



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

25.1.8

JULY 15, 2021

## EFFECTIVE DATE

(07-15-2021)

## PURPOSE

- (1) This transmits revised IRM 25.1.8, Fraud Handbook, Field Collection.

## MATERIAL CHANGES

- (1) IRM 25.1.8.1- Added new subsection, Program Scope and Objectives, to provide internal controls information. Subsections added under Program Scope and Objectives include Background; Authority; Roles; Program Management and Review; Program Controls; Acronyms; Terms; and Related Resources. Also rearranged existing IRM content to place information involving internal controls under this subsection. The addition of this subsection renumbered existing subsections.
- (2) IRM 25.1.8.3 - Title of this section has changed to Employment Tax Violations.
- (3) IRM 25.1.8.3(1)(a) - Added a potential indicator of fraud that ROs should look for when working employment tax cases.
- (4) IRM 25.1.8.3(1)(d) - Bullet point was revised to include the word incomplete.
- (5) IRM 25.1.8.3(1)(j) - Bullet point was revised to include the use of under-reported and unreported wages and the use of erroneous SSNs as well as ID theft.
- (6) IRM 25.1.8.3(1)(l) - Bullet point was added to include business funds to pay personal expenses as an indicator of fraud.
- (7) IRM 25.1.8.3(2)(d) - IRC 7402(a) was added.
- (8) IRM 25.1.8.3(4) - To request a consultation with a Fraud Enforcement Advisor (FEA), the RO should submit a request using the Specialist Referral System (SRS) was added to this section.
- (9) IRM 25.1.8.3(5) - New section was added on how to request a consultation with an FEA and a link was added for the SRS. The FEA will contact the employee within two business days was added to this section.
- (10) IRM 25.1.8.3(6) - Guidance was added to include that Letter 903 should be considered in egregious cases of noncompliance and/or when levy sources have been exhausted and the repeater or pyramiding taxpayer has no assets to assist in resolving or offsetting the liability.
- (11) IRM 25.1.8.4(3) - The RO will use the SRS when requesting a consultation with the FEA was added to this section.
- (12) IRM 25.1.8.5(3) - Collection group manager or FEA were added to clarify who should contact the Supervisory Special Agent (SSA).
- (13) IRM 25.1.8.5(5) - The sentence that CI will make contact with the taxpayer at the appropriate time was removed because it is not a responsibility of the compliance employee.
- (14) IRM 25.1.8.6(1) - The criminal statute of limitations was clarified.
- (15) IRM 25.1.8.6(2) - RO may contact local SB/SE Counsel to discuss statute issues was added to this section.

- (16) IRM 25.1.8.8(4) - How to document statute agreements between CI and Collection, using Form 10498-C and/or Form 10498-D was added to this section.
- (17) IRM 25.1.8.9(6) - Clarification was added to include the manager **will** change the subcode 910, to the case in ICS.
- (18) IRM 25.1.8.9(6) - The exception information was removed because it was repetitive.
- (19) IRM 25.1.8.10(1) - Clarification was added to include the RO will complete the Form 2797 and a narrative when firm indicators of fraud have been established and criminal criteria have been met. Further guidance was added to ensure there will not be collection activity until meeting with CI to discuss the referral.
- (20) IRM 25.1.8.10(2) - Additional guidance was added to this section if the RO needs support to compute a complex tax computation, the FEA will assist the RO by pursuing a collateral referral for examination and by using the Tax Loss Computation Tool.
- (21) IRM 25.1.8.11(1) - Guidance was added to clarify that the RO should transfer the case to CCP if the TC 914 has posted on all open modules and a decision has been made to suspend all collection activities on the case.
- (22) Editorial changes were made throughout the IRM; website links and program names were updated. All references to Fraud Technical Advisor (FTA) were replaced with Fraud Enforcement Advisor (FEA).

#### **EFFECT ON OTHER DOCUMENTS**

This material supersedes IRM 25.1.8 dated October 27, 2016.

