application of the tax laws, including the use of enforcement tools when appropriate, provide education to customers to enable future compliance, and thereby protect and promote public confidence in the American tax system.
- (2) TAS's role is to ensure Collection acted in accordance with established laws, IRMs, and procedures to advocate for the taxpayer when the IRS makes errors or oversights and protect taxpayer rights as enumerated in the Taxpayer Bill of Rights (TBOR). See IRM 13.1.24.2, Advocacy Using the Taxpayer Bill of Rights (TBOR), for additional TBOR information.
- (3) **Analyze the Balance Due.** Research the cause of the underlying balance and summarize your findings, including the Collection Statute Expiration Date (CSED), with the taxpayer. Discuss whether the taxpayer's facts and circumstances present opportunities to help the taxpayer reduce or eliminate the underlying liability. For example:
 - Did the taxpayer make payments not credited or misapplied to the taxpayer's account? If so, does the taxpayer have information to allow TAS to trace the *missing payments*?
 - If the liability is from a default automated substitute for return (ASFR) or substitute for return (SFR) assessment by the IRS, would the taxpayer be able to reduce the liability by filing a return (*ASFR* or *SFR* reconsideration)?
 - If the liability is from an audit assessment, does the taxpayer have new information that would reduce the liability and support a request for *audit reconsideration* or *doubt as to liability OIC*?
 - If there are indicators of *identity theft* (but the taxpayer has not filed an identity theft affidavit), did the taxpayer file the tax return creating the liability? If not (*i.e.*, an identity thief filed the return), is filing an identity theft affidavit appropriate?
 - If the liability includes penalties, do the taxpayer's facts and circumstances justify full or partial *abatement* under reasonable cause? If not, is the taxpayer eligible for First-Time Abate (FTA)?
 - If any of the modules with liabilities have adjustments to the CSED or the module has multiple assessments, verify the *CSED computation*. Consult a Revenue Officer Technical Advisor (ROTA) if necessary.

- (4) **Educate the taxpayer** about all collection alternatives, including the simple payment plan, streamlined installment agreement (IA), non-streamlined IA, partial payment IA (PPIA), offer in compromise (OIC), and hardship currently not collectible (CNC).
- (5) Explain the different types of OICs to the taxpayer:
 - Doubt as to Collectibility;
 - Doubt as to Liability;
 - Effective Tax Administration (ETA) economic hardship; and
 - ETA equity and public policy.
- (6) Be sure the taxpayer understands the advantages and disadvantages of an OIC or PPIA over hardship CNC. An OIC or PPIA leads to a final resolution of the liability, while hardship CNC is a temporary halt on collection that could end if the taxpayer's circumstances change. However, applying for an OIC or any type of IA suspends the running of the CSED while the IRS evaluates the proposal, making these less attractive if CSEDs will expire shortly. Consult a ROTA if you need assistance analyzing the advantages and disadvantages of each option.
- (7) Once the taxpayer has decided on an option, gather the necessary documentation to advocate for the taxpayer.
- (8) Consider a referral to a ROTA if you need assistance.

13.1.24.5.1
(10-31-2022)
**Advocating to Defer
Filing or Non-Filing of
Notices of Federal Tax
Lien in Certain
Situations**

- (1) While TAS employees do not make the Notice of Federal Tax Lien (NFTL) determination on behalf of the IRS, TAS employees should advocate to defer the filing or the non-filing of a NFTL when it is appropriate based on the individual taxpayer's facts and circumstances.
- (2) IRC 6323(j)(1) provides the IRS a discretionary mechanism for withdrawing the NFTL when the taxpayer meets one of the listed conditions. See IRM 5.12.9.3, Conditions for NFTL Withdrawal.
- (3) If the IRS filed an NFTL even though IRS administrative procedures did not require an NFTL determination, advocate for an NFTL withdrawal using the criteria that best fits the facts and circumstances.

13.1.24.5.1.1
(10-31-2022)
**When Installment
Agreements Require
NFTL Determinations**

- (1) IRS employees make NFTL filing determination decisions in accordance with IRM instructions, including cases where installment agreements may be appropriate. IRM 5.19.1.6.4, Installment Agreements (IAs), (starting in paragraph (8)), and IRM 5.19.4.5.1, Notice of Federal Tax Lien Filing Determinations, describe the situations when the IRS makes an NFTL determination when it grants installment agreements.
- (2) For field collection installment agreements, see IRM 5.14.1.4.3, Notice of Federal Tax Lien and Installment Agreements.

13.1.24.5.1.2
(10-31-2022)
**Determining When to
Advocate to Defer Filing
or Non-Filing of an NFTL**

- (1) In situations where the taxpayer's individual facts and circumstances meet the criteria in IRM 5.12.2.4, Determination Criteria for "Do-Not-File" or Deferring the NFTL Filing, or one of the IRC 6323(j)(1) criteria for an NFTL withdrawal, TAS employees should advocate against the filing or for a deferral of filing of an NFTL.

- (2) When making the decision to request that the Operating Division not file or defer filing an NFTL, you must carefully evaluate all of the facts and circumstances including the following:
- **Compliance History.** Has the taxpayer had prior balances due? If so, how recently? Is the taxpayer current with all estimated tax payments or Federal Tax Deposits? Would the NFTL filing jeopardize the taxpayer's ability to comply with the tax laws in the future? The fact that a taxpayer has never had a delinquent tax account before or has not had a delinquent account in recent years should support a determination to defer filing an NFTL.
 - **Reasons for Noncompliance.** Is the taxpayer's noncompliance attributable to a one-time unusual or catastrophic event, such as a heart attack, a natural disaster (*e.g.*, an earthquake, hurricane, tornado, or flood), or a loss of job? Are there extenuating circumstances that may contribute to the noncompliance? Identify these circumstances to the IRS and advocate that it defer the NFTL filing until the taxpayer is better able to address their tax debt.
- (3) The following situations are examples where TAS employees should advocate for the IRS to defer filing the NFTL:
- **Extenuating Circumstances.** After a stroke, the taxpayer fell behind in estimated tax payments, or after the loss of a job, the taxpayer incurred a ten percent penalty for early withdrawal from an IRA. In such situations, where the taxpayer has been historically compliant except for a one-time catastrophic event, the filing of an NFTL will harm the taxpayer's ability to repay their tax liability and remain compliant in the future.
 - **Undue Harm to the Taxpayer That Hampers Collection.** Consider whether the filing of the NFTL will harm the taxpayer's financial viability, thus reducing collection potential, *i.e.*, the filing prevents the taxpayer from obtaining or retaining employment or obtaining the financing necessary for a business taxpayer to remain in business. If the filing of the NFTL unduly harms the taxpayer and reduces collection potential, this factor should support a determination to defer filing an NFTL.
 - **Payment Before the Collection Statute Expiration Date (CSED).** Will the proposed IA fully pay the taxpayer's balances owed prior to the expiration of the CSED? If the taxpayer can pay in installments before the CSED, this is one factor that supports advocating to defer filing an NFTL.
 - **Existence and Value of the Assets.** Are there assets, including real and personal property, to which the NFTL can attach? Is the taxpayer likely to acquire assets in the future? If so, determine the net equity in the assets. Research IRS databases and available third-party information concerning the taxpayer's assets, income, and the value of the equity in the assets. Where appropriate, request and review taxpayer financial information, including Form 433-A, Collection Information Statement for Wage Earners and Self-Employed Individuals, or Form 433-B, Collection Information Statement for Businesses. If you have access, search assets on Accurant, a web-based asset locator system. Seek Revenue Officer Technical Advisor (ROTA) assistance if necessary to assist you with an equity evaluation and recommendation. If the NFTL will not attach to property with significant value or if the taxpayer needs the equity to cover a necessary expense, this factor should support a determination to defer filing an NFTL.

- (4) In analyzing your case, consider all the factors and determine whether the IRS NFTL filing is appropriate. Remember that this is not a complete list of factors, and you should consider other relevant factors depending on the facts of your case.
- (5) If at any time you need assistance in determining whether it is appropriate to request that IRS defer or not file the NFTL or whether the taxpayer owns assets, contact a ROTA to discuss the individual facts and circumstances of your case. ROTAs have access to the asset locator services on Accurant.

Example: You advocate for Taxpayer A, who owes \$15,000 in income tax, penalty, and interest for 2021. The compliance history shows that Taxpayer A has been compliant in recent years and promptly resolved any past delinquencies. A review of the taxpayer's Collection Information Statement (CIS) shows that they can afford \$150 per month. It will take the taxpayer over 72 months to pay the full balance, but they will pay the debt prior to the expiration of the CSED. The CIS also shows that Taxpayer A has no assets except their home, which has a fair market value of \$350,000 and a first mortgage of \$347,000. Thus, there is no equity in the home. The taxpayer has requested a non-streamlined IA to fully pay the tax debt; although Taxpayer A owes less than \$25,000, they will not pay the liability within 72 months. In general, you should advocate to defer filing of the NFTL as this taxpayer has been compliant in the past, they should pay the account prior to the expiration of the CSED, and the economic or irreparable harm to the taxpayer would outweigh the benefit to the government because the taxpayer has no equity to which the lien could attach.

Example: The facts are the same as in the example above, but the taxpayer has equity of \$200,000 in the house, *i.e.*, sufficient equity against which to borrow. However, the taxpayer does not want to liquidate or borrow against the house because the taxpayer is nearing retirement and has requested a non-streamlined IA to fully pay the liability; although Taxpayer B owes less than \$25,000, they will not pay the agreement within 72 months. In these circumstances, the government's interests may outweigh the harm to the taxpayer who refuses to borrow against the property to pay the tax liability. Thus, you conclude based upon an evaluation of the facts and circumstances that you cannot recommend that the IRS defer filing an NFTL. You will prepare an OAR requesting that the OD make the NFTL determination. The taxpayer will have a right to a CDP hearing if the IRS files the NFTL.

Example: The facts are the same as in example 2, but the taxpayer has a special needs child and must use the equity in the house to provide for ongoing medical and other care costs for the child. In these circumstances, you should advocate that the IRS defer filing an NFTL.

Example: Taxpayer C, who is self-employed, owns an insurance business with an unpaid combined income and employment tax liability of \$62,500 for tax years 2021 and 2022. The taxpayer requested TAS assistance, stating that they just received a notice and demand for payment of the outstanding tax liabilities. Information shows a substantial decline in gross receipts and an increase in unpaid accounts receivable. The taxpayer requested the IRS accept an offer in compromise (OIC). If the IRS files the NFTL, the taxpayer will lose the insurance business because the state insurance licensing board requires insurance agents to have a

clean credit history. You determine the OIC is acceptable according to the IRM guidelines, and it appears that the taxpayer will be able to fund the offer. You also determine that the NFTL will not be in the best interests of the taxpayer and the United States because it will hamper collection and future tax compliance if the taxpayer is not employed. In these circumstances, you should advocate that the IRS accept the OIC and defer filing an NFTL.

13.1.24.5.1.3
(08-29-2025)
**Advocacy Through
OARs and TAOs in NFTL
Situations**

- (1) If after considering all facts and circumstances of your case you have determined that TAS needs to advocate for the IRS to not file or to defer filing an NFTL, forward the OAR to the Operating Division (OD) requesting acceptance of the Installment Agreement (IA), OIC, or Currently Not Collectible (CNC) and deferment of filing an NFTL. In all cases, the OAR should request an OD manager's review of any determination denying TAS's recommendation to defer filing the NFTL.
- (2) Include language in the OAR to support your recommendation, clarify the issue, and explain how the non-filing or deferral protects the taxpayer rights to privacy and confidentiality. Example: Due to the above taxpayer's financial situation, it is TAS's position that [insert - the IRS should place the account into CNC status/the IRS should accept the OIC/the IRS should accept the IA]. Due to the amount of the liability, the IRS should perform an NFTL determination. TAS recommends deferring the filing of the NFTL in support of the taxpayer right to privacy based upon the following factors [explain how the taxpayer meets the criteria for deferred filing of the NFTL].
- (3) If the OD does not agree to defer filing the NFTL, evaluate the reasons given in support of filing the NFTL. If you still disagree, elevate the case to the LTA to consider issuing a TAO. If the LTA decides to issue a TAO, follow the procedures in IRM 13.1.20, TAS Taxpayer Assistance Orders (TAOs). The TAO should order the IRS to defer filing the NFTL and explain why, based on the law and the facts of the case, the filing is not appropriate. When preparing the TAO, consider language in the following example.

Example: "Based on a thorough review of the taxpayer's information (including both IRS and available third-party information), the taxpayer meets IRS criteria for not filing or deferring filing an NFTL per IRM 5.12.2.4, Determination Criteria for "Do-Not-File" or Deferring the NFTL Filing. Therefore, the IRS should defer the NFTL filing so long as the taxpayer remains compliant."

- (4) TAS should help taxpayers seek other alternatives if the regular process for resolving NFTL issues does not meet the taxpayer's needs.

13.1.24.5.2
(08-29-2025)
**Collection Appeals
Program (CAP)**

- (1) The Collection Appeals Program (CAP) is available to taxpayers or third parties whose property is subject to a collection action, unlike Collection Due Process (CDP) which is available to taxpayers only and limited to proposed levy actions, the filing of NFTLs, and post-levy hearings in limited circumstances described in IRM 13.1.24.7.2 (2), Collection Due Process (CDP) Appeal Cases, and IRM 8.24.1.2, Distinctions Between CAP and Collection Due Process (CDP) Hearings. IRM 5.1.9.4, Collection Appeals Program (CAP), describes all the collection actions that trigger CAP rights. CAP rights are an important component of the TBOR right to appeal an IRS decision in an independent forum.

- (2) If the taxpayer is eligible to file for both types of hearings (CDP and CAP), educate the taxpayer about the differences. See IRM 5.1.9.4(5).
- (3) CAP may be available before and after a collection action takes place. Taxpayers who request a CAP hearing may also qualify for a CDP hearing.
- (4) There are circumstances that do not trigger CDP rights but do allow for a CAP appeal:
 - a. An IRS employee informs the taxpayer that the IRS is going to file an NFTL.
 - b. The IRS files an NFTL, and there is an application for a withdrawal of the NFTL, a lien release, a discharge of property from the lien, a subordination of the lien's priority to another creditor, or a certificate of non-attachment, and the IRS denies the request. The denial must be in writing and include a statement of appeal rights.
- (5) Appeals has a goal to resolve CAP appeals within five business days from the date Appeals assigns the case to the hearing officer. See IRM 8.24.1.2(5).
- (6) See IRM 8.24.1.3.3, Exclusions from CAP, concerning what types of cases are excluded from CAP.
- (7) The IRS does not suspend the CSED while a CAP hearing is pending unless the CAP hearing is with respect to the rejection or termination of an installment agreement (IA). The IRS will add the time the statute is suspended during the appeal of a rejection or termination of an IA to the CSED. Verify any CSED suspension computed by the IRS is accurate to protect the taxpayer right to finality.
- (8) When a taxpayer files an appeal under CAP, the IRS suspends levy action where required by law. Generally, this is during the 30-day period following the rejection of an IA request or termination of an IA, plus the time for the appeal.
- (9) When an NFTL filing is the subject of the CAP appeal, the IRS generally withholds additional lien activity unless it considers the collection to be "at risk." If levy or seizure actions are the basis for the appeal, the IRS will withhold additional levy action against the tax periods covered by the CAP appeal unless it considers the collection to be "at risk."
- (10) Collection's definition of "at risk" would apply to a taxpayer who continues to pyramid additional liabilities, who has unpaid Federal Tax Deposits (FTDs) or unfiled returns, or who is attempting to dissipate assets.
- (11) In these "at risk" cases, the revenue officer's (RO) group manager must approve additional lien or levy actions and notify Appeals prior to authorizing the enforcement action.

13.1.24.5.2.1
(08-29-2025)
**How TAS Can Advocate
for the Taxpayer to File
a Timely CAP**

- (1) The first step in a CAP appeal is for the taxpayer to contact the Collection employee's manager. This conference should take place within two business days. A verbal warning of a lien or levy action can trigger the right to a CAP appeal.
- (2) If the taxpayer is not able to resolve the matter after discussing it with the manager, they complete Form 9423, Collection Appeal Request. To avoid resumption of collection activity, IRS must receive the completed Form 9423 (or postmarked Form 9423) within three business days of the conference with the

manager. This deadline relates to resumption of collection activity, not a deadline for the right to a CAP appeal. Advocate for the IRS to honor “late” CAP requests.

- (3) Collection will forward the appeal to the appropriate Appeals office. Refer to IRM 5.19.8.4.16.4, How the Taxpayer Appeals an IRS Action Using CAP.
- (4) The Appeals decision is binding on both the taxpayer and the IRS. However, in TAS cases that are in Appeals jurisdiction, Appeals has agreed to provide TAS the proposed determination in advance and give TAS five workdays to elevate any concerns. See IRM 25.30.2, Service Level Agreement between the IRS Independent Office of Appeals and the Taxpayer Advocate Service. Collection must comply with Appeals’ decision. If the taxpayer defaults with any agreement made by Appeals, Collection is no longer bound by the terms of the agreement.
- (5) The taxpayer may not appeal the same issue for which they have already submitted a CAP appeal request and Appeals has made a determination. Form 9423 instructions also inform the taxpayer that providing false information, failing to provide all pertinent information, or having an indication of fraud will void Appeals decision. See IRM 5.1.9.4.4, CAP Process, for additional information.

13.1.24.5.3 (10-31-2022) **Advocating for Taxpayers Whose Module(s) the IRS Assigned to a Private Collection Agency**

- (1) The purpose of this section is to provide TAS employees guidance on advocating for taxpayers whose module(s) the IRS assigned to a Private Collection Agency (PCA). For an overview of the Private Debt Collection (PDC) program, including information about the types of modules eligible for and excluded from PCA assignment, see IRM 5.19.1.5.21, Private Debt Collection, and IRM 5.1.12.18, Private Debt Collection Accounts. The IRS began assigning taxpayer modules to PCAs and notifying affected taxpayers with Notice CP 40 in April 2017.

Note: For BMF taxpayers the PCA will perform a two-party verification by asking the taxpayer for the first five numbers of the taxpayer authentication number shown at the top of the CP 140. The private collection agency will then supply the next five numbers. See *“Understanding your CP 140”*.

- (2) IRM 5.19.1.5.21.2.1, Private Debt Collection Account Identification, explains how to identify taxpayers with tax modules assigned to a PCA.
- (3) Taxpayers assigned to PCAs may lack representation and be unaware that PCAs cannot issue liens or levies. They may also be unaware of the options and alternatives available beyond those offered by the PCA: full payment, installment agreement (IA) for the shorter of seven years or the CSED, or one voluntary payment. See IRM 13.1.24.5, Introduction to Collection Issues, for how to take a global look at the taxpayer’s liability and to explore advocacy opportunities with the taxpayer.

13.1.24.5.3.1 (10-31-2022) **Determine If the PCA Contact is Legitimate**

- (1) For every PDC inquiry, verify the collection contact received by the taxpayer is not a scam. Research IDRS to determine (based on the presence of a TC 971 AC 054) whether the IRS assigned any taxpayer modules to a PCA. The associated PDC ID number found on ENMOD or IMFOLE identifies the PCA (see IRM 5.19.1.5.21.2.1, Private Debt Collection Account Identification). If the IRS assigns the taxpayer’s module to a PCA and the taxpayer wants to work with the PCA (*i.e.*, does not want TAS to open a case):

- Explain the two-way authentication system worked out by the IRS and the PCA. A ten-digit Taxpayer Authentication Number (TAN) appears on both the notice CP 40 and the letter from the PCA. This allows the PCA to verify the taxpayer's identity and the taxpayer to verify the legitimacy of the PCA.
- The taxpayer can ask the PCA to mail another copy of the letter with the TAN if needed.
- If the taxpayer does not have the TAN, the PCA may ask the taxpayer to agree to authenticate using the taxpayer's Taxpayer Identification Number (TIN) instead of the TAN. While the contract between the PCA and the IRS allows this, suggest the taxpayer consider carefully before authenticating using a TIN. Authenticating by providing the PCA with a TIN does not allow the taxpayer to authenticate the legitimacy of the PCA.
- If the taxpayer contact was a scam, encourage the taxpayer to report the contact to the Treasury Inspector General for Tax Administration (TIGTA) using their *"IRS Impersonation Scam Reporting"* webpage or calling 800-366-4484. You should also report the information about the potential scam on SAMS.

13.1.24.5.3.2
(10-31-2022)

When to Create a TAS Case

- (1) Create a TAS case for every inquiry received by TAS employees from taxpayers (or their representatives) assigned to a PCA.

Exception: If the taxpayer asks any of the following simple questions, answer the question(s) and do not create a TAS case:

- The taxpayer asks whether a PCA contact is a scam;
 - The taxpayer asks for correct contact information for the assigned PCA; or
 - The taxpayer asks how to stop the PCA contacts.
- If the case does not meet Criteria 1-8, use Criterion 9 per *TAS-13-1024-0004*, Interim Guidance on Accepting Cases Under TAS Case Criteria 9, Public Policy.
 - Use this IRM section and IRM 13.1.16.15.2, Quick Closure Cases, to determine whether to work the case as a quick closure or assign it to a Case Advocate for resolution.
 - Important: Use Topic Tag **"PC"** to identify cases involving taxpayers whose modules the IRS assigned to PCAs.

13.1.24.5.3.3
(10-31-2022)

Remove Taxpayer From PDC Inventory

- (1) Similar to suspending collection as an initial case action, removing taxpayer modules from PCA inventory prevents the PCA from making further taxpayer contact and averts conflicting actions on the account.
- (2) Within two to four weeks of creating the TAS case, a batch process will recall the taxpayer's modules from the PCA.
- (3) Because the PCA may continue to call the taxpayer during this two to four week period, encourage the taxpayer to send by certified mail a written request to their assigned PCA stating that the taxpayer does not want to work with the PCA. Refer the taxpayer to the *"Do Not Contact"* sample letter located on the Private Debt Collection Program – What You Need to Know webpage at <https://www.taxpayeradvocate.irs.gov/news/taxtips-private-debt-collection->

program-what-you-need-to-know/. If the taxpayer does not have access to the internet, offer to mail the taxpayer two copies of the letter (one to keep for their records).

- (4) If the taxpayer does not want to mail the letter or wants contact from the PCA to stop immediately, suggest the taxpayer call the PCA and tell the PCA they are working with TAS. The PCA will cease contact for 60 days, allowing time for the IRS to recall the module.
- (5) Inform the taxpayer they do not need to make payments requested by the PCA unless they want to do so; TAS will work with the taxpayer to determine their reasonable collection potential during the course of the case.
- (6) If the IRS assigned a taxpayer module to a PCA that meets a statutory exclusion per IRM 5.19.1.5.21.3.1, Legislative Exclusions to Private Debt Collection Criteria, or the IRS designated the module CNC hardship before assignment, report the example on SAMS with the TAS case number.

13.1.24.5.3.4
(10-31-2022)

Expedite Handling of Cases for Certain Taxpayers Receiving Social Security Benefits

- (1) TAS will take additional steps to expedite relief for taxpayers who receive Social Security benefits and whose income is at or below 250 percent of the Federal Poverty Level. Refer to the *LITC page on irs.gov* for 250 percent Federal Poverty Level guideline thresholds.
- (2) Analyze the case and discuss options with the taxpayer. Once the taxpayer decides on the appropriate resolution option and TAS has gathered the necessary documentation to advocate for relief, TAS will issue an expedited OAR for the IRS to take the action necessary to provide relief. If the IRS fails to act appropriately on the OAR, TAS will immediately issue a TAO ordering the IRS to take the action.

13.1.24.5.3.5
(08-29-2025)

Advocate by Exercising Your Authority to Issue a TAO

- (1) While working through the steps discussed above, issue TAOs as needed to advocate for the taxpayer. TAS may issue TAOs to the IRS as necessary to advocate to reduce the taxpayer's balance due or for collection alternatives. This is especially true when the IRS fails to act on an expedited OAR and the taxpayer's financial circumstances indicate they are unable to meet basic living expenses.
- (2) **TAS Also Has Authority to Issue a TAO Directly to a PCA.** IRC 7811(g) provides that TAOs apply to PCAs. Issue a TAO to the PCA if the:
 - Proper recall code appears on the taxpayer's module, yet the PCA continues to contact the taxpayer;
 - PCA fails to cease taxpayer contact upon receipt of the taxpayer's written Do Not Contact letter; or
 - PCA fails to stop contacting the taxpayer for 60 days after the taxpayer verbally informs the PCA they are seeking TAS assistance.

Also, consider submitting the PCA issue on SAMS.

- (3) TAS will follow the normal IRM 13.1.20, TAS Taxpayer Assistance Orders (TAOs), procedures to determine where to issue a TAO to the IRS. TAS will secure email a TAO to a PCA to the IRS Technical Analyst assigned to that PCA. This will allow expedited secure communication with the PCA, especially if confidential documents need to be exchanged to resolve the TAO. TAS will

also mail the TAO directly to the PCA. Use the *PCA TAO Addendum* to identify the correct IRS Technical Analyst, their IRS email address, and the PCA mailing address.

13.1.24.5.3.6
(10-31-2022)
Miscellaneous Situations

- (1) If the taxpayer wishes to file a complaint or report PCA employee misconduct, page 3 of IRS Pub 4518, What You Can Expect When the IRS Assigns Your Account to a Private Collection Agency, explains how taxpayers file those complaints with TIGTA. If the taxpayer insists on filing the complaint with TAS, forward the details (taxpayer name, TIN, TAS case number, PCA, PCA employee name if known, and details of the complaint) via secure email to the PDC Rapid Response Team at **TAS PDC Questions*. Document the case history with the details of the taxpayer's complaint and the actions TAS took to forward the complaint.
- (2) If the taxpayer appears to meet income eligibility, educate the taxpayer about LITCs. LTC representation may be particularly helpful with ASFR/SFR reconsideration, audit reconsideration, or OIC applications. Refer the taxpayer to the *Low Income Taxpayer Clinic Finder* and IRS Pub 4134, Low Income Taxpayer Clinic List.

