



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.1.33

MARCH 18, 2024

EFFECTIVE DATE

(03-18-2024)

PURPOSE

- (1) This transmits new IRM 5.1.33, Field Collection, Fraud Development.

MATERIAL CHANGES

- (1) This IRM provides guidance to Field Collection (FC) employees related to all aspects of the fraud development process, including actions required prior to, during and following a referral to Criminal Investigation. Some material has been sourced, but not relocated from IRM 25.1, Fraud Handbook.

EFFECT ON OTHER DOCUMENTS

None

AUDIENCE

Field Collection (FC) employees, including revenue officers (ROs) and revenue officer group managers (RO GMs) are the primary users of this IRM.

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Director, Collection Policy

5.1.33

Field Collection Fraud Development

Table of Contents

5.1.33.1 Program Scope and Objectives

5.1.33.1.1 Background

5.1.33.1.2 Authority

5.1.33.1.3 Roles and Responsibilities

5.1.33.1.4 Program Management and Review

5.1.33.1.5 Program Controls

5.1.33.1.6 Terms

5.1.33.1.7 Acronyms

5.1.33.1.8 Related Resources

5.1.33.2 Initial Indicators of Fraud

5.1.33.3 Initial Consultation Meeting with FEA

5.1.33.4 Fraud Development Status

5.1.33.4.1 ICS Fraud Development Status Case Code Table

5.1.33.4.2 Related cases

5.1.33.5 Investigation and Documentation

5.1.33.5.1 Fraud Development Plan of Action

5.1.33.5.2 Case documentation

5.1.33.5.3 Collection decision to make a Criminal Referral

5.1.33.5.3.1 Exam Referral with Civil Fraud Penalty recommendation

5.1.33.6 Fraud Referral to CI

5.1.33.6.1 Preparation of Form 2797, Referral Report of Potential Criminal Fraud Cases, Referral Package

5.1.33.6.2 10-Day Meeting with Criminal Investigation

5.1.33.7 CI Referral Determination and follow-up activity

5.1.33.7.1 30-Day Conference and/or request for Extension

5.1.33.7.2 CI Acceptance of Fraud Referral

5.1.33.7.3 Transfer to CCP for monitoring

5.1.33.7.4 Taxpayer Contact Memorandum

5.1.33.7.5 Cooperating Revenue Officer

5.1.33.7.6 Quarterly Conferences

5.1.33.7.7 Tax Returns received after Acceptance of Criminal Referral

5.1.33.7.8 CI Declination

5.1.33.7.9 CI Discontinuance

5.1.33.8 Transfer of Suspected Fraud Collection Cases

5.1.33.8.1 Transfers from Campus to the Field

5.1.33.8.2 FDS Case Transfers within Field Collection

5.1.33.9 Special Program Fraud Development Considerations

- 5.1.33.9.1 Compliance Initiatives
- 5.1.33.9.2 Special Procedures for International Cases
- 5.1.33.9.3 Non-Master File (NMF) Accounts
- 5.1.33.9.4 Bankruptcy
- 5.1.33.9.5 Offer In Compromise
- 5.1.33.9.6 Civil Enforcement Advice and Support Operations
- 5.1.33.9.7 Appeals

5.1.33.1
(03-18-2024)
Program Scope and Objectives

- (1) **Purpose.** This updates transmits the new IRM 5.1.33, Field Collection Fraud Development.
- (2) **Audience.** Field Collection employees, including revenue officers and revenue officer group managers, are the primary users of this IRM.
- (3) **Policy Owner.** Director, Collection Policy, SB/SE.
- (4) **Program Owner.** SB/SE, Collection Policy, Global Strategic Compliance (GSC).
- (5) **Primary Stakeholders.** Field Collection (FC) and Office of Fraud Enforcement (OFE) are the primary stakeholders.
- (6) **Program Goals.** This guidance contains procedures for effective case work when facts of the case indicate the development of a criminal fraud referral is appropriate and the case is in fraud development status.

