



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.19.17

OCTOBER 6, 2016

EFFECTIVE DATE

(10-06-2016)

PURPOSE

- (1) This transmits revised IRM 4.19.17, *Campus Examination Non-Filer Program*.

BACKGROUND

- (1) This section contains information on Non-Filer Program procedures for administrative matters and provides a reference for common issues and related items that might be found on tax returns. Throughout this revision there are references to other IRMs which may contain related information needed when working cases.

MATERIAL CHANGES

- (1) Broken links, punctuation and grammatical corrections have been made throughout the IRM
- (2) 4.19.17.3.1 - Added RGS guidance reference for manual reports for clarification
- (3) 4.19.17.3.9.4 - Added reference to IRM 4.19.13.12, Statutory Notices for review criteria for clarification
- (4) 4.19.17.5.1- Updated reference to 5.18.1.8.2.3.13.10 due to IRM 5 revision
- (5) 4.19.17.5.2(6) - Remove (6) as Ret Proc (Return Process) date is no longer needed.
- (6) 4.19.17.5.2.3.3 - Updated reference to 5.18.1.8.2.3.19 due to IRM 5 revision
- (7) 4.19.17.5.2.4 - Updated reference to 5.18.1.8.2.3.20 due to IRM 5 revision
- (8) 4.19.17.6.2.1.2 - Added sentence for entering \$1 in Item 35 of Form 5344 when closing DC 04/09 per return received without tax to prevent rejects.
- (9) 4.19.17.7.2 - Updated reference to 25.25.10, Frivolous Return Program based on FRP realignment and IRM renumbering
- (10) 4.19.17.7.5 - Updated reference to 5.18.1.8.2.3.10 due to IRM 5 revision
- (11) 4.19.17.7.8 - Updated reference to IRM 4.19.13.25, General Case Development and Resolution, Campus Identity Theft based on IRM revision; removed program specific guidance as it no longer applies.

EFFECT ON OTHER DOCUMENTS

- (1) This material supersedes IRM 4.19.17, dated 10/0113/2015.

AUDIENCE

This IRM is intended for the use of the SB/SE Campus Examination Operations.

John Caggiano,, Director,
Examination, Field & Campus Policy

4.19.17

Non-Filer Program

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4.19.17.1
(01-05-2010)
Non-Filer Program

- (1) The Non-Filer program, also known as SFR (Substitute for Return), and its automated version, Automated Substitute For Return (ASFR) were developed to contact taxpayers who have not filed tax returns voluntarily and for whom income information is available to substantiate a significant income tax liability.
- (2) Internal Revenue Code Section (IRC) 6212 authorizes the Service to send a notice of deficiency when a taxpayer appears to have a filing requirement but does not comply by voluntarily filing a tax return.

4.19.17.1.1
(01-05-2010)
**IRC Section 6020(b)
Certification**

- (1) The Service has the authority to prepare returns for any person who fails to submit a return required by Internal Revenue law or regulation at the time prescribed, or makes (willfully or otherwise), a false, or fraudulent return. The return is prepared from the personal knowledge of the Service's employee or from information which can be obtained through testimony or otherwise.
- (2) IRC § 6020(b) provides that the return is prima facie good and sufficient for all legal purposes, however despite this language, for most purposes of the IRC, the section 6020(b) return is not treated as a return filed by the taxpayer. For example be aware of the following:
 - a. The amount shown as tax on an IRC § 6020(b) return must be assessed under the deficiency procedures.
 - b. An IRC § 6020(b) return does not start the statute of limitations on assessment.
 - c. An IRC § 6020(b) return does not stop the Failure to File (FTF) Penalty.
 - d. An IRC § 6020(b) return prepared using the Married Filing Separate (MFS) filing status will not prevent taxpayers from electing a Joint filing status under IRC § 6013(b).
- (3) IRC § 6020(b) pertains to individual income tax returns. Such returns may be automatically generated by the Campus or manually prepared with reports of proposed tax adjustments.
- (4) When the taxpayer has not filed an individual income tax return, the Service needs to create a valid IRC § 6020(b) return to apply the Failure to Pay (FTP) Penalty.
- (5) The Tax Court does not consider a mere assessment of tax or FTP penalty to constitute a "return" under the provisions of IRC § 6651(a) (2) and will not sustain the penalty. Therefore, to sustain a FTP penalty on a taxpayer who has not filed a return, the Service must, IN ALL CASES, properly process an IRC § 6020(b) return according to the following Form 13496 Certification procedures or have the taxpayer sign an appropriate return .

4.19.17.1.2
(01-05-2010)
**Form 13496 Certification
Procedures**

- (1) There are two different processes for certifying a valid IMF IRC § 6020(b) return. The first is the Report Generation Software (RGS)/Automated Correspondence Exam (ACE) procedure, the other is Form 13496, IRC Section 6020(b) Certification.
- (2) **Electronic Form 13496** - The RGS/ACE IRC § 6020(b) Certification and attached documents are generated systemically. Under Exam RGS/ACE procedures, the data that constitutes a valid return under IRC § 6020(b) includes computation of the taxpayer's tax liability for the tax period in question and a completed Electronic Certification form with the electronic signature of the delegated IRS employee.

- (3) **Paper Form 13496 Procedures** - Form 13496 **MUST** be completed with a live signature if not generated systemically through RGS/ACE and **MUST** be dated on or after the date the 30-day letter (or revised 30-day letter) is signed and dated such that the date of the certification is identical to, or later than, the 30-day letter. The completed Form 13496 **MUST**:
- Identify the taxpayer by name and taxpayer identification number.
 - Contain sufficient information from which to compute the taxpayer's tax liability, Form 4549, Income Tax Examination Changes (or the equivalent such as Form 4549-A) and Form 886-A, Explanation of Items or the equivalent.
 - Purports to be a valid IRC § 6020(b) return.
 - Be properly signed and dated.
- (4) Form 13496 may not be prepared or dated after the date of the 90-day letter.
- (5) Whenever the examiner revises a report of proposed adjustments that increases the total tax liability of the taxpayer (without regard to whether or not the revised report is reissued to the taxpayer), a re-certification is required on another Form 13496 dated on (or after) the same day as the revised report.
- (6) When the report of proposed adjustments involves more than one tax year, create a separate Form 13496 for each year and attach each one to a photocopy of the report for each year.

Note: Form 13496 is an internal use only form and should not be sent to the taxpayer(s).

4.19.17.2
(01-05-2010)
Non-Filer Strategy

- (1) The National Non-Filer Strategy is directly aligned with the Service's effort to identify non-compliant taxpayers and design methods to encourage their compliance.
- (2) The Campus Examination Operations participate in the Non-Filer Strategy either:
- Directly under the guidelines in the IRM or
 - By providing support for Area Offices (AO) in their Non-Filer Assistance Program efforts.

4.19.17.2.1
(10-01-2015)
Non-Filer Inventory & Responsibility

- (1) Headquarters Examination establishes the priority of cases to be selected based on the availability of cases identified through the Collection Inventory and other Compliance Service initiatives for investigation by Examination.
- (2) Headquarters Examination Workload Selection performs periodic reviews of inventory selected, addresses inventory selection concerns and improves case selection by modifying selection criteria or suggests new initiatives.

4.19.17.3
(01-05-2010)
Non-Filer Processing

- (1) The examination begins when a compliance check reveals filing delinquencies with potential for tax assessment.
- (2) In most cases the Non-filer case is worked through ACE processing and will move systemically through the Correspondence Exam process without Correspondence Examination Technician intervention unless a return or reply is received from the taxpayer.

- (3) There will be instances when a Non-filer case rejects from ACE processing. If these cases cannot be corrected and re-introduced into batch, then a manual report must be prepared.

4.19.17.3.1
(10-06-2016)
Manual Reports

- (1) See IRM 4.19.13.4, *Report Generation Software (RGS) System*, for guidance for creating the examination report, including categorization of issues.
- (2) Generally all income from transcripts will be included on the report. Reported cost basis will be considered when determining gains on securities.