Reminder: Referring a taxpayer to an LTC does not mean TAS's advocacy efforts end. If the taxpayer grants the LTC power of attorney (POA), TAS will keep the case open and assist the LTC POA by continuing to advocate on behalf of the taxpayer. TAS should only close the TAS case if, after the POA consults with the taxpayer, the LTC POA requests TAS close the case.

- (3) If you issue an OAR requesting an installment agreement, do so only after the IRS recalls the case from the PCA (posted TC 972 AC 054). This prevents the possibility of the PCA simultaneously setting up a payment arrangement and ensures the PCA will not receive a commission based on work performed by TAS.
- (4) If you can advocate for other case actions via the OAR process, such as penalty abatement or CNC status, it does not matter whether the IRS has recalled the modules from the PCA. PCAs cannot perform these actions, and these actions will not trigger commissions to the PCA.
- (5) If you are unable to advocate for a resolution to the balance due, explain in your closing contact that the IRS may reassign the balance due accounts to a different PCA once TAS closes its case. If this happens and the taxpayer does not want PCA contact, remind the taxpayer that they can write a *Do Not Contact* letter to the PCA.

13.1.24.5.4
(10-31-2022)
**Advocating for
Employers Affected by
Third-Party Payer
Misconduct**

- (1) The purpose of this subsection is to provide Taxpayer Advocate Service (TAS) employees guidance on advocating for employers affected by payroll service provider (PSP) and other third-party payer misconduct.
- (2) Some employers enter into agreements with third parties to perform some or all of their federal employment tax obligations. These obligations include withholding and depositing taxes and filing employment and information returns. Multiple issues arise when the third party fails to file timely returns, make timely deposits, or pay tax on behalf of the employer.

- (3) IRM 5.1.24.4, Types of Third-Party Payer Arrangements, and its subsections describe the most common types of third-party payer arrangements. An employer who uses the services of a Certified Professional Employer Organization (CPEO) may not be liable for federal employment taxes imposed on the compensation paid by the CPEO to employees covered under the employers' contract with the CPEO. Find more information on the CPEO program at www.irs.gov/CPEO. IRM 5.1.24-1, Third-Party Arrangement Chart, summarizes the differences between many of these arrangements. For convenience, this subsection will refer to all these arrangements as third-party payers.
- (4) Between fiscal years 2007 and 2012, based on IRS recommendations, the Department of Justice criminally prosecuted at least 24 different third-party payer owners who collected about \$300 million in employment taxes from thousands of client employers and did not pay the funds over to the IRS. See *TIGTA, Ref. #2015-40-023, Processes Are Needed to Link Third-Party Payers and Employers to Reduce Risks Related to Employment Tax Fraud*, page 12 (Mar. 2, 2015).
- (5) Employers may request TAS assistance related to some or all of the following IRS issues caused by third-party payer misconduct, fraud, or other bad acts:
 - Penalty abatement (failure-to-file, failure-to-pay, failure-to-deposit, information return, and trust fund recovery);
 - Compromise of a portion of the tax the employer paid to the third-party payer that the third-party payer failed to pay over to the IRS (including penalty and interest accrued on such tax);
 - Relief from IRS enforcement action (levy, lien, etc.); and
 - Secondary issues relating to the financial difficulties caused by paying the IRS the employment tax liabilities after having paid the same amount to the third-party payer, which the employer intended as payment for the original IRS liability.
- (6) When assisting the employer, TAS employees should remember (and remind IRS employees) that from the employer's perspective, they have already paid the tax once, albeit to the third party. Thus, to the employer, it feels like the IRS is asking them to pay the same tax twice. In advocating on behalf of the employer, TAS employees should be sensitive to the emotional and economic reality of the taxpayer's situation. See *National Taxpayer Advocate Public Forum on Taxpayer Needs and Preferences, Baltimore, MD, May 13, 2016*, Statement of Angela Armstrong.

13.1.24.5.4.1
(10-31-2022)
**Case Building for
Employers Affected by
Third-Party Payer
Misconduct**

- (1) Focus initial TAS case building on determining the extent of the problem and stopping similar problems from occurring in additional tax periods.
- (2) Determine the tax periods affected and which tax forms, tax deposits, and tax payments were late, insufficient, or missing. Use IDRS research to verify IRS records match the employer's records in adjacent tax periods, and the employer address of record is accurate. Research Form W-2, Wage and Tax Statement, and W-3, Transmittal of Wage and Tax Statements, filings to determine if the third-party payer misconduct extended to those returns.
- (3) Identify proposed or assessed penalties and the enforcement actions the IRS took using IDRS, ICS, AMS, and ALS.
- (4) Secure supporting documentation from the employer about the third-party payer arrangement.

- Identity of the third-party payer (if the third-party payer is a CPEO, the CPEO customer may not be liable for federal employment taxes imposed on remuneration remitted by the CPEO to employees covered by the customer's contract with the CPEO. Find more information on the CPEO program at www.irs.gov/CPEO);
- Copy of contract or agreement;
- Details of the third-party payer embezzlement or other bad acts, including:
 - Steps the third-party payer took to conceal its actions from the employer (*e.g.*, emails or voicemail messages between the employer and third-party payer, interception of correspondence from the IRS);
 - Any criminal or civil charges against the third-party payer (court records, media reports, bankruptcy filings, etc.); and
 - The success or likelihood of success the employer had in recovering monies taken by the third-party payer (civil actions filed, criminal reparations, reimbursement from a bonding authority or insurance company, etc.).
- Evidence the employer acted in a responsible manner:
 - The employer took reasonable steps and exercised due diligence when selecting the third-party payer to provide payroll services (*e.g.*, asked for and received references, checked with the Better Business Bureau, verified the third-party payer was bonded or licensed if required by state laws and regulations, etc.);
 - The employer timely paid the third-party payer all the employment taxes due or set aside funds available to pay the taxes in a timely manner (*e.g.*, employer bank records);
 - The employer took reasonable steps to verify the third-party payer fulfilled the obligations of the arrangement (*e.g.*, reviewed bank statements, checked the Electronic Federal Tax Payment System (EFTPS)); and
 - Once the employer learned of the third-party payer misconduct, it took immediate steps to remedy the problem (*e.g.*, promptly filed any missing returns and began timely filing and depositing its current employment tax obligations). If the employer did not take immediate steps to remedy the problem, are there mitigating factors that hampered the employer's ability to act (serious illness, natural disaster, etc.)?

13.1.24.5.4.2

(10-31-2022)

**Advocating for
Employers Affected by
Third-Party Payer
Misconduct**

- (1) Initial TAS advocacy will stabilize the situation to give the employer and TAS time to propose a collection alternative to resolve the problem. These initial actions may include requesting suspension of collection action (see IRM 13.1.10.11, Suspending Collection Action) and recommending withdrawal of a Notice of Federal Tax Lien (see IRM 5.12.9, Withdrawal of Notice of Federal Tax Lien).
- (2) When the facts show third-party payer bad acts caused failure to timely file or pay employment taxes, and the employer acted in a responsible and prudent manner, TAS will advocate for relief. The nature of TAS advocacy will vary **for each tax period** depending on certain facts.
 1. Situation 1: The third-party payer failed to take certain actions required under its arrangement with the employer but didn't intercept any funds intended to pay federal employment taxes.

2. Situation 2: The third-party payer actions include intercepting funds intended to pay federal employment taxes, but the employer has fully paid the tax due to the IRS by the time the employer seeks TAS assistance.
3. Situation 3: The third-party payer actions include intercepting funds intended to pay federal employment taxes, and the employer hasn't fully paid the tax due to the IRS by the time the employer seeks TAS assistance.

13.1.24.5.4.2.1
(10-31-2022)

Situation 1: The Third-Party Payer Did Not Intercept Any Federal Employment Taxes

- (1) For some tax periods, the third-party payer may have failed to file returns and make timely deposits or payments but didn't intercept federal employment taxes. Verify the employer took immediate steps to remedy any problems (*e.g.*, filed required returns and paid the tax) as soon as it learned of the third-party payer misconduct.
- (2) There is no relief available for interest charged on employment taxes paid late (IRC 6404(e)(1) does not apply to employment taxes). However, TAS can advocate for the employer's request for penalty relief based on reasonable cause. Most third-party payer arrangements don't relieve the employer of its employment tax obligations. Therefore, advocating for relief based on erroneous advice or reliance on a tax advisor is unlikely to be effective. Instead, advocate based on general ordinary business care and prudence.
- (3) If the third-party payer took steps to conceal its actions from the employer, consider advocating based on inability to obtain records. The records available to the employer may show the employer reasonably believed it met all its obligations. The employer could not access records that would have revealed it had unmet obligations because the third-party payer concealed them from the employer.
- (4) If a revenue officer conducts a Trust Fund Recovery Penalty (TFRP) investigation, advocate for non-assertion of the TFRP on the responsible persons in the employer's organization. Depending on the type of third-party payer arrangement used, the revenue officer may be able to assess the TFRP against responsible persons within the third-party payer.
- (5) See the following IRM references:
 - IRM 20.1.1.3.2, Reasonable Cause;
 - IRM 20.1.1.3.2.2, Ordinary Business Care and Prudence;
 - IRM 20.1.1.3.2.2.3, Unable to Obtain Records;
 - IRM 20.1.1.3.2.2.4, Mistake Was Made;
 - IRM 20.1.1.3.2.2.5, Erroneous Advice or Reliance;
 - IRM 20.1.1.3.3.4.3, Advice from a Tax Advisor;
 - IRM 20.2.7.5, IRC 6404(e)(1), Unreasonable Error or Delay in Performing a Ministerial or Managerial Act; and
 - IRM 5.1.24.5.8, Trust Fund Recovery Penalty (TFRP) Investigations.

13.1.24.5.4.2.2
(10-31-2022)

Situation 2: The Employer Has Full Paid the Tax to the IRS

- (1) By the time some employers seek TAS assistance, they may have fully paid the tax on the account, even though they paid the full amount to the third-party payer as well. From the employer's perspective, they have paid the tax twice. However, the IRS will not issue a refund because the employer is still liable for the tax. There is no mechanism under the law to file an OIC on taxes already paid.

- (2) In most of these cases, advocating for penalty abatement, using the same references and advocacy approach as discussed in IRM 13.1.24.5.4.2.1 above, will achieve the best result for that tax period. Work with the employer to analyze the situation and advocate for what makes sense.

Example: A third-party payer intercepted \$10,000 in tax deposits intended for the employer's Form 941, Employer's Quarterly Federal Tax Return, failed to file the return as required by the third-party payer contract and hid both actions from the employer. The employer discovered the bad acts, filed a correct Form 941 and paid the \$10,000 tax due (again) to the IRS. However, the employer still owes \$2,500 in penalties and \$400 interest. The interest will decrease to \$300 if the IRS abates the penalties. The employer determines the cost of preparing the OIC and payment of the user fee is not cost effective when the IRS can only compromise \$300 in interest. TAS advocates for penalty abatement. If the interest charges are significant enough that it would be cost effective to file an offer compromising on the interest, refer to IRM 13.1.24.5.4.2.3 below.

- (3) In addition, discuss with the employer whether paying the IRS the same amount of funds that the third-party payer improperly intercepted caused problems for the employer in other tax periods. For example, the employer may be unable to pay a current tax liability because it used those funds to pay the IRS for a tax period where the third-party payer improperly intercepted the original funds intended for that employment tax liability. Advocate for resolution of the balance owed for the current tax period (installment agreement, currently not collectible, or doubt as to collectibility OIC) based on the relevant facts and the option chosen by the employer.

13.1.24.5.4.2.3
(10-31-2022)

**Situation 3: The
Employer Has Not Fully
Paid the Tax to the IRS**

- (1) To assist victims of third-party payer fraud, Congress enacted Section 106 of the Omnibus Appropriations Bill in 2014, stating the "Internal Revenue Service shall give special consideration to an offer-in-compromise (OIC) from a taxpayer who has been the victim of fraud by a third-party payroll tax preparer." IRM 5.8.11, Effective Tax Administration, reflects this provision. The IRM chapter discusses the special consideration given to victims of third-party payer fraud and explains how offer specialists investigate and expeditiously process offers submitted by taxpayers affected by third-party payer fraud.
- (2) If the employer has unpaid tax for the tax period, consider an OIC. An OIC can cover the tax, interest, and penalties imposed on the employer. If the employer has unpaid tax for the tax period, consider an offer based on doubt as to collectibility with special circumstances. If the taxpayer does not qualify for a doubt as to collectibility with special circumstances, then consider making an effective tax administration (ETA) offer based on economic hardship. If the taxpayer does not qualify for such an offer, then consider making an ETA offer based on public policy or equity considerations. Factors establishing special circumstances are the same as those considered under ETA:
- Economic hardship (applies to sole proprietorships only);
 - Public policy; or
 - Equity.
- (3) The employer may offer less than the tax owed, seeking to compromise all penalties and interest, along with some of the tax, based on equity factors. When advocating that the IRS accept the offer, note that acceptance will not result in any financial gain or unfair advantage to the employer over its com-

petitors. Based on communications with the taxpayer, identify the amount of funds the third-party payer intercepted that the employer intended as payment for the original IRS liability. From the employer's perspective, paying even a small fraction of these funds twice (once to the third-party payer and again to the IRS) is an additional burden on the employer.

- (4) Discuss with the employer to see if paying the federal employment taxes to the IRS will create hardships for individuals or the community. Will the employer have to lay off some employees? Will the employer have to curtail activities that benefit the community or the local economy? Identify these issues in the TAS recommendation. The IRS considers these factors as compelling public policy factors that favor acceptance. However, these hardship or community elements do not have to be present for TAS to advocate for acceptance of an offer of an amount less than the tax owed if compelling equity factors exist.
- (5) Highlight any efforts the employer made to mitigate the loss through collection or civil action against the third-party payer. If the IRS is concerned that the employer may receive reimbursement in the future, advocate that the IRS accept the agreement but also secure a collateral agreement for payment from any future recovery.
- (6) Alternatively, if the employer submits an offer for the full amount of the remaining tax exclusive of penalty and interest, the IRS does not require financial statements; Form 433-A (OIC), Collection Information Statement for Wage Earners and Self-Employed Individuals; and Form 433-B (OIC), Collection Information Statement for Business. (See IRM 5.8.11.6(3), Documentation and Verification).
- (7) If a revenue officer conducts a Trust Fund Recovery Penalty (TFRP) investigation, advocate for non-assertion of the TFRP on the responsible persons in the employer's organization. Depending on the type of third-party payer arrangement used, the revenue officer may be able to assess the TFRP against responsible persons within the third-party payer. An investigation of the third-party payer or individuals within it for TFRP purposes will not delay the consideration or acceptance of an OIC from the employer. See IRM 5.8.11.6(3).
- (8) Due to the complex collection issues involved with third-party payer misconduct and ETA OICs, consider making a referral to a Revenue Officer Technical Advisor (ROTA) for guidance.

Example: An employer contracted a third-party payer to handle all payroll tax matters. The employer chose a third-party payer that had been in business for several years and contacted other businesses using the third-party payer who stated the third-party payer operated appropriately. When the IRS contacted the employer about the delinquency, the employer immediately started making FTDs. No factors weigh against offer acceptance (compliance history, the state has no third-party payer bonding requirements, etc.). Since the employer acted in a reasonable manner, TAS advocates for IRS acceptance of the ETA OIC.

- (9) See the following IRM references:
 - IRM 5.1.24.5.7, Offers in Compromise;
 - IRM 5.8.11.3.2.1, Public Policy or Equity Compelling Factors;
 - IRM 5.8.11.5.2, Financial Statement Analysis;

- IRM 5.8.11.5.3, Determining an Acceptable OIC Amount - Economic Hardship;
- IRM 5.8.11.5.3.1, Determining an Acceptable OIC Amount - Equity/Public Policy;
- IRM 5.8.11.6, Documentation and Verification; and
- IRM 5.1.24.5.8, Trust Fund Recovery Penalty (TFRP) Investigations.

13.1.24.5.4.3
(08-19-2020)

**Coordination With
Systemic Advocacy**

- (1) If you identify a third-party payer misconduct case where the actions of the third-party payer affected multiple clients, notify your manager and submit to the Systemic Advocacy Management System (SAMS). The SAMS submission should include:
 - The phrase “PSP Failure” in the SAMS description;
 - Case number(s) of the third-party payer misconduct cases linked to this particular third-party payer; and
 - Whether a list of the third-party payer’s victims exists (from a CI investigation, criminal indictment, media reports, etc.), and whether you have a copy of that list,
 - Do not put any personally identifiable information (PII) on SAMS.
- (2) Reporting third-party payer misconduct via SAMS is important so the IRS (especially Field Collection) learns of all potential victims of third-party payer misconduct and can coordinate fair and equitable treatment of the third-party payer clients (especially those not in TAS). See IRM 5.1.24.5.1, Assignment of Third-Party Payer Client Cases. If third-party payer misconduct victims live in a particular location, Systemic Advocacy may contact the local LTA to coordinate help for non-TAS taxpayers.

13.1.24.5.4.4
(10-31-2022)

**Educate Employers to
Limit Future Third-Party
Payer Problems**

- (1) If the employer receives a CP 148A or CP 148B notice of an unauthorized address change, advise the employer to contact the IRS immediately. The IRS sends a notice to both the old and new addresses to protect taxpayers from unauthorized address changes made by third parties. An incorrect address means the employer will not receive future notices about balances due, penalty assessments, or unfiled returns.
- (2) Recommend the employer monitor third-party payer withdrawals from their bank accounts and use their *Electronic Federal Tax Payment System (EFTPS) Inquiry PIN* to verify payments made by a third party on the employer’s behalf.
- (3) Find a summary of the steps the employer can take to protect themselves in the *TAS Small Business website at Third Party Arrangements for Employment Taxes*.
- (4) Find further information by searching for “outsourcing payroll duties” on <https://www.irs.gov/>.

13.1.24.5.5
(10-31-2022)

**Advocating for
Taxpayers in Retirement
Asset Levy Cases**

- (1) The purpose of this section is to provide guidance for TAS employees in advocating for taxpayers when the IRS has levied or warned the taxpayer of a possible future levy on the taxpayer’s retirement account assets.
- (2) When the IRS considers a levy of a taxpayer’s retirement account assets, IRM 5.11.6.3(7), Funds in Pension or Retirement Plans, states the IRS must “*determine whether the taxpayer depends on the money in the retirement*

account (or will in the near future) for necessary living expenses.” Because of limited IRM guidance in making this determination, the calculation method used by individual revenue officers may vary.

- (3) TAS developed a methodology to calculate the taxpayer’s need for retirement account assets. Due to the rarity and complexity of these cases, consider a referral to a Revenue Officer Technical Advisor (ROTA).

13.1.24.5.5.1
(10-31-2022)
Analysis of Law

- (1) IRC 6331 authorizes the IRS to collect tax by levy upon all property and rights to property, except property that is exempt under IRC 6334. IRC 6334 contains a list of property exempt from levy. A participant’s interest in a retirement plan is not exempt from levy under this section. Title 5 USC 8437(e)(3) provides that monies due or payable from the Thrift Savings Fund to a federal employee or member (or former employee or member) are subject to IRS levy for payment of delinquent taxes.
- (2) IRM 5.11.6.3(15) limits the amount of a retirement asset levy to exclude the amount subject to 20 percent federal income tax withholding per IRC 3405(c).

13.1.24.5.5.2
(08-29-2025)
IRS Policy on Retirement Asset Levies

- (1) IRM 5.11.6.3, Funds in Pension or Retirement Plans, instructs IRS employees to conduct a three-step analysis to determine whether to levy assets in retirement plan accounts.
 1. Determine what property is available to collect the liability.
 2. Determine if the taxpayer’s conduct has been flagrant.
 3. Determine whether the taxpayer depends on the money in the retirement account (or will in the near future) for necessary living expenses.

TAS advocacy described in this section relates to the analysis in step 3.

- (2) IRM 5.11.6.3 directs employees to use the standards in IRM 5.15, Financial Analysis, to establish necessary living expenses, and the tables in Pub 590-B, Distribution from Individual Retirement Arrangements (IRAs), to estimate how much the taxpayer can withdraw annually to deplete the retirement account over their life expectancy. Pub 590-B allows for the calculation of the taxpayer’s life expectancy, but it does not instruct the employee on how to estimate the annual withdrawals needed for the taxpayer to deplete the account. IRM 5, Collecting Process, contains no direction for the prediction of future growth, if any, of the retirement account and necessary living expenses. Use the steps described in the *IRM 13.1.24.5.5 Supplement and Example* to address this issue.

13.1.24.5.5.3
(10-31-2022)
How to Advocate in a Retirement Asset Levy Case

- (1) In cases involving a retirement asset levy, determine whether the IRS accurately applied the three-step analysis required in IRM 5.11.6.3, Funds in Pension or Retirement Plans. For step three, review the calculation used to determine the taxpayer’s need for retirement account assets.
- (2) Use the process outlined in *IRM 13.1.24.5.5 Supplement and Example* to evaluate the IRS determination. The process uses today’s dollars in both the retirement asset and necessary living expense categories. Attempting to estimate the future growth of either of these contains too many variables to ensure a consistent application for all taxpayers.

- (3) If the taxpayer did not request the levy on retirement assets, or ICS notes show the taxpayer requested the retirement asset levy, but the taxpayer later informs TAS that the IRS compelled the request to levy by warning of future enforcement actions, and the taxpayer wants the levy released or levy proceeds returned:
 - If the revenue officer did not follow the administrative procedures described in IRM 5.11.6.3, advocate for levy release or return of levied proceeds.
 - If the revenue officer did follow the first two steps described in IRM 5.11.6.3, but the amount levied is higher than what TAS computed using the *IRM 13.1.24.5.5 Supplement and Example*, advocate for release or return of the difference if the two-year time period for requesting the return of levy proceeds under IRC 6343(d) has not yet expired.
 - If the IRS returns the levied funds to the taxpayer, then the taxpayer may be eligible to contribute the funds back into an eligible retirement account under IRC 6343(f) or Rev. Proc. 2016-47. A referral to a ROTA is recommended.
- (4) If the taxpayer is considering requesting a retirement asset levy, educate the taxpayer about:
 - Collection alternatives, including taking a loan from the retirement plan in lieu of a distribution or levy;
 - Reducing retirement plan contributions if the taxpayer is still making them;
 - The pitfalls of a retirement asset levy (e.g., long-term harm to income available during retirement); and
 - Comparing waiver of the 10 percent early withdrawal penalty to the future loss of income.
- (5) After educating the taxpayer in (4), if the taxpayer wants to request a retirement asset levy, see IRM 5.11.6.3 and secure a signed written request to the IRS to levy the assets in the retirement account, consider a referral to a ROTA, advocate for the taxpayer's request ensuring the IRS accurately applies the three-step analysis required in IRM 5.11.6.3, and provide CDP rights.

13.1.24.5.5.4
(10-31-2022)
Public Use of Exhibits

- (1) TAS employees can share the *IRM 13.1.24.5.5 Supplement and Example* with taxpayers and tax professionals to direct them to public calculators and provide them with a methodology to challenge IRS calculations.

13.1.24.5.6
(11-02-2023)
**Advocating for
Taxpayers in Seizure
Cases**

- (1) Upon discovering the IRS is contemplating a seizure of a taxpayer's property (beyond the mention of seizure in Letter 1058 or Letter 11), notify the LTA and make a referral for technical advice from a ROTA.
- (2) Refer to IRM 13.1.10.10.1, Requests for Assistance in Which Counsel or the Department of Justice has Jurisdiction, if the seizure has progressed to involve Chief Counsel or the DOJ.
- (3) If the seizure involves a principal residence where the LTA determines relief is appropriate, but the OD/function will not provide relief, the LTA may issue a TAO. See IRM 13.1.20.5.1.2, Cases Involving Principal Residence Seizure.
- (4) If the seizure involves a principal residence and the LTA determines TAS is unable to advocate for relief or the case does not warrant relief, the LTA must

allow the Deputy Executive Director Case Advocacy (Deputy) to review the determination for concurrence prior to closing the case. If the IRC 7811 determination in the case is Yes, the Deputy review will include the no relief letter described in IRM 13.1.21.2.1(7), Closing Actions. If the Deputy disagrees with the LTA's no relief decision, the Deputy will discuss it with the LTA.

13.1.24.6
(08-29-2025)
**Introduction to Account
Issues**

- (1) Customer Accounts' mission is to make filing and paying taxes easier for the taxpayer by providing trouble-free filing, faster refunds, and efficient resolution of issues.
- (2) TAS's role is to ensure Customer Accounts acted in accordance with established laws, IRMs, and procedures, and to actively advocate for the taxpayer when errors or oversights were made.

13.1.24.6.1
(10-31-2022)
Penalty Relief Advocacy

- (1) The IRS can abate many penalties if the taxpayer can show the noncompliance that gave rise to the penalty was due to reasonable cause and not due to willful neglect. See IRM 20.1.1.3.2, Reasonable Cause. Penalty relief might also be available through statutory exceptions, administrative waivers, or correction of IRS errors. A table of common penalties seen in TAS casework appears below.