5.1.33.1.1
(03-18-2024)
Background

- (1) This section provides procedural guidance to be used in concurrence with IRM 25.1, Fraud Handbook, by FC employees when working potential and identified fraud development cases

5.1.33.1.2
(03-18-2024)
Authority

- (1) The following authorities provide the IRS the basis for these developed guidelines:
 - The authority to conduct examinations under U.S. Code Title 26 - Internal Revenue Code, Subtitle F – Procedure and Administration, Chapter 78 - Discovery of Liability and Enforcement of Title, Subchapter A - Examination and Inspection,
 - The authority for additional tax assessments and penalties under U.S. Code Title 26 – Internal Revenue Code, Subtitle F – Procedure and Administration, Chapter 68 – Additions to the Tax, Additional Amounts, and Assessable Penalties, and
 - The authority for the collection of tax under 26 U.S. Code Title 26 – Internal Revenue Code, Subtitle F – Procedure and Administration, Chapter 64 - Collection.

5.1.33.1.3
(03-18-2024)
Roles and Responsibilities

- (1) The Collection Policy, Global Strategic Compliance Analyst is responsible for the content of this IRM section and its utilization within FC.
- (2) The RO GM serves as a resource and liaison to FC ROs regarding fraud development. ROs, who identify first indicators of fraud in FC cases, are responsible for following the procedures in this IRM. All ROs and RO GMs working field collection fraud development cases, must familiarize themselves with the information contained in this IRM. The Fraud Enforcement Advisor (FEA) serves as a resource and OFE liaison to ROs and RO GMs.

5.1.33.1.4
(03-18-2024)
Program Management and Review

- (1) The Director, Collection Policy, is the executive responsible for providing policy and guidance regarding Field Collection fraud development and ensuring consistent application of policies and procedures found in this IRM.

5.1.33.1.5
(03-18-2024)
Program Controls

- (1) FC uses the Integrated Collection System (ICS) to oversee and manage field collection cases working towards a fraud referral.
- (2) GSC prepares and issues the following reports to field collection stakeholders:
 - Monthly Field Collection fraud development status reports consolidating data from ICS.
 - FC Area reports for reference and reconciliation.
 - Ad-hoc reports as requested by stakeholders.
 - OFE prepares a monthly fraud referral report for FC as well.
- (3) For program oversight, FC Fraud Program reviews are conducted by GSC in collaboration with the stakeholders, to measure adherence to policies and procedures, opportunities for improvement and best practices.

5.1.33.1.6
(03-18-2024)
Terms

(1) **Terms & Definitions**

Term	Definition
First Indicators of Fraud	First indications of fraud (also known as “badges of fraud”) serve as a sign that a taxpayer may have taken actions for the purpose(s) of deceit or concealment. It is essential to remember that a first indication alone is not sufficient to establish fraud. First indications of fraud require development to determine if the actions will rise to the level of firm indications of fraud.
Firm Indications of Fraud	Firm indications of fraud (also called “affirmative acts of fraud”) are actions that were deliberate to deceive, hide, camouflage, and make things seem other than what they are to one who had the right to rely on that information. Fraud cannot be established without affirmative acts of fraud. One must remember that an affirmative act (also called a “firm indication”) of fraud will explain exactly what or how the taxpayer was able to deceive the government.

Term	Definition
Fraud Development Status (FDS)	Case enters FDS when Form 11661-A is approved by RO, RO GM, and FEA. Case exits FDS when CI makes a determination to accept or decline the fraud referral on Form 2797, or if affirmative acts cannot be established.

5.1.33.1.7
(03-18-2024)
Acronyms

(1) Acronyms used in FC fraud referral development:

Acronym	Name
ASED	Assessment Statute Expiration Date
ATAT	Abusive Tax Avoidance Transactions
CCP	Centralized Case Processing
CEASO	Civil Enforcement Advice and Support Operations
CI	Criminal Investigation
CFFC	Campus Collection Functional Fraud Coordinator
CKGE	CDW Knowledge Graph Environment
CPFA	Collection Policy Fraud Analyst
CSED	Collection Statute Expiration Date
FC	Field Collection
FEA	Fraud Enforcement Advisor
FDS	Fraud Development Status
FITS	Fraud Information Tracking System
GSC	Global Strategic Compliance
ICS	Integrated Collection System
MFT	Master File Transaction
NMF	Non-Master File
OFE	Office of Fraud Enforcement
OI	Other Investigation(s)

