



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.1.8

MAY 2, 2025

EFFECTIVE DATE

(05-02-2025)

PURPOSE

- (1) This transmits revised IRM 5.1.8, Courtesy Investigations.

MATERIAL CHANGES

- (1) The following table outlines changes made to IRM 5.1.8.

Number	IRM Subsection	Description of Change
1.	Throughout	Editorial changes made.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 5.1.8, dated September 30, 2024.

AUDIENCE

SB/SE Revenue Officers

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Director, Collection Policy

5.1.8

Courtesy Investigations

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5.1.8.1
(09-30-2024)
Program Scope and Objectives

- (1) **Purpose:** This IRM section provides direction and guidance to revenue officers for issuing and working investigations from one area of assignment and/or operating unit to another assignment area. The assignments are made requesting assistance in completing an investigation to resolve various case issues.
- (2) **Audience:** These procedures apply to IRS employees responsible for issuing and working Courtesy Investigations or Other Investigations (OI). Other employees within SB/SE or other functions may also refer to these procedures.
- (3) **Policy Owner:** SB/SE Director, Collection Policy.
- (4) **Program Owner:** SB/SE Collection Policy, Global Strategic Compliance (GSC) is the program owner of this IRM.
- (5) **Primary Stakeholders:** SB/SE Collection employees. Other divisions that may review procedures in this section include: Civil Enforcement Advice and Support Operations, Specialty Collection Offers, Specialty Collection Insolvency, IRS Independent Office of Appeals, Taxpayer Advocate Service, Chief Counsel, Centralized Case Processing-Collection, and Campus Collection employees.
- (6) **Program Goals:** This IRM provides procedural guidance on how to issue and work other investigations assigned within Collection. By following the procedures in this IRM, employees will be able to appropriately identify, issue, and manage courtesy investigation and other investigation assignments.
- (7) **Contact Information:** Email recommendations and suggested changes for this IRM to the Content Product Owner. The owner is indicated on the Product Catalog Information page, which is found on the Forms/Pubs/Products IRM listing of the Media and Publications website.

5.1.8.1.1
(09-30-2024)
Background

- (1) This IRM section provides guidance for how Collection employees will handle case investigations that require a case control or transfer received as an other investigation.

5.1.8.1.2
(09-30-2024)
Authority

- (1) The authority to collect a tax assessment is addressed in Internal Revenue Code (IRC) 6502, Collection after Assessment. Collection principles are described in IRM 1.2.1.6, Policy Statements for the Collecting Process. Collection enforcement is a necessary component to move the taxpayer towards compliance with the tax laws and to promote a system of voluntary compliance. Delegation orders for various collection activities are in IRM 1.2.2, Servicewide Delegations of Authority.
- (2) IRM 1.2.65.3, SB/SE Functional Delegation Orders - Collection, provides delegation orders that are specific to the Small Business/Self Employed Collection organization.
- (3) The table below includes IRC sections related to this IRM:

Code Section	Title
IRC 6159	Agreements for payment of tax liability in installments

Code Section	Title
IRC 6201	Assessment authority
IRC 6211	Definition of a deficiency
IRC 6401	Amounts treated as overpayments
IRC 6402	Authority to make credits or refunds
IRC 6532(b)	Suits by United States for recovery of erroneous refunds
IRC 6602	Interest on erroneous refund recoverable by suit
IRC 7405	Action for recovery of erroneous refunds

5.1.8.1.3
(09-30-2024)
**Roles and
Responsibilities**

- (1) The Director, Collection Policy, is the executive responsible for the policies and procedures followed by Field Collection employees.
- (2) Field Collection Area Directors, Field Compliance Managers (FCM) / Territory Managers (TM), and Group Managers are responsible for ensuring Field Collection employees comply with these procedures.
- (3) Field Collection revenue officers are responsible for following the procedures in this IRM.
- (4) The IRC provides taxpayers specific rights. The Taxpayer Bill of Rights groups these rights into ten fundamental rights. See IRC 7803(a)(3). IRS employees are responsible for being familiar with and following these rights. For additional information about your taxpayer rights, please see Pub 1, Your Rights as a Taxpayer, or visit *Taxpayer Bill of Rights*.

5.1.8.1.4
(09-30-2024)
**Program Management
and Review**

- (1) IRM 1.4.50, Resource Guide for Managers, Collection Group Manager, Territory Manager and Area Director Operational Aid, addresses responsibilities of managers in Field Collection casework.
- (2) Operational and program reviews are conducted to ensure that program delivery and case actions are in accordance with administrative and compliance requirements. National quality and consistency reviews are conducted to ensure program consistency and effectiveness in case processing. See IRM 5.13.1, Embedded Quality Collection Field Organizations Administrative Guidelines.

5.1.8.1.5
(09-30-2024)
Program Controls

- (1) Field Collection uses the Integrated Collection System (ICS) to oversee and manage taxpayer cases worked within Field Collection.

- (2) Collection managers verify program and procedural compliance through case consultations, case reviews, and performance reviews. Collection manager's internal controls are detailed in IRM 1.4.50, Resource Guide for Managers, Collection Group Manager, Territory Manager and Area Director Operational Aid.

5.1.8.1.6
(09-30-2024)

Terms and Acronyms

- (1) This table below lists commonly used acronyms and their definitions

Acronym	Definition
ACS	Automated Collection Systems
ASED	Assessment Statute Expiration Date
CCP	Centralized Case Processing
CDP	Collection Due Process
CEASO	Civil Enforcement Advice and Support Operations
CI	Criminal Investigation
CLT	Campus Liaison Team
CSED	Collection Statute Expiration Date
DHS	Department of Homeland Security
EH	Equivalent Hearing
ERSED	Erroneous Refund Statute Expiration Date
FAD	Federal Contractors and Federal Agency Delinquency
ICS	Integrated Collection System
MCAR	Mutual Collection Assistance Requests
MF	Master File
OI	Other Investigation
POA	Power of Attorney
SERP	Servicewide Electronic Research Program
SSA	Social Security Administration
TFRP	Trust Fund Recovery Program

5.1.8.1.7
(09-30-2024)

Related Resources

(1) The table below lists IRM references listed in this IRM:

IRM Reference	IRM Title
IRM 3.17.80	Working and Monitoring Category D, Erroneous Refund Cases in Accounting Operations
IRM 4.15.1.6	Potential Criminal Case
IRM 5.1.4	Jeopardy, Termination, Quick and Prompt Assessments
IRM 5.1.5	Balancing Civil and Criminal Cases
IRM 5.1.5.3	IRS Policy Concerning Parallel Investigations
IRM 5.1.5.5	Commencement of Parallel Investigation
IRM 5.1.9.3.4	Controlling and Monitoring Cases While in Appeals
IRM 5.1.9.3.8	Appeal Process
IRM 5.1.12.12	Taxpayer Exempt From Taxation for Religious Reasons
IRM 5.1.18.13	TECS
IRM 5.1.18.13.1	TECS Lookout Indicators
IRM 5.1.18.13.4	The Role of the TECS Coordinator
IRM 5.1.18.13.5	The Role of the Group Manager and Revenue Officer when TECS Lookout Information is Provided
IRM 5.1.18.13.7.4	Criteria For Removing A Taxpayer From the TECS Lookout Indicator List
IRM 5.1.18.13.7.5	Procedures for Requesting Removal of a Taxpayer from the TECS Lookout Indicator List
IRM 5.1.33	Field Collection Fraud Development
IRM 5.11.1.3.2.1	Last Known Address
IRM 5.15.1	Financial Analysis Handbook
IRM 5.16.1	Currently Not Collectible
IRM 5.17.4	Legal Reference Guide for Revenue Officers - Suits by the United States

IRM Reference	IRM Title
IRM 5.17.4.14	Suits to Recover Erroneous Refunds
IRM 5.19.1.2.3	Disclosure Overview: Verifying Identity of Contact Party
IRM 5.21.7.4	Mutual Collection Assistance Requests (MCAR)
IRM 20.2.1.4.2.2.4(2)c	Overpaid Overpayment Interest
IRM 20.2.7.7	IRC 6404(e)(2), Erroneous Refunds
IRM 21.4.5	Refund Inquiries - Erroneous Refunds
IRM 21.4.5.15	Collection Methods for Category D Erroneous Refunds
IRM 21.5.6.4.41	-U Freeze
IRM 25.1	Fraud Handbook
IRM 25.3.2	Suits by the United States
IRM 25.3.2.3	Criteria for Bringing Suit
IRM 25.6.1	Statute of Limitations Processes and Procedures
IRM 25.6.1.10.2.3	Remedies for Recovering an Erroneous Refund
IRM 34.6.1.2.4	Use Of Writ of Ne Exeat

(2) Web Resources:

- *Courtesy/Other Investigations Knowledge Base*
- *Campus Liaison Resources Knowledge Base*
- *Counsel Office of Procedure and Administration*
- *Collection Automation Support & Security Contacts- IQA Contacts*
- *Collection Automation Support & Security Contacts - FAS Contacts*
- *International Tools and Actions Knowledge Base*
- *SERP RO Lookup Link*

5.1.8.2

(09-30-2024)

Other Investigations (OI)

(1) Other Investigations (OIs) may be assigned on Form 2209, Courtesy Investigation, or through an assignment in ICS. These assignments are used to:

- Request case assistance from another Area office
- Issue certain Intra-Area and Campus investigations
- Conduct a full compliance check when there are no other open assignments
- Control assignments and actions on ICS - usually used by Property Appraisal & Liquidation Specialists for seizure related information, CEASO for Trust Fund Recovery Penalty (TFRP) and probation/

restitution cases, and Centralized Case Processing (CCP) for In-Business Trust Fund Installment Agreements.

