



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

25.1.4

NOVEMBER 2, 2023

EFFECTIVE DATE

(11-02-2023)

PURPOSE

- (1) This transmits revised IRM 25.1.4, Fraud Handbook, Administrative Joint Investigation.

MATERIAL CHANGES

- (1) IRM 25.1.4.4.2 - Added new subsection, Henthorn Requests, to provide guidance for Office of Fraud Enforcement (OFE) personnel when requests are received from the Department of Justice (DOJ). The addition of this subsection renumbered existing subsections.
- (2) IRM 25.1.4.1.8 - Updated website link to Fraud Development Knowledge Base.
- (3) IRM 25.1.4.4.12 - Updated website link to Tech Services Suspense contacts.
- (4) IRM 25.1.4.6 - Updated website link to Tech Services Suspense contacts.
- (5) Exhibit 25.1.4-1 updated to meet 508 Compliance guidelines
- (6) Editorial changes were made throughout the IRM to comply with the IRM Style Guide.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 25.1.4 dated June 11, 2021.

AUDIENCE

Criminal Investigation (CI), Large Business & International (LB&I), Small Business/Self-Employed (SB/SE), Tax Exempt/Government Entities (TE/GE), and Wage and Investment (W&I)

Deborah Ngo
Acting Director, Office of Fraud Enforcement, SB/SE

25.1.4

Administrative Joint Investigation

Table of Contents

25.1.4.1 Program Scope and Objectives

25.1.4.1.1 Background

25.1.4.1.2 Authority

25.1.4.1.3 Roles

25.1.4.1.4 Program Management and Review

25.1.4.1.5 Program Controls

25.1.4.1.6 Acronyms

25.1.4.1.7 Terms

25.1.4.1.8 Related Resources

25.1.4.2 Overview

25.1.4.3 Request for Cooperating Compliance Employee

25.1.4.4 Administrative Joint Investigations

25.1.4.4.1 Conduct of the Cooperating Compliance Employee

25.1.4.4.2 Giglio Material and Henthorn Requests

25.1.4.4.3 Duties and Responsibilities

25.1.4.4.4 Required Communications

25.1.4.4.5 Jeopardy Assessments

25.1.4.4.6 Examination Controls - AIMS

25.1.4.4.7 Parallel Investigations

25.1.4.4.8 Prior and Subsequent Years and Related Returns

25.1.4.4.9 Statute Protection

25.1.4.4.9.1 IRC 6501(e), 6-Year Statute

25.1.4.4.10 Discontinued Investigation

25.1.4.4.11 Preparation of the Pre-Prosecution Report

25.1.4.4.12 Fraud Suspense

25.1.4.5 Civil Resolution of Prosecution Cases

25.1.4.6 Special Conditions of Probation

Exhibits

25.1.4-1 Percentage of Omitted Income Calculation

25.1.4.1
(06-11-2021)
Program Scope and Objectives

- (1) **Mission:** The mission of the Office of Fraud Enforcement (OFE) is to promote compliance by strengthening IRS' response to fraud and mitigating emerging threats. This includes:
 - Improving fraud detection and development to address areas of high fraud/risk noncompliance.
 - Cultivating internal and external partnerships to identify new treatment streams to enhance enforcement.
 - Pursuing civil fraud penalties and recommending criminal cases, where appropriate.
- (2) OFE builds strong internal and external partnerships and serves as the primary civil liaison to IRS-Criminal Investigation. By supporting cases throughout the life cycle and through full consideration of available treatments, OFE facilitates optimal disposition of cases with civil or criminal fraud potential.
- (3) **Purpose:** This section assists compliance employees involved in joint investigations with Criminal Investigation (CI).
- (4) **Audience:** IRS employees servicewide including CI.
- (5) **Policy Owner:** Director, Office of Fraud Enforcement of the Small Business Self Employed (SB/SE) Division is responsible for issuing policy for the Office of Fraud Enforcement.
- (6) **Program Owner:** Office of Fraud Enforcement, Policy, SB/SE.
- (7) **Primary Stakeholders:** The primary stakeholders are IRS civil compliance, CI and the OFE.

25.1.4.1.1
(06-11-2021)
Background

- (1) This IRM section provides procedures for compliance employees involved in joint investigations with CI.

25.1.4.1.2
(06-11-2021)
Authority

- (1) The IRS has the authority to conduct examinations under U.S. Code Title 26, Internal Revenue Code Subtitle F – Procedure and Administration, Chapter 78, Discovery of Liability and Enforcement of Title, Subchapter A, Examination and Inspection.

25.1.4.1.3
(06-11-2021)
Roles

- (1) The Director, Office of Fraud Enforcement, is the executive responsible for providing fraud policy and guidance for civil compliance employees and ensuring consistent application of policies and procedures in this IRM.
- (2) The fraud enforcement advisor (FEA) serves as a resource and liaison to compliance employees in all operating divisions. The FEA is available to assist civil compliance employees during fraud investigations and offer advice on matters concerning tax fraud.
- (3) The cooperating compliance employee is responsible for the examination or collection features of the investigation, for taking actions necessary to protect the interests of the government with respect to the statutory period of assessment and/or collection, and for examination/collection actions on prior and/or subsequent years, and related returns.

25.1.4.1.4
(06-11-2021)
**Program Management
and Review**

- (1) The Office of Fraud Enforcement Policy staff prepares and issues the following reports to Servicewide customers:
 - Three-year reports prepared using Fraud Information Tracking System (FITS) data
 - Status 17 reports using Audit Information Management System (AIMS) or AIMS Centralized Information System (ACIS) data
- (2) OFE Policy staff can create reports by area, territory or group. These reports help manage fraud inventory and provide review information for managerial use:
 - Cases on FITS but not on AIMS or ACIS
 - Cases on AIMS or ACIS but not on FITS
 - Cases in fraud development status
 - Cases in criminal fraud status
- (3) Ad-hoc reports are produced as requested by OFE customers.

25.1.4.1.5
(06-11-2021)
Program Controls

- (1) Operational reviews of the FEA group managers are completed by the OFE program manager twice a year. These reviews measure program consistency, effectiveness in case actions, and compliance with fraud policy and procedures.
- (2) FEA managers verify program and procedural compliance by conducting case consultations, case reviews, performance reviews, and security reviews with all FEAs.
- (3) FEA managers utilize reports generated from FITS to monitor and track FEA inventory assignments.
- (4) FEAs are required to monitor accepted criminal referrals each quarter to ensure that CI and the compliance employee are holding productive quarterly meetings as required under IRM 25.1.4.4.3, Required Communications.
- (5) FEAs are required to follow-up on all cases in fraud development status at least every 60 days as required by IRM 25.1.2.2(6)(e), Fraud Development Procedures.