#### **AUDIENCE**

Criminal Investigation (CI), Small Business/Self-Employed (SB/SE)

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25.1.8  
Field Collection

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25.1.8.1  
(07-15-2021)  
**Program Scope and Objectives**

- (1) **Mission.** The mission of the Office of Fraud Enforcement (OFE) is to promote compliance through 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 that will lead to prosecutions, 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 covers Field Collection fraud issues.
- (4) **Audience.** This section is for civil compliance employees who work field collection cases.
- (5) **Policy Owner.** Director, OFE, Small Business Self Employed (SB/SE).
- (6) **Program Owner.** OFE, Policy, SB/SE.
- (7) **Primary Stakeholders.** The primary stakeholders are SB/SE and CI.

25.1.8.1.1  
(07-15-2021)  
**Background**

- (1) Collection is an important cross-functional partner in the detection and referral of fraud issues. The nature of collection work lends itself to numerous areas of potential fraudulent noncompliance.

25.1.8.1.2  
(07-15-2021)  
**Authority**

- (1) IRC § 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights.
- (2) IRC § 6330, Notice and opportunity for a hearing before levy.
- (3) IRC § 7602, Examination of books and witnesses.

25.1.8.1.3  
(07-15-2021)  
**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 in fraud investigations and offer advice on matters concerning tax fraud.
- (3) Employees who work potential fraud cases are responsible for following the procedures in this IRM. All examiners and their managers working potential fraud cases should familiarize themselves with the information contained in this IRM.

25.1.8.1.4  
(07-15-2021)  
**Program Management and Review**

- (1) The Office of Fraud Enforcement Policy staff prepares and issues three-year reports to servicewide customers. The three-year reports are prepared using Fraud Information Tracking System (FITS) 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 Integrated Collection System (ICS)
  - Cases on ICS but not on FITS (ex. 910 mismatch report)
  - Cases in fraud development status
  - Cases in criminal fraud status
- (3) Ad-hoc reports are produced as requested by OFE customers.
- (4) 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.
- (5) FEA managers utilize reports generated from FITS to monitor and track FEA inventory assignments.

25.1.8.1.5  
(07-15-2021)

#### **Program Controls**

- (1) FEA managers verify program and procedural compliance by conducting case consultations, quality case reviews, workload reviews, and security reviews with all FEAs.
- (2) 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.
- (3) FEAs are required to monitor accepted criminal referrals each quarter to ensure that CI and compliance are holding productive quarterly meetings as required under IRM 25.1.4.4.3, Required Communications.

25.1.8.1.6  
(07-15-2021)

#### **Acronyms**

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

Acronym	Definition
AC	Action Code
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
ATAT	Abusive Tax Avoidance Transactions
ATFR	Automated Trust Fund Recovery
AUSA	Assistant U.S. Attorney
BD	Balance Due
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
CSED	Collection Statute Expiration Dates
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

<b>Acronym</b>	<b>Definition</b>
FCQ	FinCEN Query
FEA	Fraud Enforcement Advisor
FFC	Functional Fraud Coordinator
FFTF	Fraudulent Failure to File Penalty
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
OS	Offer Specialist
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



Acronym	Definition
TC	Transaction Code
TE/GE	Tax Exempt/Government Entities
TFRP	Trust Fund Recovery Penalty
TM	Territory Manager
TP	Taxpayer
TS	Technical Services
W&I	Wage & Investment

25.1.8.1.7  
(07-15-2021)  
**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:

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	Information 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.

Term	Definition
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.
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.

25.1.8.1.8  
(07-15-2021)

#### Related Resources

- (1) IRM 25.1.1, Overview/Definitions, through IRM 25.1.7, Failure to File, for detailed guidance in developing indicators of fraud and completing the fraud referral process. Of particular value to ROs are the sections devoted to IRM 25.1.2, Recognizing and Developing Fraud, IRM 25.1.3, Criminal Referrals, and IRM 25.1.7, Failure to File.
- (2) The Fraud Development Knowledge Base is located at the following website: <https://portal.ds.irsnet.gov/sites/vl019/pages/default.aspx>
- (3) IRM Part 5 - Collecting Process.
- (4) 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>

25.1.8.2  
(07-15-2021)

#### Overview

- (1) The following sections highlight some of the fraudulent areas encountered in varying degrees by revenue officers (ROs).

