



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

4.70.18

NOVEMBER 21, 2023

## EFFECTIVE DATE

(11-21-2023)

## PURPOSE

- (1) This transmits new IRM 4.70.18, TE/GE Examinations, Tip Compliance Agreements.

## MATERIAL CHANGES

- (1) The TE/GE Examinations process was created to provide a consistent and streamlined examination process across TE/GE.
- (2) This IRM was extracted from the Internal Guidance Memos (IGMs) and IRM sections tabled here:

IGM	IRM Section
<ul style="list-style-type: none"><li>• <i>TEGE-04-0622-0018</i>, Taxpayer Digital Communications Secure Messaging</li></ul>	<ul style="list-style-type: none"><li>• 4.75.12.4.2, Filing Checks Required But Waiver-Eligible</li><li>• 4.75.12.12.1, W-2</li><li>• 4.75.12.17, Withholding Compliance Program</li><li>• 4.75.40, Employment Tax Audit Procedures</li><li>• 4.88.1.10, Indian Tribal Governments Examination Issues and Procedures, Tip Compliance Agreements</li></ul>

## EFFECT ON OTHER DOCUMENTS

This IRM obsoletes IRM 4.88.1.10, Indian Tribal Governments Examination Issues and Procedures, Examination Issues Pertaining to ITG Cases, Tip Compliance Agreements, dated December 10, 2021.

This section incorporates Interim Guidance Memo -TEGE-04-0622-0018, Taxpayer Digital Communications Secure Messaging.

## AUDIENCE

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4.70.18

Tip Compliance Agreements

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4.70.18.1  
(11-21-2023)  
**Program Scope and Objectives**

- (1) **Purpose:** This IRM provides:
  - a. Background and information about the National Tip Reporting Compliance Program (NTRCP).
  - b. IRM section references that provide specific procedures and requirements for doing tip work.
  - c. Instructions for TE/GE employees when there are procedural differences between NTRCP and TE/GE's programs.
  - d. Tip case closing procedures.
- (2) **Audience:** The procedures of this manual apply to Tax Exempt/Government Entities (TE/GE) employees.
- (3) **Policy Owner:** Small Business/Self Employed (SB/SE) Division is the policy owner and is responsible for delivering Servicewide procedural guidance and policies for the National Tip Reporting Compliance Program (NTRCP) and Employment Tax Examinations.
- (4) **Program Owner:** TE/GE commissioner is responsible for overseeing the TE/GE tip program. The Program Manager, Indian Tribal Governments (ITG), is responsible for overseeing federal tax administration as it applies to Indian Tribal Governments.
- (5) **Program Goals:** TE/GE, including the Office of Indian Tribal Governments (ITG) and Federal, State, Local/Exempt Tax (FSL/ET) combine compliance and enforcement initiatives with outreach and educational activities to accomplish its goals. The processes and procedures in this IRM agree with TE/GE's objectives and goals. Refer to IRM 1.1.23, Organization and Staffing, Tax Exempt and Government Entities Division.
- (6) **Policy Statements:** TE/GE is governed by Policy Statements and other internal guidance that apply to all IRS employees regardless of operating division. The Policy Statements in IRM 1.2.1, Servicewide Policy Statements, apply to all employment tax issues and examinations.
- (7) **Delegations of Authority:** Find Servicewide delegations of authority in IRM 1.2.2, Servicewide Delegations of Authority.
- (8) **Taxpayer Bill of Rights:** 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>.

4.70.18.1.1  
(11-21-2023)  
**Background**

- (1) The tip agreement program is designed to promote compliance by industry employers and employees with the provisions of the Internal Revenue Code relating to tip income, and to reduce disputes under IRC 3121(q).
- (2) Tip Agreements are designed to enhance administration of the tip program by both the Employer and the IRS. They facilitate and promote the use of current financial information technology in the tip reporting process. IRM 4.23.7.10, Employment Tax on Tip Income, Tip Rate Determination and Education Program (TRD/EP), and IRM 4.23.7.10.1, Tip Compliance Agreements, provide information on the tip program.