4.19.17.3.2
(01-05-2010)
**Audit Information
Management System
(AIMS) Controls**

- (1) Accounts selected for the Exam Non-filer program will be established on AIMS for each tax year as follows:
 - a. Master File Tax (MFT) 30
 - b. Transaction Code (TC) 424
 - c. Status Code 08
 - d. Source Code, see Non-Filer Source & Project Codes discussed later.
 - e. Project Code (PC), see Non-Filer Source & Project Codes discussed later.
 - f. Employee Group Code (EGC) 5XXX
 - g. Primary Business Code (PBC) 2XXX
 - h. Push Code (PC) 036
 - i. Activity Code based on taxpayer Total Positive Income (TPI)
- (2) The filing status will be Single or MFS

4.19.17.3.3
(10-01-2015)
Non-Filer Letters

- (1) The following letters are used most often in the Non-filer Program and have the same suspense time frames as other Correspondence Exam letters, i.e. 45 days for most letters except Statutory Notice Of Deficiency (SNOD), which is suspended for 105 days, or 165 days for a foreign address. A few letters, such as Disallowance letters, will not be suspended.
 - a. Letter 105-C, *Claim Disallowed* – Barred Refund
 - b. Letter 106-C, *Claim Partially Disallowed*
 - c. Letter 143-C, **Signature Missing (IMF/BMF)**
 - d. Letter 474-C, **Math Error Explained (IMF)**
 - e. Letter 692-C, **Revised Report/Additional Information**– Response to the taxpayer before SNOD
 - f. Letter 555, **Notification of Findings Based on Taxpayer's Recent Data Re Tax Liability** – Response to the taxpayer after SNOD.
 - g. Letter 1862, **Initial Contact Letter SFR Program**. This is considered a combo letter as the Form 4549 Examination Report will also be sent as part of the initial contact.
 - h. Letter 3219, **Statutory Notice of Deficiency** (SNOD)
 - i. Letter 4391, **Non-Examined Non-Filer** closure.
 - j. Letter 4392, **Combat Zone. Examination Closed**

4.19.17.3.4
(10-01-2015)
**Non-Filer Source &
Project Codes**

- (1) Source Code 24, Substitute for Return, and 25, Non-filer Strategic Initiative-High Income Non-filer are used for Non-filer program work. **Do not update from Source Code 25 to another Source Code or to Source Code 25 from another Source Code.**
- (2) Source Code 24 with Project Code 0277 will be used for initiating additional Non-filer cases identified during the course of working other program work upon acceptance by Classification.

- (3) Project Codes 0277, Non-filers, and 0422, State RAR Initiative, are commonly used for identifying projects worked within the Non-filer program.
- (4) Refund Hold cases will be placed in Project Code Project Code 0277 with Tracking Code 0911 in SBSE. Project Code 0655 was previously used in W&I.
- (5) The Source and Project code will remain the same on Non-filer cases when additional issues such as large, unusual, or questionable (LUQ), are selected based on the delinquent return for program tracking purposes.

4.19.17.3.5
(01-05-2010)
**Non-Filer Technique
Codes**

- (1) Technique codes can be found in IRM 4.4.12.5.39.4, *Campus Exam (EGC 5XXX)*. The following Technique Codes (TC) will be used when closing Non-Filer cases:
 - a. A "2" = Correspondence Received. For tracking purposes, we will apply TC 2 whenever correspondence is received so we can capture closure information where taxpayers have responded.
Valid with DC 04, 08, 09, and 10.
 - b. A "6" = No Response, Unclaimed, and Refused.
Valid with DC 01 and 10.
 - c. A "7" = Undelivered Mail.
Valid with DC 13.

4.19.17.3.6
(10-01-2015)
**Non-Filer Disposal
Codes**

- (1) See IRM 4.19.17.6, *Non-Filer Closures*, for commonly used Disposal Codes (DCs).

4.19.17.3.7
(10-01-2015)
Workpapers

- (1) Workpaper documentation is extremely important as it leaves an audit trail of the actions taken by the Correspondence Examination Technician. Refer to IRM 4.19.13.5 *Work papers for All Cases*, for guidance. Common items that must be documented on the Non-filer workpapers are:
 - a. Return received date.
 - b. Research performed to validate return, such as spouse and dependent TINs.
 - c. Income verification.
 - d. Referrals for LUQ, Frivolous, and fraudulent issues. Documentation should include decision(s) from the referral.
 - e. Refund Statute Expiration Date (RSED) determination on credits, and, when applicable, credits being moved to excess collection.

- (2) Below are examples of appropriate workpaper documentation:

Example 1: (DATE of action) (TE Initials) Received filing status 2 signed return (IRS received date), Researched indicates that spouse has not filed and dependents are not claimed on another return. Taxpayer has U/R NEC of \$ amount. Taxpayer also has LUQ contributions and EBE. Update entity for Joint filing. Partial per return. Issue Letter 692. RSED expired; hold excess credits until final closing.

Example 2: (DATE of action) (TE Initials) Received filing status 2 signed return (IRS received date), Researched indicates that spouse has not filed and dependents are not claimed on another return. All income reported. Taxpayer has LUQ

Schedule C AO issues, refer to Classification. Received back from Classification, return accepted as filed. Update entity for Joint filing. Close case DCXX. RSED expired credits to Excess Collection.

Example 3: (DATE of action) (TE Initials) Received filing status 2 signed return (IRS received date), Research indicates that spouse has not filed and dependents are not claimed on another return. All income reported. Schedule C for EITC purposes refer to Classification. Received back from Classification, accept as filed, and close using appropriate DC.

4.19.17.3.8
(01-05-2010)
Partial Assessments

- (1) Use partial assessment procedures to assess the secured delinquent return if a SFR has posted and the examination is continuing or the taxpayer is appealing the reasonable cause determination.
- (2) Ensure the return has been validated, prior to making a partial assessment per the return.
- (3) **DO NOT** resolve credit balances on **partial** assessments until final case closure.
- (4) Update filing status and name line, if applicable, and Assessment Statute Expiration Date (ASED) as appropriate.
- (5) Do not update the activity code until after the examination is completed.

4.19.17.3.8.1
(10-01-2015)
Contacts After Partial Assessments

- (1) Follow procedures in IRM 4.19.13, *General Case Development and Resolution*, and IRM 4.19.15, *Discretionary Programs*, for subsequent contacts with the taxpayer after a partial assessment.
- (2) If No Reply after SNOD has already been issued and the taxpayer's filing status is Single, Head of Household, or MFS and the increase in tax does not meet new deficiency guidelines, allow the SNOD to default on Unagreed and/or No Reply cases before making the assessment per the corrected report.
- (3) If the Non-Filer SNOD has already been issued and the taxpayer's filing status per the secured return is Joint, a new SNOD must be issued in the Joint name to allow the spouse the same deficiency rights the Non-Filer taxpayer received prior to making the assessment per the corrected report. It is not necessary to wait until the Non-Filer SNOD has expired before issuing a Joint SNOD or to rescind the previous Non-Filer SNOD.

4.19.17.3.9
(10-06-2016)
Reviews

- (1) Several reviews are mandatory during Non-Filer case processing:
 - a. Deficiencies of \$500,000
 - b. ACE Manual Rejects
 - c. Closed Cases over \$50,000
 - d. Statutory Notices of Deficiency over \$100,000