- (2) OIs can be assigned by one ICS user to another ICS user. This is accomplished by creating an outgoing OI on ICS. The originator and the recipient share all detail and history information available on ICS.
- (3) For any OI assignments received, if you see evidence of Criminal Investigation involvement on a tax module (i.e., TC 914, 916, or 918 Criminal Investigation freezes), DO NOT take action or make contact on the case. Contact CI before pursuing Civil action. Contact the local Fraud Enforcement Advisor (FEA) for assistance in the coordination process. No collection action should be taken without the concurrence of CI.

5.1.8.2.1 (09-30-2024)

Case Transfer without Courtesy Investigation - Domestic

- (1) A Courtesy Investigation is not required prior to transferring a case to a new location if the new address is verified by:
 - a. Form 4759, Address Information Request - Postal Tracer response that confirms the new address, **and**
 - b. Letter 4156, Bal Due Letter to Verify Address before Transfer, is sent certified to the new address, and any of the following conditions are met:

Letter 4156 conditions
The taxpayer does not acknowledge receipt of the letter,
The letter is not returned undeliverable by the post office,
The post office does not provide an address change within 30 days, or
The taxpayer acknowledges receipt of the letter but does not respond sufficiently to dispose of the investigation.

- (2) Do not update the Master File address (the case or ICS Mailing or Location address) unless the taxpayer provides clear and explicit written or oral notification as provided by Rev. Proc. 2010-16. Updating a taxpayer's address with a new address received from a third party, even when verified by a postal tracer, is not permitted without the taxpayer's explicit notification. See IRM 5.11.1.3.2.1, Last Known Address. Erroneously changing the case address without adhering to Rev. Proc. 2010-16 could result in invalid notices.
- (3) Before transferring the case, the revenue officer will:
 - a. Thoroughly investigate all known assets in the transferor area (this may require search of local records) and ensure all appropriate enforcement action is taken, and
 - b. Obtain group manager approval.
- (4) Automated Collection Systems (ACS) accounts with domestic addresses may also be transferred without prior courtesy investigations.
- (5) Non-ACS accounts with domestic addresses may be transferred without prior Courtesy Investigations if:

- b. All known assets of the taxpayer within the transferor area have been investigated and the ICS history is documented with the results of the investigation.
- (6) Make a levy or seizure determination prior to transfer if the investigation reveals any assets within the jurisdiction of the transferor.
- (7) Thoroughly document the ICS case history why the case is being transferred.
- (8) If the Master File (MF) address is not being changed per the (2) above, add an ICS contact address.
 - a. Use the ICS Parameter Tables to determine the group assignment number of the receiving group based on zip code.
 - b. Transfer domestic cases using ICS Transfer Option A, "Transferee Office Requests Transfer" and input the group manager's hold file assignment number that controls the zip code of the new contact address, e.g., AOTOXX00. This action allows transfer of a case without requiring a Master File address change.
- (9) See IRM 5.1.8.2.4, Account Transfers to International, for transferring accounts with foreign addresses.

5.1.8.2.2
(09-30-2024)
**Additional Criteria for
Transfer of Domestic
Accounts**

- (1) The following applies to non-ACS accounts meeting the conditions of IRM 5.1.8.2.1, Case Transfer Without Courtesy Investigation - Domestic, of this IRM:

If . . .	Then. . .
1. The receiving office requests or agrees to the transfer of specific accounts	Transfer without a courtesy investigation.
2. The Bal Due was initially issued with an address outside the Area's jurisdiction and the new address is not a P.O. Box number or in care of a hotel or motel	Transfer without a courtesy investigation.
3. New address information appears on IDRS (usually as notified by the Daily Transaction Register); e.g., CFOL cc INOLE	Transfer without a courtesy investigation.

If . . .	Then. . .
4. Letter 4156, Bal Due Letter to Verify Address before Transfer, is sent certified mail with return receipt requested to the new address and the taxpayer acknowledges the letter (by signed return receipt or other response) but fails to send full payment	Transfer without a courtesy investigation. Allow 45 days for a reply to ensure adequate time for delivery of the letter and for the taxpayer's response. Caution: Review IRM 5.1.8.2.1(1), Case Transfer Without Courtesy Investigation - Domestic, before changing MF address.

- (2) Transfer the Bal Due without a Courtesy Investigation if new address information is from correspondence with, or personal contact from, the taxpayer and:
- The statute of limitations for collection or assessment (trust fund recovery accounts) will not expire within eight months from the date of transfer.
 - The accounts are **not** in one of the following categories: awaiting adjustment or payment tracer action, deferred, military deferment, withheld collection action status, or those on which recommendations for legal action have been made.
- Note:** Accounts in these categories will **not** be transferred until these actions are concluded.
- There are no indications in the address or case file that the taxpayer is incarcerated.
 - A Courtesy Investigation is not outstanding or completed based on the same new address.
 - For partnership or joint liabilities, all of the taxpayers involved reside in the transferee Area, or the accounts are currently not collectible with respect to the taxpayers residing in the transferor Area.
 - For corporate liabilities, the new address must be that of the corporation.
- (3) Field Collection may transfer a case to ACS without an OI when a new address in another Area has been verified and requirements in (1) and (2) above have been met.

5.1.8.2.3
(09-30-2024)
Intra-Area Transfers

- (1) Intra-Area transfers can be made when:
- The Bal Due was received in error as indicated by the Bal Due address, or
 - Territory procedures permit the transfer.

5.1.8.2.4
(09-30-2024)
Account Transfers to International

- (1) Transfer accounts having current addresses outside the United States to SB/SE International only when they meet **all** of the following conditions:
- The revenue officer has confirmed the taxpayer resides outside the United States. Document in the ICS case history how you determined the taxpayer resides outside the United States.

- c. The collection statute expiration date (CSED) for each case has one year or more remaining before expiration. If the CSED is due to expire within one year of the transfer, secure approval from an International group manager before transferring the case.
- d. The accounts are not in the following status: offer in compromise, withhold collection, awaiting adjustment action, military deferment, those on which recommendations for legal action have been made.
- e. Document your findings in the case history of any U.S. assets or levy sources. A levy or seizure determination is needed. It may be appropriate to take action against assets found in the U.S. before transferring the case to International to prevent dissipation of assets.
- f. Attach copies of related returns and revenue agent's reports, if available.
- g. In trust fund recovery penalty cases, attach a copy of the trust fund recovery penalty file.

Note: Contact the International group manager before transferring the case if the initial assignment date exceeds 15 months. The list of International group managers is on the *International Tools and Actions Knowledge Base*.

- (2) Select the appropriate drop-down address format on ICS (Domestic Address, Foreign Address, or APO/FPO/DPO Address Format) when updating addresses on ICS. All U.S. Possessions use the Foreign Address format available in ICS.

Note: Cases in the U.S. Possessions are assigned to local collection areas and are not assigned to International Collection. The *SERP RO Lookup Tool* can assist in determining the correct domestic group assignment.

- (3) To transfer cases to International, use the ICS Transfer Menu and select the applicable transfer option.
 - a. Transfer Type A (Transferee Office Requests Transfer) to: Assignment number 3597-6900.
 - b. Transfer Type B (Taxpayer Contact - Requests Transfer) to: Area 35.
- (4) Once the transfer has been accepted and assigned to the International group, the mailing address where to send the collection case file will be notated in the ICS history.
- (5) Questions on the transfer of International cases can be directed to the ICS Area 35 (International) CAC. Contact information is located on the *Collection Automation Support & Security Contacts - FAS Contacts* webpage.

5.1.8.2.5
(09-30-2024)
**Transfer Following
Courtesy Investigation**

- (1) The transferring office will send a Courtesy Investigation prior to transferring an account not meeting the conditions listed above.