25.1.8.3  
(07-15-2021)

#### Employment Tax Violations

- (1) A substantial part of Collection's work involves unpaid payroll taxes, under-reported payroll taxes, and delinquent Form 941, Employer's Quarterly Federal Tax Returns. Many of these cases involve prior quarters and current quarter pyramiding, multiple business entities, or a succession of similar defunct businesses. When investigating cases involving unpaid payroll taxes, ROs should look for potential indicators of fraud, such as:
  - a. Use of business funds to pay personal expenses;
  - b. Concealment, false statements or false documents;
  - c. Abusive tax avoidance schemes regarding payroll;

- d. Unusual business practices (such as requesting certain sources of income to pay by cash or other acts of questionable ethics) which serve to circumvent normal bookkeeping practices;
- e. Disorganized, incomplete or non-existent payroll records;
- f. Taxpayer paying business and personal expenses in cash, when cash payments are not customary;
- g. Business owner/officers have a standard of living or lifestyle that is inconsistent with reported income;
- h. Use of nominees (wife, partner, relatives, friends, fictitious partner, other business entities, etc.) to shield business or personal assets;
- i. Business owner/officer is evasive, uncooperative, belligerent, threatening or attempts to interfere with a tax investigation;
- j. A history of non-compliance by the officers including previous entities with unpaid payroll tax liabilities;
- k. Business use of under-reported and unreported wages, undocumented workers and the use of erroneous SSNs as well as ID theft;
- l. Other business related fraudulent activity identified in civil and/or criminal filings or other public sources; and/or

**Note:** Refer to IRM 25.1.2.3, Indicators of Fraud, for an expanded list of fraud indicators on trust fund and other types of cases involving potential fraud.

- (2) When initial indicators of fraud are identified and warrant potential fraud development, ROs should consider the potential for:

- a. IRC 7201, Attempt to Evade or Defeat Tax;
- b. IRC 7202, Willful Failure to Collect or Pay Over Tax;
- c. IRC 7206(1), Fraud and False Statements; and
- d. IRC 7402(a), Civil Injunction to Restrain Pyramiding.

**Note:** See IRM 25.1.3.1, Overview, for factors to consider whether further development is warranted.

- (3) IRC 7201, IRC 7202 and IRC 7206(1) are felonies. IRM Exhibit 25.1.1-1, Criminal Violations, is a listing of the elements necessary for the most common statutes under which criminal prosecution may be recommended by Criminal Investigation (CI). Many of the elements associated with establishing proof of responsibility and willfulness in fraud cases are similar to those in a trust fund recovery penalty (TFRP) investigation. Therefore, ROs should continue to conduct TFRP investigations when warranted. However, ROs should be careful not to pursue potential TFRP assessments if indicators of fraud have been identified. ROs should discuss any proposed TFRP assessment with the group manager and local Fraud Enforcement Advisor (FEA) when indicators of fraud have been established. Local SB/SE Counsel is also available to advise on the pursuit of a TFRP assessment versus a fraud referral.
- (4) The RO will document the first indicators of fraud and discuss them with the group manager. If the group manager concurs with the fraud potential, the RO should request a consultation with the FEA.
- (5) To request a consultation with the FEA, the compliance employee will submit a request through the Specialist Referral System (SRS), which is available at <https://srs.web.irs.gov/default.aspx>. The FEA will contact the RO within two business days.

- (6) Because criminal prosecutions require the government to establish that responsible persons knew of their tax responsibilities and willfully failed to perform them, Letter 903, Letter to Employer - You Haven't Deposited Federal Employment Taxes, should be considered in egregious cases of noncompliance and/or when levy sources have been exhausted and the repeater or pyramiding taxpayer has no assets to assist in resolving or offsetting the liability. Although Letter 903 is primarily a warning of the potential for additional enforcement actions, it also provides specific instructions and a notice of personal responsibility to the potentially responsible persons.
- (7) In cases where criminal charges are pursued based on the failure to adhere to the reporting and payment requirements, use Form 2797, Referral Report of Potential Fraud Cases. See IRM 5.7.2.4, Referrals For Criminal Enforcement. In cases where only civil sanctions (e.g., an injunction under IRC 7402(a)) are contemplated, see IRM 5.7.2.3, Referrals For Civil Enforcement.
- (8) The RO will advise the group manager and will follow guidelines for making a criminal referral (IRM 25.1.3, Criminal Referrals) or a civil referral (IRM 5.17.4.17, Civil Injunctions) under IRC 7402(a) to Restrain Pyramiding.
- (9) ROs will monitor the taxpayer's actions and keep the group manager and FEA informed while the case is in fraud development status.
- (10) If the taxpayer has previously abandoned other business ventures, leaving unpaid and uncollectible tax liabilities, it may be appropriate to seek a civil injunction to stop further pyramiding. Consult with the FEA and local SB/SE Counsel when dealing with this situation.