- 4.19.17.3.9.1
(01-05-2010)
Deficiencies of \$500,000 Prior to Initial Contact Letter (ICL)
- (1) Prior to issuing the initial contact letter, Non-filer cases with deficiencies of \$500,000 or more will be rejected from ACE processing for review by Tax Compliance Officers or Revenue Agents in Classification to validate income sources are accurate.
- If research indicates income belongs to the taxpayer, then place the case back into ACE for ICL.
 - If research indicates income previously reported on another return, close the case DC 37.
 - If research indicates that the income does not belong to the taxpayer, close the case DC 39.
- 4.19.17.3.9.2
(10-01-2015)
ACE Manual Rejects
- (1) Cases rejected from ACE for “manual” reports must be reviewed by lead or manager.
- 4.19.17.3.9.3
(10-01-2015)
Closed Cases with Deficiencies of More than \$50,000
- (1) Follow IRM 4.19.18.6.2, *Mandatory Review*, for review of cases with deficiencies of more than \$50,000.
- 4.19.17.3.9.4
(10-06-2016)
Statutory Notice of Deficiency over \$100,000
- (1) See IRM 4.19.13.12, *Statutory Notices*, for review criteria of notices.
- 4.19.17.3.10
(10-01-2015)
Large Dollar Case assessments over \$100 Million
- (1) Due to system restraints, the maximum amount of a single assessment is \$99,999,999.99. Therefore, if the assessment is \$100 Million dollars or more it needs to be input with two separate transactions, one for \$99,999,999.99 and a separate one for the difference between the total assessment and \$99,999,999.99. Whenever the assessment is over \$100 million the case must:
- have managerial approval, and
 - be manually monitored by both the manager and the employee who inputs the assessment to ensure both assessments post correctly.
- 4.19.17.3.11
(10-01-2015)
Statute of Limitation
- (1) All returns must be reviewed to ensure protection of all statutes of limitation. See IRM 25.6, *Statute of Limitations*, for specific instructions on statute protection. See IRM 25.6.1.6.15, *When a Document is Treated as Filed under the IRC*, to determine the return received date, and to determine the date the return is considered filed under the IRC.
- 4.19.17.3.11.1
(10-01-2015)
Assessment Statute Expiration Date (ASED)
- (1) The general rule is that an assessment of tax must be made within three years from the date a return is filed or the due date of the return whichever is later. Generally, this means that tax must be posted or journalized to Master File within 3 years from the received date of the return. Additionally, the Service has three years to assess additional tax due. See IRM 25.6.1, *Statute of Limitations*, for exceptions to assessing additional tax within three years from the received date or due date of a return whichever is later and for a more thorough explanation of the ASED, and the conditions that extend the ASED.

- (2) Non-Filer/SFR default assessments and the SFR **dummy** TC 150 do not start the running of the ASED. Therefore, the ASED must be set when processing delinquent returns.
- (3) Additional review is necessary when a joint return is filed, and at least one spouse previously filed a return. See IRM 25.6.1.9.4.4, *Joint Return After Separate Return*, for limitations to processing separate to joint returns.
- (4) Non-Filer delinquent returns that are tax increases must be posted to Master File within three years of the received date. If a return is received with an ASED within 90 days, see IRM 25.6.1.9.9.2, *After Hours and Imminent Assessments*.
- (5) When processing delinquent returns, determine the ASED. If the ASED is not posted on IDRS or the ASED is not correct on IDRS, input the ASED on IDRS. Generally, the ASED is set three years from the received date of the return. See IRM 25.6.1, *Statute of Limitations*, to determine the date the return is considered filed under IRC when the return received is not valid.
- (6) To set the ASED on IDRS, input a TC 971, Action Code (AC) 282 using CC REQ77. The required fields for input are:
 - TC 971
 - The ASED (correct return received date plus 3 years) in the Transaction Date Field.
- (7) To correct an ASED posted to IDRS, input a TC 560 using CC REQ77. The required fields for input are:
 - TC 560
 - The ASED (the correct received date plus 3 years) in the Extension Date Field.

Note: When TC 976 is posted, the ASED is systemically set on IDRS. It is not necessary to input TC 560 in these cases unless the generated ASED is incorrect on IDRS.

4.19.17.3.11.2
(10-01-2015)

**Refund Statute
Expiration Date (RSED)**

- (1) Refer to IRM 5.18.1.8.2.3.15.1, *Refund Statute Expiration Date (RSED)* for guidance.
- (2) ASFR returns are the same as delinquent returns received as a result of a Non-Filer examination.

4.19.17.3.12
(10-01-2015)

Undeliverable Mail

- (1) Follow IRM 4.19.13.13, *Undeliverable Mail*.

4.19.17.4
(01-05-2010)

Non-Filer Penalties

- (1) A SFR IRC §6020(b) return must be prepared before penalties can be considered.
- (2) Penalties to be considered if no return is filed and the case is closed through deficiency procedures are:
 - a. Failure to File Penalty (FTF) IRC 6651(a)(1),
 - b. Failure to Pay Penalty (FTP) IRC § 6651(a)(2), and
 - c. Estimated Tax Penalty IRC § 6654 or IRC § 6655.

- (3) Penalties to be considered on secured delinquent returns and IRC § 6020(a) returns are:
 - a. Failure to File Penalty IRC § 6651(a)(1).
 - b. Failure to Pay Penalty IRC § 6651(a)(2).
 - c. Estimated Tax Penalty IRC § 6654 or IRC § 6655.
 - d. Fraudulent Failure to File IRC § 6651(f). The burden of proof is on the Government to establish fraud. Refer to IRM 4.19.10.4, **Fraud Referrals**, for examples of Fraud indicators and on how to refer returns to the Campus/Exam Fraud Coordinator.
 - e. Accuracy Penalty IRC § 6662(a).

4.19.17.4.1
(01-05-2010)
Request for Penalty Relief

- (1) The initial request for relief may occur either during or after an examination.
- (2) When the tax liability has been resolved, the FTF and FTP penalties are applied unless the taxpayer has provided an explanation and documentation for Reasonable Cause (RC).
- (3) Refer to IRM 20.1.1.3, *Criteria for Relief from Penalties*, as a resource guide for the non-assertion of penalties due to RC.
- (4) *If the taxpayer is entitled to penalty relief*, document work papers that RC was considered, and how RC was established.
- (5) *If the taxpayer is not entitled to penalty relief*, document work papers that RC was considered and why RC does not apply and what penalties are to be assessed when the case is forwarded to AIMS as both partial and final assessments. Also include the date to start the FTP penalty if the FTP penalty applies.

Note: Compute the FTP penalty on both delinquent returns and IRC Sec. 6020(a) returns from the due date of the return.

4.19.17.5
(10-01-2015)
Taxpayer Replies

- (1) Taxpayer replies include telephone inquiries, filed returns, and written correspondence. The reply may be in response to a 30-Day Letter or SNOD. Follow IRM 4.19.13.9, **Taxpayer Replies**, when processing taxpayer replies.
- (2) Update correspondence to the appropriate reply status per IRM 4.19.13.10, *Monitoring Overage Replies*.

Note: Even though a Non-filer return does not meet Policy Statement P-21-3 criteria for Interim Letter purposes, it is still considered correspondence and must be updated to Status 54, with the earliest IRS received date upon receipt of the return in Exam, unless the case is in Status 24. When in status 24, update the correspondence date to reflect the earliest IRS received date.

- (3) Refer taxpayers to the Taxpayer Advocate Service (TAS) when the contact meets TAS criteria, see IRM 13.1.7.2, *TAS Case Criteria*, **and** you can't resolve the taxpayer's issue the same day, refer to IRM 13.1.7.4, *Same-Day*

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Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order), and forward it to TAS in accordance with your local procedures.

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4.19.17.5.1
(10-01-2015)

**Correspondence and
Telephone Inquiries**

- (1) When responding to telephone inquiries, disclose no tax return information until reasonably certain the person making the inquiry is the taxpayer or his/her authorized representative. For complete disclosure information, see IRM 21.1.3.2, *General Disclosure Guidelines*.
- (2) During the telephone contact: and telephone inquiries on Non-filer cases without a return will often ask general questions such as how to secure prior year forms, requests for extension, or explain why the taxpayer is not required to file. The table below provides a list of the most common taxpayer replies and guidelines on how to respond.

IF	THEN
Taxpayer needs more time to file a return	<ul style="list-style-type: none"> Request for additional time to file prior to SNOD will be considered on a case by case basis dependent on the taxpayers need for the additional time. Extensions past 30 days should not be given. If SNOD has been issued, DO NOT grant an extension. Explain the time remaining on the SNOD and that the account will be assessed per the Exam report if not received within this time. Also explain returns can be considered as reconsideration but, it is to the taxpayer's benefit to file as soon as possible. See Exception below. <p>Exception: Use professional judgment in holding a case when SNOD has expired. If the taxpayer indicates the return is in the mail or will be faxed/sent within a week to ten days, it makes better business sense to hold the return a few additional days than to make the default assessment and then have to process the return as an audit reconsideration.</p>
Taxpayer filed Jointly with spouse	<ul style="list-style-type: none"> Research IDRS for fact of filing. If Joint return was filed, close case per Non Examined procedures. If return was not filed, request a signed copy be faxed or mailed to the appropriate address.
Taxpayer states they are not required to file	<ul style="list-style-type: none"> Verify through research and/or additional contact with the taxpayer reason(s) why they are not required to file. Refer to Non Examined Closing procedures.
Taxpayer is in a Combat Zone	<ul style="list-style-type: none"> If taxpayer or "related person" responds that the taxpayer is in a Combat Zone follow Combat zone procedures.