5.1.8.2.6
(09-30-2024)
**Transferor Office
Instructions**

- (1) When a Courtesy Investigation proposing transfer has been sent, transfer the account only when one of the following conditions has been met:

- a. Receiving office completes Courtesy Investigation and indicates willingness to accept transfer,
 - b. Receiving office completes Courtesy Investigation indicating the taxpayer is located within its jurisdiction but fails to furnish sufficient information to permit proper disposition of the account, or
 - c. Receiving office fails to reply to a request for Courtesy Investigation within 45 days [six months for transfers to International] from the date of the request, or fails to request an extension of time for completion of the investigation.
- (2) Prior to transferring a Bal Due, document in case history all known assets of the taxpayer located within the transferor Area have been investigated. If the investigation reveals any asset within the transferor Area, make a levy or seizure determination prior to transferring the accounts.
- (3) Upon receipt of the closed OI accepting transfer, the originating revenue officer will:
- a. Send the case file directly to the Group Manager hold file (AOTO XX00) of the revenue officer who worked the OI.
 - b. Use Form 3210, Document Transmittal, as a transmittal document for transfer of the paper files. This form can be printed with the case transfer options on ICS when requested.

Note: Form 3210 is a record that pertains to shipment and receipt of documents. Refer to Document 12990, IRS Records Control Schedules (RCS) 28, Item 26 for the National Archives and Records Administration (NARA) approved Form 3210, Document Transmittal retention and disposition requirement.

- (4) In all cases, transfer of accounts is prohibited where the statutory period for collection or assessment (trust fund accounts) will expire within eight months from the date of transfer, unless the approval of the receiving manager is secured prior to transfer.
- (5) The originating office should **expedite** Form 3210 to effect transfer. If the statutory period for assessment (trust fund accounts) will expire in less than six months, attempt to secure a waiver from those potentially responsible for trust fund taxes prior to transfer.
- (6) Transfer Bal Dues on resident taxpayers having current addresses in Puerto Rico or the U.S. Virgin Islands using the *SERP RO Lookup* to determine the correct domestic group assignment.
- (7) Request a Courtesy Investigation before transfer when one of the situations in IRM 5.1.8.2.6, Transferor Office Instructions, exists (unless prohibited by this IRM chapter).

5.1.8.2.7
(09-30-2024)
**Transferee Office
Instructions**

- (1) Accept accounts transferred as a result of any of the situations stated in IRM 5.1.8.2.8, Transfer of Accounts Reported Currently Not Collectible, of this IRM.
- (2) A group manager who approves an OI accepting transfer of an account will open a substitute assignment on the taxpayer pending receipt of the new Bal Dues.

Note: In ICS Areas, close the incoming OI but do not close the ICS-only case.

5.1.8.2.8
(09-30-2024)
**Transfer of Accounts
Reported Currently Not
Collectible**

- (1) When a Courtesy Investigation establishes the taxpayer has moved out of the originating Area's jurisdiction but the account is determined to be currently not collectible, the originating Area will:

1. Document the case history how it was determined the taxpayer moved out of the originating Area's jurisdiction.
2. Prepare and input Form 53, Report of Currently Not Collectible Taxes, and
3. Prepare Form 2363, Master File Entity Change, if the criteria in Rev. Proc. 2010-16 has been met to change the MF address.
4. Document the new address and the AOTO location on Form 2363.

Caution: Ensure both the new address and the AOTO location code are entered correctly on Form 2363 if an address change was appropriate.

- (2) After input of the TC 530:

If	Then
There is no mandatory follow-up	Send file to closed case files at Centralized Case Processing (CCP).
There is a mandatory follow-up	ICS systemically creates a non-field OI and assigns it to CCP. The RO sends the paper file to CCP to monitor for follow-up action.

5.1.8.3
(09-30-2024)
**Originating Office
Procedure**

- (1) When using Form 2209 (non-ICS) procedures, the employee initiating the Form 2209 will complete the form stating fully the nature of the investigation and any specific information which will be needed or helpful in the investigation. Use the "Remarks" section for supplementary information or attach a separate statement in duplicate. If the originator has a case on ICS and is issuing a Form 2209 to a non-ICS recipient, attach appropriate portions of the account transcript, including module detail and case history transcript.
- (2) When using ICS OI procedures, the ICS originator will create an outgoing OI using the Create Modules option of the Collection Activities menu. The originator will assign the OI directly to the receiving group manager's hold file (AOTO XX00) for revenue officer assignment, even when the revenue officer requests the transfer. Assigning to the group manager's hold file will assist the group manager in controlling the inventory. As an alternative, the originator can choose to have ICS systemically assign the outgoing OI based on the zip code of the action address.
- (3) Completion periods for Courtesy Investigations:

If the action address is within:	Then the OI must be completed by:
The United States, including Puerto Rico and the U. S. Virgin Islands	45 days after issuance
Any foreign country or any other U.S. possession or territory	6 months after issuance

- (4) Contact the proposed recipient Area and verify the address for the requested action is located in their Area if the Area of jurisdiction is not obvious.
- (5) Use the telephone number listed on the IRS intranet on *SERP* to make contact.
- (6) Mail Form 2209 to the Area having jurisdiction if using a paper Form 2209.
- (7) Find Area office addresses for administrative mail by using the *SERP RO Lookup* link.
- (8) Send any relevant paper documents the recipient of the ICS OI will need to conduct the investigation to the group manager of the receiving group. The group manager of the receiving group is responsible for assigning the incoming ICS OI and for forwarding any paper documents that come in from the originator for the recipient. The mailing address of the receiving group can be found in the ICS Parameter Tables under the Employee Tables option. If the originator chooses to have ICS assign the OI, the originator may not know the receiving group number. In this case, the originator can access the module summary screen for the created OI to find the assignment number ICS has assigned. An assignment number of 00000000 indicates ICS has not yet assigned the OI.
- (9) If the receiving Area fails to timely complete the investigation and/or submit a timely request for extension, transfer the case to the Field Collection of the investigating Area, bypassing ACS. Transfer options available on ICS are:
 - a. Transferee office -- Request transfer.
 - b. Taxpayer contact -- Requests transfer.
 - c. No TP contact -- Assign to Queue (Out of Area) - Verification through correspondence.
 - d. Reassign to Area Queue -- New address information appears on IDRS after transfer.
 - e. Transfer Non Bal Due/Del Ret Inventory, examples would be OI or TFRP.

5.1.8.4 (09-30-2024)

Receiving Office — Action and Report

- (1) Take the following action upon receipt of an OI:
 - a. Report the action taken to the originator within the period stated on Form 2209 or before the due date of the ICS OI.
 - b. Submit a status report if the complete report will not be timely. Enter the report date in the ICS history and extend the OI due date. Submit the report on Form 2209-A, Status Report, if the investigation was initiated on Form 2209.

- c. If it is determined the taxpayer is in another jurisdiction and the investigation should be transferred, document the taxpayer's correct location and close the ICS OI. The originator will issue another OI to the correct location. If the investigation was initiated on Form 2209, compute the normal 45-day period for completion of the investigation from the date of the Form 2209-A used to transmit the investigation to the new jurisdiction.
 - d. If Form 2209 is prepared requesting extensions to secure Form 900, Tax Collection Waiver, include: the taxpayer's business name; employer identification number; name and social security number of the individual required to sign the waiver.
- (2) The receiving office will deposit any collection made as a result of the investigation.
- (3) Take the following action when cash is converted:
 - a. Complete the applicable item on Part 3 of the Form 809, Receipt for Payment of Taxes, entering sufficient information to identify the bank draft or money order,
 - b. Annotate Part 1 of Form 809 to indicate the collection relates to a Courtesy Investigation, and
 - c. Annotate the case history with the conversion information.
- (4) Send all pertinent documents to the originator to be associated with the Bal Due/Del Ret case file when closing the Courtesy Investigation.

5.1.8.5
(09-30-2024)
**Status Reporting by
Originator**

- (1) The originator of the investigation will document the ICS history to request additional information or actions that were not requested when the OI was created. The originator will also contact the recipient to advise them of the additional request in the history.

5.1.8.6
(09-30-2024)
Mandatory Assignments

- (1) Group managers will assign mandatory OIs listed in the following IRM subsections to the next available revenue officer.