IRC Section	Transaction Code	Description	IRM Reference	Reasonable Cause?
6651	160, 166	Failure-to-File	20.1.2.3.7	Yes
6651	270, 276	Failure-to-Pay	20.1.2.3.8	Yes
6654	170, 176	Estimated Tax	20.1.3	No
6656	180, 186	FTD	20.1.4	Yes
6662	240	Negligence	20.1.5.8	Yes
6662	240	Accuracy	20.1.5.17	Yes
6676	240	Erroneous Claim	20.1.5.18	Yes. See P.L. 114-113
6702	240	Frivolous Submission	20.1.10.13	No
6721	240	Information Returns	20.1.7.5	Yes

- (2) TAS employees do not have the delegated authority to make penalty abatement determinations; however, as advocates, it is our job to assess the law and the facts of the case to recommend that the IRS abate the assessed penalty. See IRM 20.1.1, Introduction and Penalty Relief.
- (3) Reasonable cause is when the taxpayer exercised ordinary business care and prudence in determining their tax obligations but nevertheless failed to comply with those obligations.
- (4) TAS uses OARs and TAOs to resolve requests for penalty relief.
- (5) TAS delegated authorities do not preclude TAS from making specific recommendations to the IRS to abate penalties, and our job as advocates requires that we advocate for taxpayers in penalty cases. TAS employees should

recommend the IRS reach a particular result in its penalty relief determination if TAS supports the recommendation with facts and appropriate documentation.

13.1.24.6.1.1
(10-31-2022)

**Reasonable Cause
Assistant (RCA)**

- (1) The Reasonable Cause Assistant is a decision-support software program designed to help IRS employees determine penalty relief for Individual Master File (IMF) Failure-to-File (FTF), IMF Failure-to-Pay (FTP), and Business Master File (BMF) Failure-to-Deposit (FTD) penalties through the Accounts Management Services (AMS) desktop application. See IRM 20.1.1.3.6, Reasonable Cause Assistant (RCA), for the RCA categories available for penalty abatement. The IRS requires its employees (including Revenue Officers but excluding Appeals employees) to use the program where available for penalty abatement requests. RCA programming applies reasonable cause standards against the reasonable cause categories chosen by the user and the answers selected and dates entered in response to the questions posed by the RCA. To reach the correct determination, users must choose the applicable categories and answers based on the information provided by the taxpayer.
- (2) TAS maintains access to the RCA for its employees, but it is not a substitute for analysis of the taxpayer's facts, supporting documentation, and the law. Instead, TAS employees use the RCA to help determine how the IRS will evaluate the request for penalty abatement, which can assist TAS employees making OAR recommendations. See IRM 13.1.24.6.1.1.1.
- (3) In some cases, RCA will require documentation to support the taxpayer's request before reaching a conclusion. The RCA will reach one of five possible conclusions for the MFT and tax period reviewed (listed in order of priority):
 - Abate - reasonable cause established; remove penalty.
 - Other - not a reasonable cause issue.

Example: A taxpayer disputes how the IRS computed a penalty.

 - Suspend - insufficient information; no conclusion reached.

Example: The taxpayer has not documented their statement that they were in the hospital at the time the tax return was due, which prevented them from timely filing.

 - Sustain - reasonable cause not established.

Example: The taxpayer does not qualify for penalty relief under reasonable cause, statutory exception, or administrative waiver, so the RCA denies the FTP abatement request.

 - Mixed - abate one penalty/sustain the other (IMF) or partial abatement (BMF FTD).

Example: The RCA may determine the taxpayer met reasonable cause for abatement of the FTF penalty but not for the FTP penalty.
- (4) The user can abort an incorrect conclusion. See IRM 20.1.1.3.6.10.1, Overriding (Aborting) RCA's Conclusions. The abort conclusion requires an explanation, which the Office of Servicewide Penalties reviews. If the case includes unique individual facts and circumstances that the RCA cannot consider, users must carefully analyze those elements and ensure to show, in accordance with the reasonable cause guidelines, that despite the exercise of ordinary business care and prudence, the taxpayer was unable to comply

within the prescribed time. A determination to abort/override the RCA's conclusion cannot conflict with law or IRS policy.

Example: The taxpayer filed a 2022 tax return late. The RCA correctly concluded there was no reasonable cause to abate the penalty. However, the RCA failed to determine if First-Time Abate is applicable because the IRS incorrectly used First-Time Abate to resolve a stolen identity problem on the 2020 tax return. The RCA incorrectly concluded the taxpayer is not eligible for First-Time Abate. The TAS employee researches the taxpayer's compliance history and determines the penalties assessed and reversed two years ago are all attributable to another taxpayer filing under this taxpayer's Social Security number. The TAS employee recommends that the IRS abort the RCA conclusion and allow First-Time Abate.

13.1.24.6.1.1.1 (05-11-2018) **Reasonable Cause Category Selection**

- (1) The Reasonable Cause FTF/FTP Category Selection Screen displays a list of possible categories users can select, if applicable, based on the nature of the taxpayer's penalty relief request. Some factors in the category selection are:
 - Casualty: fire destroyed records;
 - Records unobtainable/destroyed;
 - Unavoidable absence;
 - Death or serious illness in the taxpayer's immediate family;
 - Illness: unable to manage affairs; and
 - IRS error: programming problems.

Note: For additional information for these Reasonable Cause situations, see IRM 20.1.1.3.2, Reasonable Cause.

13.1.24.6.1.1.2 (08-29-2025) **First-Time Abate – Clean Compliance History**

- (1) The RCA provides an option for penalty relief if the IRS did not previously require the taxpayer to file a return, or if the IRS has not assessed FTF, FTP, or BMF FTD penalties against the taxpayer in the past three years. First-Time Abate (FTA) is also available if the IRS fully abated penalties assessed in the prior three years for reasonable cause. See IRM 20.1.1.3.3.2.1, First Time Abate (FTA), and IRM 20.1.1.3.6.1, RCA and First Time Abate (FTA) Consideration. The RCA will attempt to apply relief based on FTA before considering reasonable cause. Since the FTA is an administrative waiver and not abatement for reasonable cause, IRS employees do not have to go through a reasonable cause analysis to use FTA. Users must manually review modules in the three-year penalty history that are in retention.
- (2) If the taxpayer will qualify for FTA relief and the documentation to support reasonable cause will be extensive or difficult for the taxpayer to gather, TAS employees should discuss with the taxpayer or representative the option of seeking FTA penalty relief without documentation. Explain that using the First-Time Abate will exclude its use again for the next three years.

Reminder: Even if the IRS applies FTA, it is important to determine if the taxpayer is eligible for reasonable cause relief. Based on the RCA, if the taxpayer meets FTA criteria, IRM 20.1.1.3.3.2.1(12), First Time Abate, requires the IRS to apply FTA before reasonable cause. However, if TAS can advocate for reasonable cause rather than use FTA, the taxpayer's compliance history will remain clean, and they can use FTA if they need it in a future tax year.

- (3) Allow the taxpayer to make this decision and document your explanation and the taxpayer's decision. See IRM 13.1.18.6(15), Initial Contact Completed by Case Advocates, for documentation requirements. The IRS will abate the penalty using FTA.

13.1.24.6.1.2
(05-11-2018)

Building the Case for Penalty Relief

- (1) TAS employees will generally follow these steps to advocate in penalty relief cases:

- a. Research the standards for penalty relief;
- b. Request information from the taxpayer;
- c. Consider taxpayer burden;
- d. Analyze how best to advocate for relief; and
- e. Determine the proper OAR recommendation.

13.1.24.6.1.2.1
(10-31-2022)

Researching Relief Standards for the Penalty

- (1) TAS employees must apply their knowledge of reasonable cause criteria, statutory exceptions, and administrative waivers when they contact the taxpayer to explore what information the taxpayer has available to make the strongest case for penalty abatement. Different penalties can have different relief standards, and some do not allow for reasonable cause abatement at all. For example, relief from the estimated tax penalty under IRC 6654 is not available under reasonable cause, but this penalty can be abated by claiming one of several statutory waivers. See IRM 20.1, Penalty Handbook, for more information about specific penalties. See IRM 20.1.1.3.2.2.8, Inaccessible Notices, if the taxpayer's reasonable cause explanation relates to not receiving an IRS notice in a format readable by the taxpayer.

Note: TAS employees should consult the ITAP staff if they need assistance in researching the relief standards for a particular penalty. See Exhibit 13.1.24-4 for some examples.

13.1.24.6.1.2.2
(10-31-2022)

Requesting Information from the Taxpayer

- (1) Review the taxpayer's request for penalty relief. During initial contact with the taxpayers, have a conversation before asking for documentation. For instance:
 - Explain the penalties assessed by the IRS and discuss the relief standards available, including reasonable cause if applicable;
 - Verify your understanding of the circumstances the taxpayer wants the IRS to consider;
 - Explain that you need to ask relevant questions to explore available options for penalty relief;
 - Explain the documentation needed to support the request, including alternative sources if the taxpayer does not have access to the types of records initially requested;
 - Ask open-ended questions and listen for cues that the taxpayer's individual circumstances may make it difficult to provide documentation; and
 - Establish a due date for the taxpayer to provide the information.

Note: The purpose of this discussion is to gain a complete understanding of the taxpayer's situation to develop a successful advocacy plan. The role of TAS employees is not to judge the taxpayer but rather to help them understand the requirements under the law and to work with them to assemble the best documentation they can provide to support a request for penalty relief.

- (2) TAS employees will also explain to the taxpayer that TAS will forward the relevant documents to the IRS to advocate for penalty relief. See IRM 13.1.5.6, Communicating Confidentiality Rules to Taxpayers and Taxpayers' Representatives, for more information.

13.1.24.6.1.2.3 (08-29-2025) Considering Taxpayer Burden

- (1) If the IRS will use the RCA to consider a penalty abatement request, TAS employees should weigh taxpayer burden when requesting information. If the taxpayer will qualify for First-Time Abatement (FTA) relief and the documentation to support reasonable cause will be extensive or difficult for the taxpayer to gather, TAS employees should discuss with the taxpayer or representative the option of seeking FTA penalty relief without documentation. Explain that using the FTA will preclude the taxpayer from FTA as reason for penalty relief for the next three years. Allow the taxpayer to make this decision and document your explanation and the taxpayer's decision. Request abatement of the penalty under FTA in your OAR. See Examples 1 and 2 in IRM Exhibit 13.1.24-4.
- (2) Alternatively, if the taxpayer will qualify for FTA relief, but the taxpayer is willing to provide (without excess burden) reasonable cause documentation, they should do so. If TAS can advocate for reasonable cause, the taxpayer's compliance history will remain clean, and they can use FTA if they need it in a future year. See Example 3 in IRM Exhibit 13.1.24-4.
- (3) In cases where the IRS has not yet considered or received the taxpayer's penalty abatement request, TAS employees should secure a signed written request under penalties of perjury for penalty abatement as a best practice if the Refund Statute Expiration Date (RSED) is near expiration.

13.1.24.6.1.3 (05-11-2018) Analyzing How Best to Advocate for Relief

- (1) TAS employees will analyze the taxpayer's information to determine how best to advocate for penalty relief based on their knowledge of the reasonable cause abatement provisions and the facts of the case prior to using the RCA. If the penalty is an IMF Failure-to-File, IMF Failure-to-Pay, or BMF Failure-to-Deposit penalty, TAS employees will use the RCA to analyze whether penalty relief may be appropriate due to reasonable cause, statutory exception, or administrative waiver. However, TAS employees should not base their determination to advocate for penalty relief based only upon the results of the RCA analysis. Rather, the TAS employee should decide whether to advocate for relief based on the penalty relief standards as applied to the taxpayer's individual facts and circumstances.
- (2) TAS employees have access to the RCA because use of the RCA helps build our case, even when TAS disagrees with the answer provided by the RCA. TAS employees using the RCA will determine what category or categories (if any) will result in abatement. If the RCA decides to sustain the penalty, TAS employees should review the facts and circumstances to determine if an RCA override is appropriate and should consult ITAP if they need help making this determination.

Caution: After using the RCA, TAS employees must always “**Cancel**” out of the **RCA program** before it makes any adjustments.

13.1.24.6.1.3.1
(10-31-2022)

**Deciding the Type of
OAR Recommendation
to Make to the IRS**

- (1) Once TAS employees receive the taxpayer's information and evaluates it against penalty relief standards (including reasonable cause), TAS employees must choose between two types of OAR recommendations.

a. **Advocating for Penalty Relief**

If analysis supports abatement, TAS employees must recommend the IRS abate the penalty based on the law, facts, and supporting documentation. The OAR will include a request to contact the TAS employee before sustaining the penalty and rejecting the OAR so TAS can discuss the disagreement with the function before the taxpayer receives a denial letter. When documentation supports advocating for penalty relief, an OAR should not take a neutral stance and simply ask the IRS to make a penalty relief determination. Although neutral language can be appropriate in other situations (see b) below), it is not appropriate when the facts and circumstances allow TAS to advocate for penalty relief.

Example: Based on the information provided, it is TAS's position that \$(insert dollar amount or "all" as applicable) of the (insert type) penalty is eligible for abatement based on (reasonable cause or first-time abate) due to (category of reasonable cause, statutory exception, or administrative waiver). (Insert an explanation of why the supporting documentation supports such a position.) We recommend you abate the penalty for reasons explained above. If you disagree and intend to sustain the penalty, contact me with an explanation and a copy of your complete RCA determination including all information input into the RCA and allow me three workdays to review your reasoning before you sustain the penalty, per the Service Level Agreement (SLA).

b. **Recommending the IRS Consider the Penalty Relief Request**

If the TAS employee's analysis of the facts and supporting documentation does not support abatement and the IRS has not yet made a determination on the penalty abatement request, then TAS employees should use neutral language in their OAR recommendations to ask the IRS to consider the penalty abatement. The taxpayer is entitled to receive a decision on the abatement request, even if the information received does not support abatement. To do otherwise would create delays beyond those that brought the taxpayer to TAS in the first place. See IRM 13.1.19.5, Operations Assistance Request (OAR) - Preparation, and Example 6 in IRM Exhibit 13.1.24-4 for neutral language OAR examples.

Example: Based on the information provided, consider the taxpayer's request for (insert type of penalty) relief. Input the necessary adjustments for any penalty abated. If you deny the request, send the proper disallowance letter with appeal rights to the taxpayer, and provide a copy to TAS.

Caution: As advocates, TAS employees should advocate for the best result possible for the taxpayer under the law after conducting an independent and impartial review of the facts and explaining our position to the IRS. TAS employees should only use neutral language if the facts and accompanying documentation do not support abatement.

13.1.24.6.1.4
(10-31-2022)
Advocating for the “In Between” Cases

- (1) TAS employees may encounter “in between” cases where it may be difficult to determine the proper OAR recommendation as described in IRM 13.1.24.6.1 (5) and IRM 13.1.19.5, Operations Assistance Request (OAR) - Preparation.

Example: The taxpayer does not qualify for First-Time Abate but does seek penalty relief for reasons that meet reasonable cause. However, the documentation received is incomplete, includes conflicting information, or only covers a portion of the period for which the taxpayer seeks penalty relief.

- (2) In these situations, TAS employees must use their good judgment and discretion to determine if a follow-up request to the taxpayer for more information would be beneficial. The follow-up contact could point out the weaknesses in the information received and suggest additional information that would strengthen the case. TAS employees should ask themselves the following questions when deciding whether to make a follow-up contact for additional information:
- During previous contacts, did the TAS employee ask for the missing information, and did the taxpayer state whether it was available?
 - Would a follow-up contact provide the TAS employee an opportunity to explain why the IRS needs the information requested and to determine if the taxpayer had problems securing that information? The TAS employee and taxpayer may be able to identify alternative documentation sources.
 - Can TAS advocate for penalty relief by considering the existing information in a manner most favorable to the taxpayer?
- (3) After careful consideration of these questions, TAS employees will again use their good judgment and discretion to determine whether to:
- Make a follow-up contact to the taxpayer for additional information;
 - Issue an OAR that advocates for penalty relief; or
 - Issue an OAR that recommends the IRS consider the penalty relief request using neutral language.

Note: When making follow-up contacts for additional information, TAS employees should avoid the perception that they are burdening the taxpayer with repeated information requests. The initial request for documentation should be as complete as possible but must include only the information TAS needs to advocate for relief of the taxpayer’s problem.

13.1.24.6.1.5
(10-31-2022)
Deciding How to Resolve Disagreements With the IRS Penalty Determination

- (1) When the IRS disagrees with an OAR relief recommendation and sustains the penalty, TAS employees should review the reasons given to determine if and how TAS should dispute the determination. If TAS employees agree with the IRS’s explanation, then TAS employees will close their OARs without further action (or if the IRS suspended the request pending TAS review, TAS employees should advise the employee assigned the OAR to proceed with sustaining the penalty). The taxpayer can still exercise appeal rights per the denial letter. TAS employees will advise the taxpayer of their appeal rights provided in the denial letter during the closing contact per IRM 13.1.21.2.1(2), Closing Actions.
- (2) At any level of OAR disagreement, if the TAS employee believes that the IRS OD/Function was incorrect in its rejection of an OAR, they should elevate the case for TAO consideration. Discuss appeal rights and options with the

taxpayer or their representative if OAR elevation efforts are not successful at the OD/Function level. Appeals can consider hazards of litigation. Discuss this with the taxpayer or their representative, and if the taxpayer decides to go to Appeals, the taxpayer must file an appeal to the denial of penalty relief. Once the taxpayer's penalty appeal package is in Appeals, TAS employees can use the OAR process to advocate for penalty relief to Appeals. There are no administrative appeal rights on the IRS's denial of a request for a reduction of an IRC 6702 penalty. See Rev. Proc. 2012-43 to provide taxpayers with information on eligibility and the procedures for filing a request for a reduction of an IRC 6702 penalty. TAS employees will keep the TAS case open until Appeals makes its penalty relief decision. See IRM 13.1.21.2.2.2(1)(b), Appeals, for more information.

Caution: If TAS does not extend its involvement into the penalty appeal, taxpayers can still exercise the appeal rights described in the disallowance letter on their own.

13.1.24.6.1.6
(03-05-2019)
**Penalty Relief for
Employers Affected by
Third-Party Payer
Misconduct**

- (1) See IRM 13.1.24.5.4 for advocacy information for employers affected by third-party payer misconduct, including penalty relief and relief through offers in compromise.

13.1.24.6.1.7
(10-31-2022)
**Penalty Relief Advocacy
Based on an
Inaccessible Notice**

- (1) A taxpayer may request penalty relief if they received a notice in standard print format requiring a taxpayer action, but the taxpayer did not timely respond because the notice was inaccessible. If the taxpayer informs the TAS employee they are subject to penalties due to a delay in responding to a notice, consider whether a reasonable cause exception might apply in the taxpayer's situation. See IRM 20.1.1.3.2.2.8, Inaccessible Notices, and IRM 13.1.6.10, Assisting Taxpayers Who Need Documents in an Alternative Media Format, for more information.

13.1.24.6.2
(05-11-2018)
**Advocating for
Taxpayers Seeking
Offset Bypass Refunds**

- (1) The purpose of this IRM section is to clarify when TAS can advocate for an Offset Bypass Refund (OBR), and after an offset has occurred, when TAS can advocate for the reversal of the offset.

13.1.24.6.2.1
(10-31-2022)
Overview

- (1) Under certain limited circumstances where hardship exists, the IRS may issue a manual refund without first satisfying outstanding federal tax liabilities. These refunds are known as OBRs. Generally, TAS has the delegated authority to issue OBRs if the account does not have an open control for the tax year of the overpayment. However, TAS is subject to the same rules followed by other IRS employees with similar authority. Similarly, TAS can only reverse an offset when there is legal authority to do so – and the legal authority that TAS must follow is the same legal authority applicable to the IRS. As with any other case, TAS must perform an analysis of the facts and applicable legal authorities when deciding whether to issue an OBR or reverse an offset that has already occurred.
- (2) OBRs are extremely time-sensitive, particularly with the improvements in return processing made possible by CADE 2. As a result, it is imperative that TAS employees be mindful of deadlines for requesting an OBR. If an employee will

be on leave, is out of the office unexpectedly, or has a large volume of work, it is the employee's responsibility to bring any case involving an OBR to the attention of their manager immediately for reassignment. (See IRM 13.1.16.8.1, Immediate Elevation of Emergency Cases, and the example in IRM 13.1.18.4(1), Time Frames for Taking Case Actions.)

13.1.24.6.2.2
(05-11-2018)

Law and Authorities

- (1) The following sections summarize OBR law and authorities.

13.1.24.6.2.2.1
(05-11-2018)

The IRS Can Bypass Federal Tax Debt Under Certain Circumstances

- (1) There is no legal authority that requires the IRS to maintain an OBR process; rather, there is legal authority that the offset of refunds to pay a federal tax is not required. In this regard, IRC 6402(a) provides that the IRS “**may** credit...[an] overpayment, including any interest allowed thereon, against any liability in respect of an internal revenue tax on the part of the person who made the overpayment” and “shall, subject to [certain limitations], refund any balance to such person.” (emphasis added). Because the statute is phrased as the IRS “**may** credit...,” the IRS can exercise its discretion to bypass the outstanding federal tax liability and issue a refund to a taxpayer experiencing economic hardship. Thus, IRC 6402(a) gives the IRS the authority to offset a taxpayer's overpayment against any outstanding federal tax liability before issuing a refund. The IRS has made a policy decision not to offset an overpayment against an outstanding federal tax liability under IRC 6402 if the taxpayer can demonstrate hardship. Hardship for this purpose is economic hardship within the meaning of IRC 6343 and the regulations thereunder (*i.e.*, unable to pay basic living expenses.)

13.1.24.6.2.2.2
(05-11-2018)

IRS Cannot Bypass Nontax Debts

- (1) In contrast, IRC 6402 (c), (d), (e), and (f) require the IRS to apply a taxpayer's overpayment to any outstanding child support debt, federal agency nontax debt, state income tax obligation, or unemployment compensation prior to crediting the overpayment to a future tax or making a refund; each of those subsections is phrased as the “Secretary **shall**...” (emphasis added). This means that the IRS has no discretion to bypass one of those debts. In addition, IRC 6402 provides rules for the priority of offsets which require that the IRS must be paid first. Not all of the offset provisions in IRC 6402, however, contain priority rules. Consequently, for consistency and administration purposes, the IRS has adopted a policy of not issuing an OBR when the taxpayer has both a federal tax debt and any other type of debt for which IRC 6402 authorized the offset.

13.1.24.6.2.2.3
(05-11-2018)

Reversing Offset Is Only Possible in the Event of a “Clerical Error”

- (1) Once the offset has occurred, there is no longer any overpayment to refund. However, there is a limited circumstance in which the IRS may reverse the offset. The authority for the IRS to reverse an offset of a refund after the offset has occurred is not in the Internal Revenue Code or Treasury Regulations. Rather, the IRS bases its authority to reverse an offset on case law. In this regard, courts have permitted the IRS to reverse certain clerical errors. Clerical error should be broadly interpreted to include bookkeeping, ministerial, administrative, inadvertent, or accidental errors, or even mistakes of fact. IRM 3.17.79.3.16(5), Offset Bypass Refunds, and IRM 20.2.1.4.2.2.4(4), Overpaid Overpayment Interest, generally characterize all such errors as “clerical” errors. Thus, if a clerical error prevented the processing of the OBR request, the IRS can reverse the offset and then issue an OBR.

13.1.24.6.2.3
(08-26-2020)
IRS IRMs on OBRs

- (1) IRM 21.4.6.5.7.1, Offset Bypass Refund (OBR), provides that a request for an OBR must be worked immediately upon receipt. An OBR must be issued before the overpayment has been offset. If the offset has already occurred, the IRM instructs IRS employees to tell the taxpayer that the overpayment has been applied to the balance due account and the IRS cannot reverse the offset. Refer to IRM 21.4.6.5.7.1(6), Offset Bypass Refund (OBR), and IRM 3.17.79.3.16(5), Offset Bypass Refunds.
- (2) As described above, if a taxpayer has an IRS debt and a nontax debt for which IRC 6402 authorizes the offset (*e.g.*, child support, student loan, unemployment compensation, state income tax debts). IRM 3.17.79.3.16(2)(Note) prohibits the IRS from bypassing either debt. The IRS debt must be paid.
- (3) Once the offset takes place, the IRS will not reverse the offset unless a clerical error occurred that prevented processing of the request. See IRM 21.4.6.5.7.1(11), IRM 3.17.79.3.16(5), and IRM 3.17.79.3.2(18), Processing Manual Refunds.
- (4) Per IRM 3.17.79.3.3(3), Issuing Hardship Refunds, a TRDBV print can be used when issuing a direct deposit hardship manual refund into a RAC/RAL account of an original electronic filed return.

13.1.24.6.2.4
(08-29-2025)
How to Advocate in an OBR Case

- (1) When TAS receives a case involving a refund request, TAS must determine whether an OBR is permissible. TAS must research the status of the current year return (if already submitted for processing) and the taxpayer's previous attempts to communicate the necessity for an OBR prior to receipt of the case in TAS (generally accomplished through review of the Accounts Management System (AMS)).
- (2) If the offset is imminent when TAS receives the request for relief (it generally is), TAS must recognize the short window for providing relief and act quickly. TAS must consider whether there is an outstanding federal tax debt (in which case an OBR is permissible) and whether there is an outstanding child support debt, federal agency nontax debt, state income tax obligation, or unemployment compensation debt (in which case an OBR is not permissible).
- (3) Currently, CADE2 processing generally results in the tax assessment (TC 150 or 23C date) reflecting the same date as the posting of the offset (TC 826), but the cycle dates of those transactions may appear on IDRS prior to the actual assessment and offset. Legally, an overpayment does not exist until the IRS assesses tax and the taxpayer's payments or credits exceed the amount of the assessment. Therefore, until the return processing is complete including assessment of the tax (identified by the TC 150 or 23C date, not the cycle date), there is no overpayment available for offset. Legally, the offset cannot occur prior to the assessment. An OBR can be initiated prior to assessment but no later than the date of offset as reflected by the transaction codes (TC 150 for assessment of tax, and TC 826 for offset of the resulting credit).

Reminder: TAS must verify the hardship and send the manual refund paperwork to Accounting by the Friday before the scheduled 23C date. See example in IRM 13.1.24.6.2.4 (4) below.

- (4) If the TC 826 offset took place in a later cycle than the TC 150, research *Document 6209 Section 16 - IDRS Online Input Table* to determine the 23C date of the cycle of the offset to determine if an OBR can still be issued.