IF	THEN
Taxpayer is in a Disaster Zone	<ul style="list-style-type: none"> Follow IRM 25.16, <i>Disaster Assistance and Emergency Relief</i>, procedures in responding to taxpayers.
Taxpayer states a refusal to file	<ul style="list-style-type: none"> Refer to IRM 5.18.1.8.2.3.13.10, <i>Frivolous Filers</i>, for reasons taxpayers refuse to file.
Taxpayer requests abatement of penalty and/or interest	<ul style="list-style-type: none"> Follow IRM 20.1, <i>Penalty Handbook</i>, and IRM 20.2, <i>Interest</i>, in considering requests for abatement of penalties and/or interest.
Taxpayer requests copy of income information	<ul style="list-style-type: none"> Send IRP information. Only include spousal IRP information if proper authority has been granted by spouse.
Taxpayer wants to know how to get blank prior year forms and tax tables	<ul style="list-style-type: none"> Refer taxpayer to IRS website http://www.irs.gov/formspubs /.
Taxpayer states that he/she did not receive income reported on the IRP payer document	<ul style="list-style-type: none"> Attempt to verify IRP information through third party contacts. If the third party cannot be located, has ceased to operate, has not retained records from which verification can be derived, or other circumstances suggest that the IRP payer information is not reliable or accurate, remove the income from the Non-filer deficiency proposal report. If removing income from the Non-filer deficiency proposal report reduces the total income below the income level for filing a tax return, close the case DC 39. . If the payer information can be verified, notify taxpayer and proceed with Non-filer examination.
If the taxpayer states they are a victim of Identity Theft	<ul style="list-style-type: none"> Refer to IRM 4.19.17.7.8, <i>Identity Theft</i>.

- (3) Document workpapers for telephone calls and correspondence to/from the taxpayer with actions taken and decisions made.

4.19.17.5.2
(12-16-2010)
Return Received

- (1) Delinquent returns can be received directly in the Operation from the taxpayer, posted to Master File as a duplicate return (TC 976/977), routed from Accounts Management (AM), or from the Taxpayer Advocate Service via Operations Assistance Request (OAR) after TC 976/977 post.

Note: If the return has been adjusted by AM, per IRM 21.5.3.4.10(2), continue to follow all necessary actions as listed below before closing the examination. If all income is reported, there is no Large, Unusual or Questionable (LUQ) issues, and the return does not meet specialty criteria follow normal closing procedures and address the adjustment by following IRM 4.10.15.2.9.5, *Adjustment Screen Amounts*.

(2) Professional judgment should be used in the review, acceptance, and selection

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(3) A return is not considered filed for interest computation purposes until the return is received in processable form.

(4) A return is in processable form if it:

- a. Is filed on a permitted form;
- b. Contains the taxpayer's name, address, and identifying number;
- c. Has the required signature(s); and
- d. Contains sufficient information (whether on the return or on required attachments) to permit the mathematical verification of the tax liability shown on the return.

(5) If the requested information is received after the return due date, the return is processed with a "Return Processable Date (RPD)" reflecting the date the information was received. This date is also known as the "Correspondence Received Date (CRD)." The CRD is used to calculate interest the IRS owes on refunds.

4.19.17.5.2.1
(10-01-2015)

**NFR (Non-Filer Reject)
Return Received Prior to
Non-Filer Initial Contact
Letter (ICL)**

(1) A NFR is a return that is received in the Service after the posting of the TC 150 Dummy/SFR but prior to the issuance of the Initial Contact Letter (ICL) and can be identified by:

- a. AIMS Status 08 or less
- b. TC150 SFR
- c. May or may not have a TC 976. If the return was sent directly to Exam, a TC 976 will not be on the account.

(2) Exam will either receive the return directly or a listing from HQ of systemically identified NFR cases in EGC 5065. The NFR listing are sent from Headquarter to each campus monthly. NFR returns will be worked in the Individual Master File (IMF) AM site of the posting of the TC 976, or if no TC 976 posting, the IMF AM site where the taxpayer would have filed had they filed a timely return.

- a. If the return is received in Exam and there is no TC 976 posted, write "NFR" across the top of the return and forward to the AM site where the taxpayer would have filed had they filed a timely return.
- b. If closing per the listing received from Headquarters, **do not order the returns and close the cases immediately.**

Note: Review the return if already in your possession and TC 976 posting to determine the Assessment Statute Expiration Date (ASED). If the ASED is within 180 days, update the ASED, ensure sufficient time for getting the return assessed, and expedite routing of the return to ensure assessment will be made within the ASED period.

- (3) AM is responsible for adjusting the accounts and responding to any TAS inquiries on NFR cases. If an OAR (Operational Assistance Request) is received in Exam, return it to TAS stating the case is a NFR worked by AM. Refer TAS to IRM 21.5.3.4.10.1, *Non-Filer Reject Returns*.

- (4) Close NFR AIMS control base:

- a. If -A freeze is on account, it must be released prior to closing the AIMS control.
- b. Close the AIMS control Non-Examined.
- c. Once the AIMS control has been closed, input TC 971 (using REQ 77) with an action code of 010. Monitor the case to ensure the -A freeze posts.

Note: The -A freeze must be on the module after AIMS control is closed so AM is aware that a return has been received and needs to be processed.

4.19.17.5.2.2 (10-01-2015)

Return Posted as TC 976/977 or Received in Operation After Initial Contact Letter

- (1) An -A Freeze should be present on accounts with a TC 976/977 and must be resolved before a case can be closed off AIMS.
- (2) **If case is in Status 08 or below**, follow IRM 4.19.17.5.2.1, *NFR (Non-Filer Reject) Return Received Prior to Non-Filer Initial Contact Letter (ICL)*, above.
- (3) With the exception of cases is status 08 and below, cases in which a return is received must be updated to reply status upon receipt in the Operation.
- (4) SSIVL listings should be used to identify all open Non-Filer accounts that have a TC 976/977 posted. Do not allow the case to sit in an open AIMS status until it moves to the next status and rejects before trying to secure the TC 976/977 document.
- (5) Every effort should be made to secure the TC 976/977 document as soon as possible:
 - a. Most TC 976/977 documents have been scanned into the Correspondence Imaging System (CIS) and should have an open IDRS control by AM. If possible, secure a copy from CIS for expedite processing of the taxpayer's return.

Note: Returns printed from CIS may not always reflect the actual IRS received date and may have a received date that is later than the TC 976 posting date. If this is the case, use the TC 976 date as the earliest IRS received date in updating AIMS Status and ASERD.
 - b. If unable to secure the return from CIS, and return information is available on Tax Return Data Base (TRDB), print a copy of the TRDB return information as proof of filing a signed return.
 - c. If the TC 976/977 document is not available on CIS or TRDB take the following steps:
 1. Make one attempt to ESTAB for the TC 976/977. If the return has not been received within 4 weeks contact the taxpayer for a signed copy.
 2. Inform the taxpayer by telephone or correspondence that the return they previously submitted is not readily available and that we need another "signed" copy. The copy of the return can be faxed or mailed. Suspend the case for 45 days. If the taxpayer provides a signed copy of the

return, update the ASSED using the posted TC 976/977 date. If the taxpayer does not provide a signed copy of the return, proceed with the Non-Filer case and default if no reply received after SNOD period expires.

4.19.17.5.2.3
(10-01-2015)
Return Validation

- (1) Before the taxpayer's account can be adjusted all forms, schedules, and at-
- (2) Review the entire return for missing signature(s), schedules, math errors, etc., before contacting the taxpayer.
- (3) At least one phone attempt should be made and documented in work papers before corresponding with the taxpayer.