5.1.8.6.1
(09-30-2024)
Types of Mandatory OIs

- (1) Case work from CEASO that cannot be resolved without field actions (such as redemption investigations, TFRP investigations, applications to subordinate to a factor on trust fund accounts).
- (2) Service of U.S. Tax Court subpoenas.
- (3) Counsel Collection referrals.
- (4) Federal Contractors and Federal Agency Delinquency (FAD) cases unresolved at Campus level. FAD referrals will be made through Brookhaven Campus Compliance Services based on the Service Level Agreement between the Small Business Self-Employed Campus Compliance Services and Chief Financial Office, Tax Exempt/Government Entities.
- (5) Form 4442, Inquiry Referral.
- (6) Taxpayer Advocate referrals.
- (7) Appeals Referral Investigation. See IRM 5.1.9.3.8, Appeal Process.
- (8) Corporate Trust Fund Offers in Compromise.

(9) Currently not collectible mandatory follow-ups.

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(11) The following Insolvency-generated investigations:

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- c. Insolvency requests to address collection on businesses in reorganization bankruptcy (Chapters 11 and 13) when the taxpayer is not in compliance with filing, paying, and depositing requirements.
- d. Other key Insolvency processes. These include: Courtesy Investigations requiring court appearance in a remote area; records check or asset valuation that cannot be accomplished using in-house locator services; immediate lien filing.

- (12) Lien discharge, subordination, and non-attachment applications will be worked in CEASO. Revenue officers will prepare Form 3033, Investigation of Request for Certification of Discharge or Subordination, on assigned cases for submission to CEASO. Courtesy Investigations will only be issued if CEASO cannot obtain the necessary information through informal contact with the submitting revenue officer, ICS, or other sources.
- (13) Suit recommendations will be reviewed and processed in CEASO upon receipt of the recommendation from the revenue officer. Courtesy Investigations will be issued only if CEASO cannot obtain the necessary information through informal contact with the submitting revenue officer, ICS, or other sources.
- (14) CEASO-initiated requests for a collection determination and resolution in probation and restitution-based assessment cases. CEASO may also ask for assistance on collection determinations involving restitution cases that pre-date IRC 6201(a)(4). If the OI requests acceleration and assignment of a notice status module, the OI can be closed once the module is in status 26 and assigned to a revenue officer. See IRM 5.1.5, Balancing Civil and Criminal Cases.
- (15) Judgment follow-up.
- (16) Defaulted bankruptcy plan where indicators of fraud are present.
- (17) Requests for trust fund recovery penalty determination for cases in bankruptcy. (These include supplemental Form 4180, Report of Interview with Individual Relative to Trust Fund Recovery Penalty or Personal Liability for Excise Taxes, interviews and investigations for subsequent delinquent accounts where a trust fund recovery penalty investigation was completed.)
- (18) Request for a collection determination and resolution in cases involving taxpayers who are defense contractors with a Federal Payment Levy Program levy or levy attaching 100% of a contract payment where issues of national security or financial loss to the government exist.
- (19) Recovery of unassessable erroneous refunds. See IRM 5.1.8.8.1.1.2, Un-

assessable Erroneous Refunds, and IRM 5.1.8.8.1.3, Unassessable Erroneous Refunds Recovery Procedures.

- (20) Collection Due Process/Equivalency Hearings (CDP/EH). If no other CDP/EH OI is currently open on the case, a CDP/EH OI is systemically generated when the group manager approves transfer of the case to Appeals. The CDP/EH OI is used for monitoring Appeal cases and will remain open until the last CDP/EH module on the case is resolved in Appeals. Refer to IRM 5.1.9.3.4, Controlling and Monitoring Cases While in Appeals.
- (21) CCP OIs sent to the field on Transaction Code (TC) 914 cases requiring field assistance or investigations, including:
 - CSED protection (when Form 10498-D, Intent to Commence or Continue Civil Action – Collection Statute Protection, is needed to document agreement between Collection and CI regarding what, if any, civil collection actions should be taken to protect the CSED, or to acknowledge agreement the CSED should be allowed to expire).
 - Assessment Statute Expiration Date (ASED) protection for potential TFRP assessments (when a Form 10498-C, Intent to Commence Civil Action – Statute Protection for Assessment of Trust Fund Recovery Penalty, is needed to document agreement between Collection and CI regarding what, if any, actions should be taken to protect the ASED, or to acknowledge agreement the ASED should be allowed to expire.)
 - Lien notice or lien refiling determination (when Notices of Federal Tax Lien need to be refiled to maintain the Government's lien priority; consult with CI before refiling.)
 - New balance due or delinquent return modules that need TC 914 input or parallel investigation (when a determination is needed as to whether taking collection actions for the new modules will adversely affect the criminal investigation). See IRM 5.1.5.3, IRS Policy Concerning Parallel Investigations.
 - Collection risk analysis to determine whether administrative collection action should remain suspended. CCP will issue an OI to the field every two years for a collection risk analysis. The revenue officer should determine the status of the criminal investigation; whether the taxpayer's noncompliance (failure to file, failure to pay) continues for tax periods arising subsequent to the periods under criminal investigation; and whether there is any indication the taxpayer is fraudulently transferring property or otherwise taking actions to avoid future collection. If it is determined, after coordination with CI, collection action should remain suspended, the revenue officer will document the basis for determination in the case history. If it is determined collection action no longer needs to be suspended for all or some of the modules, the procedures for parallel investigations will be followed. See IRM 5.1.5.5, Commencement of Parallel Investigation.

Note: No collection action will be taken without the concurrence of CI. Do not contact the taxpayer without the prior approval of the Special Agent assigned to the case. If contact with the taxpayer is prohibited, then the collection risk analysis must be based on the revenue officer's contact with the Special Agent, an analysis of Internal Revenue Service records and other sources of information for which access will not jeopardize the criminal investigation.

5.1.8.6.2
(09-30-2024)
**Sensitive Priority
Requests on Political
Appointees and
Government Employees**

- (1) There may be situations when the Office of the Commissioner will receive requests from the White House, the Executive Office of the President, or the Department of Justice to request Field Collection assistance with sensitive priority collection requests. The steps below are the procedures for processing these requests.
- (2) The Office of the Commissioner will forward the request to Collection Policy - Global Strategic Compliance (GSC).
- (3) Collection Policy - GSC will send the request to the Field Collection, Senior Technical Analyst.
- (4) The Field Collection, Senior Technical Analyst will forward the request to their established Area POCs.
- (5) The Area POC will establish a mandatory assignment Other Investigation (OI) to address each request and assign it to a revenue officer.

Note: Because these are sensitive priority requests, revenue officers will not conduct a field visit and will not take enforcement actions.

- (6) The RO will close the assignment when all actions requested by the Office of the Commissioner are complete, or if the taxpayer does not respond/cooperate.
- (7) In instances where the Office of the Commissioner requests a status on the sensitive priority request, the Field Collection Senior Technical Analyst will respond to the Office of the Commissioner with a courtesy copy to Collection Policy - GSC.

5.1.8.7
(09-30-2024)
**Discretionary
Assignments**

- (1) Managers will assign discretionary OIs listed in IRM 5.1.8.7.1 to the next available revenue officer based on risk level.
- (2) See IRM 5.1.8.7.1, Types of Discretionary OIs.
- (3) The risk level, if known, will be entered manually by the initiator in the remarks section of the OI. If the risk level is not known, the receiving manager will determine the presumptive risk level of the underlying account based on established risk factors and enter it in the remarks section. If the manager is not currently assigning like-risk level cases and cannot assign the OI to a revenue officer, the case can be returned to the originator by the due date of the OI. The manager will include an explanation in the remarks section explaining the reason the OI cannot be assigned.

Note: If the receiving manager is assigning like-risk level cases, the OI must be assigned to the next available revenue officer and worked timely. A Form 2209-A, Status Report, or an ICS history annotation and an e-mail will be sent to the originator to request additional time if the Courtesy Investigation cannot be completed by the due date.

- 5.1.8.7.1
(09-30-2024)
Types of Discretionary OIs
- (1) Courtesy Investigations generated by a revenue officer for investigation in another Area or territory that do not meet mandatory issuance per IRM 5.1.8.6, Mandatory Assignments.
 - (2) Collection against a non-petitioning spouse
 - (3) Request to secure tax returns
 - (4) Return Preparer penalty
 - (5) Telephone calls
 - (6) Unpostable conditions
 - (7) Other Insolvency processes
 - (8) Courtesy Investigations requiring special handling (described in IRM 5.1.8.8, Courtesy Investigations Requiring Special Handling)
- 5.1.8.8
(09-30-2024)
Courtesy Investigations Requiring Special Handling
- (1) Some Courtesy Investigations are issued for particular purposes and require specific procedures.
 - (2) Courtesy Investigations described in this section are discretionary assignments, except for unassessable erroneous refunds.
 - (3) The following Courtesy Investigations require special handling:
 - Recovery of unassessable erroneous refunds
 - Failure of employer to furnish withholding statement
 - Social Security Administration preferential investigations
 - Exemption from self-employment tax
 - Form 1120-S, U.S. Income Tax Return for an S Corporation (incorrect tax period or return filed)
 - Form 990, Return of Organization Exempt From Income Tax, filed without list for “compensation of officers”
 - Mutual Collection Assistance Requests (MCARs)
 - Investigations related to TECS
- 5.1.8.8.1
(11-10-2015)
Recovery of Unassessable Erroneous Refunds
- (1) This subsection discusses erroneous refunds in general, unassessable erroneous refunds in particular, and provides procedures for the recovery of unassessable erroneous refunds.
- 5.1.8.8.1.1
(09-30-2024)
Erroneous Refunds in General
- (1) An erroneous refund is any receipt of money from the IRS to which the recipient is not entitled.
 - (2) Erroneous refunds fall into one of two general categories for purposes of how the IRS attempts recovery:
 - Assessable erroneous refunds, and
 - Unassessable erroneous refunds.