Example: The 2022 TC150 posted on 2-13-2023, in cycle 202304, but the TC 826 did not post until cycle 202307. An OBR can be initiated no later than the date of offset as reflected by the TC 826 for offset of the resulting credit. Before taking action, research the 23C date of the offset cycle in the *Document 6209 2023 IDRS Input Table* to determine if an OBR can still be issued. In this case, it shows the date 3-6-2023 as the corresponding 23C date for cycle 202307. Because TAS must verify the hardship and send the manual refund paperwork to Accounting by the Friday before the date on the Assessment or Scheduled 23C Date column of the TC826, TAS can advocate for an OBR if it receives the request for assistance before 3-3-2023 (the Friday before 3-6-2023). See *CABIC 060*, IRS Offset, for additional examples and the *Determining if time is available to advocate for an Offset Bypass Refund (OBR) video*.

- (5) Once the tax is assessed (the 23C date), the overpayment is created and offset occurs, there is no longer any overpayment to refund, and the OBR cannot be initiated. However, if a freeze code or other condition exists on the account preventing the overpayment from offsetting to the outstanding liability, an OBR can be initiated because the overpayment is still available on the module. (See IRM 21.4.6.5.7.1(6), Offset Bypass Refund (OBR).)

13.1.24.6.2.5
(08-29-2025)

Advocating That a Clerical Error Occurred

- (1) If a clerical error occurred in the processing of the OBR, it may be possible to reverse the offset based on the clerical error doctrine and then issue the OBR.

Note: OBRs should only be issued after the 23C date when a clerical error occurs or there is a freeze on the account holding the credit, preventing it from offsetting.

- (2) In the legal context, a clerical error results from a minor or inadvertent mistake in writing or copying something on the record and not from judicial reasoning or determination. For example, a clerical error includes:

- Omitting an appendix from a document,
- Typing an incorrect number,
- Mistranscribing a word,
- Misdirecting a form, or
- Sending a form to a nonworking fax machine.

A clerical error occurs when an IRS or TAS employee makes an inadvertent, administrative, or ministerial mistake that does not involve substantive judgment. Clerical tasks do not relate to the employee serving in a clerical role or performing clerical tasks. Failure to follow existing procedures causing the offset date to pass before taking an action to relieve the hardship is not a clerical error.

Note: The closure of an IRS campus that processes manual refund requests does not constitute a clerical error.

- (3) TAS should advocate for an OBR where the following occurs **before** the offset:
- The taxpayer timely requests assistance from TAS in sufficient time for TAS to process the OBR paperwork;
 - The taxpayer timely provides satisfactory documentation of the economic hardship; and
 - The Local Taxpayer Advocate (LTA) timely approves the manual refund paperwork, and the paperwork is submitted prior to the date of offset.

- (4) If an IRS or TAS employee makes a clerical, inadvertent or ministerial error (as opposed to a substantive error in judgment) that prevented the processing of the OBR request prior to the date of offset and resulted in harm to the taxpayer, TAS should advocate by requesting the IRS reverse the offset and provide TAS with written authorization to issue a manual refund. If the Operating Division (OD)/Function disagrees with TAS's recommended actions, then the TAS employee should elevate the issue to the LTA for possible issuance of a Taxpayer Assistance Order (TAO).

13.1.24.6.2.5.1
(10-31-2022)

Examples of a Clerical Error

- (1) A TAS employee receives documentation of the taxpayer's economic hardship (\$989.00) and submits the OBR request to the IRS before the offset occurs. However, the TAS employee inadvertently transposes the numbers and requests \$898.00. TAS does not notice the error until after the offset occurs. The requested incorrect amount is an inadvertent mistake, not a substantive one. This mistake is a "clerical error" that prevented the processing of the OBR for the correct amount (\$989.00). TAS should advocate for the reversal of the offset based on clerical error.
- (2) A TAS employee receives the taxpayer's economic hardship documentation, the LTA approves the manual refund form, and the TAS employee timely faxes the OBR request to the IRS at least one business day before the IRS has the offset scheduled. Two days later, the TAS employee calls the IRS to check on the status of the OBR request. The IRS employee discovers the fax machine jammed or was out of paper; therefore, the IRS never received the OBR request, and the offset has occurred. The TAS employee refaxes the OBR request. The IRS's lack of receipt prior to the offset is an inadvertent mistake, not a substantive one. In this scenario, a clerical error occurred that prevented the processing of the OBR request. TAS should advocate for the reversal of the offset based on clerical error.
- (3) A TAS employee receives documentation of the taxpayer's economic hardship, the LTA approves the OBR, and the Case Advocate timely e-faxes the OBR request to the IRS the Friday before the offset will occur on Monday. The TAS employee neglects to check a box in Section II of Form 3753, Manual Refund Posting Voucher. The IRS informs the Case Advocate via voicemail Monday afternoon that Form 3753 was incomplete and asks the TAS employee to resubmit a corrected form. The TAS employee does not receive the voicemail message until Tuesday morning after the offset occurred on Monday. The TAS employee resubmits the OBR request. The incomplete Form 3753 submitted before the offset occurred was a clerical error that prevented the processing of the OBR request. TAS should advocate for the reversal of the offset based on clerical error.
- (4) The taxpayer contacted TAS requesting an OBR due to hardship on Wednesday, March 3. The 23C date is Monday, March 8. TAS secured hardship documentation; completed Form 5792, Request for IDRS Generated Refund (IGR); obtained LTA approval and faxed the paperwork to Accounting on Thursday, March 4. Accounting rejected the paperwork because the LTA's digital signature on the Form 5792 contained a middle initial, and the digital signature on file did not. TAS corrected the paperwork and resubmitted it to Accounting on Tuesday, March 9. Can TAS pursue a reversal of the offset due to "clerical error"? Yes, because this was an inadvertent error that did not require substantive judgment.

- (5) The above examples are not all-inclusive of situations in which TAS may or may not advocate for the reversal of an offset based on a clerical error. One of the most important things to remember during the filing season is that OBRs are extremely time-sensitive, particularly with the improvements in return processing made possible by CADE 2. As a result, it is imperative that TAS employees be mindful of deadlines for requesting an OBR. Employees need to screen all their incoming cases to determine if an OBR may be an option in providing relief to the taxpayer. Further, if an employee will be on leave, is out of the office unexpectedly, or has a large volume of work, it is the employee's responsibility to bring any case involving an OBR to the attention of their manager immediately for reassignment. TAS employees can minimize the instances in which they would need to advocate for the reversal of an offset by following established procedures for working OBRs.

13.1.24.6.2.5.2
(08-29-2025)

**Examples of Errors in
Judgment/Substantive
Errors**

- (1) The taxpayer clearly indicated a need for the OBR prior to the 23C date and had suitable documentation of hardship, and TAS had adequate time to prepare the OBR prior to the 23C date. The ONLY reason the taxpayer missed the due date was an oversight on the part of an IRS or TAS employee. Even if you feel this is a really strong case, **this does not qualify as a clerical error.** This is a substantive error in judgment, and TAS should not advocate for reversal of the offset based on clerical error.
- (2) The taxpayer called the IRS Toll-Free Line on Friday, March 5, to request an OBR based on hardship. The 23C date was Monday, March 15. The IRS assistor documented the call in AMS but did not initiate a referral to TAS, despite the taxpayer's clear description of imminent harm. The taxpayer contacted TAS Toll-Free on Thursday, March 25, to request an OBR. Failure to act by the IRS assistor is a lapse in judgment, not an inadvertent error. This is a substantive error in judgment, and TAS should not advocate for reversal of the offset based on clerical error.
- (3) The TAS employee receives documentation of the taxpayer's economic hardship on May 1. Due to the TAS employee's workload, the TAS employee doesn't submit the OBR request to the IRS until May 6. The offset occurred on May 5. The TAS employee should have reprioritized their work or asked their manager for assistance. This is a substantive error in judgment, and TAS should not advocate for reversal of the offset based on clerical error.
- (4) The TAS employee receives documentation of the taxpayer's economic hardship on May 1. The TAS employee is on planned or unplanned leave until May 6. The offset occurred on May 5. The TAS employee should have brought this case immediately to their manager's attention before planned leave, and if unplanned leave occurs, management should have been aware of time-sensitive cases. This is a substantive error in judgment, and TAS should not advocate for reversal of the offset based on clerical error.
- (5) A TAS employee receives documentation of the taxpayer's economic hardship on the morning of May 1. The TAS employee is out of the office unexpectedly beginning that afternoon and does not return until May 3. The offset occurred on May 2. The TAS employee should have brought this case immediately to their manager's attention before leaving that afternoon. This is a substantive error in judgment, and TAS should not advocate for reversal of the offset based on clerical error.

Note: You cannot use a delay by an IRS and/or TAS employee in working a request for assistance, such as an AMS e911 request that an employee did not work until after the 23C date had passed, as a basis for reversal of the offset based on clerical error.

13.1.24.6.2.6
(08-29-2025)

Other Considerations

- (1) TAS employees must always approach each case involving an OBR request with an advocacy perspective, reviewing the individual facts and circumstances to determine the best approach for providing relief or alternatives.
- (2) Refund offsets may be the only avenue for the IRS to collect from some taxpayers. Without the application of refund offsets, those outstanding liabilities continue to accrue more interest and penalties, so the taxpayer's indebtedness to the government grows, potentially subjecting the taxpayer to enforcement actions like the filing of a Notice of Federal Tax Lien (NFTL) or a levy. TAS should educate taxpayers seeking OBRs about alternatives to resolving their outstanding liabilities, such as installment agreements or offers in compromise.
- (3) Many taxpayers facing refund offsets may not have sufficient resources to meet necessary living expenses and make payments toward their liabilities. It is not unusual for such taxpayers to experience economic hardship year after year, which may lead them to seek TAS assistance more than once. In these situations, TAS can advocate by exploring with the taxpayer the feasibility of adjusting withholding exemptions to reduce tax withholdings, thus resulting in increased take-home pay, that improves the taxpayer's financial situation. Just because a taxpayer has requested an OBR in one or more prior years is not, in and of itself, a reason to deny an OBR request in a current year.

13.1.24.6.2.7
(10-31-2022)

OBRs and Receipt of Unprocessed Original Tax Returns and Other Circumstances

- (1) **TAS employees do not have authority to solicit unprocessed original or amended tax returns.** The IRS does not consider a TAS office a "designated filing location" for tax returns, and the IRS has not delegated TAS employees the authority to accept hand-carried returns. In general, the only exception for acceptance of returns by TAS employees is when the return is time-sensitive and the failure of TAS to accept the return would be detrimental to the taxpayer. The IRS does not consider the return received or filed, however, until a TAS employee transmits it to the proper IRS filing location or hand-carries to an IRS employee who has the delegated authority to accept hand-carried returns.
- (2) In rare circumstances the taxpayer may send the unprocessed original return to TAS when requesting an expedited refund. Examples of these rare circumstances are:
 - If the taxpayer refuses to send the return to the IRS, or
 - If the taxpayer sends an unsolicited return. The return qualifies as "time-sensitive" because the OBR issue requires processing of that tax return concurrent with the OBR request. For additional information on time-sensitive criteria, see IRM 13.1.18.8.3, Taxpayers Delivering Returns to TAS and TAS Date Stamp.

13.1.24.6.2.7.1
(08-29-2025)

Time-Sensitive Unprocessed Original Return Procedures

- (1) The following are instructions for a time-sensitive unprocessed original tax return TAS receives by mail or hand delivery with an expedite refund request and a balance due on a prior tax module only.

- (2) If TAS receives the unprocessed original tax return **and the IRS must use it** to resolve the OBR, mail the original tax return via the OAR process to the appropriate Campus Operating Division within one workday of receipt. See IRM 13.1.18.8.3, Taxpayers Delivering Returns to TAS and TAS Date Stamp.
- (3) Edit the Return and Notate "OBR" on the OAR:
 1. Date stamp the return with the Date Assistance Request Received in TAS (DART), (this does not mean the taxpayer filed the return with the IRS); and
 2. Add computer condition codes (CCC), "O" and "Y" in the entity section of the tax return (**always** put "O" before "Y"); and
 3. Write "OBR Request" in the top margin of the OAR.
- (4) Write the OAR with this suggested language:

Please expedite processing of the attached original tax return. Stamp the return with the "official IRS received date" stamp. Add an "X" on the Refund line of the tax return to indicate "no transcription." Ensure the return has Computer Condition Code (CCC) "O" and "Y" in the proper location to hold the refund and send the return to ERS.

- (5) When the return falls out to ERS, add the ERS employee's initials next to the refund amount for verification purposes. Fax pages 1 and 2 of the tax return and the screenprint of the Error Code Screen Display highlighting the refund amount back to the OAR originator.
- (6) Before mailing the return for processing:
 - Verify taxable income;
 - Verify credits claimed;
 - Verify the return is mathematically accurate;
 - Verify you have attached all supporting documentation, including Forms W-2 and 1099;
 - Verify the presence of taxpayer's original signature (if joint, both signatures);
 - Add CCC "O" in the Entity section of the face of Form 1040 to freeze the refund;
 - Add CCC "Y" just after the "O" code (OY) to send the return to Error Resolution (ERS) for Systemic Validation and screenprint.
- (7) For additional information on issuing manual refunds for an unprocessed tax return, see IRM 3.17.79.3.3.2, Manual Refunds for Unprocessed Original Returns.
- (8) If the return is missing supporting forms/schedules, request that the taxpayer send you the missing information immediately.
- (9) Mail the return for processing using the instructions above adding **an additional OAR instruction** that reads, "TAS requested the missing return information and will fax it to the ERS Liaison." List on the OAR exactly what forms/schedules you have requested. If after reviewing the return the ERS employee determines they need more information from the taxpayer, ERS will send the taxpayer a letter.

- (10) When TAS receives the requested information, contact the ERS Liaison (phone or email) asking if they have the OAR. Make arrangements to forward the information to the ERS liaison for association with the return and continue processing. Because this is an OBR case requiring expeditious handling by all employees, send missing information to ERS by fax or scanning (under 20 pages) if possible. Once ERS validates the refund amount, TAS can issue the OBR.
- (11) If the taxpayer does not respond, contact ERS advising they can close the OAR because the taxpayer did not respond to TAS's request for missing information. ERS employees should follow their guidance and continue processing the return as a "No Reply." This action prevents the taxpayer from receiving an OBR.
- (12) In instances where the taxpayer states it may take a few days to provide hardship documentation, take the appropriate actions to freeze the account until TAS can determine if a hardship exists. Send the return for processing using the instructions above in IRM 13.1.24.6.2.7.1 (2).
- (13) If the taxpayer does not provide supporting hardship documentation and the return posted to IDRS (TC150), release the "O" code and the "-X" Freeze (generated when the TC150 posts to an account without a TC 840) by transferring the overpayment to the balance due account(s) via credit transfer procedures. If the taxpayer's overpayment is in excess of the balances due, issue a manual refund for the remaining overpayment.
- (14) If the taxpayer cannot provide supporting hardship documentation and the return is not posted (no TC150), monitor the account until the return posts to IDRS (TC150) and then follow the procedures in the preceding paragraph.
- (15) See Document 6209, Section 8A Master File Codes, for information on freeze code conditions, and IRM 21.5.6.4, Freeze Code Procedures. For information on how to input a credit transfer, see IRM 21.5.8.4, IDRS Guidelines for Credit Transfers.

13.1.24.6.2.7.2
(05-11-2018)

**Taxpayer Sent Original
Return to the IRS**

- (1) If the taxpayer submitted a return to the IRS and then contacts TAS to issue an expedited refund, it is possibly too late to issue an OBR to the taxpayer.
- (2) CADE 2 accelerated **refund** processing, **not return** processing; therefore, if the IRS is currently processing the taxpayer's return, it is difficult to know exactly when the return will complete processing. In addition, the return might not pass computer validity checks, may have math errors, may unpost, etc.
- (3) If posting of the refund created a freeze condition on the account or you receive the taxpayer's request prior to the overpayment offsetting to the balance due account, there should still be time to process an OBR. If this occurs, follow procedures in IRM 21.4.6.5.7.1, Offset Bypass Refund (OBR), and IRM 3.17.79.3.16, Offset Bypass Refunds.

13.1.24.6.3
(08-29-2025)

Advocating in Cases With Amish, Mennonite, Religious or Conscience-Based Objectors to Obtaining a Social Security Number Causing the IRS to Deny Them Child Tax Credit

- (1) The purpose of this section is to provide TAS employees guidance on how to advocate in cases involving Amish, Mennonite, religious or conscience-based objectors to obtaining a Social Security number (SSN), causing the IRS to deny them the Child Tax Credit (CTC). This advocacy will ensure these taxpayers have their *rights to a fair and just tax system, to challenge the IRS's position and be heard, and to appeal an IRS decision in an independent forum* protected, along with their constitutional right to freely exercise their religion.

Note: Because of the unique issues involved, TAS will centralize the work of these cases in a few offices. See IRM 13.1.17.3.1, Transfer of Cases Involving Amish, Mennonite, Religious or Conscience-Based Objectors to Obtaining an SSN and Were Denied Child Tax Credit.

13.1.24.6.3.1
(10-31-2022)
Background

- (1) The Tax Cuts and Jobs Act (TCJA), enacted in December 2017, changed the CTC beginning in tax year 2018. The changes included requiring a SSN and increasing the credit amount to \$2,000 per qualifying child. It also created a new credit called the Credit for Other Dependents (ODC) which provides a non-refundable credit of \$500 for certain other dependents.
- (2) As discussed in the *National Taxpayer Advocate 2020 Objectives Report, TAS Will Urge the IRS to Reconsider Its Position on the Application of the Religious Freedom Restoration Act to the Social Security Requirement Under IRC 24(h)(7), Which Has the Effect of Denying Child Tax Credit Benefits to the Amish and Certain Other Religious Groups* and in a NTA blog post, *The IRS's Position on the Application of the Religious Freedom Restoration Act to the Social Security Requirement Under Internal Revenue Code 24(h)(7) Has the Effect of Denying Child Tax Credit Benefits to the Amish and Certain Other Religious Groups*, (subsequently amended and edited during the current NTA's tenure), some taxpayers with deeply held religious beliefs, most notably the Amish, do not obtain SSNs due to these beliefs. The IRS subsequently revised IRM 3.12.3.26.18.6(2)(a), TIN Requirements (EC 287), indicating it will not allow the CTC on returns where the dependent does not have an SSN due to the taxpayer's religious beliefs. Most typically, these would include returns filed by Amish and Mennonite taxpayers. The NTA does not agree with the IRS's position. The NTA and TAS will continue to assert, pursuant to *Sherbert v. Verner*, 374 U.S. 398 (1963), that the IRS's position abridges the free exercise of religion and may be in violation of the Religious Freedom Restoration Act.

13.1.24.6.3.2
(10-31-2022)

Advocating for Taxpayers With Religious Objections to Obtaining Social Security Numbers

- (1) Since the IRS is disallowing the CTC where a qualifying child does not have an SSN, these taxpayers may pursue one of two options:
 - a. Pursue the CTC, or
 - b. Forego the CTC and claim the ODC.
- (2) To advocate effectively for the position the taxpayer chooses, you will need to discuss both options with the taxpayer after you complete your initial research. Ensure the taxpayer understands that if they so choose you will advocate for the CTC despite the IRS's position. We will advocate based on the NTA's disagreement with the IRS's position, as outlined above. Be aware that the Amish and Mennonites are averse to litigation. See *CABIC 325, Invalid Dependent SSN/Name*, for more information.

- (3) Consider contacting the TAS Attorney Advisor Group (AAG) manager for assistance with any legal issues. These issues and the advocacy is complex and the AAG has expertise in this area. See *Attorney Advisory Group (AAG)* for contact information.

13.1.24.6.3.2.1
(10-31-2022)
Initial Analysis

- (1) It is critical in these cases to check the date on the taxpayer's math error notice (CP 11, CP 12, or CP 13) to see if the request is within the 60-day period or outside of the 60-day period. You should research IDRS for MINISTER SE CD of 4 on ENMOD or IMFOLE to determine if the taxpayer has an approved Form 4029, Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits, on file with the IRS, which will allow you to argue that the IRS has provided similar exceptions for these taxpayers in the past. It is possible that the taxpayer's Form 4029 indicator may not be present on the account, even though the taxpayer may have previously submitted that form.
- (2) Follow *CABIC 390*, Other, and ask that IRS place the appropriate indicator on the taxpayer's account. See IRM 5.1.12.12.3(5), IDRS Religious Exemption Indicators, to determine if the taxpayer has a valid Form 4029 on file.
 1. **To pursue the CTC**, ask the taxpayer to send you a letter requesting the IRS abate the tax pursuant to IRC 6213(b)(2) within 60 days of the math error notice per IRM 21.5.4.3(5), General Math Error Procedures Overview. Explain to the taxpayer that requesting abatement means the IRS may examine the return and issue a statutory notice of deficiency if it disagrees with the taxpayer's position at the conclusion of the exam. Send your OAR to Accounts Management (AM), Adjustments unit, at the campus that processed the return. You should consider a TAO if AM denies the taxpayer's request or rejects your OAR. See *CABIC 325* for OAR/TAO template language.

Additionally, the taxpayer may file a protective claim for refund claiming the CTC if the taxpayer decides to claim the ODC for the time being. The protective claim preserves the taxpayer's right to claim the CTC if the IRS changes its position on disallowing the CTC or if a court issues an opinion permitting these claims.

2. **To pursue the ODC**, if the taxpayer is unable due to contacting TAS more than 60 days after they received the math error notice or is unwilling to claim the CTC, they can still claim the ODC. The ODC is a lesser credit than the CTC, and the taxpayer does not need to file a Form 1040X, Amended U.S. Individual Income Tax Return. Ask the taxpayer to send you proof of each child's residency in the United States or their U.S. citizenship so you can send it with your OAR to AM and request the ODC. See IRM 21.6.3.4.1.24.3(6), Credit for Other Dependents.

13.1.24.6.4
(08-21-2023)
Guidance for Cases Involving Potential Schemes

- (1) The purpose of this section is to provide guidance to TAS case advocacy employees about how to identify potential schemes and how discovery of potential schemes affects TAS case processing.

13.1.24.6.4.1
(08-21-2023)
Introduction

- (1) It can be difficult to fulfill our role as advocates when we suspect a scheme. Worse, our experience in one potential scheme case can affect how we advocate in other cases. We need to find a way to use our common sense and good judgment to ensure we remain aware of potential schemes without losing our advocacy mindset. Keep these points in mind when reading the remainder of this chapter and working TAS cases.
- (2) TAS employees are not experts on schemes, and working these cases does not require you to be. Our primary focus is on a simple question: Can the taxpayer obtain adequate documentation to support the position taken on their return?
 - If so, advocate for the taxpayer's position.
 - If not, advocate for the taxpayer by encouraging them to file an amended return removing the items they cannot support.
 - If the taxpayer is unable to support what is on their return and unwilling to amend, close the case using the second request process in IRM 13.1.18.8.1, Reviewing and Requesting Information from Taxpayers.
 - Throughout these contacts, be alert to indications of return preparer or promoter misconduct.

Note: Remember, advocacy does not mean always advocating for the taxpayer's position. See IRM 13.1.1.3, Philosophy of Advocacy. Advocating for an unsupported position could subject the taxpayer to significant penalties. Sometimes the best advocacy is to explain why TAS does not support the taxpayer's position and frankly discuss their options. Like any other case, if the taxpayer is unable or unwilling to provide what we need to advocate for them, close the case as no response using the process in IRM 13.1.18.8.1.

- (3) When a case involves a potential scheme, normal case advocacy procedures can be different depending on the nature of the scheme. The following subsections explain the general strategy for these cases:
 - IRM 13.1.24.6.4.4, TAS Case Acceptance Criteria for Inquiries Involving a Potential Scheme;
 - IRM 13.1.24.6.4.5, Discuss the Research Results with the Taxpayer;
 - IRM 13.1.24.6.4.6, Decide How to Advocate; and
 - IRM 13.1.24.6.4.7, Whether to Issue OARs or TAOs.

13.1.24.6.4.2
(08-21-2023)
Identifying Cases or Requests for TAS Assistance Involving Potential Schemes

- (1) TAS employees will identify cases or requests for TAS assistance involving potential schemes either by external indicators (IDRS codes added by various IRS functions) or internal indicators within TAS.
- (2) External indicators include but are not limited to:
 - The presence of a **TC 810 responsibility code 4** on the taxpayer's account, which indicates an IRS function is reviewing the return or submission to determine if it is frivolous. See IRM 21.5.6.4.10, -E Freeze.
 - Unprocessed original returns with account indicators described at IRM 25.25.6.3(13) box 8, Taxpayer Protection Program (TPP) Basic Authentication and Research.
 - Other indicators of frivolous return or frivolous submission review, such as Error Resolution System (ERS) status 300 series. See IRM 3.12.10-4, ERS Action Codes, for a complete list and description of these ERS action codes.

- An IRS *Servicewide Electronic Research Program (SERP)* Alert describing the elements of a scheme matching the fact pattern of the case or request for TAS assistance.
- The return or claim matches one of the schemes identified on the *RICS Fraud Refund Scheme Listing*; IRM 25.25.10-1, Frivolous Arguments; or the *IRS.gov Dirty Dozen page*, which describes the most common schemes for each year.

Example: Fuel Tax Credit schemes using Form 4136, Credit for Federal Tax Paid on Fuels. Fuel Tax credits claimed appear as TC 766 Credit Reference Number (CRN) 450.

- There are indicators of IRS Criminal Investigation involvement.

Caution: Additional guidance and limitations on case actions exist for these cases. See IRM 13.1.10.9, Inquiries on Open Cases with Criminal Investigation Involvement, and IRM 25.30.4, Service Level Agreement between the Criminal Investigation Division and the Taxpayer Advocate Service.