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4.19.17.5.2.3.1
(10-01-2015)
Unsigned Return

- (1) A taxpayer is not considered to have filed a tax return which begins the period of limitations on assessment (ASED) until the taxpayer files a valid tax return. An unsigned return is not considered a valid tax return.
- (2) Return information on TRDB is considered a signed return. A faxed signature is also acceptable.
- (3) If signature is missing, try to contact the taxpayer by telephone to obtain a signed return. If contact by telephone is not successful, send Letter 143C, Request for Signature, and suspend the case.
- (4) If no reply is received after the suspense period, send the return back to the taxpayer stating the return is not acceptable due to the missing signature and that the substitute for return process will continue. Make a copy of page 1 and 2 of the taxpayer's return before returning and associate with the Non-Filer case in Files. Proceed with the Non-filer case putting the case back into ACE.

4.19.17.5.2.3.2
(10-01-2015)
**Entity, Filing Status, and
Dependent Verification**

- (1) The following Entity information on the taxpayer's return must be verified:
 - a. Name of the primary taxpayer is for the correct Non-filer tax period and matches the SSN.
 - b. Spouse's name matches the SSN shown on the return and the spouse has not already filed.
 - c. Dependent(s) name(s) matches SSN shown on the return and dependent(s) is not being claimed on someone else's return.

Note: If the dependent's SSN is not valid, then the following credits can not be allowed: Dependent exemptions, Child Tax Credit, Child Care Credit, and the Earned Income Credit.

 - d. Verify the taxpayer's correct address. If the address is different on the secured return from Master File verify the correct address with the taxpayer.
 - e. Update Entity information as appropriate.

4.19.17.5.2.3.3
(10-01-2015)
Math Errors

- (1) Returns must be reviewed for math errors. See IRM 5.18.1.8.2.3.19, for guidance with the following additions/exceptions:
 - a. Document workpapers with math error(s) identified and actions taken to resolve them.
 - b. If the return contains other issues that warrant continuance of the examination process, such as un/under reported income, or LUQ, partial per the figures on the delinquent return, beginning with the per return amounts. Include math error adjustment(s) with other examination issues on the examination report with an explanation on Form 886. Follow guidance in IRM 4.19.17.3.7, *Partial Assessments*, to continue the examination process.

4.19.17.5.2.4
(10-01-2015)
Under/Unreported (UR) Income

- (1) Verify all income is reported to the IRS is reported on the return. See IRM 5.18.1.8.2.3.20, *Under/unreported Income*, for guidance with the following exceptions:
 - a. IRM 5.18.1.8.2.3.20 (1) Use IRPTR to verify all taxpayer and, when applicable, spousal income is reported.
 - b. IRM 5.18.1.8.2.3.20 (2) d. Follow, follow guidance in IRM 4.19.17.3.7, *Partial Assessments*, to continue the examination process. If the return reflects a Joint filing status the exam reports (partial, corrected, and if applicable, SNOD) **MUST** reflect both taxpayers names.
 - c. If a taxpayer has unreported tip income, ensure Form 4137 , *Social Security and Medicare Tax on Unreported Tip Income*, is present . Notate on Form 3198, Special Handling Notice for Examination Case Processing, Unreported Tip Income Case.

4.19.17.5.2.5
(10-01-2015)
LUQ (Large Unusual Questionable) Issues

- (1) Review returns for any LUQ issues and/or duplicate deduction/expenses.

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4.19.17.5.2.5.1
(10-01-2015)
Worked In Exam

- (1) Returns with LUQ issues that Correspondence Exam has been trained to work do not require referral to Classification or managerial approval. Correspondence Exam should only work issues on secured delinquent returns that are consistent with the work selected.

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- (2) If LUQ issues will be audited by Correspondence Exam, partial per the return before contacting the taxpayer. Follow guidance in IRM 4.19.17.3.7, *Partial Assessments*, for continuing the examination.

4.19.17.5.2.5.2

(10-01-2015)

Referrals to Exam Classification

- Note:** Returns should be screened for UR income prior to referring to Classification. If income reflected on IRPTR is not reported on the delinquent return attach a copy of the workpaper documenting the UR income so Classification does not accept a return which may not have any classification selection criteria but still has UR income. The UR income issue would still be questioned.

4.19.17.5.2.6

(10-06-2016)

Classification of Non-Filer Referrals

- (1) All delinquent returns referred to Classification from Corr Exam, will be classified for potential examination of UR income and LUQ issues.
- (2) Classification will classify the delinquent secured return as shown in the Determination Table below and return to the correspondence examiner upon classification.

Return Accepted	Stamp the return Accepted and route to Corr Exam.
Selected for AO (Area Office) issues	Classify the return for issues to be audited by AO Exam.

4.19.17.6

(01-05-2010)

Non-Filer Closures

- (1) This section provides instructions for closing Non-Filer cases established on AIMS in any AIMS Status prior to or after contact with the taxpayer.

4.19.17.6.1

(10-01-2015)

Non-Filer Closures-Non Examined

- (1) Form 5351, *Examination Non-Examined Closings*, is used as an input document to close non-examined cases off of AIMS.
- (2) Address and resolve account credits and payments as applicable. If RSED (Refund Statute Expiration Date) has expired, see IRM 25.6.1.7, *Credits and Payments*, for more information.

4.19.17.6.1.1

(10-01-2015)

Taxpayer Previously Filed or Filed With Spouse DC 37 or DC 38

- (1) Telephone call or correspondence from taxpayer states they previously filed a return and research verifies their claim:
- Close the case DC 37.
 - Send Letter 4391, *Non Examined Non-Filer*.
- (2) Telephone call or correspondence from taxpayer states they filed as secondary on a joint return with spouse and research verifies their claim:
- Close the case DC 38.
 - Send Letter 4391, *Non Examined Non-Filer*.

- (3) Non Filer Rejects (NFR)-Returns that received in the Service after the posting of the TC 150 Dummy/SFR but prior to the issuance of the Initial Contact Letter (ICL), (Status 08 or below).

a. Close the case DC 37.

Note: -A freeze must be removed prior to AIMS closure but must be re-input after AIMS closure for Accounts Management tracking purposes.

- b. Letter not applicable since Non-filer contact was not made.
c. Closing letter is not needed since Non-Filer contact was not made.

4.19.17.6.1.2
(07-13-2012)
**Taxpayer Verifies
Income Does Not Belong
to Them, DC 39**

- (1) If after contacting the taxpayer correspondence is received and the taxpayer provides verification that the income does not belong to them.
- a. Close the case DC 39.
b. Send Letter 4391, *Non Examined Non-Filer*.
- (2) If the taxpayer claims the income is not theirs and is a result of *identity theft*, refer to IRM 4.19.17.7.8 , *Identity Theft*.

4.19.17.6.1.3
(10-01-2015)
**Taxpayer Deceased with
No Estate or Estate
Closed, DC 39**

- a. Close the case DC 39.
b. Send Letter 4391, *Non Examined Non-Filer*.

4.19.17.6.1.4
(01-05-2010)
**Taxpayer Due Refund,
DC 41**

- (1) If prior to or after contacting the taxpayer correspondence is received or research shows the taxpayer is due a refund:
- a. Close the case DC 41.
b. Send Letter 2469C, *ASFR Possible Refund Letter*.

4.19.17.6.1.5
(10-01-2015)
**Combat Zone, DC 31 or
DC 32**

- a.
b. No closing letter is needed since Non-Filer contact was not made.

- a.
b. Send Letter 4392, *Combat Zone Examination Closed*.
- (4) See IRM 5.19.10.6.3, *Combat Zone Freeze Code*, in evaluating -C freeze accounts.

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4.19.17.6.2
(10-01-2015)
Closures – Examined

- (1) There are four types of closures after a return has been received. They are:
 - a. Agreed – Fully Accepted.
 - b. Unagreed.
 - c. Final – After a Partial Accepted.
- (2) Refer to IRM 4.19.17.3.4, *Non-Filer Technique Codes*, and include appropriate code upon case closure.

4.19.17.6.2.1
(01-05-2010)
Agreed – Fully Accepted

- (1) There are two types of fully accepted agreed closures. They are:
 - a. Signed Form 4549
 - b. Signed Return

4.19.17.6.2.1.1
(10-01-2015)
**Agreed-Signed Form
4549, DC 04 or 09**

- (1) Close the case DC 04 if the agreement was received before the SNOD was issued and DC 09 if it was received after the SNOD was issued.
 - a. Close the case DC 04 if the agreement is received before the SNOD is issued and DC 09 after SNOD issuance.
 - b. Update name, address, and filing status as appropriate.
 - c. Resolve any credit balances if RSED expired .
 - d. **Use Priority Code 9.** The 30-Day Interest Free period will not be allowed if there is a Push Code 036 on AMDISA and Priority Code 3 or 9 is used.
- (2) Update name, address, and filing status as appropriate.
- (3) Use Priority Code 9. The 30-Day interest free period will not be allowed if there is a Push Code 036 on AMDISA and Priority Code 3 or 9 is used.
- (4) Update the activity code after the examination is completed based on the new income figure. Refer to Document 6036, *Examination Division Reporting System Codes Booklet*, for applicable activity code.