25.1.8.4  
(07-15-2021)

**Evasion of Payment**

- (1) IRC 7201 includes two separate offenses:
  - a. The willful attempt to evade or defeat the assessment of a tax; and
  - b. The willful attempt to evade or defeat the payment of a tax.

The affirmative acts associated with evasion of payment cases often involve some form of concealment of the taxpayer's ability to pay the tax due and owing or the removal of assets from the reach of the IRS. It should be noted that refusing to pay taxes due, possession of the funds needed to pay the taxes, and even the open assignment of income, without more, do not meet the requirement of the affirmative acts necessary for this felony evasion charge.

- (2) In addition to the affirmative acts/indicators listed in IRM 25.1.2.2, Fraud Development Procedures, other examples of affirmative acts of evasion of payment include:
  - Placing assets in the names of others;
  - Dealing in cash when payment of cash is not a standard business practice;
  - Causing receipts to be received through and in the name of others;
  - Causing debts to be paid through and in the name of others;
  - Paying creditors instead of the government;
  - Bankrupting a corporation and hiding the assets to avoid payment of employment taxes; and
  - A complete change of taxpayer identity.

See IRM 25.1.8.5, Fraudulent Offers in Compromise, for examples of indicators of fraud relating to false statements under penalty of perjury.

**Note:** If someone other than the taxpayer completed and signed the Form 433-A, Collection Information Statement for Wage Earners and Self-Employed Individuals, or Form 433-B, Collection Information Statement for Businesses, the RO will need to take additional steps to substantiate perjury. Contact the local FEA for assistance.

- (3) When initial indicators of fraud are identified, the RO will discuss the case with the group manager. If the group manager concurs with the fraud potential, the RO should request a consultation with the FEA using the SRS.

25.1.8.5  
(07-15-2021)  
**Fraudulent Offers In  
Compromise**

- (1) IRM 5.8.10.10, Indicators of Taxpayer Fraud, provides a comprehensive discussion of indicators of potential fraud warning signs most identifiable during an interview relating to Offers in Compromise. In addition to those indicators of fraud, the ROs should be alert to the potential for false statements under penalty of perjury, i.e., relating to Form 433-A and Form 433-B. Examples of these include, but are not limited to:

- a. False or fraudulent valuation statements or appraisals in support of Form 433-A or Form 433-B;
- b. Sham loans and mortgages;
- c. Significant omission or asset undervaluation;
- d. Understated income;
- e. Overstated expenses;
- f. Large number of claimed dependents;
- g. Similar amounts in both checking and savings accounts (e.g. \$100 or \$1,000);
- h. No available credit;
- i. Similar listings for monthly income and expenses (e.g. same low wages, same child care expenses); and
- j. Reclassification of wage income.

- (2) When indicators of potential fraud arise during an offer investigation, the offer specialist (OS) will follow guidelines outlined in IRM 5.8.4.18, Potential Fraud Referrals.

- (3) Open criminal investigations can be identified on the Integrated Data Retrieval System (IDRS) by an unreversed TC 914, TC 916, or TC 918. Cases with a TC 910 are being monitored by CI. When these transaction codes are discovered, contact must be made with the assigned special agent (SA) and procedures in IRM 5.1.5, Balancing Civil and Criminal Cases, must be followed. It may be necessary for the Collection group manager or FEA to contact the supervisory special agent (SSA) to determine the next appropriate action. A decision will need to be made on the appropriate actions to take and what may or may not be discussed with the taxpayer.

**Note:** CI should be advised of the TIPRA law (Tax Increase Prevention and Reconciliation Act), which includes a provision for deemed acceptance of the offer if the IRS does not return or reject it within 24 months of the received date. IRS can not hold offers open indefinitely pending criminal investigation.