5.1.8.8.1.1.1
(09-30-2024)

Assessable Erroneous Refunds

- (1) Assessable erroneous refunds can be placed in three categories:
- a. **Substantive redetermination of tax** — A substantive redetermination of tax involves a decision, no matter how cursory, the taxpayer's tax liability is less than the amount previously assessed from that reported by the taxpayer on the return or from that determined in an examination. The IRS abates down the redetermined tax liability, but the decision turns out to be incorrect and the tax must be assessed as tax under the IRC within the period of limitations on assessment. The IRS may have to follow the deficiency procedures, after which the tax may be collected by administrative lien or levy action, or by offset under IRC 6402(a) (see IRM 21.5.6.4.41, **-U Freeze**, which indicates the Erroneous Refund unit is monitoring a case for available credits.)
 - b. **Other assessable liabilities** — These include negative amounts of tax constituting a deficiency involving the Earned Income Credit (IRC 6211(b)(4)), amounts under math error procedures (IRC 6213(b)), and overstated income tax pre-payment credits (IRC 6201(a)(3)).
 - c. **Prejudicial clerical error** — If the refund results from a clerical error that abates tax and the taxpayer is prejudiced by the error, that tax must be reassessed.

5.1.8.8.1.1.2
(09-30-2024)

Unassessable Erroneous Refunds

- (1) Unassessable erroneous refunds are refunds that cannot be recovered by tax assessment procedures. They include the following:
- a. Refunds resulting from actions such as the misreading of an input document or a keypunch error that cause misapplied payments, misdirected direct deposits, or duplicate refunds.
 - b. A payment that satisfies an assessment, but then is erroneously refunded to the taxpayer. The assessment is considered extinguished. As the tax has been paid, the IRS cannot reassess in order to recover the refund. Refer to **Bilzerian v. United States**, 86 F.3d 1067 (11th Cir. Fla. 1996), acquiescence in result only, 1998 AOD LEXIS 8.
 - c. A refund provided to partners before an amended partnership return is accepted. In this example, the partners file for refunds based upon amended Schedule K-1s received from the partnership as the partnership files an amended return. On occasion, the changes requested on the amended partnership return are not allowed by the IRS (thereby negating the amended Schedule K-1s). If the amended partnership return is disallowed and the assessment statute of the partners has expired, then an unassessable erroneous refund results.
 - d. Otherwise assessable amounts which became unassessable by expiration of the ASER and were refunded as a statutory overpayment under IRC 6401(a) even though the IRS should have retained the amounts covering the correct, but no longer unassessable, tax liability pursuant to Rev. Rul. 85-67.

Note: The running of the period of limitations on assessments is not related to the IRS error. In some cases, the IRS may have no real opportunity to make the assessment described in IRM 5.1.8.8.1.1.1, Assessable Erroneous Refunds.

- (2) The IRS **cannot** take administrative lien or levy action to recover an unassessable erroneous refund.

Note: Use of a summons to secure records of any type is **not** permissible.

- (3) The remedies generally available to the IRS to recover unassessable erroneous refunds are:
 - a. Request the taxpayer to voluntarily repay the amount due (Letter 510-C, Refund In Error; Return Check),
 - b. File a civil suit as authorized by IRC 7405, Action for recovery of erroneous refunds (see IRM 25.3.2.3, Criteria for Bringing Suit), or
 - c. Use the common law right of offset. The government has the same common law rights as any other creditor to apply funds owed to its debtor against the debt owed. See *United States v. Munsey Trust Co.*, 332 U.S. 234 (1947). See also 31 U.S.C. 3711, which provides a statutory remedy for non-tax debts due the Government.
- (4) Unassessable erroneous refunds are subject to the Erroneous Refund Statute Expiration Date (ERSED).
 - a. The IRC 7405, Action for recovery of erroneous refunds, civil suit is generally subject to a two-year statute of limitations for instituting a suit provided in IRC 6532(b), Suits by United States for recovery of erroneous refunds.

Exception: Common law offset exception — If the error can be related to the claim for credit or refund of an overpayment because the error and claim are for the same year on the same tax account (i.e., the same taxpayer and type of tax) there may be no limitations period to contend with. The application of this exception is unlikely in regard to unassessable erroneous refunds, but contact Chief Counsel, Procedure and Administration, Branches 1/2 (PA01 & PA02 Assignments PA01PA02@IRSCOUNSEL.TREAS.GOV), if your case involves an erroneous refund of overpayment interest

See IRM 20.2.1.4.2.2.4(2)c, Overpaid Overpayment Interest,

Note: See Chief Counsel's nonacquiescence to **Pacific Gas and Electric Company v. United States**, 417 F.3d 1375 (Fed. Cir. 2005). See AOD 2006-02; 2006-26 IRB 1.

Exception: The statute of limitations is five years if the erroneous refund was induced by fraud or misrepresentation of a material fact.

- b. Compute the ERSED from the day after issuing the refund check. This is the most conservative approach. Contact Chief Counsel, Procedure and Administration, if your case has a potential statute problem. Additional resources for Counsel can be found on the *Counsel P&A Office* website.
- (5) Any amount recoverable by civil suit under IRC 7405, Action for recovery of erroneous refunds, accrues interest under IRC 6602, Interest on erroneous refund recoverable by suit, at the rate established by IRC 6621, Determination of rate of interest, from the date of the payment of the refund. The interest is collectible for voluntary payments or common law offsets as well. If the erroneous refund is \$50,000 or less, the IRS must abate the interest accrued

from the refund date to the date of the demand for repayment, unless the taxpayer (or a related party) in any way caused the erroneous refund under IRC 6404(e), Abatement of interest attributable to unreasonable errors and delays by Internal Revenue Service. If the refund is more than \$50,000, interest abatement is not required but can be allowed on a case by case basis. See IRM 20.2.7.7, IRC 6404(e)(2),Erroneous Refunds.

5.1.8.8.1.2
(09-30-2024)
**Campus Erroneous
Refund Procedures**

- (1) The Campus has different sets of procedures depending on whether or not IRC 6404(e)(2) interest abatement applies, and on whether the case is identified as a potential fraud case.
- (2) **IRC 6404(e)(2) interest abatement applies** — An initial Letter 510-C, Refund in Error; Return Check, requests return of the refund amount by a certain “Due Date”; e.g., within 21 calendar days from the date of the letter. It provides an explanation that interest will be charged from the date of the letter if the erroneous refund is not repaid by the “Due Date.” A second Letter 510-C is issued when the taxpayer does not pay the refund amount back to the IRS. This letter includes interest from the date of the initial letter; i.e., the date of the notice and demand for payment.
- (3) **IRC 6404(e)(2) interest abatement does not apply** — An initial Letter 510-C requests return of the refund amount and interest due on the refund from the date of the payment of the refund.
 - a. **Regular case** — A second Letter 510-C is issued when the taxpayer does not pay the refund amount back to the IRS if the case is not identified as a potential refund fraud case.
 - b. **Potential fraud case** — The second Letter 510-C will not be sent in cases where CI becomes involved with the case because of potential refund fraud.
- (4) The Campus will issue Form 2209, Courtesy Investigation, to Collection management for assignment to attempt recovery of an erroneous refund.

5.1.8.8.1.3
(09-30-2024)
**Unassessable Erroneous
Refunds Recovery
Procedures**

- (1) Collection management will receive a Form 2209, Courtesy Investigation, for
 - (2) Contact the taxpayer and request voluntary repayment of the amount due, including applicable interest under IRC 6602 upon receipt of Form 2209.
- Note:** You may attempt to contact the taxpayer by mail if you are unable to contact the taxpayer in person. To assist you in composing a letter to the taxpayer, you may use the language included in Letter 510-C by selecting the appropriate paragraphs. Letter 510-C is a correspondex letter with various suggested paragraphs and is available on the Servicewide Electronic Research Program (SERP).