- (3) Identifying potential schemes described in SERP Alerts and the Dirty Dozen can be more difficult when the taxpayer's claim is on an amended return since the credit often does not appear on the account when TAS receives the request for assistance. Review the amended return for the source of the overpayment as follows:

- If the IRS scanned the amended return, use the Correspondence Imaging Inventory (CII).
- If the taxpayer filed the amended return electronically, view it through the Employee User Portal (EUP).
- If the taxpayer filed the amended return on paper and the IRS hasn't scanned it yet, ask the taxpayer to explain the adjustments requested and provide a copy to TAS.

- (4) TAS internal indicators include but are not limited to:

- Mass receipt of Forms 911 or requests for TAS assistance from a single POA or third-party with the same issue description that involves help with seeking a refund.
- Mass receipt of Forms 911 or requests for TAS assistance supposedly from different taxpayers but all with the same issue description, same phone number, same handwriting, or other similarities indicating origination from a single person.
- TAS data analytics identifies similar mass submissions.

- (5) Upon identifying such mass TAS submissions, the discovery is elevated to the Local Taxpayer Advocate (LTA) and Deputy per IRM 13.1.16.15.3, Bulk Receipts. If deemed a potential scheme case, a case history entry specific to that potential scheme may be added to TAS cases to help Case Advocates identify them in their inventory. TAS managers or Welcome Screen articles will explain the meaning and purpose of these history entries to TAS employees. Per IRM 13.1.16.15.3, "BULK" will also be added to the TAMIS Local Use 2 field.

13.1.24.6.4.3
(08-21-2023)
**Reporting Emerging
Schemes**

- (1) Remember, in most TAS cases the IRS is aware of the potential scheme and has already stopped the taxpayer's refund. **The reporting methods described below are for the situations where the IRS might not be aware of the scheme.**

- TAS employees who identify an emerging refund scheme **affecting multiple taxpayers** will use the *Systemic Advocacy Management System (SAMS)* to report the issue. See IRM 13.1.5.3(4)(f), Other Federal Laws or Policies Relevant to TAS's Disclosure of Taxpayer's Information When Working a TAS Case. If the RICS referrals team requests specific case examples from TAS, Systemic Advocacy will follow the guidance in IRM 13.1.5.8.3.2, Disclosure to Address a Systemic Problem.

Caution: Do not use SAMS to report compromised or potentially compromised Centralized Authorization File (CAF) numbers. TAS employees use IRM 21.3.7.5.5.3, How To Report a Compromised or Potentially Compromised CAF Number. IRM 21.3.7.5.5, Suspicious Forms Log and the "Potential Fraud" Authorization Referral Process, can help identify potentially compromised CAF numbers.

- If the taxpayer indicates a return preparer, promoter, or representative advised them to claim the credit and the taxpayer did not realize they do not qualify for the credit, see IRM 13.1.5.12, Disclosure Regarding Practitioner or Preparer Misconduct, and IRM 13.1.23.5, Taxpayer Complaints About Representatives.
- Internal Revenue Code (IRC) 7214(a)(8) creates some obligations to report potential schemes. It requires all federal employees acting in connection with any revenue law that has knowledge or information of criminal violations of internal revenue laws or of fraud committed under internal revenue laws to report such violations in writing. See IRM 13.1.5.3.

Note: TAS responsibilities become more complicated when we gain the information or knowledge from TAS communications with the taxpayer or representative. See IRM 13.1.5.3(4)(b). If you need assistance related to IRC 7214(a)(8), ask your manager to contact the *TAS Attorney Advisor Group manager* to identify the current attorney advisor for TAS Confidentiality matters.

- (2) The reporting methods described in the bullet below informs **TAS employees** that may work the TAS case of the scheme.

- IRM 13.1.16.15.3, Bulk Receipts, explains how TAS flags applicable TAS contact records and TAS cases involving potential schemes so other TAS employees are aware of the potential scheme. This can include a case history entry to associate the case with a specific group of bulk receipts.

13.1.24.6.4.4
(08-29-2025)
**TAS Case Acceptance
Criteria for Inquiries
Involving a Potential
Scheme**

- (1) When TAS receives an inquiry involving a potential refund scheme, TAS will determine if the taxpayer's issue meets TAS case acceptance criteria per IRM 13.1.7.3, TAS Case Criteria, and if it does, TAS will accept the case. TAS will not exclude taxpayers unless it determines the taxpayer's complaint or inquiry only questions the constitutionality of the tax system or when the focus of the taxpayer's inquiry solely involves frivolous tax strategies intended to avoid or delay the filing or paying of federal taxes. See IRM 13.1.7.4(1), (2), and (3),

Exceptions to Taxpayer Advocate Service Criteria. TAS will not accept as cases inquiries related to returns filed with positions taken as described in IRM 25.25.10-1, Frivolous Arguments, (except a few near the bottom) as cases under the IRM 13.1.7.4(1), (2), and (3) exceptions, as they are not valid attempts to file a true tax return; the sole basis of the return filing is the frivolous tax strategy.

- (2) Often, taxpayers impacted by a potential scheme seek TAS assistance with receiving a refund based on the filing of an original or amended tax return. Third parties misled many of these impacted taxpayers. These third parties may include a practitioner, scheme promoter, a friend or family member. The impacted taxpayers may be unaware that they claimed credits for which they are not eligible under the law. TAS's role is to help the taxpayer move forward, even if they weren't a clean actor.
- (3) These cases give TAS employees the opportunity to protect the taxpayer rights to:
 - *Be Informed* (by educating them about the tax law and their filing and payment obligations);
 - *Quality Service* (by providing clear complete explanations of the issue and their options); and
 - *A Fair and Just Tax System* (by accepting their case in TAS and making every effort to ensure fair treatment).
- (4) TAS has an opportunity to help these taxpayers by educating them about the proper method for calculating credits and the eligibility requirements and assisting them in bringing their account current and into compliance. Refer to *CABIC 940*, Potential Schemes, for additional guidance for working potential scheme cases.

13.1.24.6.4.5
(08-21-2023)
**Discuss the Research
Results With the
Taxpayer**

- (1) IRM 13.1.24.6.4.2 explains how research in IRS systems and TAMIS will identify TAS cases involving potential schemes. Based on your research, educate the taxpayer, representative, or congressional aide about the eligibility requirements and proper method for calculating credits.
- (2) If a power of attorney exists for the module, contact the representative for this discussion. See IRM 13.1.23.2(3), Taxpayer's Right to Retain Representation. However, see IRM 13.1.23.5, Taxpayer Complaints About Representatives, if the taxpayer contacts TAS with complaints about the POA. See also IRM 13.1.23.8, Power of Attorney Bypass, which describes situations when TAS may seek LTA and Deputy approval to bypass the POA.
- (3) TAS's ability to communicate and empathize with the taxpayer or representative is key. First and foremost, TAS must protect and clearly demonstrate the taxpayer's *rights to be informed and to receive quality service*. TAS will discuss the questionable return item(s) and educate the taxpayer or representative about why the IRS is reviewing the return and the potential consequences if the IRS determines the return is not accurate (*e.g.*, refund delays, deficiency notice, civil penalties).
- (4) Whenever the taxpayer's account includes an indication that the IRS is considering or has already made a Frivolous Return Program referral, include a discussion of the Frivolous Return or Frivolous Submission penalties as appropriate. See IRM 20.1.10.12, IRC 6702 - Frivolous Tax Submissions, and IRM 25.25.10.11, Frivolous Return Penalties Overview. Failure to substantiate the

claim or amend/withdraw the questionable credit can result in the IRS assessing a \$5,000 penalty on each return or submission.

- (5) If the taxpayer indicates a return preparer, promoter, or representative advised them to claim the credit and the taxpayer did not realize they do not qualify for the credit, see IRM 13.1.5.12, Disclosure Regarding Practitioner or Preparer Misconduct, and IRM 13.1.23.5, Taxpayer Complaints About Representatives.
 - If there are indications of preparer misconduct, discuss Form 14157 and Form 14157-A.
 - If there are no indications of preparer misconduct, encourage the taxpayer to file an amended return to the IRS (not TAS).
- (6) The example below shows how TAS can help the taxpayer or representative understand the issue and what they can do to resolve it.

Example: Original returns with fuel tax credits claimed on Form 4136: TAS explains that taxpayers use Form 4136 to claim reimbursement of federal fuel excise taxes when the fuel purchaser uses fuel (on which they have paid the tax) for a non-taxable use. Normal vehicle fuel use does not qualify for reimbursement. TAS explains that an example of such non-taxable use is a farmer who buys taxed fuel but uses the fuel in vehicles operated off road, such as a tractor used in the farmer's fields. TAS asks the taxpayer if they have documentation to support such non-taxable use. If so, TAS asks for the information to support the credit claimed. If not, TAS asks if the taxpayer made an error claiming the credit and listens carefully for any indications the taxpayer is a victim of preparer misconduct.

13.1.24.6.4.6
(08-21-2023)

Decide How to Advocate

- (1) After your discussion with the taxpayer or representative, you will have explained the taxpayer's problem and what they need to do to resolve it. The taxpayer may wish to withdraw their case from TAS. The taxpayer may plan to provide documents to substantiate what is on their return or may plan to file an amended return to remove the disputed credit. The taxpayer might indicate they are the victim of a promoter. Based on the taxpayer's response, work potential scheme cases in one of the four ways described below in paragraphs two through five:
- (2) If the taxpayer decides to withdraw the request for TAS assistance, close the case as a withdrawal (relief code 54). See IRM 13.1.21.2.1.1, Relief Codes.
- (3) If the taxpayer agrees to provide documentation to support the credits or file an amended return to remove the credits, keep the case open until TAS can review the documents or amended return.
 - If the documentation supports the credits claimed, advocate per normal TAS case processing procedures.
 - If the taxpayer or representative sends information that does not support the taxpayer's position, send a second request letter explaining what we need. If we do not receive sufficient information to advocate the taxpayer is eligible for the credits in question, close the case as no response per IRM 13.1.18.8.1, Reviewing and Requesting Information from Taxpayers. **Do not issue an OAR**, even though the IRS might still have a freeze on the account.
 - If the amended return the taxpayer sent to the IRS removes the questionable credits, advocate per normal TAS case processing procedures.

- If the taxpayer files an amended return, but the return does not remove the questionable position, send a second request letter explaining what we need. If the taxpayer does not file an amended return that removes the questionable credits, close the case as no response per IRM 13.1.18.8.1. **Do not issue an OAR**, even though the IRS might still have a freeze on the account and the subsequent amended return remains unprocessed.

Note: If the action needed by the taxpayer involves the filing of an amended return, and the taxpayer inquires after TAS closes the case as “No Response,” explain that TAS can reopen the case once the *Where’s My Amended Return (WMAR)* tool shows receipt of an amended return correcting the issue.

- (4) If the taxpayer indicates they are the victim of a return preparer or promoter, direct the taxpayer to file Form 14157, Return Preparer Complaint, and Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit. See IRM 13.1.23.5, Taxpayer Complaints About Representatives.
- (5) For anything else, use the second request process to explain what we need to keep advocating. If the taxpayer’s response to the second request letter is not sufficient for TAS to advocate for the IRS to accept the original or amended return, close the case as no response per IRM 13.1.18.8.1.

Example: The taxpayer’s response is: “I want to think it over.”

- (6) In the second response letters referenced above, reiterate the importance of filing an accurate, valid return and the possible consequences if they fail to do so. Taxpayers determined to have filed a frivolous claim for refund may be subject to a civil penalty of \$5,000 and may also face additional penalties for each subsequent frivolous return filed. The IRS does not base the penalty on tax liability, so a tax return with no tax due can still be subject to the penalty. If the taxpayers file a frivolous Married Filing Jointly tax return, the IRS can assess the penalty to each spouse individually. See IRM 20.1.10.12, IRC 6702 - Frivolous Tax Submissions, and IRM 25.25.10.11, Frivolous Return Penalties Overview.

13.1.24.6.4.7
(11-02-2023)

Whether to Issue OARs or TAOs

- (1) TAS will never send neutral language OARs in these cases. See IRM 13.1.19.5(8), OAR – Preparation. Sending an OAR when a taxpayer has failed to support credits claimed on their return or failed to correct an inappropriately claimed credit will subject the taxpayer to significant penalties. If you have any doubts about whether the taxpayer has justified their position, make a referral to ITAP.
- (2) If the taxpayer agrees to file an amended return removing inappropriately claimed credits, monitor for IRS receipt of the amended return. Once the amended return is present on IDRS **and CII or EUP research confirms the taxpayer removed the questionable credit**, you can issue an Operations Assistance Request (OAR) to recommend the controlling function process the amended return to remove the credits. See IRM 13.1.19.5(8).

Caution: Do not issue an OAR at all if the amended return **does not** remove the questionable credits or adds more unsupported credits. Instead, send a second request letter and follow the process in IRM 13.1.24.6.4.6. IRM

13.1.24.6.4.6 (6) includes suggested second request letter language about possible penalties.

- (3) If the taxpayer provides TAS documentation that supports the claiming of the credit under review, send an OAR to the controlling function recommending they allow the credit amount supported and release any freeze related to review of that credit. Similarly, if the taxpayer files an amended return removing all questionable credits, send an OAR to the controlling function recommending they accept the amended return removing the credits. See IRM 13.1.19.5.
- (4) If the taxpayer neither amends nor provides documentation to support the credits claimed, do not issue an OAR, even though the IRS might still have a freeze on the account or returns remain unprocessed. If you have any doubts about whether the taxpayer has adequately supported the credits claimed, make a referral to ITAP.
- (5) If the function delays or refuses to take the recommended action because the function lacks procedures to do so, despite TAS providing taxpayer documentation that supports allowing the claim, the LTA may issue a TAO. See IRM 13.1.20, TAS TAO Process. If unsure whether the documentation supports issuing a TAO, make a referral to ITAP.

13.1.24.7 (08-29-2025) Introduction to Appeal Issues

- (1) The Appeals mission is published in paragraph (1) of IRM 1.1.7.1, Chief, Appeals (AP).
- (2) TAS's role is to ensure it protects taxpayer's rights as listed in the Taxpayer Bill of Rights (TBOR) and that Appeals considers pertinent information. The rights related to appeal issues include the *rights to challenge the IRS's position and be heard, to appeal an IRS decision in an independent forum, to finality, and to a fair and just tax system*. See IRM 13.1.24.2 for additional TBOR information.
- (3) TAS can advocate on any IRS issue including Appeals. If the taxpayer decides to pursue an appeal, TAS can advocate on their behalf and does not have to close the case at this point.

Note: TAS cannot accept a docketed case in appeals, only non-docketed cases can be accepted as TAS cannot work cases in litigation.

- (4) For information on how Appeals handles new taxpayer information not previously shared with the IRS, see IRM 8.6.1.7.5, Taxpayer Provides New Information.

13.1.24.7.1 (10-31-2022) Non-Docketed Appeals

- (1) Taxpayers can challenge IRS determinations by exercising their administrative appeal rights as provided by statute and expressed in the TBOR. Taxpayers can challenge the following determinations and collection actions (not all-inclusive):
 - a. Examination (pre-assessment and reconsideration post-assessment);
 - b. Automated Underreporter (AUR pre-assessment and reconsideration post-assessment);
 - c. Automated Substitute for Return (ASFR pre-assessment and post-assessment);
 - d. Collection actions reviewable in a Collection Due Process (CDP) or equivalent hearing (EH);

- e. Collection actions reviewable through the Collection Appeals Program (CAP); and
 - f. Most penalty appeals.
- (2) Educate the taxpayer on the appeal rights available. The role TAS plays when a taxpayer exercises an appeal right depends on the problem that brought the taxpayer to TAS. See IRM 13.1.21.2.2.2, Appeals.
 - (3) If the IRS failed to offer the taxpayer proper appeal rights advocate to the OD/Function to offer the right to appeal. If the OD/Function granted appeal rights, but failed to consider the taxpayer's appeal request, advocate to the OD/Function to first reconsider their determination or action based on the appeal. If the OD/Function sustains its determination or action, advocate the OD/Function assemble the appeal package and send it to Appeals. Issue these types of advocacy OARs to the OD/Function, not Appeals.
 - (4) Appeals can reach settlements the OD/Function cannot reach based on hazards of litigation.

13.1.24.7.2
(08-29-2025)
**Collection Due Process
(CDP) Appeal Cases**

- (1) The Restructuring and Reform Act of 1998 (RRA '98) created IRC 6320, Notice and Opportunity for Hearing Upon Filing of Notice of Lien, and IRC 6330, Notice and Opportunity for Hearing Before Levy. See IRM 8.22.4.2.2, Summary of CDP Process, for a list of notices and letters that trigger CDP rights and explanation of what Appeals must consider during these hearings.
 - a. IRC 6320 requires the IRS to notify in writing the taxpayer of the filing of a Notice of Federal Tax Lien (NFTL) and the right to request a CDP hearing. The IRS has five business days after the first NFTL for the particular tax debt to notify the taxpayer.
 - b. IRC 6330 requires the IRS to notify in writing the taxpayer of its intent to levy and the right to request a CDP hearing not less than 30 days before issuing the first levy to collect a particular tax debt.
- (2) IRC 6330(f) provides exceptions to the right to a hearing before levy. In the following instances, the taxpayer is afforded the right to request a post-levy hearing:
 - a. State tax refund under the State Income Tax Levy Program (SITLP);
 - b. Collection of the tax was in jeopardy;
 - c. "Disqualified" employment taxes (see IRM 8.22.6.3.3, Disqualified Employment Tax Levy (DETL)); and
 - d. Federal contractor levies.
- (3) The taxpayer may seek judicial review of the Notice of Determination issued by Appeals at the conclusion of the CDP hearing by filing a timely petition in the U.S. Tax Court. See IRM 8.22.9.15.1, Deadline to Petition Tax Court.

Note: A petition filed after the deadline may be timely if the taxpayer can show that the time period should be equitably tolled.

- (4) IRC 6330(e) suspends the collection statute expiration date (CSED) for the period of time during which the CDP hearing and any appeals therein are pending. The Internal Revenue Code further states that no CSED shall expire before the 90th day after which the determination is made final. Treas. Reg. 301.6330-1(g)(2), Q&A-G1 states the suspension period begins the date the IRS receives the taxpayer's written request for a CDP hearing. For field collec-

tion, see IRM 5.1.9.3.6, Suspension of Collection Statute of Limitations, for a further discussion of the suspension of the CSED. IRM 5.1.9.3.5.1, Levy Action During the Period of the CDP or EH, discusses what collection actions the IRS can take during a CDP case. Levy action is not suspended by law but is generally suspended by policy during an equivalent hearing or during a timely requested CDP lien hearing. IRM 5.19.8.4.6, Collection Action During the CDP Appeal Period, contains similar information for use by ACS employees.

13.1.24.7.3
(10-31-2022)

How TAS Can Advocate for the Taxpayer to Timely Request a CDP Hearing

- (1) Confirm the period for timely requesting a CDP hearing is open to the taxpayer. Refer to IRM 5.19.8.4.2.1, CDP Hearing Request - Timeliness.

Note: A CDP hearing request filed after the deadline may be timely if the taxpayer can show that the time period should be equitably tolled.

- (2) Check the Integrated Data Retrieval System (IDRS) for the following CDP indicators:

- TC 520 with Closing Code (CC) 76 (active CDP-NFTL) or both (CDP-NFTL and Notice of Intent to Levy);
- TC 520 with CC 77 (active CDP- Notice of Intent to Levy);
- TC 521 with CC 76 (closed CDP-NFTL) or both (closed CDP-NFTL and Notice of Intent to Levy);
- TC 521 with CC 77 (closed CDP- Notice of Intent to Levy); and
- TC 971 with Action Code (AC) (275-280) for CDP and equivalent hearings.

Note: Refer to specific definitions in Automatic Data Processing (ADP) Document 6209, Gateway to Document 6209 Codes and Descriptions, for these transaction codes, closing codes, and action codes. The TC 971 action codes contain a mix of open, resolved, and closed CDP or equivalent hearing cases.

Note: A TC 520 CC 76 with a TC 971 AC 630 indicates a combination lien and levy hearing.

- (3) If the period for requesting a CDP hearing is open for the tax period under consideration and there is no prior evidence of an active or closed CDP or equivalent hearing, advise the taxpayer of the option to request a hearing. If the taxpayer wants a hearing, advise the taxpayer to submit Form 12153, Request for a Collection Due Process or Equivalent Hearing, to the address shown on the lien or levy notice to timely request a hearing under either IRC 6320 or IRC 6330.
- (4) The taxpayer must explain the reason for requesting the hearing on Form 12153. Page 4 of the form provides examples. Discuss the elements of the case with the taxpayer to help the taxpayer identify the appropriate reasons for the taxpayer to use on the form. If the basis for the CDP hearing is an NFTL filing, attach a copy of the NFTL and a copy of the CDP notice to ensure proper handling of the request.
- (5) A timely request for a CDP hearing preserves the taxpayer right to go to Tax Court if the taxpayer disagrees with Appeals' determination.
- (6) A written request for a hearing signed by the taxpayer or taxpayer's representative can be substituted in lieu of Form 12153 as long as the request contains all required information.

- (7) Per IRC 6330(g), the IRS can disregard a CDP hearing request made solely on frivolous arguments. When the IRS determines the CDP hearing request is frivolous, review the taxpayer's request and the IRS decision to disregard, and advocate for a CDP hearing if at least some of the taxpayer's reasons are not frivolous. Protect the taxpayer's right to a hearing in an independent forum.
- (8) If the IRS did not reject the hearing request on the basis of a frivolous submission, the statute requires a hearing. If the IRS proposes to conduct the CDP hearing by telephone, discuss with the taxpayer whether the taxpayer would prefer a face-to-face or Virtual Service Delivery (VSD) teleconference hearing and help the taxpayer determine the best venue for the hearing. If the taxpayer prefers a face-to-face or VSD hearing, advocate for the preferred conference type per IRM 8.22.5.6.1, Types of Appeals Conferences.
- (9) After the conclusion of this hearing, Appeals must issue a determination letter.
- (10) Once the taxpayer's case is open in Appeals, TAS may prepare and send an OAR to Appeals to expedite resolution of the CDP case. The OAR must provide a thorough explanation of the taxpayer's circumstances.
- (11) If the taxpayer agrees with Appeals' determination, the terms are binding for both the IRS and the taxpayer. If the taxpayer disagrees, the taxpayer has 30 days from the date of the determination letter to petition the U.S. Tax Court.
- (12) Appeals "retains jurisdiction" (RJ) over their CDP decision, which can result in the taxpayer returning to Appeals for a RJ hearing in some circumstances. See IRM 8.22.9.18, Retained Jurisdiction (RJ) Hearings.

13.1.24.7.4
(08-29-2025)

Equivalent Hearing (EH)

- (1) When the taxpayer makes a request for a CDP hearing that is untimely (post-marked after the established timeframe or submitted late), they lose their right to a CDP hearing.

Note: A CDP hearing request filed after the deadline may be timely if the taxpayer can show that the time period should be equitably tolled.

- (2) If a taxpayer failed to timely exercise their CDP rights, explain to the taxpayer it is still possible to obtain a review of the lien or levy collection action, provided more than a year has not elapsed from the date of the levy notice or, with respect to a lien notice, one year plus five business days from the filing date of the NFTL. The taxpayer must specifically request consideration for an EH on Form 12153 or by written request.

Note: An equivalent hearing request filed after the deadline may be timely if the taxpayer can show that the time period should be equitably tolled. See *Equitable Tolling in CDP IGM AP-08-0724-0012*.

- (3) The EH is similar to a CDP hearing. However, there is no statute suspension, and the taxpayer does not have the right to seek judicial review if Appeals' determination is in favor of the government.
- (4) Although taxpayers have no further appeal or judicial rights following an Appeals EH decision letter, in TAS cases that are in Appeals' jurisdiction, Appeals has agreed to provide TAS with the proposed determination. After five workdays, the assigned Appeals employee will notify the taxpayer/representative of Appeals' final determination, unless TAS elevates any specific

concerns. See IRM 8.22.4.3, Equivalent Hearing (EH), and IRM 25.30.2 , Service Level Agreement between the IRS Independent Office of Appeals and the Taxpayer Advocate Service.

13.1.24.8
(03-05-2019)
**Advocating for
Taxpayers Facing
Passport
Revocation/Denial**

- (1) This subsection provides guidance to TAS employees advocating for taxpayers with seriously delinquent tax debt(s) subject to the IRS's Passport Certification Program.

13.1.24.8.1
(08-29-2025)
Background

- (1) In 2015, Congress passed the Fixing America's Surface Transportation Act (FAST Act), Pub. L. No. 114-94, 32101(e), 129 Stat. 1311, 1732 (2015), which requires the Department of State (DOS) to deny a passport application and allows it to revoke or limit a passport if the IRS certifies a taxpayer's seriously delinquent tax debt. The right to travel internationally is a fundamental right, protected by the Due Process Clause of the Constitution. Under the *Universal Declaration of Human Rights*, adopted in 1948 by the United Nations after a unanimous vote (including the United States), "everyone has the right to leave any country, including (their) own, and to return to (their) country." The National Taxpayer Advocate expressed concerns that the IRS's implementation of the passport program fails to protect taxpayers' right to travel as well as their rights promised under the Taxpayer Bill of Rights. See the *National Taxpayer Advocate Blog* and the *Fiscal Year 2018 Objectives Report to Congress*.
- (2) Although TAS used a TAS IDRS Marker of TC 971 AC 154 with "TAS" in the MISC field through 12/31/2020 and switched to a TAS IDRS Marker of TC 971 AC 517 on 1/1/2021, these markers will not exclude or decertify the taxpayer's seriously delinquent debt.