25.1.4.1.6
(06-11-2021)
Acronyms

- (1) The following table defines acronyms commonly used throughout this IRM section:

Acronym	Definition
ACS	Automated Collection System
ACIS	AIMS Centralized Information System
ACTC	Additional Child Tax Credit
AIMS	Audit Information Management System
AIS	Automated Insolvency System
AOIC	Automated Offer in Compromise
AOTC	American Opportunity Tax Credit
ASED	Assessment Statute Expiration Date
ATFR	Automated Trust Fund Recovery
AUSA	Assistant U.S. Attorney
BMF	Business Master File
BSA	Bank Secrecy Act
CCFC	Collection Campus Fraud Coordinator
CCP	Centralized Case Processing
CFC	Campus Fraud Coordinator
CFFC	Collection Functional Fraud Coordinator
CI	Criminal Investigation
COIC	Centralized Offer In Compromise
COP	Conditions of Probation
CSCO	Compliance Services Collection Operations
CTC	Child Tax Credit
CTR	Currency Transaction Report
DEL RET	Delinquent Return
ECS	Exam Case Selection
EFC	Examination Fraud Coordinator
EITC	Earned Income Tax Credit
EPR	Examination Planning and Review
ERCS	Examination Returns Control System
FBAR	Foreign Bank and Financial Accounts
FCQ	FinCEN Query
FEA	Fraud Enforcement Advisor
FFC	Functional Fraud Coordinator
FFTF	Fraudulent Failure to File penalty

Acronym	Definition
FinCEN	Financial Crimes Enforcement Network
FIRM	Fraudulent Intent Referral Memorandum
GM	Group Manager
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRP	Information Return Processing
IRS	Internal Revenue Service
LB&I	Large Business & International
ODC	Other Dependent Credit
OFE	Office of Fraud Enforcement
OIC	Offer in Compromise
PII	Personally Identifiable Information
PSP	Planning and Special Programs
RA	Revenue Agent
RAR	Revenue Agent's Report
RICS	Return Integrity and Compliance Services
RO	Revenue Officer
SA	Special Agent
SAC	Special Agent in Charge
SAR	Special Agent's Report or Suspicious Activity Report
SB/SE	Small Business/Self Employed
SOL	Statute of Limitation
SSA	Supervisory Special Agent
TBOR	Taxpayer Bill of Rights
TE/GE	Tax Exempt/Government Entities
TM	Territory Manager
TP	Taxpayer
TS	Technical Services

Acronym	Definition
W&I	Wage & Investment

25.1.4.1.7
(06-11-2021)
Terms

- (1) Compliance employees must be familiar with the following legal terms to understand the requirements of proof. The following table defines terms commonly used throughout this IRM section:

Term	Definition
Burden of Proof	Includes both the burden of producing evidence and persuading a court (judge or jury) by clear and convincing evidence that the facts support the contention of civil fraud. In tax fraud cases, the burden of proof is on the government.
Circumstantial Evidence	Evidence that relies on an inference to connect it to a conclusion of fact.
Clear and Convincing Evidence	Evidence showing that the assertion made is highly probable or reasonably certain. This is a greater burden of proof than preponderance of the evidence but less than beyond a reasonable doubt.
Direct Evidence	Evidence in the form of documents or testimony from a witness who actually saw, heard, or touched the subject of questioning. Direct evidence, which is believed, proves existence of fact in issue without inference or presumption.
Evidence	Data presented to a judge or jury to prove the facts in issue. Evidence includes the testimony of witnesses, records, documents, or objects. Evidence is distinguished from proof, in that proof is the result or effect of evidence.
Fraud	Deception by misrepresentation of material facts, or silence when good faith requires expression, which results in material damage to one who relies on it and has the right to rely on it. Simply stated, it is obtaining something of value from someone else through deceit.
Inference	A logical conclusion from given facts.
Preponderance of Evidence	Evidence that will incline an impartial mind to one side rather than the other so as to remove the cause from the realm of speculation. It does not relate merely to the quantity of evidence. Simply stated, evidence which is more convincing than the evidence offered in opposition.

Term	Definition
Presumption (of law)	A rule of law that a judge or jury will draw a particular inference from a particular fact, or from particular evidence, unless and until the truth of such inference is disproved.
Reasonable Doubt	The evidence must be so convincing that a reasonable person would not question the defendant's guilt.
Willful Intent to Defraud	An intentional wrongdoing with the specific purpose of evading a tax believed by the taxpayer to be owing.

25.1.4.1.8
(11-02-2023)

Related Resources

- (1) The Fraud Development Knowledge Base is located at the following website:
<https://irs.gov.sharepoint.com/sites/ETD-KMT-KB019>
- (2) Procedural guidance on potential fraud development cases can be found throughout IRM 25.1, Fraud Handbook.
- (3) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see: *<https://www.irs.gov/taxpayer-bill-of-rights>*

25.1.4.2
(06-11-2021)

Overview

- (1) A joint investigation is conducted by CI together with Small Business/Self-Employed (SB/SE), Large Business and International (LB&I), Tax Exempt/Government Entities (TE/GE) or Wage and Investment (W&I). Investigations involving alleged tax evasion, willful failure to file a return and/or willful failure to collect or pay over tax may be investigated jointly by CI and a civil compliance function.
- (2) A joint investigation can originate from one of two sources:
 - A compliance-initiated criminal fraud referral (submission of Form 2797, Referral Report of Potential Criminal Fraud Cases), or
 - A CI-initiated criminal investigation
- (3) There are two types of joint investigations:
 - Administrative (non-grand jury), and
 - Grand jury
- (4) Upon involvement in a joint investigation, the assigned compliance employee must verify the investigation type (administrative or grand jury). This section provides guidance for administrative joint investigations. IRM 25.1.5, Grand Jury Investigations, covers the special procedures specific to grand jury investigations.

Note: Many of the procedures in IRM 25.1.4, Administrative Joint Investigation, and IRM 25.1.5, Grand Jury Investigations, apply to both types of investigations. Be sure to carefully read each section to ensure full compliance with all procedures.

- (5) Parallel investigations are distinctly different from joint investigations. Parallel civil and criminal investigations are separate investigations. They require coordination between the operating divisions throughout the civil investigation and litigation processes with required regularly scheduled status meetings.