Acronym	Name
SRS	Specialist Referral System
TC	Transaction Code
TFRP	Trust Fund Recovery Penalty

5.1.33.1.8
(03-18-2024)

Related Resources

- (1) IRM 25.1, Fraud Handbook, must be referenced through the FC fraud development process as the lead IRM for Fraud policy. An additional reference that can be used is the Fraud Development Knowledge Base

5.1.33.2
(03-18-2024)

Initial Indicators of Fraud

- (1) When indicators (formerly known as “badges”) of fraud are uncovered, the RO must clearly document the first indicators of fraud.
- (2) Refer to IRM 25.1.2.3, Indicators of Fraud, for a list of typical first indicators of fraud.

Note: The case is **NOT** in fraud development status (FDS) at this point. It is a FC assigned case with initial fraud indicators; therefore, work the case according to standard case procedures.

- (3) The RO will initiate a discussion with their RO group manager (RO GM) once first indicators of fraud are identified. If the RO GM concurs there are initial indicators of fraud, the RO will request a consultation with a fraud enforcement advisor (FEA) in the Office of Fraud Enforcement (OFE). The RO will document the discussion with the RO GM in the ICS case history regarding the initial fraud indicators present and the need for a consultation with an FEA. Per IRM 25.1.3.2, Overview, use the *Specialist Referral System (SRS)* to create a referral request for a consultation with an FEA.
- (4) Document references to potential fraud activity in the ICS case history including the identification of the indicators of fraud, discussions with the RO GM and FEA, and the RO’s work plan during development of a potential criminal fraud referral.
- (5) The RO will provide the FEA with basic case information and jointly coordinate the pre-referral joint review meeting.

5.1.33.3
(03-18-2024)

Initial Consultation Meeting with FEA

- (1) In preparation of the consultation meeting with the FEA, the RO is expected to have a clear understanding of the identified indicators of fraud and supporting documentation. The RO must be prepared to present the indicators of fraud and any reasoning why the case may have potential for a fraud referral.
- (2) The RO, the RO GM, and the FEA attend the initial consultation meeting. The following topics will be discussed:
 - Review facts of the case and the initial indicators of fraud,
 - Is CI referral appropriate now or is additional case development work required,
 - Possible barriers to a successful referral (such as law enforcement manual criteria, jury appeal, criminal tax statute of limitations and CI priorities),

- Potential adjustments pending on the account,
- Substitute for Return referrals to Exam,
- Status of open appeal requests, and
- Any Collection Statute Expiration Date (CSED) or Assessment Statute Expiration Date (ASED) issues.

Note: The meeting can be held via teleconference, however, in-person or secure video is preferred.

- (3) If the RO, the RO GM, and the FEA agree the initial indicators are sufficient for potential fraud development, the RO and FEA work together to prepare a Form 11661-A, Fraud Development Recommendation – Collection, and forward the completed form electronically, by secure email to the GM for approval. After the RO signs as the originator, and the RO GM signs as the approver, the FEA will sign and approve the Form 11661-A.
- (4) The FEA will provide a written Plan of Action, documented on the Form 11661-A, to identify the recommended steps needed to develop the potential fraud referral and the purpose of each step.

Note: Any subsequent Plan of Action updates must also be notated on the Form 11661-A, or documented in another form of correspondence between the RO and the FEA such as an e-mail or memo.

- (5) During the initial consultation, if there is a disagreement about the fraud indicators being sufficient for fraud development, the RO GM makes the final decision.

Note: If “Firm Indications of Fraud” exist during the initial consultation and a fraud referral is the next appropriate step, the RO will prepare, with FEA assistance if needed, both the Form 11661-A and the Form 2797, Referral Report of Potential Criminal Fraud Case, concurrently for the case.

5.1.33.4
(03-18-2024)
**Fraud Development
Status**

- (1) The collection case formally enters fraud development status (FDS) when Form 11661-A is prepared by the RO and approved by the RO GM and the FEA. A case must not be placed into or out of FDS without consulting the FEA. If disagreement exists on whether a case should be in FDS, the final decision rests with the RO GM. Document the approval or disapproval of the Form 11661-A in the ICS case history.