**4.70.18.1.2**  
**(11-21-2023)****Authority**

- (1) TE/GE's examination authority to resolve issues is derived from its authority to make determinations of tax liability under IRC 6201.
- (2) IRC 7602 gives TE/GE examiners the authority to:
  - a. Examine any books, papers, records or other data necessary to complete an exam.
  - b. Take testimony under oath to secure additional information needed.
  - c. Issue summons for information necessary to complete an exam.
  - d. Inquire into any offense connected with the administration or enforcement of the Internal Revenue laws.

**4.70.18.1.3**  
**(11-21-2023)****Responsibilities**

- (1) The TE/GE Commissioner, with program managers in TE/GE, coordinates an effective employment tax program, including the tip compliance program.
- (2) Under IRM 1.2.1.5.34, Policy Statement 4-117, Examination Authority to Resolve Issues, examiners, and managers:
  - a. Have been given broad authority to consider and weigh conflicting information, data, and opinions.
  - b. Will use professional judgment per examining standards to make findings of fact and apply the IRS's position on issues of law to determine the correct tax liability.
  - c. Will exercise this authority to obtain the greatest possible number of agreements to tax determinations without sacrificing the quality or integrity of those determinations, and to dispose of tax differences at the lowest level.
- (3) TE/GE employees must act according to the Taxpayer Bill of Rights . Every employee must consider these rights in carrying out their duties. See IRC 7803(a)(3).
- (4) IRS employees working tax related matters must identify themselves per The Restructuring and Reform Act of 1998 (RRA 98) Section 3705(a). You're required to:
  - a. Give your name and unique identification number during taxpayer telephone, face-to-face, and written contact.
  - b. Put a telephone number on all taxpayer correspondence. This gives taxpayers enough information to identify an employee who has previously assisted with a tax related matter.
- (5) Offer Taxpayer Digital Communication Secure Messaging (TDC SM) to taxpayers and representatives as required. All employees with taxpayer contact must:
  - Offer TDC SM to all taxpayers and their representatives with the initial contact letter.
  - Introduce TDC SM to the taxpayer and their representative during initial contact and invite them to use it during the case.
  - Use TDC SM if an eligible taxpayer and their representative accepts the invitation by submitting a completed agreement form (Form 15314).
  - Document the invitation to use TDC SM and the taxpayer's and their representative's response in the Case Chronology Record (CCR) or Case History Sheet (Form 9984).

- Use TDC SM for interacting with the taxpayer and their representative during the case until closure, as permitted by law.

(6) All examinations are done per IRM 1.2.1.2.36, Policy Statement 1-236, Fairness and Integrity in Enforcement Selection.

4.70.18.1.4  
(11-21-2023)  
**Disaster Assistance and  
Emergency Relief**

- (1) See IRM 25.16.1, Disaster Assistance and Emergency Relief, Program Guidelines, for administrative and policy procedures for the Disaster Assistance and Emergency Relief Program.
- (2) For ITG specialists: See IRM 25.16.1.4, Tribal Nation Authority Under the Sandy Recovery Improvement Act, which explains legislation authorizing federally recognized Indian tribal governments the option to make their own request, independently of a state, for a federal emergency or major disaster declaration, or to seek assistance under a declaration for a state.

**Note:** If a tribe or entity you have been assigned to examine has had a natural disaster or the tribe has declared a state of emergency, talk to your manager about whether to suspend or survey the examination.

4.70.18.1.5  
(11-21-2023)  
**Program Management  
and Review**

- (1) Program Reports: Information on reporting program objectives is included on, but not limited to, the following reports:
  - Headquarters Examination Monthly Briefing
  - Program Manager Monthly Briefing
  - Examination Operational Review
  - Business Performance Reviews
- (2) Program Effectiveness: Tax Exempt Quality Measurement System (TEQMS) is the quality control system used to oversee the entire examination program.

4.70.18.1.6  
(11-21-2023)  
**Program Controls**

- (1) TE/GE follows the provisions of SB/SE's National Tip Reporting Compliance (NTRC) Program in IRM 4.23.7, Employment Tax on Tip Income. Be familiar with this section and the various subsections that apply to tip agreements and tip examinations. Where differences occur, you are required to follow the procedures in the Tip Compliance section of the TE/GE Exam IRM.
- (2) Examiners should review the following IRM subsections for general information about the tip program:
  - IRM 4.23.7.1, Program Scope and Objectives
  - IRM 4.23.7.2 through IRM 4.23.7.4, Introduction, Employee Tip Reporting and Form 4137 Requirements
  - IRM 4.23.7.6, Other Information Reporting Issues to Review, including all subsections
  - IRM Exhibit 4.23.7-3, Letters, publications, and forms.
- (3) IRM 4.23.7, Employment Tax on Tip Income, provides information about employment taxes on tip income, tip agreements, employment tax tip examinations, etc. While tip income among exempt organization or federal, state, and local government employees is not common, there are several positions that may receive tip income. TE/GE examiners should consider, as a possible area of non-compliance:

- Tips provided to employees of a food and beverage establishment that is operated by a government, such as a city- operated museum or convention center restaurant.
- Baggage handlers at a city- operated airport.
- Employees at a city-operated golf course, recreation center, or tourist service.

**Note:** Developing a tip compliance agreement using the parameters outlined in IRM 4.23.7, Employment Tax on Tip Income, may be appropriate.

4.70.18.1.7  
(11-21-2023)

#### Acronyms

(1) The table below has a list of acronyms and their meaning:

Acronym	Definition
CP&C	Compliance, Program & Classification
DC	Disposal Code
EIN	Employer Identification Number
ECTRP	Employer-Computed Tip Reporting Process
ETLS	Tip Review Employment Tax Lead Sheets
Examiner	Is an Internal Revenue Agent; Tax Compliance Officer; Federal State & Local/Exempt Tax Specialist; Indian Tribal Governments Specialist and Tax Examining Technician
FSL/ET	Federal, State, Local/ Exempt Tax
GITCA	Gaming Industry Tip Compliance Agreement
GM	Group Manager
IDR	Information Document Request
IDRS	Integrated Data Retrieval System
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
ITG	Indian Tribal Governments
ITG KB	Indian Tribal Governments Knowledge Base (ITG Virtual Library)
NTRCP	National Tip Reporting Compliance Program
RCCMS	Reporting Compliance Case Management System
RRA	Restructuring and Reform Act of 1998 (RRA 98)
SB/SE	Small Business/Self Employed
TE/GE	Tax Exempt and Government Entities
TEPA	Tipped Employee Participation Agreement



TRDA	Tip Rate Determination Agreement
TRD/EP	Tip Rate Determination and Education Program
TRR	Tip Rate Review
WebETS	Web-based Employee Technical Time System

4.70.18.2  
(11-21-2023)  
**Form 8027, Employer's  
Annual Information  
Return of Tip Income  
and Allocated Tips**

- (1) 31 CFR 31.6053–3 requires large food or beverage establishments to prepare and file an information return with respect to tips. Form 8027 meets this requirement. See IRM 4.23.7.5.1, Form 8027 Requirements, and IRM 4.23.7.5.2, Form 8027 Allocated Tips.

4.70.18.3  
(11-21-2023)  
**Tip Rate Determination  
Agreement (TRDA)**

- (1) See the following IRM sections for information about the TRDA:
  - a. IRM 4.23.7.10.3, Tip Rate Determination Agreement (TRDA)
  - b. IRM 4.23.7.10.3.1, Revoking TRDA Agreements

4.70.18.4  
(11-21-2023)  
**Gaming Industry Tip  
Compliance Agreement  
(GITCA)**

- (1) The Gaming Industry Tip Compliance Agreement (GITCA) Program was designed to:
  - a. Promote compliance with the Internal Revenue Code sections relating to tip income, by both gaming industry employers and employees.
  - b. Reduce disputes under IRC 3121(q).
- (2) The GITCA program was established in May 2003.
- (3) IRM 4.23.7.10.6, Gaming Industry Tip Compliance Agreement (GITCA), covers the GITCA background and the benefits and responsibilities for the Employer, Employee, and IRS.

4.70.18.5  
(11-21-2023)  
**TE/GE Tip Work**

- (1) The following are resources that provide guidance related to tip work and where you can find them in IRM 4.23.7, Employment Tax on Tip Income.

A. Tip Compliance Agreement Solicitation. Follow the procedures in IRM 4.23.7.10.2, Solicitation of Tip Compliance Agreements, to determine if the Employer meets the pre-qualifications to participate in a Tip Compliance Agreement.