25.1.4.3
(06-11-2021)
**Request for Cooperating
Compliance Employee**

- (1) CI requests the cooperation of a compliance employee when technical assistance is needed. Generally, the assistance of an examiner is required when issues relate to tax assessments or audit issues. A revenue officer is required when issues relate to delinquent tax collection or a previous collection assignment. When needed, the request is made by the Special Agent in Charge (SAC) via Form 6544, Request for Cooperating Examiner/Revenue Officer. The SAC will forward the request to the territory manager (TM) or equivalent authorized to make the assignment.
- (2) If the request is granted, the TM or equivalent will forward the Form 6544 to the group manager of the compliance employee already assigned the case or who will be assigned the case. The compliance group manager will complete the form and return it to the originating SAC within 30 days of receipt of the request, or by the agreed-upon extension date, whichever occurs later.
- (3) If the reasons stated or duties requested appear unwarranted, the TM or equivalent will prepare a memorandum explaining the reason(s) for a decision not to grant the request and will forward it to the originating SAC. If the SAC does not agree with the TM or equivalent's decision, the matter will be elevated to the Compliance Area Director or equivalent and the CI Director of Field Operations. If unable to agree, the final decision will be made by the next higher level of management.
- (4) CI will retain the original tax returns as evidence and provide copies of the tax returns for all open periods and for related taxpayers to the cooperating compliance employee. This should occur within 30 days of the approval of the request for a cooperating examiner or revenue officer or when the original returns are received, whichever occurs later. TE/GE agents may need to contact TE/GE Division Counsel for original returns.
- (5) The cooperating examiner or revenue officer should review all open modules and related entities under investigation and notify CI of any open module on which there is not a transaction code (TC) 914. It is important for CI to address all open modules on the account. See IRM 5.1.5.4.1, Temporary Suspension of Civil Action, which indicates that Collection can only temporarily suspend the case for no more than 90 days. Otherwise, CI must place the TC 914 on the case or agree to a parallel investigation.
- (6) The compliance employee must conduct a statute review and inform the SAC of any Assessment Statute Expiration Dates (ASEDs) and Collection Statute Expiration Dates (CSEDs) that would affect the investigation or collection of tax. The FEA will assist compliance employees with SAC interactions upon request.

25.1.4.4
(06-11-2021)

Administrative Joint Investigations

- (1) This subsection focuses on the procedures that apply to administrative joint investigations.

25.1.4.4.1
(06-11-2021)

Conduct of the Cooperating Compliance Employee

- (1) During a criminal tax case, it is important that compliance employees exercise care and good judgment in all dealings with the person under investigation as well as with their representatives.
- (2) Alleged improper conduct on the part of the compliance employee has been used as part of the defense strategy in several criminal tax cases. This may be an attempt for the defense counsel to divert attention from the main issues involved.
- (3) Every compliance employee must exercise care so that there is no factual basis for this type of defense strategy. Examples of situations or conduct to be avoided:
 - a. Those which result in the compliance employee becoming obligated to the person under investigation;
 - b. Statements or questions that can be construed as offers of immunity or attempts to settle the civil liabilities or collection of amounts due on a pending criminal case;
 - c. Expressions of personal views regarding the merits of the case;
 - d. Advising and counseling the person under investigation of possible defenses to a prosecution of the alleged crime;
 - e. Remarks or acts that are open to possible misinterpretation;
 - f. Irregular arrangements for the examination of the taxpayer's books and records; and
 - g. Leading the person under investigation to believe that prosecution is not contemplated.

25.1.4.4.2
(11-02-2023)

Giglio Material and Henthorn Requests

- (1) Henthorn requests are requests made by the Department of Justice (DOJ) Assistant United States Attorney (AUSA) to Criminal Investigation (CI) to review the compliance Employees' Personnel File (EPF). The file could contain any disciplinary, exculpatory or impeachable items that must be disclosed during a trial where the compliance employee could be testifying. These records are commonly referred to as "Giglio Material" or "Giglio information".
- (2) The following eight categories of files are relevant to a Henthorn request, and must be obtained and examined:
 - a. Official Personnel Files (OPFs)
 - b. Employee Performance files
 - c. Drop files
 - d. Employee investigative files
 - e. Disciplinary and Adverse Action Investigation files
 - f. Grievance files
 - g. Merit System Protection Board files
 - h. Equal Employment Opportunity files
- (3) Henthorn requests are made by DOJ (AUSA) and will be sent directly to CI.
- (4) CI will review the request and then forward it to the manager of the compliance employee listed on the request.

- (5) The compliance group manager will review the EPF for any disciplinary, exculpatory or impeachable items that must be disclosed to the defense counsel.
- (6) The Supervisory Agent in Charge (SAC) or their designee will then write a letter to the attorney for the government and include a declaration that the personnel files have been reviewed. The letter will contain one of the following statements:
 - a. No evidence of perjurious conduct or dishonesty, nor anything that might be considered as exculpatory or impeachment materials subject to discovery was detected.
 - b. The attached information, obtained from the files listed, may constitute material subject to discovery. Please examine this information to make a determination.
- (7) The information must be sent via password protected SecureZip since the response will be sent to an outside agency. The password must be sent in a separate e-mail.
- (8) See also IRM 9.6.3.7.1.1, Henthorn Requests.

25.1.4.4.3
(06-11-2021)
**Duties and
Responsibilities**

- (1) The examiner is concerned primarily with assisting the special agent while the criminal investigation is ongoing, the determination of the civil tax liability and/or applicable penalties. Any information that can be obtained to assist with determining the civil tax liability should be collected and preserved. In general, the following tasks are performed by the examiner:
 - Reconciling taxpayer's books and records to the return and examining books and records to determine adjustments;
 - Analyzing bank accounts, verifying inventories, compiling depreciation schedules, ascertaining basis of assets and participating in interviews of the taxpayer and witnesses;
 - Assisting with the review of taxpayer transcripts, including Integrated Data Retrieval System (IDRS) and other internal resources. The cooperating examiner or revenue officer should review all open modules and related entities under investigation and notify CI of any module on which there is not a transaction code (TC) 914. CI will address all modules on the account and make the final decision regarding the necessary 914 controls that should be requested and in place. This decision will be based on the needs of the investigation and the necessity to protect the criminal case.
 - Computing civil tax liability for a pre-prosecution report and assisting with the computation of criminal tax liability for the Special Agent's Report (SAR);
 - Providing original tax returns to the special agent (SA) within 30 days of the joint investigation initiation or when received;

Note: See IRM 4.4.23.7.1.2, Electronically Filed Return Request, for guidance on requesting returns filed electronically.

 - Reviewing prior and subsequent period returns, and related returns for examination potential (see IRM 25.1.4.4.8, Prior and Subsequent Years and Related Returns, for procedures);
 - Protecting the statute of limitation (SOL) for all periods under examination and/or collection activity, see IRM 25.1.4.4.9, Statute Protection, for procedures;

- Maintaining a chronological record of time charged to the case;
 - Preparing administrative file prior to placing case in fraud suspense; and
 - Assisting with court appearances, including expert/summary witness preparation and testimony.
- (2) The revenue officer is concerned primarily with identification of assets, asset valuation, and interpretation of collection-related records and transcripts. In general, the following tasks are performed by the revenue officer:
- Providing technical assistance regarding collection issues/processes during CI interviews with subjects and witnesses;
 - Providing advice regarding nominee, transferee and alter-ego issues;
 - Assisting with expert witness preparation and testimony;
 - Coordinating between the SA and Counsel regarding potential collection enforcement such as levy or seizure;
 - Monitoring statutes, taxpayer assets and local actions to protect the Government's interest;
 - Informing the SA when changes occur with the taxpayer and/or assets, which may affect the investigation and recommend the appropriate civil actions (including the filing of Notice of Federal Tax Lien);
 - Performing courthouse searches;
 - Interpreting collection transcripts, including Integrated Data Retrieval System (IDRS), Integrated Collection System (ICS), Automated Trust Fund Recovery (ATFR), Automated Insolvency System (AIS), etc.;
 - Initiating civil suits, when requested, such as a suit to foreclose, injunctive relief, setting aside a fraudulent transfer, and petitioning for a bankruptcy dismissal; and
 - Protecting assets by assisting when a warrant is executed.