5.1.33.4.1
(03-18-2024)
**ICS Fraud Development
Status Case Code Table**

- (1) When the collection case enters or exits fraud development status (FDS), change the coding on ICS per the table below.

Note: Updates to the case subcode and taxpayer location field will vary according to the Collection program type.

ICS Fraud Development Status Case Code Table

Change to Fraud Development Status (FDS)	Collection Program Type	Change: Case Subcode	Update: Location Field from the Name/Address Menu (M-Mailing Address)
"Enter" FDS	General Program and International	Change from the current case subcode to "910"	No change required
"Enter" FDS	ATAT	No Change: Keep existing 309 - 339 case subcode	Enter "FRD"
"Exit" FDS	General Program and International	Change from "910" back to the applicable case subcode	Remove "FRD" if previously entered
"Exit" FDS	ATAT	No Change: Keep existing 309 - 339 case subcode	Remove "FRD"

5.1.33.4.2
(03-18-2024)
Related cases

- (1) Primary cases in FDS may have related entities which may or may not appear on ICS. A related entity should only be added to ICS if it is included in the potential fraud development investigation and has an outstanding liability or delinquent return.
- (2) A case is considered a related entity for purposes of fraud development and a potential fraud referral, if it is listed as a related entity on the Form 11661-A.
- (3) The FDS of the primary case is the controlling status for all related cases in ICS. The fraud coding of any related cases on ICS must mirror the coding present on the primary case. It is possible that the Form 11661-A may list related entities of the primary case that are not present on ICS.

5.1.33.5
(03-18-2024)
Investigation and Documentation

- (1) The RO and the FEA will continue to discuss, evaluate, and document in the ICS case history any new information as it becomes available throughout the fraud development process. The RO must use the term "potential" when documenting fraud development activities and not assume the case will be referred to CI unless firm indications of fraud have been identified.

5.1.33.5.1

(03-18-2024)

Fraud Development Plan of Action

- (1) The RO must work the fraud development plan of action prepared by the RO, the RO GM, and the FEA, and that was documented on Form 11661-A and the ICS history, to gather evidence to support a CI referral.
- (2) Generally, use of enforced collection methods (such as levy, suit, or seizure) are not used during this phase of the fraud development process. Such actions may be pursued if contained on the Form 11661-A and/or the facts and circumstances of the case support such actions. The RO will notify the RO GM and FEA when enforced collection actions are taken.
- (3) While working the agreed upon plan of action, if the taxpayer takes actions that could impact the case (for example: FOIA requests, TAS inquiries, receipt of Offers in Compromise, Appeals request, and/or requests for abatement) the RO must notify the RO GM and the FEA.
- (4) Collection investigative tools may be helpful in developing evidence of firm indicators of fraud and may support a quality fraud referral. A ROs use of collection investigative methods during a potential fraud referral include, but are not limited to:
 - Service of a summons,
 - Securing and analyzing records,
 - Third-party contacts,
 - Researching taxpayer and related entities on CKGE and documenting the results on ICS, and
 - Trust Fund Recovery Penalty (TFRP) interviews and investigations.
- (5) Additional consideration may be given to:
 - a. Verifying the legitimacy of additional business expenses,
 - b. Identifying flow-thru issues such as related losses or net operating losses, and
 - c. Ensuring all original tax returns have been secured.
- (6) The RO and the FEA must maintain contact about the fraud development plan of action as outlined on the Form 11661-A, at a minimum of every 60 days and more often if necessary.
- (7) If the RO or the FEA are not able to discuss the plan of action every 60 days, document the reason why in the ICS case history and continue with the plan of action.

5.1.33.5.2

(03-18-2024)

Case documentation

- (1) Maintain all original documents in the physical case file. Encrypted copies of electronic files on portable media must be included with the physical case file.
- (2) Review all records and document findings in the ICS history, however, do not state that the findings confirm or prove criminal activity.
- (3) If firm indicators of fraud have been identified, consult with the FEA to determine if preparation of a Form 2797, Referral Report of Potential Criminal Fraud Cases, is the next appropriate case action.
- (4) Arrange documents by index or other method so they are easily located and identified during discussions with the FEA or during the CI referral meetings.