13.1.24.8.2
(02-22-2023)
**Identifying a Seriously
Delinquent Tax Debt**

- (1) IRC 7345(b) defines a seriously delinquent tax debt as an "unpaid, legally enforceable federal tax liability of an individual," which:
 - Has been assessed;
 - Is greater than \$50,000 (indexed annually for inflation; see *Revocation or Denial of Passport in Case of Certain Unpaid Taxes* for amount); and
 - Meets either of the following criteria: (1) a notice of lien has been filed under IRC 6323 and the Collection Due Process (CDP) hearing rights under IRC 6320 have been exhausted or lapsed; or (2) a levy has been made under IRC 6331.
- (2) A seriously delinquent tax debt does not include accrued but unassessed interest or penalties. It also does not include non-tax debts, such as Affordable Care Act assessments, criminal restitution assessments, child support obligations, and Foreign Bank and Financial Report (FBAR) penalties.
- (3) There are statutory exclusions, which include a debt:
 - That is being timely paid through an installment agreement (IA) or OIC;
 - For which collection is suspended because the taxpayer requested a CDP hearing, or a CDP hearing is pending; or
 - For which collection is suspended because the taxpayer has requested relief from joint liability per IRC 7345(b)(2) (known as innocent spouse relief).

- (4) As of July 16, 2018, IRM 5.19.25.5, Discretionary Exclusions from Certification, provides additional exclusions from certification and includes the following discretionary exclusions:
- Debt determined to be in currently not collectible (CNC) status due to hardship. CNC status removes taxpayer accounts from active collection inventory per IRM 5.19.17.2, Currently Not Collectible (CNC) Procedures. The IRS places taxpayer accounts into CNC Hardship status when “collection of the liability would create a hardship for taxpayers by leaving them unable to meet necessary living expenses” per IRM 5.19.17.2.1.2, Hardship Closure Authority Levels.
 - Debt that resulted from identity theft;
 - Taxpayers in a disaster zone;
 - Debt of a taxpayer in bankruptcy;
 - Debt of a deceased taxpayer;
 - Debts included in a pending OIC or pending IA; and
 - Debt for which there is a pending claim, and the resulting adjustment is expected to result in no balance due. See IRM 5.19.25.5, Discretionary Exclusions from Certification.
- (5) The IRS will reverse a certification if the taxpayer meets either a statutory or discretionary exclusion. Find additional information in three sections of IRM 5.19.25, Passport Program:
- IRM 5.19.25.3, Seriously Delinquent Tax Debt;
 - IRM 5.19.25.4, Statutory Exclusions from Certification; and
 - IRM 5.19.25.5, Discretionary Exclusions from Certification.

13.1.24.8.3
(03-05-2019)
**TAS Advocacy –
Understanding the
Taxpayer’s Situation**

- (1) TAS has witnessed firsthand the devastating effects on taxpayers who have had to give up their passports for even a temporary period. TAS has worked a number of cases where the IRS lost or delayed returning passports to applicants for Individual Taxpayer Identification Numbers. We have seen situations where taxpayers were unable to visit a dying family member, undergo urgent medical surgery abroad, and travel for business as part of a job. TAS is likely to see similar situations because of the passport certification program.
- (2) New taxpayers coming to TAS prior to certification may not understand why the IRS is taking action and may be frustrated because they have been voluntarily trying to resolve their tax debt. Taxpayers who come to TAS after certification may feel it is unfair for the first notice they receive about the passport certification to be a notice that the IRS already certified their tax debts. Planning and paying for international travel can be a stressful experience, especially when taxpayers do not have certainty that they will be able to follow through with their plans. Exercising understanding and compassion for taxpayers in these cases and acting with the appropriate sense of urgency are vital.
- (3) Now that the IRS has begun certifying qualifying taxpayers to the Department of State, the TAS advocacy approach will depend on whether the IRS has not yet or has already certified the seriously delinquent tax debt to the Department of State.

13.1.24.8.4
(02-22-2023)
**Advocating for
Uncertified Taxpayers
With Seriously
Delinquent Tax Debt**

- (1) If a taxpayer has an aggregate debt over \$50,000 (indexed annually for inflation see *Revocation or Denial of Passport in Case of Certain Unpaid Taxes* for amount), check for the existence of the unreversed TC 971 AC 641 on ENMOD. If no such TC is present, determine if the debt is eligible now for passport certification (a levy or a notice of lien issued, Collection Due Process (CDP) rights exhausted or lapsed, and the debt is not eligible for any statutory or discretionary exclusions). Also determine if the debt will soon be eligible for passport certification (e.g., federal disaster area exclusion about to elapse).
- (2) If the taxpayer is certified, follow the procedure in IRM 13.1.24.8.5.
- (3) If the taxpayer is uncertified but eligible or soon will be eligible for certification, explain the risk to the taxpayer. Review the information in IRM 13.1.24.8.3 and ask the taxpayer questions per IRM 13.1.24.8.5 to determine the impact of certification to the taxpayer. If the taxpayer has imminent foreign travel plans, lives abroad, or has another compelling need for a passport, immediately seek the advice of a Revenue Officer Technical Advisor (ROTA).
- (4) The ROTA will verify the taxpayer is eligible or will soon be eligible for certification and no statutory or discretionary exclusions will apply. If possible, the ROTA will also determine how much time the taxpayer will have before certification.
- (5) Elevate the case to your Local Taxpayer Advocate (LTA) if the case meets all the following criteria. The taxpayer has:
 - Imminent foreign travel plans, lives abroad, or has another compelling need for the passport;
 - A significant risk of being certified before TAS will be able to help resolve the taxpayer's debt; and
 - Taken demonstrable recent steps to get into compliance with the IRS that nevertheless fall short of the statutory and discretionary exclusions.

Example: TAS is working to get a taxpayer who owes \$100,000 into an installment agreement. The Case Advocate (CA) learns the IRS recently filed a Notice of Federal Tax Lien, and the taxpayer just missed the deadline for requesting a CDP hearing before coming to TAS. The CA discusses the potential passport consequences with the taxpayer. The taxpayer travels internationally for business and plans to attend a conference in Paris next month. The CA makes a ROTA referral, and the ROTA estimates the taxpayer will be certified in two weeks. At TAS's request, the taxpayer recently filed two delinquent returns and an amended return that will reduce the debt to \$30,000. The CA elevates this case to the LTA because although the taxpayer has taken demonstrable steps, the IRS is not likely to process recently filed returns in time to prevent certification, and the IRS will not accept an IA until the taxpayer is in filing compliance.

- (6) If the LTA concludes the taxpayer satisfies the requirements in paragraph (5) above, they will email the **TAS Passport Questions mailbox*. Provide the relevant facts and ask the TAS Passport Rapid Response Team to forward the information to the TAS Attorney Advisor currently assigned the passport certification program so the AA can negotiate with the Small Business/Self-Employed (SB/SE) Passport Office point of contact to temporarily block certification to give TAS time to assist the taxpayer to resolve the debt. If TAS and SB/SE cannot reach an agreement, consider a TAO.

13.1.24.8.5
(03-05-2019)
**Advocating When the
IRS Certified a
Taxpayer's Debt**

- (1) Identify taxpayers whom the IRS certified to the Department of State. These taxpayers will have an unreversed TC 971 AC 641 on ENMOD. *This means TAS employees must immediately alert the taxpayer to this situation and determine its urgency.*
- (2) TAS employees will discuss with the identified taxpayers the IRS passport revocation/denial certification process and steps they can take to resolve their debt so the IRS will decertify their accounts.
- (3) As part of their discussion with the taxpayer, TAS employees will determine and discuss the impact the passport revocation/denial will have on the taxpayer and document the discussion in the case history. In other words, find out if the taxpayer currently has a passport or has a passport application or renewal pending (and the application number) and whether the taxpayer has any plans for foreign travel or other need for their passport.
- (4) TAS advocacy for taxpayers whom the IRS certified to the Department of State is a three-step process:
 - Determine the urgency of the taxpayer's need for a passport or for decertification for another urgent reason;
 - Resolve the seriously delinquent debt; and
 - Request decertification of the debt with the Department of State.

13.1.24.8.5.1
(08-29-2025)
Resolve the Debt

- (1) Advocate for a resolution that will remove the taxpayer from the criteria for the Passport Certification Program. For example:
 - Completely satisfying the debt;
 - Meeting a statutory or discretionary exclusion that will exclude the taxpayer's debt from certification (*e.g.*, CNC hardship status, pending or accepted IA, OIC);
 - Having an underlying liability recalculated to reflect the taxpayer did not owe a seriously delinquent debt (*e.g.*, audit reconsideration, appeals conference, penalty abatement, innocent spouse relief, identity theft); or
 - Providing evidence that the IRS erroneously certified the debt as seriously delinquent, meaning the taxpayer was not eligible for certification according to the statute (*e.g.*, the taxpayer was serving in a combat zone, or the liability did not exceed \$50,000 (indexed annually for inflation; see *Revocation or Denial of Passport in Case of Certain Unpaid Taxes* for amount)).
- (2) Analyze the situation and discuss the options with the taxpayer. Once you have decided on an option, gather the necessary documentation to advocate for the selected relief. If the case is complex and may take time to fully resolve and the taxpayer has a need for a passport, discuss with the taxpayer the possibility of entering into an Installment Agreement or Partial Pay Installment Agreement while working on a longer-term resolution to have the IRS decertify the taxpayer. Ensure your case histories show the reason you selected the advocacy option and your efforts to secure the necessary documentation.
- (3) If the taxpayer has planned foreign travel within 45 days, lives abroad, or has another compelling reason for the passport, use expedited OARs with short requested completion dates to resolve the debt. If the IRS will not agree to your OAR, immediately elevate the situation to your LTA for issuance of a TAO.
- (4) If the taxpayer's need for foreign travel relates to an emergency or humanitarian

ian situation, IRM 13.1.24.8.6 explains the discretion the Department of State can exercise while the taxpayer remains certified.

13.1.24.8.5.2
(08-29-2025)

Decertify the Debt With the Department of State

- (1) Once the taxpayer meets a criterion for decertification under IRM 5.19.25.10, Reversal of Certification, review IRM 13.1.24.8.8 to determine if the account will require manual decertification. If so, send an OAR to the SB/SE Passport Office seeking manual decertification.
- (2) If the taxpayer has an imminent need for a passport as defined in IRM 5.19.25.10.1, Expedited Decertification, gather the supporting documentation described. If the IRS function that resolved the debt did not complete and sign page one of Form 14794, Expedited Passport Decertification, prepare the form for LTA signature on page 1.
- (3) Send an expedited OAR to the *SBSE Passport Group mailbox, requesting expedited certification; this will generally allow for decertification within 9-16 days. Processable expedited decertification generally takes the IRS three business days to review and transmit to the DOS. See IRM 5.19.25.10.1, Expedited Decertification. Include the signed Form 14794 and the required documentation. If the IRS does not timely comply with the OAR, or if you disagree with the response, immediately elevate the case to your LTA for issuance of a TAO.

13.1.24.8.6
(10-31-2022)

Taxpayers Seeking Emergency or Humanitarian Relief From the Department of State

- (1) The Department of State has some discretion under *Section 32101(e) of the FAST Act* when the IRS notifies the Department of State that an individual has a seriously delinquent tax debt. If the taxpayer has emergency or humanitarian reasons for travel, the Department of State (not the IRS) may:
 - Issue a passport;
 - Limit a previously issued passport only for return travel to the United States; or
 - Issue a limited passport that only permits return travel to the United States.
- (2) If the IRS has certified the seriously delinquent tax debt, and the taxpayer cites an emergency or humanitarian situation that the Department of State could exercise discretion to provide relief – such as risk of bodily harm to themselves or a family member, being stranded in a war zone or country in the midst of civil strife or the need to travel to receive medical care or care for a family member – take the following actions:
 - Advise the taxpayer of the discretion available to the Department of State;
 - Recommend the taxpayer *contact the Department of State* directly to seek relief; and
 - Send a secure email to **TAS Passport Questions mailbox* with the TAS case number and a summary of the situation.

13.1.24.8.7
(03-05-2019)

Case Coding

- (1) Use issue code 930, Passport Revocation/Denial, as the secondary issue code in applicable cases, including pre-certification efforts to resolve the taxpayer's debt to prevent IRS certification of the debt to the Department of State. The primary issue code will be the process used to resolve the taxpayer's debt (audit reconsideration, installment agreement, CNC hardship, etc.).

13.1.24.8.8
(08-29-2025)

**Manual And Systemic
Decertification of
Taxpayer Debts Under
the Passport
Certification Program**

- (1) Situations where the TC 972 AC 641 will not appear on ENMOD systemically and will require manual decertification include:
 - Penalty abatements under any basis except First-Time Abate (*e.g.*, not liable, IRS error, reasonable cause), which reduces (but does not fully satisfy) the taxpayer's total unpaid assessments to the threshold at the passport certification date or lower (indexed annually for inflation; see *Revocation or Denial of Passport in Case of Certain Unpaid Taxes* for amount)).
 - An amended return or audit/ASFR/SFR reconsideration reduces (but does not fully satisfy) the total unpaid assessments to the threshold at the passport certification date or lower (indexed annually for inflation; see *Revocation or Denial of Passport in Case of Certain Unpaid Taxes* for amount)).
 - The certification was erroneous, and correction of the error does not result in the systemic posting of TC 972 AC 641 on ENMOD.
 - If mirroring activity will result the requesting spouse being eligible for decertification, verify the mirroring triggers the systemic decertification on the requesting spouse's ENMOD. If it doesn't, advocate for the Passport Analyst to manually decertify the requesting spouse.
 - Preparer misconduct cases that are adjusted to reduce (but not fully satisfy) the total unpaid assessments to the threshold at the passport certification date or lower (indexed annually for inflation; see *Revocation or Denial of Passport in Case of Certain Unpaid Taxes* for amount)).
- (2) Situations where the TC 972 AC 641 and the CP 508R will appear on ENMOD systemically (no manual decertification needed) include:
 - The taxpayer makes a payment to fully satisfy the certified balance due modules, and the modules are in statu 12.
 - The entire unpaid assessment on all certified modules becomes unenforceable due to expiration of the CSED.
 - The taxpayer is timely paying all certified modules under an IA (unreversed TC 971 AC 063), or all certified modules have a posted TC 971 AC 043 pending IA indicator.
 - All certified modules are in CNC hardship status (posted TC 530 with a closing code of 24-32).
 - All the certified modules have a pending OIC (unreversed TC 480) or an accepted OIC the taxpayer is timely paying (unreversed TC 780).
 - An amended return, penalty abatement request, or audit/ASFR/SFR reconsideration eliminates the balance owed on all certified modules (putting them in collection status 12).
 - All certified modules are due to identity theft (unreversed TC 971 AC 522, 523, or 525).
 - All certified modules have a -O disaster zone freeze. The IRS will suspend new certifications for taxpayers in a Disaster Zone indicated with a -S Freeze. However, the -S Freeze will not decertify previously certified taxpayer accounts.
 - All certified modules have a bankruptcy indicator (unreversed TC 520 CC 60-67, 81, or 83-89).
 - All certified modules have a pending claim expected to result in no balance due (unreversed TC 470 CC 90).
 - The IRS suspends all certified modules due to a timely requested or pending CDP hearing (unreversed TC 520 CC 76 or 77).

- All certified modules have a pending innocent spouse claim (unreversed TC 971 AC 065).

13.1.24.9
(02-04-2020)
**Advocating for
Taxpayers Adversely
Impacted by the
Government Shutdown**

- (1) This section provides guidance to TAS employees about advocating for taxpayers adversely impacted by a government shutdown due to the lapse in appropriations.

13.1.24.9.1
(02-04-2020)
**Reviewing and
Receiving Cases
Following a Shutdown**

- (1) Because of the possible length of a shutdown and the potential influx of taxpayers waiting to come to TAS, it is critical that we identify the most urgent cases in need of immediate TAS assistance and address those cases first. It is vital that TAS employees look for those situations in open inventories and during the intake process rather than waiting for taxpayers to make a shutdown-specific complaint.
- (2) During the intake process, TAS employees will identify those cases that are the most urgent and time-sensitive. As required by IRM 13.1.16.8.1, Immediate Elevation of Emergency Cases, TAS employees will notify management in the office receiving the case that it will require expeditious handling. Employees will document the case history with the literal ****EMERGENCY****.

13.1.24.9.2
(08-29-2025)
**Zip Code Routing (ZCR)
of Cases Received
During the Shutdown**

- (1) Cases received during the shutdown are eligible for ZCR; however, the transferring office must contact the taxpayer to complete the initial contact per IRM 13.1.18.6, Initial Contact Completed by Case Advocates, **before** transferring the case. Receiving offices will not transfer these cases again; instead, they will keep these cases and work them. Keep in mind that the taxpayer has been waiting to hear from us. TAS is responsible for advocating for the taxpayer, and it is in the taxpayer's best interest for us to begin working to resolve the taxpayer's issue as quickly as possible.
- (2) The Date Assistance Request Received in TAS (DART) is **the date TAS received the taxpayer's inquiry**. Offices **will not** change the date of the DART to a date other than the date TAS received the inquiry even though that date may fall on a shutdown day. It is critical that we know the date that TAS received the case, and offices **cannot** change this date no matter the circumstances. We want to record the impact of the shutdown from the taxpayer's perspective. The fact that we received a request for assistance during the shutdown and were not able to help the taxpayer at that time is vital information to show that impact.

13.1.24.9.3
(08-29-2025)
**Prioritizing Caseloads
and Advocating for
Taxpayers Experiencing
Imminent Hardship**

- (1) As employees begin to prioritize their caseloads, they should remember that IRS employees were impacted by the work stoppage due to unforeseen events such as furlough, shutdown or other staffing issues and are facing backlogs of work. Work requested by OARs prior to the unforeseen events may not be completed.
- (2) TAS employees will triage their workload – **all** workload, including those cases that were open before the shutdown, those that came in while we were shut down, and new cases we have received since the shutdown. Give priority to those cases where the taxpayer is **experiencing imminent hardship**:

- The IRS has taken or is about to take enforcement action, *i.e.*, levy, lien, or seizure; or
 - The taxpayer will experience significant economic hardship or irreparable harm if the IRS does not take action.
- (3) If a case falls into these categories, TAS employees should determine what relief is necessary to resolve the taxpayer's issue to the extent possible under the internal revenue laws.
- (4) When necessary to address imminent hardship, OARs and TAOs should provide for very abbreviated response times. Since time is of the essence in many of these cases, a 24-hour response time may be appropriate. In other instances, the IRS might require a slightly longer timeframe to execute the requested relief, but the OAR or TAO should generally require a 24-hour response as to whether the IRS agrees to undertake the required relief. If the IRS fails to meet the deadline, the TAS employee should immediately discuss this case with the LTA for TAO consideration. Consider sending an immediate TAO and bypassing the OAR if needed to quickly resolve the taxpayer's issue. If the IRS fails to meet the deadlines set in the TAO, and the LTA determines it is inappropriate or harmful to modify those timeframes, the LTA should immediately elevate the TAO to their Deputy. See IRM 13.1.19, Advocating with Operations Assistance Requests (OARs), and IRM 13.1.20, TAS Taxpayer Assistance Orders (TAOs), for additional information.

13.1.24.9.4
(02-04-2020)
**Prioritizing Caseloads
and Advocating for
Taxpayers Not
Experiencing Imminent
Hardship**

- (1) TAS employees need to be mindful that the shutdown also impacted IRS employees. TAS does not want to exacerbate an already difficult situation by sending OARs to the IRS requesting expedite treatment when it is not necessary. Therefore, TAS should not use the expedite OAR process on cases not experiencing an imminent hardship.
- a. For cases where TAS issued an OAR before the shutdown and the taxpayer is not experiencing an imminent hardship, TAS employees will grant an extension of at least ten business days to the negotiated completion date or requested completion date (whichever is applicable). Grant this extension from the date you determine the taxpayer is not experiencing an imminent hardship.
 - b. For cases requiring a new OAR that are not experiencing an imminent hardship, TAS employees will set more flexible requested completion dates (RCDs).

Example: You could allow an additional five business days beyond the RCD you would normally set.
 - c. When negotiating completion dates for cases where the taxpayer is not experiencing imminent hardship, be mindful that taxpayers have been waiting for relief and it is not their fault that the government shut down. Where appropriate, grant all reasonable requests to extend. In determining "reasonableness," factor in whether the taxpayer is extremely anxious. If you are unsure if a request is reasonable, discuss the case with your manager.

13.1.24.9.5
(02-04-2020)
Identifying Systemic Issues

- (1) As you proceed with your casework, you may identify systemic problems impacting multiple taxpayers as the result of how the IRS is handling certain inquiries or outcomes from the shutdown. Elevate these issues to your LTA and load them on the *Systemic Advocacy Management System* (SAMS) as appropriate. (See IRM 13.1.21.2.1.1, Relief Codes.) Be sure to provide TAS case file numbers, but do not include specific details or taxpayer information in the SAMS submission.

13.1.24.10
(10-31-2022)
Special Situations Requiring Immediate Action

- (1) This section describes different situations that require TAS employees to take immediate actions to protect taxpayer rights.

13.1.24.10.1
(11-19-2024)
Advocating for Taxpayers Who Received a Refund Disallowance Letter From the IRS

- (1) This section provides guidance for TAS cases involving IRC 6532(a) statutory deadlines. It provides information on recognizing these issues, discussing them with taxpayers, and advocating for resolution. Because of the urgency of these issues, it also establishes mandatory advocacy steps as the deadline becomes imminent.

13.1.24.10.1.1
(11-19-2024)
Identifying IRC 6532(a) Statute Issues

- (1) Aside from the refund statute expiration date (RSED) under IRC 6511, Limitation on Credit or Refund, there is an additional statute under IRC 6532(a), Periods of Limitations on Suits, that might prevent a taxpayer from getting a refund when they dispute the IRS disallowance of a refund claim. This statutory period of limitations begins with the date the IRS mails a notice of claim disallowance to the taxpayer and ends two years after such mailing date. The IRS does not track the IRC 6532(a) two-year statutory period on the Integrated Data Retrieval System (IDRS).
- (2) When identifying an IRC 6532(a) statute issue, the key is the presence of a statutory notice of claim disallowance because the date on this notice begins the two-year statutory period. First, consider if the claim is a request for abatement. Requests for abatement under IRC 6404, Abatements, are not subject to IRC 6532(a) or IRC 6511 limitations on credit or refund. See IRM 25.6.1.10.1, Requests for Abatement, and IRM 21.5.3.4.6(3), No Consideration and Disallowance of Claims and Amended Returns. IRC 6404(b) states taxpayers shall not file requests for abatement of income, gift, or estate taxes, but *IRS Policy Statement 3-15* says the IRS will consider such requests anyway. Requests for abatement can bring the amount owed (including tax, assessed penalty and interest, and accrued penalty and interest) down to zero, and the IRS should not deny a request for abatement based on statute expiration or because the taxpayer has not paid the tax.
- (3) Generally, the IRS issues a Letter 105-C, Claim Disallowed, or Letter 106-C, Claim Partially Disallowed, when fully or partially disallowing a refund claim. The IRS also uses these letters (Letter 105-C and Letter 106-C) to deny requests for abatement. See IRM 13.1.24.10.1.1 (2), Identifying IRC 6532(a) Statute Issues, for information on determining whether the issue is a request for abatement or a claim for refund. The date the IRS mails the disallowance letter begins the running of a two-year period of limitation for the taxpayer to file suit under IRC 6532(a) with the U.S. District Court or U.S. Court of Federal Claims.

- Letter 905, Letter 906, Letter 1363, and Letter 1364 also begin the running of the two-year period of limitation.
- **Note:** The IRS does not send Letter 854C penalty abatement disallowance letters by certified or registered mail and thus do not trigger the IRC 6532(a) statute of limitation.
- IRM 21.5.3.4.6.1(3), Disallowance and Partial Disallowance Procedures, describes the elements generally required in a disallowance letter to begin the running of the IRC 6532(a) statutory period. The determination of whether a statute is running may require in-depth analysis.
- If a taxpayer signs Form 2297, Waiver of Statutory Notification of Claim Disallowance, the two-year period for bringing suit begins on the date the IRS receives the signed waiver, See IRC 6532(a)(3),

(4) Claims for refund can appear in many forms, including (but not limited to) amended returns filed using an “X” series return (*e.g.*, Forms 1040X, 941X, or 1120X) and informal claims. See IRM 25.6.1.10.3.2, Claims for Credit or Refund – Form and Content, IRM 8.7.7.2.3, General Information About Refund Claims and Overassessment Cases, and IRM 25.6.1.10.3.2.3, Informal Claims. Cases with Issue Codes 330, 620, 760, 912, or 919 may involve a taxpayer seeking TAS help to:

- Expedite the claim consideration;
- Resolve an IRS delay in considering the merits of the claim; or
- Challenge the IRS disallowance of the claim.

(5) The IRS can consider a taxpayer’s reconsideration or appeal request in response to a disallowance letter if the request has not exceeded the two-year deadline of the disallowance letter. **Once the two-year limitation period expires, IRC 6514 prohibits the IRS from issuing a refund**, even if an IRS function or Appeals determination would have allowed the claim/refund, as any refund issued after the expiration date of the two-year period under IRC 6532(a) is considered erroneous under IRC 6514.

(6) IRC 6532 does not require that the notice include an application of the law; therefore, any incorrect application of the law in the notice would not deem it invalid and therefore still begin the two-year period.

Example: The IRS disallowed a claim because it was not timely mailed under the three-year rule (IRC 6511(b)(2)(A)), but the claim was timely under the two-year rule (IRC 6511(b)(2)(B)). The issuance of the disallowance letter still begins the running of the IRC 6532(a) two-year limitation period.

(7) It is possible to extend the two-year limitation before it expires. The taxpayer and the IRS must agree to extend the two-year statute under IRC 6532(a)(2) by using Form 907, Agreement to Extend the Time to Bring Suit.