Note: ESTAB is an IDRS command code used to establish a document request. ESTAB is followed by a letter code identifying the type of document(s) requested. Revenue Officers can secure original tax returns, via ESTAB, to assist in information and evidence gathering.

Note: See IRM 5.1.5.4.1, Temporary Suspension of Civil Action, for additional information on the length of time that Collection can temporarily suspend the case.

- (3) The criminal component is predominant in a joint investigation. The SA's main responsibility is to gather evidence to prove criminal violation(s). The SA is responsible for the following actions as they relate to the criminal case:
- Advising the "non-custodial rights" as it relates to a jointly-conducted interview of the subject during the course of an investigation;
 - Obtaining testimony of witnesses;
 - Conducting necessary surveillance and undercover work;
 - Executing arrests;
 - Executing search warrants and/or seizures of property;
 - Developing and documenting evidence of criminal intent;
 - Computing the criminal tax liability;
 - Preparing and issuing Form 2039, Summons;
 - Scheduling and prioritizing investigative actions;
 - Providing the examiner with a copy of the investigations subject's and related taxpayer's tax returns for all open periods within 30 days of the joint investigation initiation or when received, whichever occurs later;

Reminder: CI will retain the original tax returns as evidence and provide copies of the tax returns for all open periods and for related taxpayers to the cooperating compliance employee. This should occur within 30 days of the approval of the request for a cooperating examiner or revenue officer or when the original returns are received, whichever occurs later

(4) The compliance employee and the SA will work together in the government's best interest and consider the following additional actions:

- Using non-technical employees to perform voluminous and/or clerical tasks;
- Ensuring, when feasible, both the SA and compliance employee are present at taxpayer and witness interviews; and
- Planning the joint investigation.

25.1.4.4.4
(06-11-2021)

**Required
Communications**

(1) CI-Initiated Investigations:

- a. When CI initiates an administrative criminal investigation, CI will send Form 14584, IRS - Criminal Investigation - Check for and Suspend Civil Activity Notification, to SB/SE Examination Technical Services (TS) and SB/SE Collection Advisory (Collection Advisory) to check for and cease all civil activity. This notification will also be sent to the specified IRS civil functions via secure electronic e-mailbox.
- b. If TS or Collection Advisory identifies an open civil case, the controlling Compliance group will be notified that CI has initiated an administrative criminal investigation and to immediately cease all civil activity on the case. If there is an open collection issue, TS or Collection Advisory should ensure that CI is aware of the collection issue. CI will address all modules on the account and make the final decision regarding the necessary 914 controls that should be requested and in place. This decision will be based on the needs of the investigation and the necessity to protect the criminal case.
- c. The Compliance group manager must immediately contact the assigned SA or supervisory special agent (SSA), if known, to schedule a meeting to discuss the case.
- d. The conference should include the compliance employee, the group manager, the SA, and the SSA. The fraud enforcement advisor (FEA) may also attend when necessary. If TE/GE entities are involved, the business unit fraud subject matter expert (SME) and/or the TE/GE Fraud Specialist may also attend when necessary.
- e. During this conference, a decision, based on the facts and circumstances, must be reached based on whether the Compliance employee will participate in the criminal investigation as a joint investigation, conduct a parallel investigation, or suspend all civil activity and not participate in the criminal investigation. No further civil actions will be taken until the meeting occurs and a decision is made.
- f. Regardless of the decision reached, the Examination case must be placed into AIMS status code 18 and retained in the group. For Collection cases, see IRM 25.1.8.10, Collection Case Disposition. At a minimum, quarterly conferences must occur.

(2) Quarterly Conferences:

- a. All criminal administrative joint investigations involving cooperating compliance employees are subject to mandatory quarterly conferences.

Quarterly conferences are not required when the compliance employee is enlisted for a tax computation only. See IRM 25.1.3.5, Accepted Criminal Referrals, for conference activities, and participants' roles and responsibilities for ensuring productive and informative exchanges occur within the prescribed frequency.

- b. All accepted administrative criminal referrals that are not joint investigations (no cooperating compliance employee) also require mandatory quarterly conferences. See IRM 25.1.3.5, Accepted Criminal Referrals, for conference activities in this scenario.
- c. The SSA must contact the compliance group manager to schedule the required quarterly conference. If the SSA has not contacted the compliance group manager to schedule a mandatory quarterly conference when one is due, the compliance group manager may also contact the SA to schedule a quarterly conference. However, CI has primary responsibility for scheduling the mandatory quarterly conference.

25.1.4.4.5
(06-11-2021)

Jeopardy Assessments

- (1) When collection of a civil liability is threatened and a jeopardy assessment is recommended, coordination among IRS functions is necessary. Care must be taken to avoid unnecessary disclosures that may place a criminal investigation or prosecution at risk. Jeopardy assessments will not be made if they imperil a criminal investigation or prosecution.
- (2) Because of the urgency of jeopardy assessments, such cases must be given the highest priority by the coordinating functions. When fraud is an issue, additional approval is required from the SAC before assessment. The FEA will also be consulted if the civil fraud penalty applies.
- (3) Recommendations for jeopardy assessments should be made in accordance with IRM 4.15, Jeopardy/Termination Assessments, and IRM 5.1.4, Jeopardy, Termination, Quick and Prompt Assessments.

25.1.4.4.6
(06-11-2021)

Examination Controls - AIMS

- (1) CI's approval must be secured prior to establishing return controls on Automated Inventory Management System (AIMS). See IRM 4.4.23, AIMS Procedures and Processing Instructions, Openings, and IRM 4.4.9.2.3.1, Criminal Investigation (CI) Freeze, for additional instructions.
- (2) If there are no years currently under audit, the cooperating examiner may request AIMS controls on one or more years involved in the administrative joint investigation. AIMS controls do not have to be established on all years or subjects listed on the Form 6544, Request for Cooperating Examiner/Revenue Officer. AIMS controls should only be established on returns that were inspected and determined to have civil tax consequences. Examiners may request AIMS control using Push Code 049 (Joint Investigation) and Project Code 095 (Request for Cooperating Officer Based on Examination Referral), or Project Code 096 (Request for Cooperating Officer Not Based on Examination Referral). A TE/GE agent should check with Classification for the proper codes. The examiner is also responsible for monitoring the assessment statute expiration date (ASED) of the return(s) established on AIMS.
- (3) In a failure to file a tax return case where Master File controls were established using push code 037 (Substitute for Return), a TC 424 record will remain on the module for 26 months or until a tax return posts, whichever occurs first. After 26 months, the TC 424 will drop from the module. If the TC

424 dropped from AIMS control prior to the case being submitted to Fraud Suspense, the examiner will re-establish the control(s).