Note: Never mark, highlight or punch holes on original records. Use easily removable “Post-It” type labels or similar to add critical notes or make a working copy for yourself.

5.1.33.5.3
(03-18-2024)

Collection decision to make a Criminal Referral

- (1) The RO will discuss the outcome of the plan of action from Form 11661-A with the RO GM and the FEA. The RO GM and FEA will decide to:
 - Proceed with a criminal fraud referral through utilizing the Form 2797, or
 - Require additional investigation actions to further develop potential fraud, or
 - Cease fraud development investigative actions, remove the case from FDS, and prepare an Exam Referral with a recommendation to consider the civil fraud penalty.

5.1.33.5.3.1
(03-18-2024)

Exam Referral with Civil Fraud Penalty recommendation

- (1) If the decision is made by the RO GM and FEA to remove the case from FDS and criminal criteria was not met, reverse the FDS case coding per IRM 5.1.33.4 and consider an Exam Referral with a recommendation to consider the civil fraud penalty per IRM 25.1.7.6, Secured Delinquent Returns.
- (2) If Exam Referral is appropriate, the RO will work with their FEA to develop and prepare the Form 3449, Exam Referral, with sufficient supporting evidence gathered during the collection investigation, to justify the recommendation for consideration of the civil fraud penalty.

5.1.33.6
(03-18-2024)

Fraud Referral to CI

- (1) The RO is responsible for preparation of Form 2797, Referral Report of Potential Criminal Fraud Cases. See IRM 25.1.3.3, Preparation of Form 2797 - Referral Report of Potential Criminal Fraud Cases, for additional guidance.
- (2) The criminal referral is the compliance employee's work product, but the FEA, as needed, can provide support and guidance regarding preparation of Form 2797. The FEA may review and edit the Form 2797, along with any narrative or attachments, to add emphasis to significant facts and to ensure that the affirmative acts of fraud are clearly described.

Note: Please refer to IRM 5.1.5.7(3), Field Collecting Procedures, Balancing Civil and Criminal Cases, Interviews, to determine how to address taxpayer contact after a case has been referred to Criminal Investigation.

5.1.33.6.1
(03-18-2024)

Preparation of Form 2797, Referral Report of Potential Criminal Fraud Cases, Referral Package

- (1) Attach all supporting documentation in electronic format with the Form 2797 referral package, if feasible. The FEA may assist the RO with completion of the Form 2797 and identification of what supporting documentation should be included in the referral package.
- (2) Review the Form 2797 for the following:
 - A detailed presentation of the facts that establish firm indications of fraud/willfulness (defined in IRM 25.1.1.5, Criminal Statutes),
 - A concise narrative, embedded into the expandable sections of the Form 2797,
 - An explanation of the affirmative acts taken by the taxpayer,
 - A verification of the evidence within the narrative section, and
 - Evidence labeled as “Exhibits”.

- (3) Once completed, the RO will send Form 2797 and supporting documents via secure email to their RO GM for any edits and concurrence.
- (4) Upon concurrence and approval, the RO GM will forward the Form 2797 and supporting documents via secure email to the FEA for review, perfection and concurrence.
- (5) After signing the Form 2797, the FEA will forward the Form 2797 to the FEA GM, who upon review of the referral, may contact the FEA for clarification or more information.
- (6) Once all concurrences are secured, the FEA GM will assign a FEA control number and forward the Form 2797 and supporting documents to the appropriate CI Field Office for assignment and evaluation.
- (7) Additional information on the preparation of Form 2797 can be found in IRM 25.1.3.3.