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Caution: Do **not** use administrative lien or levy action to collect these debts.

Caution: Do **not** use a summons to secure records of any type.

- (3) Do **not** assess or attempt to collect the applicable interest for the period between issuance of the erroneous refund and the date repayment is demanded if the taxpayer remits the amount of the refund without the applicable interest **and**
 - a. You determine interest is to be abated under IRC 6404(e)(2) for the period between issuance of the erroneous refund and the date repayment is demanded because the taxpayer did not cause the erroneous refund,
 - b. **And** the amount of the erroneous refund is \$50,000 or less.
- Note:** If the taxpayer did not cause the erroneous refund, and the amount of the erroneous refund is more than \$50,000, the IRS may abate the interest at its discretion.
- (4) Abatement of the post-demand interest (charged from the date of the notice and demand for repayment to the repayment date) is not allowed. See IRM 20.2.7.7, IRC 6404(e)(2), Erroneous Refunds.
 - (5) Take the following action, as applicable:
 - Secure full payment if possible.
 - Determine the taxpayer's ability to pay over time if immediate full payment is not possible.
 - Attempt to secure a voluntary repayment agreement from the taxpayer if the taxpayer cannot make immediate full repayment.
 - Consider recommending a suit if the taxpayer cannot or will not pay in full or enter into a voluntary repayment agreement.
 - (6) See the specific procedures below for each of these actions, as applicable.
 - (7) IRM 3.17.80-4 Exhibit, contains the list of Erroneous Refund Coordinator contacts.

5.1.8.8.1.3.1
(09-30-2024)
Secure Full Payment

- (1) Secure full payment if possible.
- (2) Process the payment if the taxpayer pays in full.
- (3) List the payment on your Form 795, Daily Report of Collection Activity.
- (4) Convert cash to a bank draft or money order if the taxpayer pays in cash.
 - a. Give Part 2 of Form 809, Receipt for Payment of Taxes, to the taxpayer.
 - b. Staple Part 1 of Form 809 to the reverse of Part 3 of Form 809.
- (5) Close the Form 2209, Courtesy Investigation, when the full amount due is received.
 - a. Forward the remittance, the Parts 1 and 2 of Form 2209, and the related collection case file to the Campus on your Form 795.
 - b. Forward Parts 1 and 3 of Form 809 to the teller unit for retention if you issued a receipt.

5.1.8.8.1.3.2
(09-30-2024)

**Determine the
Taxpayer's Ability to Pay**

- (1) Determine the taxpayer's ability to pay over time if immediate full payment is not possible.
 - a. Secure Form 433–A, Collection Information Statement for Wage Earners and Self-Employed Individuals, and/or Form 433–B, Collection Information Statement for Businesses, if the taxpayer voluntarily discloses the information to complete the form(s).

Caution: Do **not** use a summons to secure records of any type.

 - b. Analyze the 433-A and/or the 433-B.
 - c. Decide whether or not the taxpayer will be able to repay the erroneous refund.
 - d. Follow the procedures in IRM 5.15.1, Financial Analysis Handbook, and IRM 5.16.1, Currently Not Collectible, to help you make your decision.
- (2) Follow the procedures below in IRM 5.1.8.8.1.3.3, Secure a Voluntary Repayment Agreement, if the taxpayer agrees to repay the erroneous refund.
- (3) Follow the procedures below in IRM 5.1.8.8.1.3.4, Recommend a Civil Suit, if the taxpayer will **not** agree to repay the erroneous refund.

5.1.8.8.1.3.3
(09-30-2024)

**Secure a Voluntary
Repayment Agreement**

- (1) The IRS can solicit a voluntary repayment of the erroneous refund within two (or five) years from issuance of the erroneous refund in accordance with IRC 6532(b). The IRS has long used consensual dispute resolution in lieu of litigation.
- (2) Attempt to secure a voluntary repayment agreement from the taxpayer if the taxpayer cannot make immediate full repayment.

Caution: Do **not** file a Notice of Federal Tax Lien.

Caution: Do **not** serve a levy to collect.

- a. Request the taxpayer submit a signed voluntary repayment agreement that provides for full payment of the erroneous refund and specifies the repayment terms.

Caution: Do **not** use Form 433–D, Installment Agreement. IRC 6159, Agreements for payment of tax liability in installments, only authorizes installment agreements for the payment of **tax**.

- b. Use the language suggested in Exhibit 5.1.8-2, Unassessable Erroneous Refund Voluntary Payment Agreement, when a repayment agreement is required.
- c. Attach Form 433–A and/or Form 433–B (if you secured one or both of them) to the signed voluntary repayment agreement.
- d. Provide instructions to the taxpayer to send the payments to the Campus address annotated on the Form 2209 and to include the taxpayer's identification number, the tax period, and the tax class.
- e. Grant an appropriate amount of time for the voluntary repayment agreement based on circumstances of the individual case.
- f. Ensure the voluntary repayment agreement provides for full payment at least six months before the two-year statute for instituting suit expires.

Exception: The taxpayer can waive the two-year period of limitations established by IRC 6532(b) on the institution of suits to recover

erroneous refunds. If the taxpayer executes a waiver of the limitations period as part of their agreement, such voluntary repayment agreements are acceptable.

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- h. Follow the waiver procedures in IRM 5.1.8.8.1.3.3.1, Waiver Procedures, if you need to secure a waiver.
- (3) Return the voluntary repayment agreement with attachments to the originator of the OI (Form 2209). Annotate the amount and date payments are expected in the ICS history. Include a printed copy of the ICS history with the closed OI file being sent back to the Campus.
- (4) Resolve the Form 2209, Courtesy Investigation, as follows:

If	Then
The taxpayer enters into a voluntary repayment agreement	<ul style="list-style-type: none"> Close Form 2209 to the Campus annotating amount and date payments are to be received.
The taxpayer pays in full	<ul style="list-style-type: none"> Close the Form 2209 when the full amount due is received. Follow the closing procedures in IRM 5.1.8.8.1.3.1, Secure Full Payment, noted above.
The taxpayer defaults	<ul style="list-style-type: none"> Campus will issue a new Form 2209. Take the action described below in IRM 5.1.8.8.1.3.4, Recommend a Civil Suit. Do not file a Notice of Federal Tax Lien. Do not serve a levy to collect.

5.1.8.8.1.3.3.1
(09-30-2024)
Waiver Procedures

- (1) Waivers should be requested only in **limited** circumstances, such as where a taxpayer agrees to repay the erroneous refund but needs additional time. These waivers should be short and have a specific end date (i.e., no open-ended extensions). Waivers under IRC 6532(b) will **always** contain an expiration date that accommodates the full payment plus an additional six months.
- (2) Secure a waiver **only** when the taxpayer:
 - a. Agrees the refund was erroneous **and** is willing to repay the erroneous refund but needs time beyond the Erroneous Refund Statute Expiration Date (ERSED), or
 - b. Disputes the refund is erroneous **and** the amount at issue is significant enough so the IRS will file an erroneous refund civil suit if the taxpayer does not repay the erroneous refund.

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- (4) Follow these steps to prepare the waiver:
 - a. Use the waiver language in Exhibit 5.1.8-1, Unassessable Erroneous Refund Waiver, when a waiver is required.
 - b. Prepare the waiver by printing the waiver language on a blank piece of IRS letterhead paper.
 - c. Establish the waiver with an expiration date that accommodates the full payment plus an additional six months.
- (5) Attach the signed waiver to the signed voluntary repayment agreement.
 - a. The agreement and waiver are subject to contract principals. Therefore, every effort should be made to ensure the information is clear. In particular, proper identification of the parties is critical. This is a factor where corporate reorganizations or dissolutions have occurred since the refund. A parent of a consolidated entity would have no authority through its role under the IRC to bind a member who received the erroneous refund. The tax matters partner of a partnership would have no authority through its role under the IRC to bind the partners on this matter.
 - b. If the taxpayer makes alterations on a document, it is preferred that a new document be prepared for the taxpayer's signature. However, if the alterations on the document are acceptable to the IRS, the taxpayer has initialed each alteration, and there is not sufficient time to perfect the document, the person signing for the IRS could initial the alterations and sign the document.
 - c. If a Power of Attorney (POA) is going to execute a document for a taxpayer, the Form 2848, Power of Attorney and Declaration of Representative, must specifically authorize the POA to bind the taxpayer.