4.19.17.6.2.1.2
(10-06-2016)
**Agreed-Signed Return,
DC 04 or 09**

- (1) If after verifying that the return is true and accurate and the return is accepted as filed, close the case DC 04 if the return was received before the SNOD was issued and DC 09 after the SNOD was issued. If the tax liability on the return is zero, enter \$1 in Item 35 of Form 5344 to prevent the case from rejecting at closing.
- (2) Update the activity code after the examination is completed based on the new income figure. Refer to Document 6036, *Examination Division Reporting System Codes Booklet*, for applicable activity code.
- (3) If the return is accepted as filed, it is not necessary to send the taxpayer a separate letter stating the return was accepted. The taxpayer will receive an IDRS notice of the adjustments made that will match the figures per the return.
- (4) Document workpapers with actions taken and decision made including appropriate penalties.
- (5) Refer to IRM 25.6, *Statute of Limitations*, to resolve credit balances when RSED has expired.
- (6) Refer to IRM 25.6.1, *Statute of Limitations*, ASSED procedures for additional information on determining the ASSED.

- (7) If multiple returns are received for the same taxpayer and one or more of the delinquent return(s) shows a refund that is not barred, and others show a balance due, the processing of the returns must be cycled. If cycling is necessary, adjust the balance due year(s) first and, after the adjustment has posted, adjust the refund year(s) so the overpayment will offset to the balance due years.
- (8) Update the Assessment Statute Expiration Date (ASED) as appropriate.
- (9) Use Priority Code 9. The 30-Day interest free period is only allowed for assessments made after the return has been filed/assessed and. will not be allowed if there is a Push Code 036 on AMDISA and Priority Code 3 or 9 is used.

4.19.17.6.2.2
(10-01-2015)
**Default - No Response,
Unagreed, or
Unclaimed/Refused Mail,
DC 10**

- (1) If the taxpayer did not respond to or indicated disagreement with the proposed or revised assessment **and the SNOD has expired**, close the case as **Default** DC 10. Follow IRM 4.19.13.11 , *No Response and Unagreed Cases*, procedures for other unagreed conditions.
- (2) If there is indication of the taxpayer refusing the mail and the SNOD period has expired, close the case "Default", DC 10.
- (3) Do not restrict penalties and interest and use the appropriate Priority Code.

4.19.17.6.2.3
(10-01-2015)
**Final Closing After a
Partial, DC 04, 09, 10, 13,
or 08**

- (1) After a partial assessment was made, follow the procedures below:

Taxpayer agrees	Close the case DC 04 if signed agreement was received before SNOD was issued. .Close the case DC 09 if signed agreed was received after SNOD was issued. Note: Do not use Priority Code 3 or 9. If Priority Code 3 and/or 9 are used, taxpayers will not be given the 30 Day Interest Free period.
No Response to SNOD and suspense period has ended.	Close the case DC10. See IRM 4.19.13.11, <i>No Response and Unagreed Cases</i> , for other unagreed conditions.
Undeliverable	Close the case DC 13.
No Change	AIMS will not allow us to use DC 02 after there has been a previous TC 300 assessment. Use DC 08.

- (2) Address and resolve account credits and payments as applicable. If RSED (Refund Statute Expiration Date) has expired, see IRM 25.6.1.7, *Credits and Payments*, for more information.
- (3) Update Activity Code based on the new income figure. as appropriate, see Document 6036, *Examination Division Reporting System Codes Booklet*, for applicable activity code.

- (4) Verify Assessment Statute Expiration Date (ASED) was updated per return filing.

4.19.17.7
(10-01-2015)
**Special Processing for
Non-Filer Cases**

- (1) There are several instances where special processing will take place. Procedures and/or references to other related IRM guidance is contained in this section.

4.19.17.7.1
(10-01-2015)
Refund Hold (RH) Cases

- (1) Refund Hold (RH) inventory occurs when the Service holds individual income tax refunds and credit elects when a current or prior year refund return is filed and the taxpayer's account has at least one unfiled tax return within the five years prior to the current tax year. The refund is used to offset any balance due on the delinquent return(s). If there is no balance due, or an amount remains after offsetting, the refund is released to the taxpayer. If after initial contact, the delinquent return(s) are not filed, a Statutory Notice of Deficiency may be issued. Once issued, the refund can be transferred to the tax year of the proposed deficiency(ies). It will remain there until a return is filed or the Service imposes the proposed assessment after the appropriate suspense period.
- (2) Refer to multifunctional IRM 25.12.1, *Processing Refund Hold Program Inventory*, for specific information.
- (3) Each functional area that is assigned a RH case is responsible for monitoring its cases and ensuring disposition of the case is expeditious and timely.

IRC Section 6611(e) provides that there is no interest if an overpayment is refunded within 45 days after the due date of the return, or in the case of a late filed return, within 45 days after the return is filed. If, however, the refund is not made within the 45 day period, interest must be paid from the date of overpayment. Thus, **it is imperative RH cases be processed expeditiously and monitored for the most expeditious resolution possible to prevent additional cost to the Service while processing these cases.**

4.19.17.7.1.1
(10-01-2015)
Refund Hold Inventory

- (1) RH account information is passed from Master File to IDRS for processing and analysis. A Control D report, LE62740Z, is created weekly to alert Examination Operations of the RH cases in their inventory.
- (2) SB/SE Headquarters will provide each SB/SE Examination Operation a filtered Control D report of RH cases at least twice a month.
- (3) See IRM 25.12.1.2, *How to Identify Delinquent Return Refund Hold*, for details on identifying refund holds. Tracking Code 0911 is used to track SBSE Refund Hold cases in Correspondence Exam
- (4) Each Examination Operation is responsible for weekly review of the report to identify cases assigned to their functional area and determining whether the refund should be released or applied to a proposed liability.
 - a. See IRM 25.12.1.1 (5), *Processing Refund Hold Program Inventory*, for conditions in which a refund will be released.
 - b. If after initial contact, the delinquent return(s) are not filed, a Statutory Notice of Deficiency may be issued. Once issued, the refund can be transferred to the tax year of the proposed deficiency(ies). It will remain there

until a return is filed or the Service imposes the proposed assessment after the appropriate suspense period. All efforts to expedite RH case processing should be made. However, if the assessment cannot be made prior to the systemic release, see note below, the refund must be transferred to the tax year of the proposed deficiency to avoid premature release. Extensions to extend the refund hold period should be very limited.

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4.19.17.7.1.2
(10-01-2015)
**Refund Hold
Coordinator**

- (1) Compliance Services Examination Operations must designate functional Refund Hold Coordinators (RHC). See IRM 25.12.1.4, *Refund Hold Coordinator Roles and Responsibilities*, for a complete list of responsibilities. Primary responsibilities are:
 - a. Communicate to Headquarters Policy/Program Analyst with the responsibility for the Refund Hold Program any systemic or technical problems or issues identified during case processing.
 - b. Review and take action on all cases listed on the LE62740 CSEO weekly listings and ensure timely movement of cases including timely release or transfer of refunds.
 - c. Contact the Office of Appeals or Area Counsel to determine the status and history of a RH case in Appeals or Litigation. In coordination with these offices, make a decision immediately whether to release the freeze.