- TE/GE procedures are different than the following specific IRMs:

- i. IRM 4.23.7.10.2(9) – For TE/GE, we use the following codes in RCCMS:

1. Compliance Type – Tip Rate Solicitation

2. Activity Code – 575
  3. Work Unit Field – TR Review
- ii. IRM 4.23.7.10.2(11) –
1. The TE/GE group manager has the authority to sign tip agreements on behalf of the IRS per IRM 1.2.2.5.28, Delegation Order 4-34 (Rev.1), Gaming Tip Compliance Agreements. See IRM 4.70.18.6, Authority to Sign Tip Compliance Agreements.
- B. Tip rate review process: Follow the procedures in IRM 4.23.7.10.6.3 and IRM 4.23.7.10.6.6 through IRM 4.23.7.10.6.21 (These IRM subsections go through the entire TRR process).
- The casino or non-gaming entity can't decline a tip rate review.
  - TE/GE procedures are different than the following specific IRMs:
    - i. IRM 4.23.7.10.6.6(2) – TE/GE does not mandate the use of the Tip Review Employment Tax Lead Sheets (ETLS); however, it is recommended as a best practice.
    - ii. IRM 4.23.7.10.6.9(2) – If the examiner is working a new entity and needs to use comparable rates, the examiner is required to contact the ITG Senior Tax Analyst for assistance.
    - iii. IRM 4.23.7.10.6.11(2) – TE/GE uses Letter 3071-A, Tip Agreement Appointment-ITG.
    - iv. IRM 4.23.7.10.6.11(3) – TE/GE uses Letter 5768, Tip Agreement Refresh Appointment, to notify the taxpayer of a tip rate review and TE/GE uses Letter 5243-A, Tip Rate Review-Confirm Appointment, to confirm the scheduled appointment.
    - v. IRM 4.23.7.10.6.11(5) & (6) – TE/GE uses Taxpayer Digital Communications (TDC) as the method to electronically communicate with taxpayers. See IRM 4.70.18.1.3(5), Responsibilities.
    - vi. IRM 4.23.7.10.6.19(5) – Signed agreements are forwarded to the GM for signature.
    - vii. IRM 4.23.7.10.6.19(7) & (8) – Both signed agreements are returned to the examiners, who sends one to the taxpayer and scans one for RCCMS. Original tip agreements will be archived in accordance with program manager instructions.

viii. IRM 4.23.7.10.6.20(2) – Omit for TE/GE.

ix. IRM 4.23.7.10.6.21(3) & (4) – Omit for TE/GE.

C. GITCA renewals without full rate review:

- IRM 4.23.7.10.6.22 , GITCA Renewal Without Full Rate Review

**Note:** This doesn't apply to agreements using 100% actual rates or apply to any positions on actual rates.

D. Tip Compliance Reviews:

- IRM 4.23.7.11(10) through IRM 4.23.7.11(18), Mandatory Compliance Follow-Up Reviews on Voluntary Tip Agreements.

E. Tip Addendum or Amendments:

- Tip addendum and amendments are always customer requests which, when received by the group manager or the examiner, must be sent to the Senior Tax Analyst for processing and forwarding to CP&C.
- The process for this work is the same as for a Tip Rate Review except the Tip Addendum/Amendment concentrates on the changes the entity wants to make and the specific tipped occupations involved in those changes (e.g., new outlet, new tipped occupation, material change in policy and procedures) rather than all the tipped occupations on the agreement.

F. Tip Examinations: IRM 4.23.7.7, Employment Tax Tip Exam, IRM 4.23.7.8, Statute of Limitations for Tip Examinations, and IRM Exhibit 4.23.7-2, Chart of Tip Report Writing Instructions.

- If a taxpayer expresses an interest to enter into a voluntary tip compliance agreement during an ongoing examination, the examination must first be completed prior to discussing participation in the program. The taxpayer must understand that where the tax has been determined, a tip agreement will not eliminate any balance due. At the conclusion of the examination, examiners can begin the process of implementing the tip agreement. See IRM 4.23.7.10.2(7), Solicitation of Tip Compliance Agreements.
- TE/GE procedures are different than the following specific IRMs:

- i. IRM 4.23.7.7(3) – Omit for TE/GE.
  - ii. IRM 4.23.7.7(4) – TE/GE uses disposal code 908-Survey After Assignment and 107-No Change.
  - iii. IRM 4.23.7.7(10) – Omit for TE/GE.
  - iv. IRM 4.23.7.7.2(7) – Omit for TE/GE.
  - v. IRM 4.23.7.7.3(5) – One Letter 3381 is included in case file, so GM can sign and mail. Be sure to include a copy of the signed letter in RCCMS.
  - vi. IRM 4.23.7.7.4(5) – TE/GE uses Letter 3263-E, Notice and Demand - Employer Only.
  - vii. IRM 4.23.7.7.4(6) – To clarify, you no longer need to postdate Letter 3263-E, there is now a place on the letter for the Notice and Demand date.
  - viii. IRM 4.23.7.7.4(8) & (9) – Omit for TE/GE.
  - ix. IRM 4.23.7.7.4(11) – TE/GE uses disposal code 210 in RCCMS.
  - x. IRM 4.23.7.7.4(12) – TE/GE does not use Form 5344, however we complete the appropriate fields in RCCMS Closing Record tabs.
  - xi. IRM 4.23.7.7.4(15) – TE/GE charges time spent monitoring Form 941 to the case.
  - xii. IRM 4.23.7.7.4(16)(c) – TE/GE does not use a special project code.
  - xiii. IRM 4.23.7.7.5 – TE/GE does not do employee tip examinations. TE/GE examiners are required to prepare an employee calculation spreadsheet for all tipped employees in each occupational category showing unreported tips. A copy of the spreadsheet should be sent to the ITG Senior Tax Analyst at the time the employer tip exam is closed. See IRM 4.23.7.7.5(3).
  - xiv. IRM 4.23.7.8.1 – Does not apply to TE/GE, because TE/GE doesn't do employee tip examinations.
- G. IRM 4.23.7 , Employment Tax on Tip Income, has several sections that refer to the SB/SE chain of command. Replace SB/SE position title references in IRM 4.23.7 with the equivalent TE/GE position titles referenced in the table below:

SB/SE/NTRCP Position Title	TE/GE Position Title
SB/SE ET field examiner/revenue agent/reviewer	TE/GE examiner (i.e., ITG specialist/agent, FSL/ET specialist/agent, EO agent )

SB/SE/NTRCP Position Title	TE/GE Position Title
SB/SE ET Territory tip coordinator/ SB/SE ET NTRC program analyst	The Senior Tax Analyst
SB/SE ET NTRC group manager	TE/GE functional group manager
NTRCP program manager	TE/GE functional program manager

4.70.18.6  
(11-21-2023)

#### Authority to Sign Tip Compliance Agreements

- (1) The tip compliance agreement must be signed by the representative who has been delegated this authority by the TE/GE taxpayer.

**Note:** For ITG entities, if the agreement will not be signed by the tribal leader you must get the Tribal Resolution that designates signer authority, attach it to the back of the signed agreement and upload it into RCCMS.

- (2) The TE/GE group manager has the authority to sign tip agreements on behalf of the IRS per IRM 1.2.2.5.28, Delegation Order 4-34 (Rev. 1), Gaming Tip Compliance Agreements.

4.70.18.7  
(11-21-2023)

#### Tip Case File Closing Procedures

- (1) When the final agreement is presented to the taxpayer for signature, specify a reasonable amount of time for taxpayer review and signature and communicate it internally.

**Note:** If you don't receive the signed agreement by the time specified and the case is a Tip Solicitation, refer to the Desk Guide on Disposition of Tip Cases to determine which letters to issue before you close the assignment.

- (2) When you get both the taxpayer's and your manager's signatures on the agreement:
- Verify your workpaper documentation supports the conclusions and are properly indexed to the Form 4318, Examination Workpaper Index, within Tip ETLS.
  - Make sure you've uploaded all workpapers, documents and signed letters into the RCCMS Office Documents folder.
  - Make sure the signed electronic agreement (one document including the signature page with both signatures (taxpayer/representative and group manager) is loaded into RCCMS.

4.70.18.8  
(11-21-2023)

#### Closing Procedures for Managers

- (1) Review the case closed to you.
- Make sure the conclusion reached is technically correct and processed accurately.
  - Verify the specialist documented actions adequately on Form 9984, Examining Officer's Activity Record.
  - Approve, and timely close the case in RCCMS. (10 calendar days for manager to initial, date the case activity record and close after you receive it from the specialist/examiner).