5.1.8.8.1.3.4
(09-30-2024)

Recommend a Civil Suit

- (1) The IRS may recover any erroneous refund by instituting an erroneous refund suit in accordance with IRC 7405. In order to be timely, an erroneous refund suit must be filed within two (or five) years from the date of payment of the erroneous refund.
- (2) Consider the usual requirements for recommending a suit and also consider other action if the taxpayer:
 - Refuses to pay on request,
 - Refuses to make a voluntary repayment agreement, or
 - Defaults on a voluntary repayment agreement.
- (3) Refer to the following IRM sources for information on litigation:
 - IRM 25.3.2, Suits by the United States.
 - IRM 5.17.4, Legal Reference Guide for Revenue Officers - Suits by the United States. See IRM 5.17.4.14, Suits to Recover Erroneous Refunds. This IRM provides recovery by suit should be considered only if administrative recovery is barred by the statute of limitations or the erroneous refund is unassessable, and criteria in IRM 25.3.2 for filing a suit are met.
 - IRM 21.4.5, Refund Inquiries - Erroneous Refunds. See IRM 21.4.5.15, Collection Methods for Category D Erroneous Refunds. This IRM

provides that suits to recover erroneous refunds are limited to those exceeding the litigating threshold established by Department of Justice.

- (4) Make a decision as to whether or not it would be in the government's best interest to pursue a suit to recover the erroneous refund.
- (5) Prepare a recommendation report to CEASO in the memorandum format.
- (6) Recommend whether or not a suit or other action to recover the erroneous refund should be instituted. Contact Area Counsel to determine if any other actions may be appropriate in the case you are working.
- (7) Include the following in your recommendation report (if available):
 - a. Name and address of the taxpayer,
 - b. Type of taxpayer (individual, partnership, corporation, etc.),
 - c. Tax class,
 - d. Amount of the erroneous refund listed by tax period (include accrued interest due on the erroneous refund as a separate item),
 - e. A statement indicating the taxpayer refused or neglected to make payment upon request (include any reasons known for the taxpayer's action),
 - f. Schedule number and date refund was made,
 - g. Reason(s) refund arose, and
 - h. Premise upon which recovery is based.

Exception: If you are **not** recommending a civil suit or other action, you may limit your report to the first five items above (i.e., items a through e).

- (8) Annotate Parts 1 and 2 of Form 2209 "Suit Recommended" or "Suit not Recommended" as applicable.
- (9) Close Form 2209.
 - a. Forward Part 2 of Form 2209 on Form 795, Daily Report of Collection Activity.
 - b. Forward Part 1 of Form 2209 along with your recommendation report and all the other attachments to CEASO.
 - c. Include a copy of the letter (based on Letter 510-C, Refund in Error; Return Check), if you sent it to the taxpayer pursuant to IRM 5.1.8.8.1.3(2), Unassessable Erroneous Refunds Recovery Procedures, above.
- (10) Refer to IRM 25.6.1, Statute of Limitations -- Statute of Limitations Processes and Procedures, for further information on potential statute cases. See IRM 25.6.1.10.2.3, Remedies for Recovering an Erroneous Refund.

Note: Upon receipt of Form 2209 in CEASO, the CEASO manager will make the final determination as follows:

If the RO:	Then the CEASO manager will:
Recommended a suit	<ul style="list-style-type: none"> Annotate Part 1 of Form 2209 "Suit will be initiated." Send Part 1 of Form 2209 to the Campus.
Did not recommend a suit	<ul style="list-style-type: none"> Annotate Part 1 of Form 2209 "Suit will not be initiated." Send Part 1 of Form 2209 to the Campus along with the related case file.

5.1.8.8.2

(09-30-2024)

**Failure of Employer To
Furnish Withholding
Statement**

- (1) Whenever a taxpayer corresponds with a Campus and indicates inability to secure a correct Form W-2 from their employer, the Campus Correspondence Section attempts to resolve the discrepancy. If this does not resolve the situation, a Form 2209 is prepared and issued to Field Collection.
- (2) If the employer has no records or the records are inadequate to accurately determine the employee earnings, secure an estimated Form W-2 from the employer.
- (3) If the employer cannot be located, note this fact with a statement in the "Remarks" section of the Form 2209.
- (4) Willful failure to furnish an employee with the required statement on Form W-2 can make an employer liable for a civil penalty imposed by IRC 6674, Fraudulent statement or failure to furnish statement to employee, and/or a criminal liability provided by IRC 7204, Fraudulent statement or failure to make statement to employees. Consider the assertion of these IRC 6674 penalties whenever an employer refuses to submit the required Form W-2. Only CI can investigate and consider whether to assert IRC 7204.
- (5) Failure to furnish or the furnishing of a false or fraudulent Form W-2 suggests the possibility the employer may have omitted reporting the tax withheld on Form 941. Therefore, include in any field Courtesy Investigation an examination of the employer's records to determine if all tax withheld has been accounted for and reported on the employer's returns. If indications of fraud are discovered, apply the procedures in IRM 25.1, Fraud Handbook, and IRM 5.1.33, Field Collection Fraud Development.

5.1.8.8.3

(09-30-2024)

**Social Security
Administration
Preferential
Investigations**

- (1) When certain conditions are met, the Social Security Administration (SSA) may ask the IRS to give preferential treatment to earnings discrepancy cases. These cases are originated on Form SSA-1273, Request for Preferential Investigation.
- (2) The SSA will forward Form SSA-1273 to the appropriate Campus. If there is no record of the return involved, the Campus will:
 1. Prepare Form 2209
 2. Attach Form SSA-1273 to Form 2209 and forward both to Field Collection.
- (3) When Field Collection receives an earnings discrepancy case, it will:

1. Accord them priority over any other SSA investigations.
2. Close them within 40 days of receipt, if possible.
3. Complete the reverse side of Form SSA-1273 before closing the investigation.
4. Attach all parts of Form SSA-1273 to Form 2209.

5.1.8.8.4
(09-30-2024)
**Exemption From
Self-Employment Taxes**

- (1) Members of certain recognized religious groups that are opposed to public insurance have been exempted from paying social security and medicare tax on self-employment income. In order to establish this exemption, a taxpayer must file with the Internal Revenue Service a Form 4029, Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits. See IRM 5.1.12.12, Taxpayer Exempt From Taxation for Religious Reasons. If the Campus cannot verify the applicant's membership, the case will be forwarded to Field Collection on Form 2209.

Note: Form 2209 will have the following notation in the *Remarks* block: A Form 4029, Application for Exemption From Social Security and Medicare Taxes and Wavier of Benefits, has been filed by the taxpayer named above. Upon contact, request the taxpayer to furnish the appropriate statement relative to their membership in the religious group indicated on the application. The IRS does not collect or maintain lists of members of religious sects that may be checked instead of making such a request.

- (2) Contact the individual requesting exemption and advise them the application cannot be processed because their name is not on the list supplied by the religious organization. The taxpayer should be requested to secure a statement signed by an authorized individual of the religious sect. This statement should include:
 - Name, address and area of the religious group,
 - Title of the authorized individual,
 - Name of the applicant, and
 - Statement indicating the applicant is a member of the religious group.
- (3) Attach this statement to Part 1 of Form 2209 before submitting the closed case on Form 795.

5.1.8.8.5
(09-30-2024)
**Incorrect Tax Period or
Return Filed — Form
1120S**

- (1) Compliance Services Collection Operations will electronically prepare Form 2209, Courtesy Investigation, and forward it to the appropriate Collection function when a TC 610 posts to a Form 1120 or 1120S module in an un-postable status. The investigation will:
 - a. Indicate the taxpayer has either filed a return for an incorrect tax period or an incorrect return (e.g., a Form 1120S in lieu of a Form 1120.)
 - b. State the correct tax period or type of return, and
 - c. Have a photocopy of the first page of the return, as filed, attached.
- (2) Secure a correct tax return to close the Form 2209.

5.1.8.8.6
(09-30-2024)
**Form 990 Filed Without
List for "Compensation
of Officers"**

- (1) To meet the requirements of IRC 6033, Returns by exempt organizations, an exempt organization must complete the return to provide all data asked for, if applicable.

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- (2) Occasionally an annual return is received by the IRS without the list for “Compensation of Officers.” In this instance, the Campus corresponds with the organization and requests the missing list. If no satisfactory response is received within 60 days, the Campus will issue a Form 2209, Courtesy Investigation.
- (3) Management will assign this type of investigation to a revenue officer.
- (4) Take the following action upon receipt of an OI to secure the “Compensation of Officers” list:
 - a. Encourage the organization to file (and to do so expeditiously).
 - b. Recommend assessment of the late filing penalty or indicate reasonable cause for failure to submit the list was established.

If	Then
You recommend assertion of the penalty	<ul style="list-style-type: none"> • Prepare a computation of the amount of penalty to be assessed • Attach it to the reverse of Part 1 of the Form 2209.
You recommend non-assertion of the penalty	<ul style="list-style-type: none"> • Document the reasonable cause exception, if applicable, for not assessing the penalty and attach it to the reverse side of Part 1 of the Form 2209.