- (4) OS must follow the guidance in IRM 5.8.4.19, Criminal Investigations, when an offer may be or might have been involved in a criminal investigation.

25.1.8.6  
(07-15-2021)

#### Statute of Limitations

- (1) The criminal statute of limitations must be taken into consideration when developing a potential fraud case. It is generally six years from the last affirmative act of fraud.
- (2) Issues regarding statutes of limitations should be discussed with the FEA during the initial stages of fraud development. Local SB/SE Counsel may also be consulted on statute issues.
- (3) Refer to the Department of Justice (DOJ) Criminal Tax Manual on Statute of Limitations which includes a reference table on the Limitations Periods for Common Tax Offenses. This Criminal Tax Manual can be found at the following website: <http://www.justice.gov/tax/readingroom/foia/tax.htm>.

25.1.8.7  
(07-15-2021)

#### Summons Referral

- (1) A referral for summons enforcement can be an important part of the potential fraud development process. The ability to enforce a summons is dependent upon many factors.
- (2) In most instances, summons enforcement will be conducted as an IRC 7604 civil matter, through SB/SE Area Counsel, and is directed toward requiring the person summoned to comply (see IRM 25.5.10, Enforcement of Summons).

**Note:** Under IRC 7602(d), the Service cannot issue or begin to enforce a summons issued to investigate any taxpayer if a Justice Department referral is in effect regarding that taxpayer. A Justice Department referral is in effect if: (1) the Service recommends that the Department of Justice either begin a grand jury investigation of or begin a criminal prosecution of such taxpayer for any alleged offense connected with the internal revenue laws; or (2) pursuant to IRC 6103(h)(3)(B), the Service receives a written request from the Department of Justice for the disclosure of the taxpayer's return or return information in order to pursue a grand jury investigation or a potential or pending criminal prosecution of the taxpayer for any alleged offense connected with the internal revenue laws.

- (3) Criminal prosecution under IRC 7210 for failure to obey a summons is rarely utilized and should be considered only after review of IRM 5.17.6, Legal Reference Guide for Revenue Officers, Summonses, relating to criminal proceedings and civil enforcement, and consultation with SB/SE Area Counsel.
- (4) In addition to considering a referral for summons enforcement, cases may warrant additional third-party contacts to prove willful intent to deceive. See IRM 25.27.1, Third Party Contact Program, for guidance on third-party contact information and specifically, IRM 25.27.1.3.2, Exceptions to IRC 7602(c) Notification Requirements.

25.1.8.8  
(07-15-2021)

#### Coordination with Criminal Investigation

- (1) Where CI case controls (TC 914) are active in **any** module, ROs will contact the FEA and CI to discuss potential problems prior to initiating contact with taxpayers or their representatives (see IRM 5.1.5, Balancing Civil and Criminal Cases).
- (2) When balancing civil and criminal priorities, consider the impact and/or lost revenue potential relating to:
  - a. Trust fund recovery penalty and transferee assessment statute expiration dates (ASED);
  - b. Collection statute expiration dates (CSED);



- c. Pyramiding of collected or withheld taxes; and
- d. Collection jeopardy.

**Note:** If a trust fund recovery penalty investigation has begun and the Letter 1153(DO), Trust Fund Recovery Penalty Notification, has already been issued to the potentially responsible person prior to the commencement of the criminal investigation, Collection must notify CI that the letter has been issued, explain the appeal rights the taxpayer has as a result of the notification (See IRM 5.7.6.1.3, Appealing the Proposed Assessment), and determine the best course of action.

- (3) Refer to IRM 5.1.5, Balancing Civil and Criminal Cases, and Policy Statement 4-26 (see IRM 1.2.5.11, Policy Statement 4-26 (Formerly P-4-84)) when evaluating the need for concurrent civil and criminal investigations. IRM 5.1.5 includes detailed information on required coordination efforts between CI and Collection in parallel investigations. This information includes actions necessary to protect Collection statutes, dissipating assets and/or the accrual of additional liabilities.

**Note:** If the civil and criminal investigations are conducted simultaneously, close coordination and communication are necessary among all functions. Contact the FEA and local SB/SE Counsel for appropriate coordination and procedures.