4.19.17.7.2
(10-06-2016)
**F frivolous Returns and/or
Correspondence**

- (1) The Frivolous Return Program (FRP) teams in Ogden process frivolous filer correspondence and/or tax returns received from taxpayers in the Campuses.
- (2) The Non-filer audit and the assessment of the Section 6702, Frivolous Return Penalty, **are separate issues and can be performed independently and simultaneously.**
- (3) The Campuses are not to work any frivolous filer issues received from taxpayers. If your operation has an embedded FRP Coordinator, route it to the coordinator to determine if it needs to be sent to Ogden. If your operation does not have an embedded coordinator, this information **MUST** be forwarded to the Ogden FRP Team.
- (4) Tax Returns or Correspondence – Correspondence Examination Technician

See IRM 25.25.10 , *Frivolous Return Program*, to determine how to identify frivolous filer submissions. . Proceed with the correspondence examination as follows:

- a. Continue working the Non-filer issue and treat the return and/or correspondence as a disagreed response and proceed with the next stage of the correspondence audit.
- b. **DO NOT** respond to or address frivolous correspondence and/or tax returns.
- c. **DO NOT** send the Non-filer case to FRP in Ogden.
- d. Document work papers “FRP Correspondence and/or Return to FRP Ogden”.
- e. Ensure the tax return and/or correspondence includes the taxpayer’s name and SSN.

- f. Phone calls related to the frivolous filing of tax returns should be referred to Ogden.

(5) Tax Returns and Correspondence – Clerk

Any case notated with “FRP Correspondence and/or Return to FRP Ogden” should be handled as follows:

- a. Make a copy of the correspondence and/or tax return for the correspondence examination case file.
- b. Ensure the correspondence and/or return includes a name and SSN.
- c. Send the taxpayer’s original correspondence and/or tax return on Form 3210 to:

Internal Revenue Service Ogden
FRP Team Mailstop 4450
1973 N Rulon White Blvd
Ogden, Utah 84404

- d. Take action on the case file as notated by the examiner on the case workpapers.

4.19.17.7.3
(04-27-2011)
Fraud Referrals

- (1) Returns secured in the Non-filer Program may appear to have suspicious or questionable expenses/credits/deductions claimed. Refer to IRM 25.1.2.3, *Indicators of Fraud*, for examples of Fraud indicators and on how to refer to the Campus/Exam Fraud Coordinator.
- (2) Work papers must be documented before and after a return is referred to the Campus Fraud Coordinator for potential Fraud. Documentation should include actions taken and decisions made.

4.19.17.7.4
(01-05-2010)
Disaster/Emergency Relief

- (1) Procedures for responding to disasters or other significant emergencies can be found in IRM 25.16, *Disaster Assistance and Emergency Relief*.

4.19.17.7.5
(10-01-2015)
Freedom of Information Act (FOIA) Requests

- (1) Refer to IRM 5.18.1.8.2.3.10, *Freedom of Information Request*, for handling any response from the taxpayer requesting information and citing the FOIA or Privacy Act.

4.19.17.7.6
(01-05-2010)
Power of Attorney (POA)

- (1) Taxpayers file Form 2848 , *Power of Attorney and Declaration of Representative*, to notify the IRS of their authorized representative.
- (2) Refer to IRM 4.19.13.7, *Powers of Attorney*, and IRM 21.3.7, *IRM Processing Third Party Authorizations on the Centralized Authorization File*, for guidelines on processing Powers of Attorney and additional information.

4.19.17.7.7
(01-05-2010)
Bankruptcy

- (1) Refer to IRM 4.19.13.19 , *Bankruptcy*.

4.19.17.7.8
(07-13-2012)
Identity Theft

- (1) If the taxpayer states they are a victim of identity theft, or someone is using their SSN illegally, refer to IRM 4.19.13.25, *General Case Development and Resolution, Campus Exam Identity Theft*, for acceptable documentation and guidance.

4.19.17.8
(07-15-2010)
Puerto Rican Non-Filed Self-Employment Returns 1040PR/SS

- (1) U.S. citizens who are self-employed must pay Self-Employment Tax on net Self-Employment earnings of \$400 or more. This rule applies even when the earnings are excludable from gross income (or whether a U.S. income tax return must otherwise be filed). Residents of Puerto Rico who have net Self-Employment income, and do not have to file Form 1040 with the U.S., use Form 1040SS, *U.S. Self-Employment Tax Return (Including the Additional Child Tax Credit for Bona Fide Residents of Puerto Rico)*, to compute their Self-Employment Tax.
- (2) The IRS obtains a listing of the net income from self-employment for taxpayers who file the equivalent of Schedule C on tax returns filed with the Commonwealth of Puerto Rico. Taxpayers from this listing, who have not filed Form 1040SS for Self-Employment Tax, are selected for examination.
- (3) Since no returns are filed and the cases are closed through deficiency procedures, SFR (IRC 6020(b)) returns must be prepared and the following penalties will be considered. See IRM 20.1.2.1.4, *Appeal of Penalties in IRM 20.1.2*, for specific procedure regarding penalties and IRC 6020(b):

Note: Do not waive penalties in Non-filer cases without reasonable cause.

- a. Failure to File Penalty, IRC Sec. 6651(a)(1), use Standard Paragraph 8110.
 - b. Estimated Tax Penalty, IRC Sec. 6654, use Standard Paragraph 8105.
 - c. Failure to Pay Penalty, IRC Sec. 6651(a)(2), use Standard Paragraph 8102.
- (4) The following procedures are used to post an IMF SFR using AM 424 Push Code 036:
 - a. Check master file using INOLES or IMFOLE to verify that the name line is for a period equal to or earlier than the tax period being input and that the name line is for a non-Joint filing status.
 - b. If all name lines are for a subsequent tax period, change the name line to the earliest tax period and filing status being established.
 - c. If the name line relating to the year being processed reflects filing status Married Filing Joint, change the name line to MFS or Single. Make sure the filing status is equal to or prior to the earliest tax period being established.
- (5) Cases are established on AIMS for each tax year as follows:
 - a. Transaction Code (TC) 424.
 - b. Source Code 24.
 - c. Project Code 721.
 - d. Employee group code (EGC) 5XXX.
 - e. Master File Tax (MFT) 30.
 - f. Status Code 06/08.
 - g. Primary business code (PBC) 299.

- (6) Initial contact with the Non-filer is made using, Letter 4149, *We Have Not Received Your U.S. Self Employment Tax Return*, Form 4549 , **Income Tax Examination Changes**, Pub 3498-A , *The Examination Process (Audits by Mail)*, and includes computations and explanations for Self-Employment tax and the appropriate penalties.
- (7) The case file includes a copy of the package sent to the taxpayer, Form 4700 , *Examination Workpapers*, and Form 13496, *IRC 6020(b) Certification*.

4.19.17.8.1
(10-01-2015)

Taxpayer Responses

- (1) Follow correspondence procedures and telephone procedures outlined in IRM 4.19.13, *General Case Development and Resolution* .
- (2) Pay special consideration to the Auditing Standards laid out in:
 - a. IRM 4.19.13.2.3 , *Work papers Support Conclusions*: Delinquent returns that are accepted as prepared by the Non-filer still require work papers to support the conclusion that the returns are substantially correct. The work papers should establish an audit trail and justify estimates and acceptance of oral testimony. In unagreed cases take particular care to document contact (or attempts at contact including telephone and correspondence) with the taxpayer and the calculation of taxable income.
 - b. IRM 4.19.17, *Penalties Properly Considered*: Every effort should be made to apply penalties in a fair and consistent manner. The case file should fully document the consideration, assertion or non-assertion, and computation of all appropriate penalties. Determine why the taxpayer did not timely comply with filing requirements. Reasonable cause should be applied consistently and fully documented in the work papers.
- (3) Secured delinquent returns in Non-filer cases are processed by Examination, see IRM 4.19.17 , **Campus Examination Non-Filer Program**. If a dummy/ SFR was previously processed and a Transaction Code (TC) 150 has posted, the delinquent return cannot be forwarded to the Campus for processing. The amount of tax shown on the return and any applicable penalties will be assessed by Examination.
- (4) Do not waive penalties in Non-filer cases without reasonable cause. Whether a taxpayer has met the reasonable cause and good faith exception is a facts and circumstances determination made on a case by case basis. The most important factor is the extent of the taxpayer's effort to assess the proper tax liability. Taxpayers are required to exercise ordinary business care and prudence, i.e., taking that degree of care that a reasonable, prudent person would exercise. It is the examiner's responsibility to solicit and evaluate the taxpayer's explanation for the position taken with respect to an issue or with respect to late filing. However, it is the taxpayer's responsibility to support his or her explanation. Regardless of the reasons advanced, the taxpayer must have exercised ordinary business care and prudence. IRM 20.1, *Penalty Handbook*, will provide assistance and should be used as a resource guide for the assertion or non-assertion of penalties and correct calculations of appropriate penalties in Non-filer cases. Remember that the taxpayer must be given appeal rights, as per Pub 1 , *Taxpayer Rights*.
- (5) The taxpayer may request an abatement of penalties even after the examination is closed using Form 843, **Claim for Refund and Request for Abatement**. The taxpayer will still bear the same burden to demonstrate the reasonable cause exception is met.