- (5) Close the Form 2209 if the exempt organization fails to submit the list within the required time after being advised of its responsibility to do so.
- (6) Record the actions you took to attempt to get the organization to comply with the requirements in the “Remarks” section on the reverse side of Form 2209.

5.1.8.8.7
(11-10-2015)
**Incoming Mutual
Collection Assistance
Requests**

- (1) Refer to IRM 5.21.7.4, Mutual Collection Assistance Requests (MCAR), for procedures on working MCAR courtesy investigations.

5.1.8.9
(09-30-2024)
TECS

- (1) TECS is a database maintained by the Department of Homeland Security (DHS). TECS is discussed in IRM 5.1.18.13, TECS, concerning how certain balance due taxpayers who reside or travel extensively abroad may be entered into this system. DHS will notify the IRS TECS Coordinator when taxpayers placed on TECS travel into the U.S. The TECS Coordinator is responsible for informing SB/SE Collection group managers of these taxpayer travel situations so that any necessary actions can be taken in a timely manner.
- (2) For taxpayers assigned to the International collection groups, the SB/SE International group manager will issue a Courtesy Investigation for any taxpayer contact and/or other actions that may be needed by domestic group managers who supervise the locations where the taxpayer will be present during the stateside travel interval when a DHS lookout has been received.
- (3) A phone call or secure message e-mail from the International group manager to the group manager receiving the Courtesy Investigation is also recommended to ensure expeditious assignment. Refer to IRM 5.1.18.13.5, The Role of the Group Manager and Revenue Officer when TECS Lookout Information is Provided for further guidance.
- (4) For taxpayers assigned to the domestic Collection groups, the TECS Coordinator will directly notify the domestic group manager who would be responsible for the taxpayer as part of their group assignment jurisdiction when a TECS lookout has been received. Refer to IRM 5.1.18.13.5, for further guidance.

5.1.8.9.1
(09-30-2024)
**TECS Coordinator's
Involvement With
Managers**

- (1) Some of the information from a TECS lookout is time sensitive and requires immediate action by the revenue officer and/or group manager. Requests for contact with taxpayers and possible lien, levy and seizure requests via Courtesy Investigation need to be worked on a high priority basis when practical. See IRM 5.1.18.13.1, TECS Lookout Indicators.
- (2) When the TECS Coordinator is informed by DHS that a taxpayer in the TECS system is arriving in the U.S., they will inform the Collection group manager of the location where the taxpayer is staying and any other pertinent facts. See IRM 5.1.18.13.4, The Role of the TECS Coordinator.
 - a. For situations involving non-U.S. residents, the TECS Coordinator will communicate the information to the International group manager who is responsible for cases in the taxpayer's foreign country of permanent residence. The International group manager will then contact the domestic group manager responsible for the stateside location where the taxpayer will be staying and will request a Courtesy Investigation be assigned to an RO as a priority.
 - b. In instances where DHS informs the TECS Coordinator about the arrival into the U.S. of a TECS taxpayer whose permanent address of record is actually within the U.S., the TECS Coordinator will call the domestic group manager responsible for cases in the taxpayer's U.S. residence location.
 - c. The domestic group manager will arrange for any necessary Courtesy Investigations to an RO in their group or to another domestic group manager responsible for the location where the taxpayer is staying.

Note: Any debate regarding the relative priority of the Courtesy Investigation and whether it can or should be worked expeditiously will be resolved by the Field Compliance Manager (FCM) / Territory Manager(TM) responsible for

the taxpayer case and the FCM/TM supervising the location where the courtesy investigation needs to be worked.

5.1.8.9.2
(09-30-2024)

Role of a Revenue Officer Working a TECS-related Courtesy Investigation

- (1) Upon being assigned a Courtesy Investigation concerning a TECS taxpayer, attempt to conduct a personal meeting with the taxpayer if appropriate. It will be necessary to determine the time and date the taxpayer plans to depart the U.S., as well as the carrier on which the taxpayer will travel, to ensure that the information has remained the same as stated to HHS when they arrived.
- (2) Prior to conducting a full compliance check, it is recommended you research the International filing requirements, if pertinent, and the specific tax forms that may be dictated by residency and other matters.
- (3) It will be essential in making contact to determine the taxpayer's present and future rights to income, property and other assets located in the U.S. While many interviewed taxpayers will be interested in exploring realistic methods of discharging their tax liabilities, it may be necessary to issue a summons to obtain financial information.
- (4) If it is established a taxpayer can pay all or a substantial part of the liability but refuses to do so, contact Area Counsel immediately to determine whether it may be appropriate to reduce the tax claim to judgment in conjunction with other judicial remedies.
- (5) When you determine there are unfiled delinquent returns with balances due and/or collection of the tax may be imperilled, consider whether it is a jeopardy situation. See IRM 5.1.4, Jeopardy, Termination, Quick and Prompt Assessments. A referral to CI for violations of IRC 7203 (willful failure to file and/or pay tax) may need to be considered. See IRM 4.15.1.6, Potential Criminal Case.
- (6) In instances where the taxpayer may be evading your efforts or appears to be leaving the U.S. with assets, an expeditious order of Writ of Ne Exeat should also be considered. Refer to IRM 34.6.1.2.4, Use Of Writ of Ne Exeat, for information on this procedure, and contact Area Counsel for advice and coordination.

5.1.8.9.3
(09-30-2024)

Actions to Consider While Closing a TECS-related Courtesy Investigation

- (1) If the case meets certain conditions as outlined in IRM 5.1.18.13.7.4, Criteria For Removing A Taxpayer From the DHS Lookout Indicator List, promptly request the taxpayer be removed from the TECS database.
- (2) Contact the SB/SE TECS Coordinator and advise them of the need for prompt deletion.
- (3) Refer to IRM 5.1.18.13.7.5, Procedures for Requesting Removal of a Taxpayer from the DHS Lookout Indicator List.
- (4) Determine if any follow-up action needs to occur if a Notice of Federal Tax Lien needs to be refiled if the taxpayer is going to remain on TECS.

5.1.8.10
(11-10-2015)

Courtesy Investigations to International

- (1) Issue a Courtesy Investigation to International if an investigation reveals an address outside the United States may be the address of the taxpayer.

Exception: A Courtesy Investigation is **not** required when an address outside the United States has been confirmed. The case should be transferred to International.

- (2) Follow these procedures to use ICS to issue a Courtesy Investigation to International:
 - a. Select Create Module in the Collection Activities menu
 - b. Select OI Out
 - c. Select A/C - International (3502) from the Area list for the assignment number
- (3) The OI will be systemically assigned to 35976900.

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Exhibit 5.1.8-1 (09-30-2024)

Unassessable Erroneous Refund Waiver

WAIVER
<p>Full Name(s): _____</p> <p>and _____</p> <p>Street Address: _____</p> <p>City: _____</p> <p>State: _____</p> <p>Zip Code: _____</p> <p>Social Security Number(s): _____</p> <p>and _____</p> <p>Other Taxpayer Identification Number: _____</p>
<p>I (we) hereby voluntarily waive the two year period of limitations established by IRC 6532(b) on the institution of suits by the United States to recover the erroneous refund(s) I (we) received on _____ (refund date), until _____ (expiration date) as a condition of being considered for a voluntary repayment agreement. I (we) understand that by signing this waiver, the time for the United States to file a suit to recover the erroneous refund is extended through the date set forth above.</p>
<p>_____ Taxpayer's Signature Date</p>
<p>_____ Spouse's Signature (if applicable) Date</p>
<p>_____ Representative's Signature (if applicable) Date</p>
<p>_____ Area Director By Delegated Representative: Date</p>
<p>_____ Revenue Officer's Signature Date</p>

Exhibit 5.1.8-2 (09-30-2024)**Unassessable Erroneous Refund Voluntary Payment Agreement**

VOLUNTARY REPAYMENT AGREEMENT
Full Name(s): _____ and _____ Street Address: _____ City: _____ State: _____ Zip Code: _____ Social Security Number(s): _____ and _____ Other Taxpayer Identification Number: _____
I (We) hereby voluntarily agree to repay the erroneous refund that I (we) received on _____ [refund date], plus interest provided by law, as follows: \$ _____ on _____ [date] and \$ _____ on the _____ [day 1st through 28th] of each month thereafter.
Payments are to be directed to: [insert address] _____ _____ _____
Taxpayer's Signature: _____ Date _____
Spouse's Signature (if applicable): _____ Date _____
Representative's Signature (if applicable): _____ _____
Agreement examined or approved by: Name: _____ Title: _____ Signature: _____ Date _____