- (4) If CI inputs a TC 914 (Z) freeze before Compliance requests controls in a failure to file case where there is no TC 150 or TC 424 on the module, the examiner should request Master File controls by submitting Form 5345-B, Examination Request Non-ERCS Users, or Form 5345-D, Examination Request-ERCS (Examination Returns Control System) Users.
- (5) In cases where returns are filed and CI has a TC 914 (Z) freeze on the module, the examiner will request Master File controls using Push Code 049.

25.1.4.4.7
(06-11-2021)
Parallel Investigations

- (1) The purpose of a parallel investigation is to balance both the civil and criminal aspects of a case under criminal investigation. Consideration should be given to continuing the civil activity of any related taxpayer and/or tax that doesn't adversely impact the criminal proceedings.
- (2) Revenue officers involved in parallel investigations should follow the procedures prescribed in IRM 5.1.5, Balancing Civil and Criminal Cases.
- (3) Examiners involved in parallel investigations should follow the procedures prescribed in IRM 4.32.2.7, Parallel Investigations. The procedures in IRM 4.32.2.7, Parallel Investigations, apply to all parallel investigations, and the procedures thereunder should not be interpreted as limited solely to promoter investigations.
- (4) IRM 1.2.1.5.11, Policy Statement 4-26 (formerly P-4-84), Criminal and Civil Aspects in Enforcement, indicates civil enforcement actions, including collection activity with respect to taxable periods of the same and other types of tax not included in the criminal investigation, generally do not imperil a criminal investigation or subsequent prosecution. The Policy Statement concludes that civil enforcement actions in these cases should proceed concurrently, unless there is agreement among the responsible functions to withhold civil action, in whole or part, during the duration of the criminal investigation.
- (5) During required discussions involving the SSA, SA, compliance group manager and compliance employee, the compliance group manager may propose concurrent civil enforcement action consistent with IRM 1.2.1.6.18, Policy Statement 5-133, Delinquent returns - enforcement of filing requirements. If the proposal is unresolved among CI and the civil function, the decision to proceed will be elevated to the next management level.

25.1.4.4.8
(06-11-2021)
Prior and Subsequent Years and Related Returns

- (1) During the joint investigation, all prior and subsequent period returns, and returns related to those included in the joint investigation, should be reviewed by the examiner for examination potential.
- (2) If examination potential is determined on a prior or subsequent year or related return, examiners must ensure administrative actions do not imperil a prosecution. Compliance must notify CI of any proposed action such as examining returns, soliciting consents or issuing a notice of deficiency. Form 10498-A, Joint Investigations Intent to Commence Civil Action, is used by Examination to notify CI of its intent to examine prior and subsequent years, or related returns. Notification of the proposed action to solicit a consent and/or issue a notice of deficiency is covered below in IRM 25.1.4.4.9, Statute Protection.

- (3) The TM or equivalent will forward, via Microsoft Outlook Secure Messaging, a completed Form 10498-A to the SAC indicating a request to examine the prior, subsequent or related tax returns. The form is used to document CI's concurrence or non-concurrence with the proposed action.
- (4) If an agreement to proceed cannot be reached between Compliance and CI; the area director or equivalent and the CI Director of Field Operations will make the decision, consistent with Policy Statement P-4-26. If an agreement is not reached at this level, the case is elevated to the operating division commissioner and Chief, CI for resolution.
- (5) If civil action is suspended, the suspended years will be periodically reviewed as Compliance deems appropriate, to protect the government's interest.
- (6) The collection procedures are in IRM 25.1.8, Field Collection, and IRM 5.1.5.4.2, Case Monitoring When Civil Action Is Suspended.

25.1.4.4.9
(11-02-2023)

Statute Protection

- (1) Compliance employees are responsible for monitoring the civil statute of limitations (SOLs) for all periods under examination and/or collection activity during joint investigations.
- (2) The collection procedures with respect to statute protection are in IRM 25.1.8.8, Coordination with Criminal Investigation, and IRM 5.1.5.13.1, Cases with Imminent Statutes.
- (3) Examiners must check Masterfile (IMFOL/BMFOL/TXMOD/EMFOL) periodically and inquire with CI to determine if the taxpayer filed tax returns. In failure to file cases, if CI comes into possession of any document that could be considered a return, CI must notify the examiner to ensure the SOL can be properly monitored. The examiner is then responsible for determining whether the return begins the running of the 3-year SOL.
- (4) Examiners should attempt to protect the earliest SOL of each tax return. When multiple periods are involved, examiners should protect the most imminent SOL among the tax returns. The IRC 6501(a) statute (3-year statute) expires 3 years after the date the tax return was filed. Returns filed before the due date (not including extensions) are considered filed on the due date. If the 3-year SOL has expired or the taxpayer refuses to extend the period for assessment, the 6-year SOL (omission of income in excess of 25 percent of reported gross income), under IRC 6501(e), should be considered, if applicable. See IRM 25.1.4.4.9.1, IRC 6501(e), 6-Year Statute, and IRM 25.6.22.6.17.2, More Than 25% Omission of Gross Income. All efforts should be made to secure the taxpayer's consent to extend the period for assessment before the SOL expires. The fraud SOL under IRC 6501(c) should be relied upon only if the 3-year statute has expired or the taxpayer refused to extend the period for assessment, or the 6-year statute, if applicable, has also expired.

Note: Input of TC 914 controls on a taxpayer's account does not always mean that the extended ASER for fraud under IRC 6501(c) is applicable. The TC 914 may have been placed on the account as a result of the taxpayer's fraudulent failure to file. Under these circumstances, the filing of a valid tax return by a taxpayer who previously fraudulently failed to file a return may trigger the running of the 3-year SOL.

Note: There are other IRC 6501 exceptions, which if applicable, may extend the period of limitations on assessment beyond 3 years.