13.1.24.10.1.2
(11-19-2024)

TAS Advocacy in Cases Involving the IRC 6532(a) Limitation

- (1) Upon identifying a case where the IRC 6532(a) statutory period is running on a claim disallowance:
- Determine the date the IRS issued the disallowance letter and calculate when the two-year deadline for the taxpayer to bring suit expires. See *CABIC 180*, Refund Statute (RSED), for IRS system research and information to help identify and locate a copy of the claim disallowance letter.

- Discuss with the taxpayer the consequences of the two-year deadline and the taxpayer rights to *appeal an IRS decision in an independent forum* and *challenge the IRS's position and be heard*.
- If appropriate, discuss with the taxpayer whether they should (with TAS's assistance) submit a Form 907 to extend the statute (and document the taxpayer's intentions in the case history).
- Advocate to resolve the underlying issue using OARs and TAOs (as appropriate). In many cases, TAS can resolve the case and have the refund issued before the IRC 6532 statute expires.

(2) Statute cases are a priority, and as such:

- Send OARs expedited and document the nature of the statute issue on the OAR. See IRM 13.1.19.5, Operations Assistance Request (OAR) - Preparation.
- Limit the number of extensions given on the OARs issued.
- Set short follow-up dates (FUDs).
- Consider the use of TAOs, as appropriate. See IRM 13.1.20, TAS Taxpayer Assistance Orders (TAOs).

(3) If there are less than 90 days remaining on the two-year limitation period, immediately refer the case to a Revenue Agent Technical Advisor (RATA). Once the RATA completes their referral, with the recommendation that the Case Advocate work with the taxpayer to secure a signed Form 907, the RATA will close the referral. If the referral is closed the Case Advocate will submit a new referral to a RATA once they secure a Form 907 signed by the taxpayer. See IRM 13.1.24.10.1.5 (5), Advocacy Using the Form 907 Extension.

13.1.24.10.1.3 (11-19-2024) Determining the Disallowance Date

- (1) Determine if and when the IRS issued a Letter 105-C or Letter 106-C or other disallowance letter. The two-year statute begins to run on the day the IRS mailed the letter by certified or registered mail. See the *Case Assistance by Issue Code (CABIC)* 180 page, RSED, for IRS systems research information to help identify and locate a copy of the claim disallowance letter.
- (2) Document the **IRC 6532(a) expiration date (two years later) for that tax period in the case history**.

Caution: State and federal holidays or weekends may impact the two-year period; see Rev. Rul. 2003-41.

13.1.24.10.1.4 (11-19-2024) Discussing the IRC 6532(a) Statutory Deadline With the Taxpayer

- (1) Ensure the taxpayer understands the right to *appeal an IRS decision in an independent forum* and the two-year statute to bring suit in court. The IRS does NOT suspend or extend this two-year statute because the case is in Appeals or active in TAS. To be timely, the refund issue date must be within the IRC 6532(a) statutory period. Once this two-year period under IRC 6532(a) expires, there are no refund options at all because any refund issued outside of the IRC 6532 statutory period is considered erroneous under IRC 6514. The taxpayer will lose the *right to challenge the IRS's position and be heard*, even if Appeals or the IRS BOD agree the taxpayer would otherwise be due a refund.
- (2) Determine the taxpayer's intentions related to the disallowed claim. There is no need to track or discuss extending the IRC 6532(a) statutory period if the taxpayer does not intend to appeal the claim disallowance or file a refund suit in court. Document the taxpayer's reply/intentions in the case history.

- (3) If the taxpayer wishes to pursue the disallowed claim, discuss the merits of the claim with the taxpayer. In all cases, explain what the law provides and discuss how to build a strong case to support the taxpayer's position. This conversation includes advising taxpayers when law does not appear to support their positions.
- (4) In cases where the taxpayer intends to appeal or otherwise contest a claim disallowance:

If	Then
The IRS disallowed a claim within the past six months	Recommend the taxpayer initiate the reconsideration or appeal promptly to give the IRS adequate time to consider the reconsideration or appeal.
If the taxpayer has already filed an appeal with the IRS in response to the disallowance letter, and more than one year remains on the IRC 6532(a) statute	Work the TAS case as normal. See the next row below if Appeals has not assigned the appeal by the time the statute has less than one year remaining.

If	Then
<p>If any of the following are true:</p> <ul style="list-style-type: none">• The taxpayer intends to file an administrative appeal or reconsideration but has not done so and less than one year remains on the statute;• TAS is working with a function other than the Office of Appeals and the recommended actions will not be completed prior to the expiration of the two-year statute;• The taxpayer filed an administrative appeal, but the IRS Office of Appeals does not have an open appeals case yet and less than one year remains on the statute;• The Office of Appeals has an open appeal case, but less than six months remains on the statute; or• The taxpayer intends to file a refund suit with the U.S. District Court or U.S. Court of Federal Claims but needs additional time to file the refund suit. <p>Note: Some Low Income Taxpayer Clinics (LITCs) may assist eligible taxpayers with the filing of a refund suit. See Pub 4134, Low Income Taxpayer Clinic List.</p>	<p>See IRM 13.1.24.10.1.5, Advocacy Using the Form 907 Extension.</p>

If	Then
If less than 30 days remain on the statute	Advise the taxpayer or representative the IRS may not agree to sign a Form 907 extension in time, even with TAS advocacy. Filing a refund suit with the U.S. District Court or U.S. Court of Federal Claims before the statute expires may be the only way to dispute the disallowance. IRM Exhibit 13.1.24-8 contains a script to help TAS employees communicate this to taxpayers.

- (5) Some taxpayers may have no intention of asking for a reconsideration or appeal of the disallowance. If discussions with the taxpayer reveal this is the case, document this in the case history. Ultimately, taxpayers are responsible for protection of this statute and the initiation of Form 907.

13.1.24.10.1.5
(08-29-2025)

Advocacy Using the Form 907 Extension

- (1) Form 907, Agreement to Extend the Time to Bring Suit, extends the two-year period for filing suit in a U.S. district court or the U.S. Court of Federal Claims, but both the taxpayer and the IRS must agree to the extension. The extension also gives the IRS additional time to consider an administrative appeal for the taxpayer, even if the taxpayer has no plans to file a refund suit in court. TAS employees **do not** have delegated authority to sign Form 907 on behalf of the IRS. However, TAS may work with the taxpayer to prepare the Form 907 or may prepare the form on their behalf, because the IRS does not consider it a return.

Example: The taxpayer filed a refund claim using Form 1040-X, Amended U.S. Individual Income Tax Return, which the IRS disallowed with a Letter 105-C dated 8/20/2022. The taxpayer requested an appeal, but the IRS function never sent the appeal package to Appeals, prompting the taxpayer to seek TAS help on 1/25/2024. Since less than one year remains under the IRC 6532(a) statutory period (it expires on 8/20/2024), and Appeals does not have an open case, TAS discusses the IRC 6532 statute with the taxpayer and recommends the taxpayer request a two-year extension to 8/20/2026 using Form 907 to give the IRS sufficient time to receive and consider the merits of the taxpayer's appeal request.

- (2) See *CABIC 180* for IRM references discussing use of the Form 907 and information about which IRS officials can sign Form 907. Each Form 907 (multiple extensions are possible) can extend the statute.
- (3) Because Form 907 is not a tax return or claim for refund, TAS can solicit, prepare, or help a taxpayer prepare Form 907 and receive a signed Form 907 from taxpayers using the Document Upload Tool (DUT), fax, or mail. However, as mentioned above, TAS case advocates **do not** have the authority to sign the Form 907 on behalf of the IRS. See Form 907 Request and Executed letters (Taxpayer and Power of Attorney versions) on the *TAS Letters, Communications, and Forms site* (English and Spanish versions). Per IRM 10.10.1.6.1, Accepting Images of Signatures and Digital Signatures in Certain Taxpayer In-

teractions, TAS can receive a Form 907 with a digital, photographic, or otherwise imaged taxpayer signature. Send an electronic copy of Form 907 via an OAR to the IRS for agreement and a digital signature of the appropriate IRS official.

Caution: Representatives with a power of attorney are not eligible to sign Form 907 unless the power of attorney specifically authorizes this action. See page 2 of Form 907, Rev. Rul. 76-60, and IRM 13.1.23.3.1.1(7), Authority Granted by Power of Attorney (Form 2848 and Other Comparable Documents).

- (4) If TAS receives a Form 907 signed only by the taxpayer or taxpayer's representative (but not the IRS) as part of the taxpayer's request for TAS assistance or at any time during the life of the case, document the case history and notify your Local Taxpayer Advocate (LTA) immediately.
- (5) Upon receipt of a processable Form 907, it is strongly recommended that employees refer the case to a RATA and forward the form to the RATA assigned to the referral. ITAP is responsible for securing the IRS signature on the extension request. Once all parties have signed the form, the RATA will return the executed form to the Case Advocate with instructions on how to proceed.
- (6) See the *CABIC 180* page for current OAR routing information.
- (7) If the IRS disagrees with TAS analysis that the taxpayer timely filed the refund claim under IRC 6511 and refuses to sign Form 907, verify the IRS computed the RSED correctly (consult a RATA if needed). AMS or CII may provide evidence of an earlier (and timely) refund claim or the presence of an informal claim. Consider a TAO if appropriate to resolve any disagreements.

13.1.24.10.1.6
(11-19-2024)
**When the IRC 6532(a)
Statute Has Expired**

- (1) If the IRS refuses to consider the merits of a taxpayer appeal because the IRS contends the IRC 6532(a) statutory period has expired, verify the dates the IRS used and explore whether the IRS followed the proper procedure for issuing the disallowance letter.
 - Review the disallowance letter to determine if it contains all the required elements described in IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures.
 - Verify the IRS mailed the disallowance letter by certified or registered mail. If unsure how to verify the IRS mailed the disallowance letter using certified or registered mail, consult an Accounts Technical Advisor (ATA).
 - If a disallowance letter does not meet the statutory requirements, it never started the running of the IRC 6532(a) statutory period, so TAS can advocate for consideration of the taxpayer's appeal.
 - Consider a RATA referral.
- (2) In situations where there is ambiguity on whether the taxpayer received the statutory notice of claim disallowance, consider taking the following steps:
 - Verify the IRS mailed the disallowance letter by certified or registered mail. Consider consulting an ATA.
 - Consider a RATA referral.

- (3) Even if a refund is not available due to the expiration of the period under IRC 6532(a), TAS has advocacy options available. Statute expiration should not preclude taxpayers from additional TAS assistance. Consider the following possibilities.
- Explore whether TAS can advocate for penalty abatement due to reasonable cause or First Time Abate (FTA).
 - Discuss collection alternatives with the taxpayer to help resolve the balance due. Make a referral to ITAP if you need assistance.
 - In circumstances when TAS cannot advocate for a specific outcome, consider whether it is appropriate to issue a neutral language OAR. See IRM 13.1.19.5(9), Operations Assistance Request (OAR) – Preparation.

Example: A statute has expired under IRC 6532, but the case is still open in Appeals and has not been worked. Although you cannot advocate for issuance of a refund, issue an OAR recommending the IRS review the case and respond to the taxpayer.

13.1.24.10.1.7
(08-29-2025)

Responsibilities

- (1) This section describes the TAS employee responsibilities when advocating for taxpayers who received a refund disallowance letter from the IRS.

Employee	Is responsible for
Case Advocate (CA)	<ul style="list-style-type: none"> Identifying disallowed claims for refund during initial review of all IRS systems and documenting the case history with the Topic tag if the intake advocate did not previously identify the IRC 6532 implication. Documenting the case history with the IRC 6532(a) statute expiration date for each tax period with a refund disallowance letter. Clearly explaining the issue and remaining time under the IRC 6532(a) statute to the taxpayer or representative. Explaining all options available to the taxpayer and documenting the taxpayer's decision in the case history. The options may include filing a refund suit in court, submitting Form 907 to request a statute extension, or allowing the statute to expire when the taxpayer has no intention of filing an appeal or refund suit in court. Taking timely action if the taxpayer submits a signed Form 907, including conducting a review of the Form 907 to ensure it is prepared properly.

Employee	Is responsible for
Internal Technical Advisor Program (ITAP)	<ul style="list-style-type: none"> Analyzing the case and making recommendations to Case Advocates to secure Form 907 from the taxpayer and, if necessary, help them with the form. Securing the IRS signature on Form 907. Returning the executed Form 907 to the Case Advocate along with instructions on how to proceed with the case.
Local Taxpayer Advocate (LTA)	<ul style="list-style-type: none"> Actively monitoring IRC 6532(a) cases in the office inventory. Local offices should be addressing the issues well before the case enters the 120-day window of the statute expiration date. Ensuring Case Advocates are taking actions and documenting managerial reviews in the case history. Elevating Form 907 signature delays with the IRS as appropriate, including use of TAOs.
Deputy Executive Director Case Advocacy (Deputy)	Ensuring their area analysts are monitoring these cases. The Deputy will also provide oversight of IRC 6532(a) case advocacy in all operational reviews of local offices. The Deputy will designate the Area point of contact (POC) for all IRC 6532 cases.

Employee	Is responsible for
Area POC	<ul style="list-style-type: none"> • Accessing and reviewing the IRC 6532 statute tracker at a minimum once a week. • Sending the LTAs their complete list of cases monthly regardless of the number of days remaining in the two-year statute. • Reviewing TAMIS for the case(s) assigned to the Area to ensure each case is open and determine whether the IRS has issued a refund for the claim previously disallowed. A review of the account on IDRS is required. • Completing, maintaining, and updating all applicable fields in the Tracking Spreadsheet DCI when required. • Documenting the case with the Topic tag if not done so already. • Ensuring the Case Advocate refers the case to ITAP when it reaches the 90-day window prior to the statute expiration date. • Alerting the LTA of the IRC 6532 implications. Follow-up with the LTA within three business days as a reminder if the referral has not been made. • Contacting the EDCA technical advisors on any questionable cases or account concerns or non-responses for the local offices. • Alerting the EDCA staff immediately when the IRC 6532 statute has expired on any open TAS case on the Tracking Spreadsheet list. • Ensuring all local offices frequently train all employees on statute identification and case history documentation.

13.1.24.10.2
(10-31-2022)

**TAS Receipt of Taxpayer
Payments**

- (1) TAS cannot accept cash payments. Refer the taxpayer to the nearest Taxpayer Assistance Center (TAC) for payment acceptance and processing.
- (2) Generally, TAS does not accept non-cash payments. Refer taxpayers to <https://www.irs.gov/payments> for payment options. If TAS mistakenly receives a non-cash remittance, see IRM 1.4.13.4.6, Payment Processing, and IRM 3.8.47.5.4, Procedures for Sending Tax Receipts to a Submission Processing Center.

13.1.24.11
(08-29-2025)

**TAS Policies/Procedures
to Consider in the Event
of an Emergency**

- (1) At the end of the COVID-19 pandemic, TAS conducted a best practices analysis to determine which policy changes implemented during the pandemic TAS should implement permanently, which additional procedures TAS should consider implementing in the event of a future emergency, and which procedures did not work as intended. As a result of this analysis, this section includes possible procedures that TAS leadership will consider implementing in the event of a future emergency.
- (2) In the event of a local or regional emergency, the applicable Deputy will discuss with the EDCA and DNTA which emergency procedures TAS should put in place and for how long. The DNTA will issue a directive to the impacted employees communicating the emergency procedures and the length of time the procedures will be in place. See Exhibit 13.1.24-9 for a listing of policies and procedures to consider in the event of an emergency.
- (3) Following an emergency, TAS will conduct a best practices analysis to determine which policy changes TAS should implement permanently, which additional procedures to consider in the event of a future emergency, and which procedures did not work as intended. TAS will update Exhibit 13.1.24-9 to include any emergency procedures identified because of the analysis.

Exhibit 13.1.24-1 (08-29-2025)

Alternative Documentation for Qualifying Child

	Document/Records	Relationship	Residency	Support
1	Birth Certificate	x		
2	Marriage certificate	x		
3	Divorce decree, separation agreement, or decree of separate maintenance	x		
4	A letter from an authorized adoption agency	x		
5	Letter from an authorized placement agency or applicable court document	x	x	
6	Custody order	x		
7	School records (may require two years since school years overlap tax years)	x	x	
8	Medical records	x	x	
9	Social service records	x	x	
10	Section 8 housing applications		x	
11	Immigration paperwork	x		
12	Green card		x	
13	Citizenship papers	x		
14	Childcare provider records	x	x	
15	Baptismal certificate (or letter on official letterhead from place of worship)	x		
16	Court document	x		
17	A letter on official letterhead from a landlord or property manager that shows names, common address, and dates		x	
18	A statement from any government agency verifying the amount and type of benefits you and/or your dependent received for the year	x		
19	Rental agreements or a statement showing the fair rental value of your residence		x	x
20	Property tax bills		x	
21	Mortgage receipts		x	x
22	Official mail (<i>i.e.</i> , envelope or package addressed to dependent)		x	
23	Earnings Statement		x	
24	Social Security card		x	

Exhibit 13.1.24-1 (Cont. 1) (08-29-2025)**Alternative Documentation for Qualifying Child**

25	Library card		x	
26	Utility and repair bills (proof of household expenses) with canceled checks or receipts		x	x
27	Clothing bills (proof of child's support with canceled checks or receipts)		x	x
28	A driver's license		x	
29	Automobile registration		x	
30	Automobile insurance bill		x	
31	Club membership		x	
32	Copies of canceled checks for mortgage payments, rent, utilities, insurance		x	x
33	Credit card statements		x	
34	Bank statements		x	
35	Military records	x		
36	Statement or records from homeless shelter		x	
37	Eviction notices		x	
38	Paperwork to obtain a post office box		x	
39	Parole office files	x	x	
40	Accurant	x	x	
41	Magazine subscriptions		x	
42	DDBKD transcript	x		
43	Obituary	x		
44	Census records	x		
45	Voter registration card		x	
46	Homeowners/Renters insurance Policy		x	
47	Passport	x		
48	Ancestry.com (document of an old birth, marriage record, etc.)	x		
49	DNA test	x		
50	Alumni yearbooks	x		

Exhibit 13.1.24-2 (08-29-2025)

Case Scenarios Identifying Alternative Documentation

Taxpayer's Situation	Alternative Documents
<p>The TAS employee obtained the following facts from the taxpayer through dialogue and thoughtful questioning:</p>	<p>The TAS employee requested the following documents to support EITC eligibility:</p>
<p>Scenario 1: The taxpayer's qualifying child is enrolled in school, but the taxpayer used the grandmother's address on the school registration forms. The grandmother provides care before and after school while the taxpayer works. The taxpayer uses this address so the child can ride the bus to and from the grandmother's house. The grandmother is also the adult who attends most doctor's appointments with the child.</p> <p>The taxpayer cannot provide school records or a statement from the doctor to substantiate that the child lived with them for more than six months of the tax year. The taxpayer moved in the middle of the tax year and spent six weeks in between leases living with their mother, so neither lease agreement covers more than six months for the year.</p>	<ul style="list-style-type: none"> • Benefit statement from taxpayer's employer showing that they pay for a health insurance plan covering taxpayer and a dependent for the entire tax year. The statement identifies the taxpayer and the dependent by name and date of birth, which will match Social Security records. • Medical invoices for the child made out to the taxpayer's home address. • A printout from a pharmacy of the child's prescriptions that include the child's address. • Copies of both lease agreements. When combined, the agreements verify that the leasing companies recognized the child as an authorized resident for both apartments and demonstrate residency of the child for more than six months of the year.
<p>Scenario 2: The taxpayers are caring for their niece and nephew, who the state social services department removed from their mother's home due to neglect. The taxpayers do not have certified copies of birth certificates for the children and will need six to eight weeks to obtain them, but the taxpayers are experiencing an economic burden and cannot wait that long for their refund. The children are ages 2 and 4 and do not attend preschool. A counselor from social services agency makes quarterly visits to check in on the children.</p>	<ul style="list-style-type: none"> • A copy of the court documents granting the taxpayers temporary custody of the two children. The court documents should name the mother and confirm the mother's relationship to the taxpayers. • A letter from social services agency acknowledging quarterly visits and confirming the children resided with the taxpayers for more than six months of the tax year

Exhibit 13.1.24-2 (Cont. 1) (08-29-2025)**Case Scenarios Identifying Alternative Documentation**

Scenario 3: After the taxpayer filed a 2022 return claiming the son as a dependent, they received a notice that someone else had already claimed the same dependent. The taxpayer divorced in 2016 under a decree that provides joint custody but allows the taxpayer to claim the son as a dependent for all tax years. The Parenting Plan provides equal time (50/50) with the child. However, the taxpayer tells TAS that their former spouse moved to another town in 2020 and only spends alternate weekends with the son. Taxpayer never requested a modification to the Parenting Plan because they did not want to incur more attorney fees and court costs. The taxpayer owns a three-bedroom home and has no other family living at that address. The son, age 17, was expelled from school in May 2021, obtained their driver's license in July 2021, and enrolled in a GED program at the local community college in January 2021.

- A copy of the notification of expulsion from the school to show the son's address until May 2021.
- Copies of emails from the former spouse acknowledging their move out of town and coordinating alternate weekend visitations.
- A copy of the son's driver's license. The license will show the date issued and the son's address for 2021.
- A copy of the GED registration. Although the son enrolled in classes after the tax year in question, the driver's license registration before the tax year in question combined with the GED registration after the tax year in question demonstrate a continuance of residency.

Exhibit 13.1.24-3 (08-29-2025)

Examples of OAR Recommendations for EITC Cases

Examples of OAR Recommendations that DO NOT advocate for the taxpayer	Example of OAR recommendation that ADVOCATES for the taxpayer
<p>1. The taxpayer has a hardship; please reconsider the EITC.</p> <p>2. TAS/I recommend that the IRS review the taxpayer records and contact the TAS employee/me if you need additional information.</p> <p>3. The taxpayer requests the IRS allow EITC.</p> <p>4. I believe the taxpayer has proven eligibility for the EITC, and the IRS should allow them to claim the credit. Adjust the account. Admin file; find additional information attached.</p> <p>5. Please allow EITC for the taxpayer's niece. The niece resided with the taxpayer. See attached documents to verify residency.</p>	<p>The taxpayer is experiencing an economic hardship and needs immediate relief. Please adjust the taxpayer's account and allow their niece, Amy, as a qualifying child for EITC purposes. It is TAS's position that the taxpayer can claim Amy as a qualifying child for EITC in tax year 2021. Amy was age 16 and resided with the taxpayer for 12 months during the year. The taxpayer provided all support for Amy. Thank you in advance for reviewing the documents and adjusting the account. Per the SLA, if you disagree with the recommendation, please contact me with an explanation and allow me at least three workdays to review your response and provide additional information.</p> <p>The attached documents support TAS's position:</p> <ul style="list-style-type: none"> • Birth certificate verifies Amy's age. • Lease agreements covering 2021 verifies at least six months of residency. • School report cards mailed to taxpayer's residence for school years 2021/2022 and 2022/2023 verify residency throughout tax year 2022. • Medical records and insurance statements verify residency and relationship. • Court documents verify legal guardianship and/or the child's relationship to the taxpayer. • Itemized statement from utility companies and canceled checks verify support provided by the taxpayer. • Amy's driver's license/government-issued ID, issued in March 2021, verifies their address.