4.19.17.8.2
(07-15-2010)

Unagreed Replies

- (1) Respond to unagreed correspondence using Letter 692, *Revised Report/ Additional Information*, or Letter 555, , Notification of Findings based Upon Taxpayer's Recent Data Re Tax Liability, when the Notice of Deficiency has been issued.
- (2) Since the proposed adjustment is based on amounts the taxpayer has reported to the Commonwealth of Puerto Rico, generally documents submitted by the taxpayer will not reduce their assessment. Include standard paragraphs 2503 and 7401 in the explanation to the taxpayer. Ask the taxpayer to submit a copy of the return filed with the Commonwealth of Puerto Rico, if they dispute our calculation.

4.19.17.8.3
(10-01-2015)

Special Cases

- (1) The tax was paid under the secondary taxpayer's account. Verify the situation by:
 - a. Securing a copy of the return filed with the Commonwealth of Puerto Rico to see if the income was for a secondary taxpayer.
 - b. Viewing the secondary taxpayer's account to insure the return was properly filed.
 - c. Close the case **No Change**.
- (2) The tax is owed by the secondary taxpayer. Verify the situation by:
 - a. Securing a copy of the return filed with the Commonwealth of Puerto Rico to see if the income was for a secondary taxpayer.
 - b. Close the case **No Change**.

Note: *The secondary taxpayer may have to be opened for examination. A notice must be sent to the secondary taxpayer, if the tax is not paid or the tax is not self assessed.*
- (3) There are estimated tax payments on the taxpayer's account. Verify the situation by:
 - a. Viewing the taxpayer's account to insure the payments were made.
 - b. Recalculate the penalties and issue a revised examination report.
- (4) The taxpayer submitted a return, which was processed after the "Substitute for Return" posted. Verify the situation by:
 - a. Comparing the income reported and the tax self-assessed with the examination report.
 - b. Securing a copy of the return filed to reconcile any differences between the two.
 - c. Revise the examination report and continue our examination, if the taxpayer's self-assessment fails to satisfy the examination issue.
 - d. If we are accepting the taxpayer's return, close the case **No Change**.
- (5) Part or all of the income from self-employment was earned as a notary public. Verify the situation by:
 - a. Securing a copy of the taxpayer's license.
 - b. Generally these taxpayers have another source of income or are retired individuals.
 - c. Reduce the Net Income subject to Self-Employment Tax by the Net Income as a Notary Public.
 - d. Revise the examination report or close the case **No Change**.

- (6) The taxpayer works for the Puerto Rico Departamento de Salud (Department of Health) and is being treated as a statutory employee for the purpose of Puerto Rico taxes. Verify the situation by checking:
- IRP for FICA income reported on Form W-2PR.
 - The taxpayer's Form 480.6B and a copy of the return filed with the Commonwealth of Puerto Rico.
 - The income on Form 480.6B. It should equal wages (box 8) plus Social Security Tax withheld (box 19) plus Medicare Tax withheld (box 21) as reported on the Form W-2PR.
 - The gross income on the Puerto Rico version of "Schedule C" containing the unreported net income from self-employment should be the amount reported on Form 480.6B.
 - If the taxpayer is such an employee, close the case **"No Change"**.

4.19.17.8.4
(07-15-2010)
Additional Child Tax Credit

- (1) Bona Fide residents of Puerto Rico who are not subject to Chapter 1 Federal income tax and exclude income under IRC 933 must have at least three qualifying dependent children under age 17 and have paid FICA or Self-Employment taxes in order to claim the refundable child tax credit. See IRC 151/152 and IRC 24(d). Our taxpayers may wish to claim this credit in order to offset a portion of the exam assessment. They must file Form 1040SS, *U.S. Self-Employment Tax Return (Including the Additional Child Tax Credit for Bona Fide Residents of Puerto Rico)*, to claim this credit. Verify the situation by:
- Securing a copy of the Form 1040SS, *U.S. Self-Employment Tax Return (Including the Additional Child Tax Credit for Bona Fide Residents of Puerto Rico)*, to establish the tax is being self-assessed and use CC DDBKD to verify the eligibility of the qualifying children.
 - Examiners should use available electronic records, oral testimony, any documents submitted with the return, and their discretion, when deciding to allow the claim or ask for additional verification.
 - The credit is calculated as the lesser of: the number of qualifying children times \$1,000 (\$600 in tax years 2001 & 2002) or FICA Tax withheld plus Medicare Tax withheld plus ½ Self-Employment Tax.
 - FICA Tax withheld plus Medicare Tax withheld plus ½ Self-Employment Tax of the secondary taxpayer is included in the calculation for Joint filers.
- (2) The Additional Child Tax Credit is a prepayment credit and will affect the calculation of the Failure to File, Failure to Pay, and Estimated Tax penalties.

4.19.17.9
(10-01-2015)
International Returns

- (1) Any return with Form 2555 , *Foreign Earned Income*, or Form 2555-EZ, *Foreign Earned Income Exclusion*, will be transferred to Philadelphia Exam Classification at the address shown below.
- (2) Returns that appear to be International, such as returns with International addresses, that do not contain Forms 2555 and 2555-EZ will be treated as any other Non-filer case.
- (3) If transferring to PSC Classification:
- DO NOT** adjust the taxpayer's account per the secured return.
 - Transfer AIMS database to PSC using PBC 299 EGC 5598.

- c. Update workpapers with information regarding the transfer to PSC and archive the RGS record before routing to PSC. (This keeps the sending Campus from having to print a copy of the report when sending the case to PSC).
- (4) Route the Paper International Return to PSC by overnight mail. DO NOT delay sending the International paper return to PSC.

Exception: See TAS instructions below. Returns should be shipped the same or next day after AIMS transfer, Follow the procedures below for routing of the return to PSC:

- a. Prepare Form 3210, *Document Transmittal*, with taxpayer information (Name Control, Tax Year, and SSN. Complete mailing address portion including Mail Stop shown below.
- b. In Remarks section of Form 3210 state - Attn: *AIMS Coordinator - International Returns* "Open on AIMS – Return(s) Unassessed "
- c. Attach a copy of a current AIMS print after the transfer of the AIMS database has been completed.
- d. Sending the paper return(s) by Overnight Mail is mandatory to eliminate the delay in processing the case still open on AIMS and provides a tracking system of the shipped return(s). Mail to:
Internal Revenue Service
Attn: AIMS Coordinator
BLN 4-E08141
2970 Market St
Philadelphia, PA 19104

Note: If the International return is not received in PSC within 10 days from the date of the AIMS database transfer, PSC will contact the sending site for tracking of the overnight mail. The sending Campus will provide PSC with the appropriate tracking information in order to track the return.

4.19.17.9.1
(01-10-2010)
**International
Classification
(Philadelphia Campus
Only)**

- (1) All delinquent secured Non-filer returns with Form 2555 or Form 2555-EZ will be classified for international issues in the Philadelphia Campus Classification function.
- (2) If International issues do not warrant examination, the return will be screened for domestic LUQ issues before sending to Corr Exam for processing.
- (3) Classification will process the International Non-filer return following the determination table below.

International Determination Table	
Return Accepted	Stamp the return Accepted and route to PSC Corr Exam.
Selected for Corr issues	Classify the return for domestic issues only to be audited by PSC Corr Exam.
Selected for AO issues	Classify the return for domestic or international issues to be audited by AO Exam.

4.19.17.9.2
(01-10-2010)
**International TAS
Referrals**

- (1) All International returns (using the International Referral Criteria above) that are secured by TAS on an open Exam Non-filer case will be routed to PSC. The AIMS Coordinator (AC) in PSC will contact the AC in the Campus with the open AIMS database. The AIMS database will be transferred to PSC using AIMS transfer information discussed above.