- (5) When fewer than 210 days remain on the SOL for assessment, the examiner should complete Form 10498-B, Joint Investigations Intent to Solicit Consent to Extend Statute, to request CI's permission to solicit the taxpayer's consent to extend the statutory period for assessment or issue a notice of deficiency. The completed Form 10498-B is sent by the Compliance group manager to the SSA via Microsoft Outlook Secure Messaging. CI must accept or decline the request within 10 workdays after receipt of the Form 10498-B. The SSA indicates the desired action by checking the appropriate boxes on the form. The SSA then forwards the form to the SAC via Microsoft Outlook Secure Messaging. The SAC indicates approval by entering their signature and date. The SAC forwards the completed form to the Compliance Authorizing Official, generally the TM or equivalent, via Microsoft Outlook Secure Messaging. The TM or equivalent indicates joint approval by entering a signature, title and date. The TM or equivalent forwards the approved form to the Compliance group manager via Microsoft Outlook Secure Messaging. See IRM 25.6.23-3, Instructions for Updating the Statute on AIMS, and the Form 10498-B instructions for the procedures followed to extend the period for assessment.
- (6) If CI approves the request to solicit the taxpayer's consent to extend the period for assessment, the examiner should follow the instructions found in IRM 25.6.22 , Extension of Assessment Statute of Limitation By Consent, including soliciting the consent via Letter 907, Request to Extend Assessment Statute, including, Pub 1035, Extending the Tax Assessment Period. CI should be informed of the results of the solicitation of the taxpayer's consent and this action should be documented in the case history. Any subsequent inquiries from the taxpayer should be referred to the SA assigned to the case.
- (7) If CI approves the decision to issue a notice of deficiency, the case will be forwarded to TS (Mandatory Review in TE/GE) for notice preparation. TS (or Mandatory Review) will obtain Area or Division Counsel's concurrence prior to issuing the notice of deficiency.
- (8) If a consent to extend the period for assessment is not secured, and the SAC does not approve the decision to issue a notice of deficiency, a decision must be made whether to rely on the fraud statute, IRC 6501(c)(1), and allow the 3- and 6-year periods for assessment to expire. This decision must be approved by the TM or equivalent and documented in the case file and on Form 895, Notice of Statute Expiration. Refer to IRM 25.6.23.5.7.2, Reliance on IRC Provisions Which Extend Normal Assessment Statute, and IRM 25.6.23-3, Instructions for Updating the Statute on AIMS.
- (9) The decision to allow expiration of the 3-year and/or the 6-year periods for assessment will be documented on Form 10498-B with signatures of the TM or equivalent and the SAC. The properly-executed Form 10498-B is attached to page two of the applicable return. The SOL should be updated immediately on AIMS using the appropriate alpha code and Form 895 should also be updated to reflect the correct expiration date using the procedures in IRM 25.6.23.5.2, Completion of Form 895 by Area Office Examiner or Specialist.

- (10) If agreement cannot be reached, the Compliance area director or equivalent and the CI Director of Field Operations will decide. If an agreement is still not reached, the issue will be elevated to the operating division commissioner and Chief, CI for resolution.

25.1.4.4.9.1
(06-11-2021)
**IRC 6501(e), 6-Year
Statute**

- (1) Under certain circumstances involving the substantial omission of items, the usual 3-year period for assessment is increased by IRC 6501(e), which provides for a 6-year period.
- a. IRC 6501(e)(1)(A) provides a 6-year period for assessment of tax where a taxpayer omits from gross income an amount properly includible on the taxpayer's return that is in excess of 25 percent of the amount of gross income stated on the return, or if the amount omitted is attributable to an asset required to be reported under IRC 6038D (foreign financial assets) and the amount exceeds \$5,000. This IRC section applies only to subtitle A, income tax.
 - b. IRC 6501(e)(1)(C) provides a 6-year period for assessment of tax where a taxpayer omits from gross income an amount properly includible therein under IRC 951(a) (constructive dividends paid to U.S. shareholders of foreign controlled corporations).
- (2) Fraud does not need to be proven for IRC 6501(e) to apply. However, all efforts should be made to protect the 3-year period for assessment before relying on the 6-year period for assessment.

Note: This 6-year period for assessment under IRC 6501(e) has a fixed and determinable expiration date that also must be protected.

- (3) The burden of proof for the omission of gross income is on the government. Omitted or overstated deductions and expenses are not considered in the computation.
- (4) Gross income for the IRC 6501(e) computation includes, but is not limited to:
- a. Gross income in the case of a trade or business means the total of the amounts received or accrued from the sale of goods or services (gross receipts), without reduction for the costs of those goods or services and without reduction for returns and allowances.
 - b. Gross income, other than from the sale of goods or services in a trade or business, has the same meaning as provided under IRC 61(a), and includes the total amounts received or accrued, to the extent required to be shown on the return. When the amounts received or accrued relate to the disposition of property, gross income means the excess of the amount realized from the disposition of the property over the unrecovered cost or other basis of the property.
 - c. Section 2005 of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, P.L. 114-41, 129 Stat. 443 (2015), added language to IRC 6501(e)(1)(B) providing that an understatement of gross income by reason of an overstatement of unrecovered cost or other basis is an omission of gross income. This legislation applies to returns filed after July 31, 2015. It also applies to returns filed on or before July 31, 2015, if the period of limitations under IRC 6501 (determined without regard to the legislation) has not expired as of that date.
 - d. In the case of a partner in a partnership, gross income for this computation includes the taxpayer's share of the partnership's gross income, not

- the net flow-through. Thus, a copy of the partnership return is required to correctly determine the taxpayer's gross income.
- e. In the case of a shareholder in an S-corporation, gross income for this computation includes the taxpayer's share of the S-corporation's gross income, not the net flow-through or distributed and undistributed taxable income. Thus, a copy of the S-corporation return is required to correctly determine the taxpayer's gross income.
 - f. Only the net amount of capital gain (sales price less cost basis) on a transaction is included in the computation. Also, capital losses on transactions may not reduce gross income because some capital losses are not netted against capital gains.
 - g. In the case of a taxpayer deemed to be in the trade or business of selling stock, the gross income for this calculation is the gross sales price of the stock (no reduction for cost basis).
 - h. The taxable portion of pensions and annuities are gross income.
- (5) An amount is not considered as omitted from gross income if information sufficient to determine the nature and amount of the item is disclosed in the return, including any schedule or statement attached to the return.
- (6) Be careful when using an indirect method of computing income. When using an indirect method of computing income, determining the understatement of adjusted gross income (which includes expenses) is not the same as the IRC 6501(e) computation of gross income.
- (7) The 6-year statute can be extended on Form 872, Consent to Extend the Time to Assess Tax. No special wording is required to be added to the consent form to extend the statute where more than 25% of gross income has been omitted from the return, whether the normal 3-year statute has expired or not. But if the normal 3-year statute has expired, the following wording can be added at the top of the consent, if desired: "This consent is valid only if IRC 6501(e) is applicable".
- (8) If the IRS proves a substantial omission of gross income, a taxpayer's entire tax year is subject to the 6-year period for assessment. Therefore, the entire year is open for adjustment, allowing the IRS to determine deficiencies attributable to items other than those creating the substantial omission. *Colestock v. Commissioner*, 102 T.C. 380 (1994).
- (9) See Exhibit 25.1.4-1, Percentage of Omitted Income Calculation, for a table used to compute the omission of income. This or a similar spreadsheet, as mentioned below, must be attached to Form 10498-B, Joint Investigations Intent to Solicit Consent to Extend Statute, to support using the statutory period under IRC 6501(e) when submitted for approval. Care should be exercised in preparing this computation, especially if the return contains income from a flow-through entity. Some common errors include failure to use net capital gains, failure to use the partner's share of partnership gross income, or using figures from an amended tax return.
- Note:** A computational workbook that can be used to determine the Percentage of Omitted Income is located on the Fraud Development Knowledge Base, *25% Omission of Income*
- (10) If a tax return contains a substantial omission of gross income, expiration of the 3-year period for assessment is imminent, and Form 10498-B has been

properly executed to allow the 3-year statute to expire, the AIMS statute will be updated to the 6-year statute date (see IRM 25.6.23-3, Instructions for Updating the Statute on AIMS).