- (4) Prior to the expiration of any statute, the RO should document the Integrated Collection System (ICS) history with a summary that contains the specific MFT, tax period, amount, ASSED/CSSED and facts to support the decision to allow the statute to expire. The RO will obtain the appropriate managerial concurrence and input any necessary transaction codes (such as an ASSED-R indicator). See IRM 5.1.5.12.1, Cases with Imminent Statutes, on how to document statute agreements between CI and Collection to include as necessary Form 10498-C, Intent to Commence Civil Action - Statute Protection for Assessment of Trust Fund Recovery Penalty, and/or Form 10498-D Intent to Commence or Continue Civil Action - Collection Statute Protection.
- (5) If a cooperating RO is needed for a joint investigation, quarterly four-way meetings should be conducted to review the status of the investigation and plan activities to be accomplished by the cooperating officer and SA in the next quarter. See IRM 25.1.4.3, Administrative Joint Investigation, for joint investigation procedures.

**Note:** Please refer to IRM 5.1.5.4, Resolving Conflicts Regarding Parallel Investigations, for guidance in resolving any disagreements between civil and criminal priorities.

25.1.8.9  
(07-15-2021)  
**Aging of Collection  
Fraud Cases**

- (1) Upon concurrence of the FEA, the RO will complete Form 11661-A, Fraud Development Recommendation - Collection.
- (2) The RO and FEA should identify any significant related entities with open modules that would relate to the development of the potential fraud case, identify them on the Form 11661-A and request assignment of all identified related entities to avoid action being taken on these cases that could harm a future criminal investigation.

- (3) After approval of Form 11661-A by the FEA, the group manager or their designee will input ICS subcode 910 FRAUD DEVELOPMENT - FEA to the case. The ICS subcode 910 will automatically trigger input of IDRS transaction code (TC) 971 with action code (AC) 281 on the entity. The TC 971 AC 281 will stop the cycle clock and prevent the taxpayer entity from being included in systemic IDRS/Entity case aging reports.

**Caution:** Subcode 910 and TC 971 AC 281 are not module specific. TC 971 AC 281 can be found under IDRS command code ENMOD.

**Note:** Although case aging is stopped during the development of a potential fraud referral, it is necessary to continue to take timely and effective case actions designed to move the case forward.

- (4) The use of TC 971 AC 281 has been expanded to include:

- a. Abusive Tax Avoidance Transactions (ATAT) cases - ICS subcodes 309 to 339.

**Note:** See IRM 5.20.2.4, Aging of ATAT and Suit Development Cases, for more information on the appropriate use of TC 971 AC 281.

**Caution:** ATAT cases in fraud development - It is important to enter "FRD" for fraud in the Location field on ICS. This will include the case in the Area fraud report. If "FRD" is not input on the location block, the case will not be counted in the Area fraud report. See IRM 5.20.2.4(5)c, Aging of ATAT and Suit Development Cases.

- b. Suit development cases in which additional time is needed to gather and analyze information necessary for developing a suit recommendation.

**Note:** See IRM 25.3.2, Suits by the United States, for more information on the appropriate use of TC 971 AC 281.

- (5) Procedures must be followed with the corresponding IRMs on the appropriate use of TC 971 AC 281 for ATAT and suit development.
- (6) When the case is removed from fraud development status, the manager **will** change the subcode 910, to the case in ICS. When changing the subcode 910, answer "yes" on ICS when asked, "Is TC 972 AC 281 required to re-start the overage clock?" This will trigger the input of TC 972 AC 281 to IDRS.

**Caution:** Do not mark **No** to this question, as the case will still appear on the 910 Report despite the removal of the subcode 910.

- (7) To remove the case from fraud development status, the RO must ensure that the subcode 910 has been removed on ICS and the TC 971 AC 281 has been reversed. To check for an unreversed TC 971 AC 281 on ICS, take the following steps:

- a. From the case summary screen, select "Entity Detail".
- b. Select item "View Entity Transactions".
- c. A listing of the entity transactions on the case will appear and scroll through to check for any unreversed TC 971 AC 281.

- (8) If the subcode 910 is not present on the case but the TC 971 AC 281 is on the case, then select "Generate 971/972 AC 281" from the Collection Activities



menu within ICS to remove the case from fraud development status. Then select “Generate TC 972 AC 281” option and submit. Next confirm that TC 972/281 will be generated by indicating “yes”.