Exhibit 13.1.24-4 (08-29-2025)**Penalty Relief Examples**

Examples	Suggested OAR Language
<p>Example 1: Advocating for First-Time Abate Rather Than Reasonable Cause The First-Time Abate (FTA) is an administrative waiver that generally allows a taxpayer relief from certain penalties if the taxpayer had not been previously required to file a return, or if the IRS has not assessed certain penalties in the prior three years. FTA is also available if the IRS fully abated for reasonable cause penalties assessed in the prior three years. See IRM 20.1.1.3.6.1, RCA and First Time Abate (FTA) Consideration for more information. The Reasonable Cause Assistant (RCA) prompts users to abate penalties via the FTA option by default for qualified taxpayers.</p> <p>TAS employees will recommend use of the FTA when no other options apply. If using FTA will result in a larger penalty abatement or when the other options would burden the taxpayer due to documentation requirements, the TAS employee should discuss the FTA option with the taxpayer. If the taxpayer decides to pursue the FTA option, TAS will recommend the IRS use FTA to abate the penalty.</p> <p>If a taxpayer requests Failure To Pay (FTP) penalty abatement but can only support reasonable cause for a short period, TAS employees should use their judgment in these situations to determine if advocating for use of the FTA would be in the best interest of the taxpayer and discuss the various options for relief with the taxpayer.</p> <p>For example, if a taxpayer with a clean compliance history requests FTP penalty abatement due to a two-week illness that overlaps with the payment due date, but the tax remained unpaid for one year, then the TAS employee should recommend that the taxpayer seek full abatement based on FTA, not reasonable cause.</p> <p>TAS employees should access the RCA to confirm it will abate the FTP penalty based on FTA.</p>	<p>Suggested language for the OAR: “The taxpayer provided a signed written statement requesting the IRS fully remove the FTP penalties. A medical emergency prevented the taxpayer from paying on time. The taxpayer has a clean compliance history and paid the tax in full. Because the medical emergency was for such a short period, TAS believes that the entire FTP penalty is eligible for abatement under the First-Time Abate waiver per IRM 20.1.1.3.6.1, RCA and First Time Abate (FTA) Consideration. We recommend you abate the penalty for the reasons explained above. If the RCA conclusion is to sustain any part of the FTP penalty, please suspend the case, contact me with an explanation, and allow me three workdays to review your reasoning before you sustain the penalty, per the Service Level Agreement (SLA).”</p>

Exhibit 13.1.24-4 (Cont. 1) (08-29-2025)
Penalty Relief Examples

<p>Example 2: Advocating Use of First-Time Abate The taxpayer requests abatement of failure to file (FTF) and FTP penalties in a signed written statement explaining that the taxpayer usually files timely and pays in full but does not give a reason for filing and paying late this year.</p> <p>The TAS employee contacts the taxpayer to ask relevant and appropriate questions but finds no specific reason why the taxpayer did not file or pay timely. The taxpayer fully paid the tax owed with the late return. Accessing the RCA, the TAS employee finds the RCA concludes the taxpayer compliance history qualifies the taxpayer for First-Time Abate.</p>	<p>Suggested language for the OAR: “The taxpayer provided a signed written statement requesting abatement of the FTF and FTP penalties. The IRS has not charged the taxpayer FTF or FTP penalties in the past three years, and the taxpayer paid the tax in full. TAS believes all of the FTF and FTP penalties are eligible for abatement under the First-Time Abate waiver per IRM 20.1.1.3.6.1, RCA and First-Time Abate (FTA) Consideration. We recommend you abate the penalties for the reasons above explained.</p> <p>If the RCA conclusion is to sustain either penalty, please suspend the case, contact me with an explanation, and allow me three workdays to review your reasoning before you sustain either penalty, per the Service Level Agreement (SLA).”</p>
<p>Example 3: Advocating Not to Use First-Time Abate The use of FTA is sometimes not in the best interest of the taxpayer. If TAS can advocate for the IRS to abate the penalty for reasonable cause rather than FTA, the taxpayer’s compliance history will remain clean, and they can use FTA if they need it in a future tax year. The taxpayer requests FTF and FTP penalty abatement due to a fire (casualty) and provides a report from the fire department stating an electrical short caused a fire that extensively damaged the taxpayer’s home two weeks before the filing deadline. The taxpayer filed two months later after recreating records.</p> <p>Accessing the RCA, the TAS employee confirms the casualty causing lost records will abate the FTF and FTP penalties based on reasonable cause but also finds the RCA could remove the penalty based on FTA. After discussing the options with the taxpayer, the TAS employee recommends that the IRS abate the penalty due to reasonable cause, not FTA.</p>	<p>Suggested language for the OAR: “A fire in the taxpayer’s home destroyed records needed to file a return. See supporting documentation. TAS believes all of the FTF and FTP penalties are eligible for abatement due to reasonable cause (casualty destroyed records) since the taxpayer filed the return with full payment two months after the fire. The two-month delay represents the time it took the taxpayer to recreate the records necessary to file an accurate return. We recommend you abate the penalties for the reasons above explained.</p> <p>If the RCA conclusion is to sustain either penalty or to utilize FTA, please suspend the case, contact me with an explanation, and allow me three workdays to review your reasoning before you sustain the penalty, per the Service Level Agreement (SLA).”</p>

Exhibit 13.1.24-4 (Cont. 2) (08-29-2025)**Penalty Relief Examples**

<p>Example 4: Advocating for Relief Due to IRS Error The taxpayer receives a balance due notice, pays the amount due, receives a refund for the same amount, then receives another balance due notice (and the cycle repeats several times). TAS employee research finds the balance owed is due to adjustments of timely withholding credits. The TAS employee also discovers this is a known IDRS programming problem that requires manual restriction of the FTP penalty. Many IDRS programming problems can cause over-assessment of the FTP penalty (e.g., multiple transaction codes 520 and 521 on the account, multiple collection status codes of 60 and 64 on the account and, reversed refundable credits).</p> <p>The TAS employee conducts a compliance check and finds the IRS charged a correct FTP penalty in a prior year, so full abatement of the FTP penalty under First-Time Abate is not available. However, the taxpayer is still eligible for partial penalty relief due to the IRS error for the tax period open in TAS. The TAS employee makes a referral to an Account Technical Advisor (ATA) for assistance due to the complexity of a manual FTP computation. Accessing the RCA, the TAS employee identifies an IRS error category but finds the RCA cannot compute the erroneous penalty, and the IRS must input the abatement manually. The TAS employee and ATA manually compute the proper FTP penalty for the period.</p>	<p>Suggested language for the OAR: “The balance due on the account is the result of an IRS programming problem for the FTP penalty. (Include a description of the programming problem identified.) The balance due is the result of an adjustment of timely credits. I provided a computation showing the correct FTP penalty. I recommend assignment of this OAR to a penalty computation specialist to verify our computation. TAS believes that the FTP penalty on the account is excessive due to IRS error. We recommend you abate the FTP penalty so it matches the FTP computation I provided.</p> <p>If the RCA conclusion is to sustain the FTP penalty, please suspend the case, contact me with an explanation, and allow me three workdays to review your reasoning before you sustain the penalty, per the Service Level Agreement (SLA).”</p>
<p>Example 5: Advocating for Unavoidable Absence The taxpayer requests FTF and FTP penalty abatement because they were hospitalized due to an accident and provides a signed doctor’s statement confirming the hospitalization. The taxpayer also states there was no one to handle their affairs. The TAS employee verifies the taxpayer has a clean compliance history. The taxpayer filed and paid the tax in full in mid-May. The doctor’s statement shows the span of hospitalization began before April 15 and ended a few days before the taxpayer filed.</p> <p>Accessing the RCA, the TAS employee selects all appropriate categories, and verifies the RCA will reach a conclusion to abate the penalties in full for reasonable cause.</p>	<p>Suggested language for the OAR: “The taxpayer was hospitalized unexpectedly from April xx through May xx, preventing them from filing and paying the taxes timely. The doctor’s statement verifies hospitalization dates. The taxpayer filed and paid the tax in full promptly once released from the hospital. The taxpayer states there was no one to handle their affairs. TAS believes all of the FTF and FTP penalties are eligible for abatement due to unavoidable absence. We recommend you abate the penalties for the reasons above explained.</p> <p>If the RCA conclusion is to sustain either penalty, please suspend the case, contact me with an explanation, and allow me three workdays to review your reasoning before you sustain either penalty, per the Service Level Agreement (SLA).”</p>

Exhibit 13.1.24-4 (Cont. 3) (08-29-2025)
Penalty Relief Examples

Example 6: Advocating When the Explanation Does Not Meet Reasonable Cause The taxpayer requests abatement of FTF and FTP penalties recently assessed. During initial contact, the TAS employee has a conversation with the taxpayer and explains acceptable reasonable cause standards for both penalties. The TAS employee explains the need to ask some respectful but specific questions to determine if there are circumstances that may merit reasonable cause. Why are you filing your tax returns late? Did you file an extension? Are there circumstances preventing you from filing and paying timely? The taxpayer states they work a lot, did not have time to file their return or request an extension, and could not pay the tax timely.

Accessing the RCA, the TAS employee explores the available categories but cannot find a reason to abate the penalty, and they see no facts or circumstances that will justify overriding the RCA decision to sustain the penalties. The TAS employee has an honest discussion with the taxpayer, stating TAS can forward the abatement request to the IRS for consideration. However, the circumstances described do not appear to meet the standard of ordinary business care and prudence needed to abate the penalties for reasonable cause. Based on the reason the taxpayer came to TAS, the TAS employee might also say that even though the IRS will most likely deny the abatement request, it still has a responsibility to timely consider and respond to the request. TAS will make sure the IRS does so, and if the IRS denies the abatement request, TAS will make sure the taxpayer receives the proper appeal rights.

Suggested neutral language for the OAR:

“Based on the information provided, consider the taxpayer’s request for FTF and FTP penalty relief and input the necessary adjustments for any penalty abated. If you deny the request, please send the proper disallowance letter with appeal rights to the taxpayer and provide a copy to TAS.”

Exhibit 13.1.24-5 (08-29-2025)**Terms**

Term	Definition
Audit Reconsideration	A taxpayer request to reconsider a prior unpaid IRS audit adjustment on an individual income tax return.
Clerical Error	An error resulting from a minor or inadvertent mistake, in writing or copying something on the record, not from judicial reasoning or determination. A clerical error is an inadvertent mistake by a TAS or IRS employee rather than an error based on substance or judgment.
Offset Bypass Refund (OBR)	Issuance of a manual refund without first satisfying outstanding federal tax liabilities.
Operations Assistance Request (OAR)	Conveys a recommendation or request that the IRS act to resolve an issue when TAS lacks the statutory or delegated authority to resolve a taxpayer's problem.
Recommendation	A request for an action supported by the facts presented by the taxpayer, law, and procedures.
Refundable credit	A tax credit that is not limited by the amount of an individual's tax liability. Typically, a tax credit only reduces an individual's tax liability to zero. Refundable credits go beyond this, and the IRS can consider them the same as a payment.
Taxpayer Assistance Order (TAO)	A statutory tool used by TAS to order the IRS to take certain actions, cease certain actions, or refrain from taking certain actions. See IRM 13.1.20, TAS Taxpayer Assistance Orders (TAOs).
<i>The Right to Be Informed</i>	Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes.
<i>The Right to Quality Service</i>	Taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS, to be spoken to in a way they can easily understand, to receive clear and easily understandable communications from the IRS, and to speak to a supervisor about inadequate service.

Exhibit 13.1.24-5 (Cont. 1) (08-29-2025)
Terms

Term	Definition
<i>The Right to Pay No More Than the Correct Amount of Tax</i>	Taxpayers have the right to pay only the amount of tax legally due, including interest and penalties, and to have the IRS apply all tax payments properly.
<i>The Right to Challenge the IRS's Position and Be Heard</i>	Taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions, to expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position.
<i>The Right to Appeal an IRS Decision in an Independent Forum</i>	Taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions, including many penalties, and have the right to receive a written response regarding the Office of Appeals' decision. Taxpayers generally have the right to take their cases to court.
<i>The Right to Finality</i>	Taxpayers have the right to know the maximum amount of time they have to challenge the IRS's position as well as the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt. Taxpayers have the right to know when the IRS has finished an audit.
<i>The Right to Privacy</i>	Taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will comply with the law and be no more intrusive than necessary and will respect all due process rights, including search and seizure protections, and will provide, where applicable, a collection due process hearing.
<i>The Right to Confidentiality</i>	Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect appropriate action will be taken against employees, return preparers, and others who wrongfully use or disclose taxpayer return information.
<i>The Right to Retain Representation</i>	Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to seek assistance from a LITC if they cannot afford representation.

Exhibit 13.1.24-5 (Cont. 2) (08-29-2025)
Terms

Term	Definition
The <i>Right to a Fair and Just Tax System</i>	Taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.

Exhibit 13.1.24-6 (08-29-2025)

Acronyms

Acronyms	Definitions
AAG	Attorney Advisor Group
ACS	Automated Collection System
AMS	Accounts Management System
ATA	Account Technical Advisor
CABIC	Case Assistance by Issue Code
CAP	Collection Appeals Program
CDP	Collection Due Process
CEAS	Correspondence Examination Automation Support
CNC	Currently Not Collectible
CSED	Collection Statute Expiration Date
Deputy	Deputy Executive Director Case Advocacy
DETL	Disqualified Employment Tax Levy
DOJ	Department of Justice
DUT	Document Upload Tool
EDCA	Executive Director Case Advocacy
EITC	Earned Income Tax Credit
FTA	First-Time Abate
IA	Installment Agreement
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
IRC	Internal Revenue Code
ITAP	Internal Technical Advisor Program
LITC	Low Income Taxpayer Clinic
LTA	Local Taxpayer Advocate
NFTL	Notice of Federal Tax Lien
OAR	Operations Assistance Request
OBR	Offset Bypass Refund
OD	Operating Division
OIC	Offer in Compromise

Exhibit 13.1.24-6 (Cont. 1) (08-29-2025)**Acronyms**

RAC/RAL	Refund Anticipation Check/Refund Anticipation Loan
RATA	Revenue Agent Technical Advisor
RCA	Reasonable Cause Assistant
RGS	Report Generation Software
ROTA	Revenue Officer Technical Advisor
SITLP	State Income Tax Levy Program
TAO	Taxpayer Assistance Order
TBOR	Taxpayer Bill of Rights

Exhibit 13.1.24-7 (08-29-2025)

Related Resources

IRM Related Resources
IRM 3.17.79.3.2, Processing Manual Refunds;
IRM 3.17.79.3.3.2, Manual Refunds for Unprocessed Original Returns;
IRM 3.17.79.3.16, Offset Bypass Refunds;
IRM 4.13.1.4.5.1, Transfers to an Area Office;
IRM 4.19.13.4, Researching Cases;
IRM 4.19.14.6.5, EITC - Personal Exemptions and Dependents;
IRM 4.19.14.7.1, 2/10 Year Ban - Guidelines for Correspondence for Examination Technicians (CET);
IRM 5.1.9.3.5.1, Levy Action During the Period of the CDP or EH;
IRM 5.1.9.4, Collection Appeals Program (CAP);
IRM 5.1.24.5.7, Offers in Compromise;
IRM 5.1.24.5.8, Trust Fund Recovery Penalty (TFRP) Investigations;
IRM 5.8.11.3.2.1, Public Policy or Equity Compelling Factors;
IRM 5.8.11.5.2, Financial Statement Analysis;
IRM 5.8.11.5.3, Determining an Acceptable OIC Amount - Economic Hardship;
IRM 5.8.11.5.3.2, Determining an Acceptable OIC Amount (Fraudulent Acts of a PSP);
IRM 5.8.11.6, Documentation and Verification;
IRM 5.12.2.4, Determination Criteria for "Do-Not-File" or Deferring the NFTL Filing;
IRM 5.12.9.3, Conditions for NFTL Withdrawal;
IRM 5.14.1.4.3, Notice of Federal Tax Lien and Installment Agreements;
IRM 5.14.5.2, Streamlined Installment Agreements;
IRM 5.19.1.2.6.3, Installment Agreements;
IRM 5.19.17.2.1.2, Hardship Closure Authority Levels;
IRM 5.19.1.6.4, Installment Agreements (IAs);
IRM 5.19.8.4.16.4, How the Taxpayer Appeals an IRS Action Using CAP;
IRM 5.19.8.4.2.1, CDP Hearing Request - Timeliness;
IRM 5.19.17.2, Currently not Collectible (CNC) Procedures;
IRM 5.19.25, Passport Program;
IRM 5.19.25.3, Seriously Delinquent Tax Debt;
IRM 5.19.25.4, Statutory Exclusions from Certification;
IRM 5.19.25.5, Discretionary Exclusions from Certification;

Exhibit 13.1.24-7 (Cont. 1) (08-29-2025)**Related Resources**

IRM Related Resources
IRM 5.19.25.10, Reversal of Certification;
IRM 8.6.1.7.5, Taxpayer Provides New Information;
IRM 8.22.4.2.2, Summary of CDP Process;
IRM 8.22.5.6.1, Types of Appeals Conference;
IRM 8.22.9.15.1, Deadline to Petition Tax Court;
IRM 8.24.1.3, CAP Appeals;
IRM 8.24.1.3.3, Exclusions from CAP;
IRM 13.1.5, Taxpayer Advocate Service (TAS) Confidentiality;
IRM 13.1.5.6, Communicating Confidentiality Rules to Taxpayers and Taxpayers' Representatives;
IRM 13.1.6, Casework Communications;
IRM 13.1.12, Internal Technical Advisor Program;
IRM 13.1.16.10.1, Engaging in Discussions about TAS;
IRM 13.1.18.6, Initial Contact Completed by Case Advocates;
IRM 13.1.18.8.3, Taxpayers Delivering Returns to TAS and TAS Date Stamp;
IRM 13.1.19, Advocating With Operations Assistance Requests (OARs);
IRM 13.1.19.5, Operations Assistance Request (OAR) - Preparation;
IRM 13.1.20, TAS Taxpayer Assistance Orders (TAOs);
IRM 13.1.20.3, Determining When to Issue a Taxpayer Assistance Order;
IRM 13.1.20.6, TAO Appeal Process;
IRM 13.1.21.2.1, Closing Actions;
IRM 13.1.21.2.1.1 , Relief Codes;
IRM 20.1.1, Introduction and Penalty Relief;
IRM 20.1.1.3.2, Reasonable Cause;
IRM 20.1.1.3.2.2, Ordinary Business Care and Prudence;
IRM 20.1.1.3.2.2.3, Unable to Obtain Records;
IRM 20.1.1.3.2.2.4, Mistake Was Made;
IRM 20.1.1.3.2.2.5, Erroneous Advice or Reliance;
IRM 20.1.1.3.2.2.8 , Inaccessible Notices;
IRM 20.1.1.3.3.2.1, First Time Abate (FTA);
IRM 20.1.1.3.3.4.3, Advice from a Tax Advisor;
IRM 20.1.1.3.6, Reasonable Cause Assistant (RCA);

Exhibit 13.1.24-7 (Cont. 2) (08-29-2025)**Related Resources**

IRM Related Resources
IRM 20.1.1.3.6.1, RCA and First Time Abate (FTA) Consideration;
IRM 20.1.1.3.6.10.1, Overriding (Aborting) RCA's Conclusions;
IRM 20.2.1.4.2.2.4, Overpaid Overpayment Interest;
IRM 20.2.7.5, Unreasonable Error or Delay in Performing a Ministerial or Managerial Act - IRC 6404(e)(1);
IRM 21.4.6.5.7.1, Offset Bypass Refund (OBR);
IRM 21.5.4.3, General Math Error Procedures Overview;
IRM 21.5.6.4, Freeze Code Procedures;
IRM 21.5.8.4, IDRS Guidelines for Credit Transfers; and
IRM 21.6.3.4.1.24.3, Credit for Other Dependents (ODC).

Exhibit 13.1.24-8 (08-29-2025)**Script for When the IRC 6532(a) Statute Has Less Than a Month Left**

“Since it is nearly two years since the IRS disallowed your original claim, we need to talk about a time limitation for refunds under IRC 6532(a) that is about to expire. Once this two-year limitation period expires, the law prohibits the IRS from issuing a refund, even if an IRS function or Appeals determination would have allowed the claim/refund. Since the date on the IRS disallowance letter was mm/dd/yyyy, this time limit expires on mm/dd/yyyy.

The IRS is very unlikely to issue the refund by this deadline, so you have two options to preserve your right to continue to appeal the disallowance:

- **Option 1:** Extend the two-year limitation before it expires. You and the IRS must agree to extend the two-year statute under IRC 6532(a) by using Form 907, Agreement to Extend the Time to Bring Suit. However, even with TAS advocacy, we may not have enough time to convince the IRS to sign the Form 907, or the IRS might refuse to sign.
- **Option 2:** File a refund suit with the U.S. District Court or U.S. Court of Federal Claims. The only way to preserve your right to appeal the disallowance with certainty is to file a refund suit.

These courts are part of the judicial branch of the federal government and have no connection with the IRS. I recommend you consult a tax attorney if you wish to file a refund suit. If you meet the income requirements, some Low Income Taxpayer Clinics (LITCs) may assist you with the filing of a refund suit. I can provide information about LITCs near you if you'd like.”

Reference: Pub 4134, Low Income Taxpayer Clinic List

Exhibit 13.1.24-9 (11-02-2023)
Policies/Procedures to Consider in the Event of an Emergency

#	Current Policy IRM Reference	Emergency Policy/Procedure	Sample Policy/Procedures	Archived IGM from Prior Emergency
1	IRM 13.1.18.4(4)	Expand the time to complete contacts after the initial contact.	After the initial contact, employees will contact the taxpayer every 45 days unless circumstances necessitate the employee contact the taxpayer sooner.	<ul style="list-style-type: none"> • IGM TAS-13-0921-0011 • IGM TAS-13-0222-0005 • IGM TAS-13-0822-0011
2	IRM 13.1.18.6(7)	For criteria 5-9 cases, expand the time to close a case and send a letter to the taxpayer (if unable to reach by phone).	For criteria 5-9 cases, if you can close your case within 10 workdays of the DART, and the taxpayer has not been notified of TAS case handling, you can use one contact, by telephone, if possible, to notify the taxpayer of both TAS involvement and problem resolution. If you are not able to reach the taxpayer by telephone, send a letter by the tenth workday after the DART.	<ul style="list-style-type: none"> • IGM TAS-13-0921-0011 • IGM TAS-13-0222-0005 • IGM TAS-13-0822-0011
3	IRM 13.1.19.6.4(2)	Expand the time to follow up on an OAR.	If the Case Advocate has not received a response or the completed OAR by the requested or negotiated completion date, the Case Advocate will follow up with the assigned OD/function employee within 10 workdays to determine the status and document the case history accordingly.	<ul style="list-style-type: none"> • IGM TAS-13-0921-0011 • IGM TAS-13-0222-0005 • IGM TAS-13-0822-0011

Exhibit 13.1.24-9 (Cont. 1) (11-02-2023)**Policies/Procedures to Consider in the Event of an Emergency**

#	Current Policy IRM Reference	Emergency Policy/Procedure	Sample Policy/Procedures	Archived IGM from Prior Emergency
4	<ul style="list-style-type: none"> IRM 13.1.18.4(6) IRM 13.1.18.6(19) IRM 13.1.18.8(4) IRM 13.1.16.7(15) IRM 13.1.16.8.3(7)(c) IRM 13.1.16.8.6(10)(c) IRM 13.1.16.8.7(10)(a) IRM 13.1.16-8 	Suspend the requirement to set an Estimated Completion Date.	If TAS can determine realistic ECDs, then TAS should use this information to update the Estimated Completion Date (ECD) Tool. Otherwise, TAS should suspend the requirement to provide taxpayers with an ECD.	<ul style="list-style-type: none"> IGM TAS-13-0921-0011 IGM TAS-13-0222-0005 IGM TAS-13-0822-0011
5	IRM 13.1.21.2.1(3) bullet 4	Suspend the requirement to return paper returns or administrative files prior to closing a case.	TAS employees will not return paper returns or administrative files prior to closing a case.	IGM TAS-13-0520-0010
6		Implement a policy to regularly check mail and load necessary information on TAMIS.	Upon office closure, managers will ensure that each office has someone going to the office on a regular basis to check the mail, load any necessary information on TAMIS, send mail to Case Advocates, etc.	IGM TAS-13-0320-0006
7		Centralize certain cases in one location for monitoring.	See Org Code 1X and 2X procedures.	<ul style="list-style-type: none"> IGM TAS-13-1121-0012 IGM TAS-13-0222-0002
8		Centralize certain case closures in one location.	See Org Code 8X procedures.	<ul style="list-style-type: none"> IGM TAS-13-1121-0012 IGM TAS-13-0222-0002

Exhibit 13.1.24-9 (Cont. 2) (11-02-2023)**Policies/Procedures to Consider in the Event of an Emergency**

#	Current Policy IRM Reference	Emergency Policy/Procedure	Sample Policy/Procedures	Archived IGM from Prior Emergency
9	IRM 13.1.18.6(1)	Expand the time to complete an initial contact.	Expand the days to complete the initial contact from three workdays for criteria 1–4 cases and five workdays for criteria 5–9 cases to five workdays for criteria 1–4 and 10 workdays for criteria 5–9.	<ul style="list-style-type: none"> • <i>IGM TAS-13-1121-0012</i> • <i>IGM TAS-13-0222-0002</i>
10	IRM 13.1.18.8.1(1)	Expand the time to review information provided by the taxpayer or representative.	Upon receipt of the information requested by the taxpayer, the Case Advocate must conduct a quick read of any information the taxpayer or representative provides to determine if the case requires immediate action. If it does not require immediate action, the Case Advocate must review any information the taxpayer or representative provides and determine if the information is sufficient to take the next step toward resolution, no later than 10 workdays from the previously established follow-up date for receipt of the information.	<ul style="list-style-type: none"> • <i>IGM TAS-13-0921-0011</i> • <i>IGM TAS-13-0222-0005</i> • <i>IGM TAS-13-0822-0011</i>
11		Suspend the work of a TAS unit to allow them to assist with case processing in an all-hands-on-deck approach.		<i>IGM TAS-13-0921-0011</i>

Exhibit 13.1.24-9 (Cont. 3) (11-02-2023)**Policies/Procedures to Consider in the Event of an Emergency**

#	Current Policy IRM Reference	Emergency Policy/Procedure	Sample Policy/Procedures	Archived IGM from Prior Emergency
12	IRM 13.1.19.2	Expand normal completion dates for OARs and exercise flexibility when negotiating revised completion dates.	It may be necessary to provide longer than normal completion dates for OARs or exercise flexibility when negotiating revised completion dates. It may also be necessary to wait to send an OAR until a function has resumed normal operations.	<i>IGM TAS-13-0320-0006</i>
13		Do not provide walk-in services.	TAS will not provide walk-in services.	<i>IGM TAS-13-0320-0006</i>
14	IRM 13.1.21.2.2.20	Exercise flexibility for cases with no or partial replies from a taxpayer.	For cases with no or partial reply from the taxpayer, TAS will hold actions for 30 days after COVID-19 restrictions end.	<i>IGM TAS-13-0320-0008</i>
15	<ul style="list-style-type: none"> IRM 13.1.16.7(2) IRM 13.1.18.6(1) IRM 13.1.18.4I 	Prioritize casework.	For cases with no or partial reply from the taxpayer, TAS will hold actions for 30 days after COVID-19 restrictions end.	<i>IGM TAS-13-0320-0008</i>
16	IRM 13.1.18.4(4)(d)	Exercise flexibility for case contacts in the event an emergency makes it impossible to use mail.	If you are unable to contact the taxpayer by telephone and cannot send a letter, take any actions that you can to solve the taxpayer's problem, document the case history, and set a new next contact date to make another attempt to contact the taxpayer within seven days.	<i>IGM TAS-13-0320-0008</i>

Exhibit 13.1.24-9 (Cont. 4) (11-02-2023)**Policies/Procedures to Consider in the Event of an Emergency**

#	Current Policy IRM Reference	Emergency Policy/Procedure	Sample Policy/Procedures	Archived IGM from Prior Emergency
17	IRM 13.1.21.2.1(2)	Exercise flexibility for case contacts in the event an emergency makes it impossible to use mail.	Remove the requirement to provide a written response to the taxpayer, representative, or appointee when requested. Implement a process whereby the employee drafts an undated closing letter and sends the letter to an identified administrative person in the office who will hold the letter until the office is able to send mail and place the case in monitor (M) status. Grant the Case Advocate permission to close a case without a letter because they have completely resolved the taxpayer's issue.	<i>IGM TAS-13-0520-0010</i>