25.1.4.4.10
(06-11-2021)
**Discontinued
Investigation**

- (1) CI should withdraw from all investigations when it is determined the case no longer has criminal potential. The SSA will communicate the withdrawal to the cooperating employee's group manager, TS and Collection Advisory via Form 13308, Criminal Investigation Closing Report. This notification will also be sent to any applicable IRS civil function via secure electronic e-mailbox.
- (2) If CI withdraws from the joint investigation, the SA will prepare a discontinued investigation report per IRM 9.5.14.12, Procedures For Closing Discontinued Investigations, and closing report if the investigation was tax or tax-related per IRM 9.5.14.5, Criminal Investigation Closing Report and Closing Package, stating the reason(s) for the withdrawal. These reports, original or copies of tax returns and any other relevant documents will be forwarded to Examination TS and Collection Advisory. Cooperating examiners may pursue civil resolution of the case. If the joint investigation involved a revenue officer, the case will be returned to the originator. After all collection activity and enforcement efforts are exhausted, the originating revenue officer should consider whether assertion of the civil fraud penalty will be pursued through a referral to Examination.
- (3) If the compliance employee's group manager objects to the proposed withdrawal, the field TM or equivalent will discuss the objection with the SAC. If agreement cannot be reached at the TM or equivalent level, the Compliance area director or equivalent and the CI Director of Field Operations will make the decision.

Note: The compliance employee's group manager can discuss the proposed withdrawal with the FEA group manager prior to elevating it to the TM or equivalent.

25.1.4.4.11
(06-11-2021)
**Preparation of the
Pre-Prosecution Report**

- (1) Upon the completion of the joint investigation, the examiner prepares Form 4549-A, Report of Income Tax Examination Changes, and Form 886-A, Explanation of Items, for each adjustment explaining all civil adjustments and penalties in detail. The top of the report should be labeled "Pre-Prosecution Report". The taxpayer's position regarding agreement or disagreement, is not necessary. Occasionally, the adjustments to the tax return requested by CI will be different than those adjustments an examiner would make during a typical civil examination. In this case, there may be a need to prepare two separate reports, one for civil adjustments and one for criminal adjustments. The Form 4549-A with criminal adjustments should be prepared and given to CI for use in preparing the Special Agent's Report (SAR). The top of this report should be labeled "Criminal Report".
- (2) The civil fraud penalty and/or the fraudulent failure to file penalty should be asserted for all applicable years on the "Pre-Prosecution Report". Accuracy-related and/or delinquency penalties should be proposed as an alternative position. Determination of the civil fraud penalty and/or the fraudulent failure to file penalty is the shared responsibility of the examiner, their group manager and the FEA. For LB&I cases, FEA concurrence is mandatory. See IRM 25.1.10.7 Civil Fraud.

- (3) Innocent spouse report writing procedures should be followed when applicable.
- (4) Form 4665, Report Transmittal, should be attached to the front of the Revenue Agent's Report (RAR). The top margin of the Report Transmittal should be labeled, "Pre-Prosecution Report" and should contain:
 - Background of the case including current status.
 - Summary of SOL expiration dates for all years/periods involved.
 - Computation of 25% omission of gross income for all tax years regardless of reliance on the IRC 6501(e), 6-year statute.
 - Current power of attorney status.
 - Comments regarding innocent spouse relief under both IRC 6015 and IRC 66.
 - Recommendations regarding audit potential of subsequent-year returns and/or related returns.
 - Summary of attempts to delay or avoid collection actions including any failures to disclose or actual disposition of assets.
 - Information of a confidential nature, including informant information.
 - Information that may be helpful when the case is returned for civil settlement, including potential civil issues not fully developed.

Note: The informant should not be identified by name nor should the report contain information that might reveal the identity of the informant.

25.1.4.4.12
(11-02-2023)
Fraud Suspense

- (1) Procedures for Fraud Suspense - Examination
 - a. When a joint investigation is completed and CI recommends criminal prosecution, CI will send a Notice of Department of Justice Referral memorandum to TS. This notification will also be sent to any applicable IRS civil function via secure electronic e-mailbox to initiate suspense action. The fraud reviewer in TS will prepare a memorandum instructing the group manager to route the case to TS for placement in fraud suspense. Other civil business operating divisions will forward the case to the appropriate fraud suspense unit.
 - b. A period of at least one year must remain on the SOLs of the returns being transferred to TS. Otherwise, there must be joint approval (CI and Compliance) for the IRS's reliance on the fraud statute (IRC 6501(c)(1) and IRC 6501(c)(2)) to keep the civil action (assessment and right to collect) open. See Form 10498-B, Joint Investigations Intent to Solicit Consent to Extend Statute, and IRM 25.1.4.4.9, Statute Protection, for detailed instructions.
 - c. Examination will update the AIMS Status Code to 21 and route the case to TS. The case will remain in fraud suspense until the criminal aspects of the case have been completed.
- (2) The Examination case file should contain:
 - a. Sufficient documentation to support the adjustments and penalties in the income tax examination changes report. See "Preparation of the Pre-Prosecution Report" in IRM 25.1.4.4.10.
 - b. Original tax returns or documented requests for the tax returns, unless they are in the possession of CI or Compliance Area or Division Counsel. Copies of tax returns are required to be included in the file if original tax returns are in the possession of CI or Compliance Area or Division Counsel.

- c. Form 2797, Referral Report of Potential Fraud Cases, signed and accepted by CI.
- d. Form 6544, Request for Cooperating Examiner/Revenue Officer, reflecting assignment of RA as cooperating examiner, if applicable.
- e. A current transcript reflecting TC 914 for each tax period in the case file. If TC 914 is not present, the examiner should contact the SA and request the required action.
- f. Copies of sensitive documents must **not** be included in the workpapers. The workpapers should make no mention of an informant or specific agencies.
- g. Check the "fraud suspense" box under "forward to Technical Services" of Form 3198, Special Handling Notice for Examination Case Processing, and update AIMS to Status Code 21.

Note: The examiner should contact the TS Fraud Coordinator for additional guidance. The TS Fraud Coordinators can be found at: <https://irs.gov/sharepoint.com/sites/ETD-KMT-KB051/Lists/Technical%20Services%20Fraud%20and%20Grand%20Jury%20Listing/Fraud%20and%20GJ%20Suspense%20Coordinator%20by%20State.aspx>.