**Note:** Currently ICS only cases will not allow for the removal of the TC 971 AC 281 on ICS. A manual Form 4844, Request for Terminal Action, must be completed requesting the TC 972 AC 281 on ENMOD for IDRS.

25.1.8.10  
(07-15-2021)  
**Collection Case  
Disposition**

- (1) When the RO, the Collection group manager, and the FEA agree that a firm indication of fraud has been established and criminal criteria have been met, a Form 2797 and a narrative will be completed describing the affirmative acts and potential violations. All collection activity will be discontinued until meeting with CI to discuss the referral. See IRM 25.1.3, Criminal Referrals.
- (2) In some instances, a tax loss computation is necessary to support the referral. When a complex tax loss computation is needed to support the fraud referral, the FEA will assist the RO by:
  - Pursuing a collateral referral for Examination in accordance with IRM 4.1.1.7.5, Collateral Referrals; or
  - Using the Tax Loss Computation Tool.
- (3) Refer to IRM 5.1.11.7.2, Referral to Criminal Investigation, for instructions relating to disposition of Delinquent Return investigations (DEL RET's).

**Note:** Do not use TC 596 to close BMF DEL RET modules.

**Note:** Subcode 910 should only be used for cases in potential fraud development, up to the point of time when CI makes their determination to either accept or decline a fraud referral. See IRM 25.1.8.9, Aging of Collection Fraud Cases.

- (4) Careful consideration should be given to any imminent ASER or CSER that could expire during the CI investigation. Refer to IRM 25.1.8.8, Coordination with Criminal Investigation, and consider the need for parallel proceedings if necessary.

**Note:** Statute expirations should be addressed prior to transferring the case to Centralized Case Processing (CCP) for monitoring.

- (5) Upon acceptance of the referral, the Collection group manager will remove the ICS subcode 910 and reverse TC 971 AC 281. The RO must document the ICS history with an appropriate closing narrative that addresses any imminent statutes. If a statute will be allowed to expire during the pendency of the criminal investigation, refer to IRM 25.1.8.8, Coordination with Criminal Investigation, and secure approval for the appropriate form.
- (6) CI will initiate the input of TC 914 controls on the cases associated with accepted referrals. If TC 914 is present in some tax modules, but not in others, ROs should contact the FEA to determine whether or not collection actions should be suspended and additional TC 914s should be input by CI.
- (7) If CI agrees that some type of collection action should be taken during the criminal investigation, the RO should create an Other Investigation (OI) and follow the procedures in IRM 5.1.5.2, IRS Policy Concerning Parallel Investigations. The RO should change the ICS subcode 910 to 912 in ICS. Subcode

912 should be used when a case has been accepted by CI and additional collection actions are necessary. Subsequent actions may include joint or parallel investigations, statute control, probation/parole, or post-sentencing compliance.

- (8) If the fraud referral is declined by CI, then the RO, Collection group manager and FEA should conduct a post-declination meeting to discuss the criminal referral and possible alternative means of civil closure, such as referring the case to Examination for consideration of civil fraud penalties.

**Note:** The RO must document the ICS history about the post-declination meeting and any consideration on referring the case to Examination.

25.1.8.11  
(07-15-2021)

**Monitoring Cases Under  
Criminal Investigation**

- (1) If the TC 914 has posted on all open modules and a decision has been made to suspend all collection activities on the case, the RO should transfer the case to CCP. ROs must ensure that transferred cases meet CCP monitoring requirements. See IRM 5.1.5.13.2, Procedures for Transferring Cases to CCP.

**Note:** See IRM 5.7.3.8, Reporting Expiration of the TFRP Statute, for procedures for reporting the expiration of the TFRP statute and IRM 5.1.19.5, Imminent CSEDs, for procedures for imminent CSEDs, as well as the process outlined in IRM 5.1.5.13.1, Cases with Imminent Statutes, to document agreement between CI and Collection to allow the expiration of an imminent statute due to ongoing criminal investigative actions.

- (2) To transfer the case to CCP, ROs must follow guidance outlined in IRM 5.1.5.13, Procedures for Transferring Cases to CCP.