(3) Procedures for Fraud Suspense - Collection

- a. If the TC 914 appears on all open modules and a decision has been made to suspend all civil enforcement activities on the case, Centralized Case Processing (CCP) may assume monitoring responsibilities for the case. Revenue officers must ensure that transferred cases meet CCP monitoring requirements. See IRM 5.1.5.13, Transferring Cases to Centralized Case Processing (CCP).

25.1.4.5
(06-11-2021)

**Civil Resolution of
Prosecution Cases**

- (1) When the criminal prosecution aspects have been completed (i.e., criminal prosecution is concluded or the criminal investigation is discontinued), CI will notify TS and Collection Advisory of the formal closing of the criminal case by use of Form 13308, Criminal Investigation Closing Report (Tax and Tax Related Only), and advise that civil actions on the case should resume. This notification will also be sent to any applicable IRS civil function via secure electronic e-mailbox.
- (2) The fraud coordinator will prepare a memorandum directing return of the case to the originating group for civil resolution. Collection procedures are in IRM 5.1.5, Balancing Civil and Criminal Cases, and IRM 5.1.5.16, Advisory Responsibilities - Probation and Restitution Cases.
- (3) If the civil fraud penalty and/or the fraudulent failure to file penalty is pursued, the tax years/periods under penalty consideration will return to AIMS Status Code 17 (Fraud Development), and documented by the FEA on Form 11661, Fraud Development Recommendation - Examination.

25.1.4.6
(11-02-2023)

**Special Conditions of
Probation**

- (1) See IRM 5.1.5.16, Advisory Responsibilities - Probation and Restitution Cases, for procedures Collection Advisory and Field Collection follow in probation cases.
- (2) Examiners should contact the TS Fraud Coordinator for additional guidance. The TS Fraud Coordinators can be found at: <https://irs.gov/sharepoint.com/sites/ETD-KMT-KB051/Lists/>

*Technical%20Services%20Fraud%20and%20Grand%20Jury%20Listing/
Fraud%20and%20GJ%20Suspense%20Coordinator%20by%20State.aspx*

- (3) The court may order probation for the taxpayer as part of the sentence imposed. The order of probation may contain special conditions relating to the resolution and/or payment of civil tax liabilities and penalties. The SAC will notify TS and Collection Advisory via Form 13308, Criminal Investigation Closing Report (Tax and Tax Related Only), of the special conditions of probation. This notification will also be sent to any applicable IRS civil function via secure electronic e-mailbox. TS will prepare a memorandum to the field TM or equivalent to return the case to the field for civil resolution and to consider the taxpayer's conditions of probation. See IRM 5.1.5.20.1, The 180-Day Memorandum. The memorandum will instruct the TM or equivalent to provide a response to the SAC regarding the taxpayer's compliance with the conditions of probation no later than the closing of the case or 180 days prior to the probation expiration date, whichever occurs earliest.
 - (4) CI will reverse the TC(s) 914 and establish TC 910 control(s). The TC 910 will not be released until the special conditions of probation have been satisfied, the probationary period has expired, or the conditions are otherwise terminated by the court.
 - (5) TS and/or Collection Advisory will (when warranted) return/assign the case to the field for civil resolution and to consider the taxpayer's compliance with the tax-related conditions of probation (COP). Guidance will be provided to the field by TS and/or Collection Advisory accordingly.
 - (6) The instructions to field Examination will include the requirement for the field Examination TM or equivalent to provide a memorandum to the SAC (or designee) regarding the taxpayer's compliance with their COP (the 180-Day Memorandum).
 - a. The memorandum is to be sent to the SAC (or designee) upon the closing of the Examination case or 180 days prior to the probation expiration date, whichever occurs earliest.
 - b. The memorandum should be sent to the SAC (or designee) immediately when Examination determines that the taxpayer's actions to avoid compliance with their COP warrant enforcement actions by CI and/or the Probation Office.
- Note:** Collection Advisory completes the response to the SAC on behalf of Collection, using the same time frames.
- (7) The memorandum will include information relative to the taxpayer's compliance or lack of compliance with the tax-related COP listed in the Judgment from the criminal case.
 - (8) The SAC may recommend legal actions if the taxpayer fails to comply with the conditions of probation.
 - (9) IRC 6103(h)(4) allows for disclosure of returns and return information to a U.S. Probation Officer under the following circumstances:
 - a. The tax returns and tax return information must relate to a taxpayer convicted of a criminal tax violation,
 - b. The U.S. Probation Officer must have the responsibility of determining compliance with the tax-related conditions of probation,

- c. The returns and return information are limited to those years specified in the conditions of probation, and
- d. The disclosure would not identify a confidential informant or seriously impair a civil or criminal tax investigation.

Note: Refer to Pub 4799, Probation Officers' Frequently Asked Questions, for additional guidance and examples.

- (10) Any disclosure to a U.S. Probation Officer must comply with IRC 6103(h) and IRM 11.3.22.9.1, Pre-sentence Investigations and Reports and Probation Proceedings.

Exhibit 25.1.4-1 (11-02-2023)**Percentage of Omitted Income Calculation**

Type of Income	Amount Per Return	Amount Per Exam	Income Omission
Wages	0.00	0.00	0.00
Taxable Interest	0.00	0.00	0.00
Ordinary Dividends	0.00	0.00	0.00
Taxable Refunds	0.00	0.00	0.00
Alimony Received	0.00	0.00	0.00
Sch C: Gross Receipts (Note 1)	0.00	0.00	0.00
Capital Gains (Note 2)	0.00	0.00	0.00
Other Gains (Note 2)	0.00	0.00	0.00
Overstatement of Unrecovered Cost or Other Basis	0.00	0.00	0.00
Taxable IRA Distributions	0.00	0.00	0.00
Taxable Pensions and Annuities	0.00	0.00	0.00
Sch E: Rental Receipts	0.00	0.00	0.00
Sch E: S-Corp Gross Receipts + Other Income X TP's Share (Note 3)	0.00	0.00	0.00
Sch E: P/S Gross Receipts + Other Income X TP's Share (Note 4)	0.00	0.00	0.00
Sch E: Trust Flow Thru Income (Note 5)	0.00	0.00	0.00
Sch F: Gross Receipts	0.00	0.00	0.00
Taxable Unemployment Compensation	0.00	0.00	0.00
Taxable Social Security Benefits	0.00	0.00	0.00
Other Taxable Income	0.00	0.00	0.00
Totals: (Divide Income Omission by Amount Per Return to determine Percentage of Omitted Income)	0.00	0.00	0.00

1. Gross receipts without expenses.
2. Include net gain from each transaction. Do not include net losses.
3. S-Corporation: Taxpayer's share of the S-Corporation's gross income from Form 1120-S, U.S. Income Tax Return for an S Corporation, not the net flow-through.
4. Partnership: Taxpayer's share of the partnership's gross income from Form 1065, U.S. Return of Partnership Income, not the net flow-through.
5. Include TP's share of the income distribution deduction shown on Form 1041, U.S. Income Tax Return for Estates and Trusts.