5.1.33.6.2
(03-18-2024)
**10-Day Meeting with
Criminal Investigation**

- (1) Within 10 workdays of CI's receipt of the Form 2797, the assigned special agent (SA) will contact the FEA to schedule the initial conference (also known as the "10-day meeting"). The meeting can be held via teleconference; however, an in-person or secure video meeting is preferred. The FEA will coordinate the meeting between the RO, the RO GM, the FEA, the SA, and the Supervisory Special Agent (SSA) to review the referral package, including supporting documentation. Area Counsel and Criminal Tax Counsel may also attend the meeting, depending on the case.
- (2) The FEA must work with the RO to prepare for the 10-day meeting, which could include organizing the case file or going over potential questions that CI might ask.
- (3) The RO must be prepared to discuss any of the following items as they relate to the fraud referral during the 10-day meeting:
 - The basis for suspected fraud,
 - Calculation of tax loss to the government due to fraud,
 - Filed tax returns,
 - Were delinquent tax returns requested,
 - Verification of income and assets associated with the taxpayer,
 - Potential explanations/defenses offered by the taxpayer, the taxpayer's representative, and/or the return preparer concerning alleged offenses,
 - Any attempts made to resolve collection issues through civil means,
 - RO observations about the taxpayer's age, health (physical and mental), education, and occupation,
 - RO actions taken to secure evidence relating to the alleged offense, and
 - Previous IRS and taxpayer interactions involving any similar alleged offense.
- (4) The RO must prepare all paper and electronic files associated with the referral, including any paper case file(s) and original tax returns, for transfer to CI at the conclusion of the 10-day meeting.

5.1.33.7
(03-18-2024)

**CI Referral
Determination and
follow-up activity**

- (1) The 30-day conference is also known as the “disposition conference”.

5.1.33.7.1
(03-18-2024)

**30-Day Conference
and/or request for
Extension**

- (1) The SA will contact the FEA to schedule a 30-day conference (disposition conference) to occur no later than 30 workdays from the receipt of the fraud referral. All attendees of the 10-day meeting will meet for the 30-day conference, which may be held virtually. CI will share their decision to accept or decline the referral at the 30-day conference.
- (2) On occasion, CI may need to request an extension of time to evaluate the criminal referral. See IRM 25.1.3.4(4), Referral Evaluation, for further instruction.
- (3) If CI requires additional time to evaluate the referral, CI will request approval of the extension via memorandum from the FC Territory Manager, including the reason and the date CI expects to make their determination.
- (4) Once CI has made their decision to accept or decline the referral, CI will provide written feedback based on their decision to FC and OFE.
- (5) The FEA should monitor the conference dates and response obligations to ensure all actions occur in a timely manner. The RO must notify the FEA if anyone from CI contacts them directly about the referral.

5.1.33.7.2
(03-18-2024)

**CI Acceptance of Fraud
Referral**

- (1) Upon CI's acceptance of the fraud referral, the FEA will forward the accepted Form 2797 signed by CI to the RO and RO GM via secure email. The RO GM will remove the case from FDS following the case coding changes per the **ICS Fraud Development Case Code Table** found in IRM 5.1.33.4.1.
- (2) Once confirmation is received of acceptance of the referral; CI, FC and OFE must determine if civil actions must cease, or if a parallel investigation is possible. IRM 5.1.5, Balancing Civil and Criminal Cases, includes detailed information on required coordination efforts between CI and FC when working parallel investigations. This information includes actions necessary to protect collection statutes, and the taxpayer dissipating assets and/or accruing additional tax liabilities.

5.1.33.7.3
(03-18-2024)

**Transfer to CCP for
monitoring**

- (1) Once CI accepts the fraud referral, CI will request input of Transaction Code (TC) 914 on all entities and open tax modules included on Form 2797. A TC 914 indicates CI has taken control of the case. The RO will then prepare the case for transfer to Centralized Case Processing (CCP) for monitoring, and suspends collection action.
- (2) After the TC 914 posts on all open modules, the RO will transfer the case to CCP per IRM 5.1.5.13.2, Procedures for Transferring Cases to Centralized Case Processing (CCP).

Note: Any module with an ASED or CSED that expires within one year need to be addressed according to procedures in IRM 5.1.5.13.1, Cases with Imminent Statutes, prior to transferring the case to CCP

- (3) If a RO identifies a delay longer than 45 days in the posting of the TC 914, the RO should make a request of the FEA to address the delay with CI. The RO will continue to monitor for the posting of TC 914 on all open modules every 45 days until the RO can request transfer of the case to CCP for monitoring. The RO will communicate with the RO GM and FEA any difficulties or delays they encounter while initiating transfer of the case to CCP.

Note: TC 914s are required for every open module, even modules that CI may not pursue for prosecution. FC may contact the Collection Policy Fraud Analyst (CPFA) for assistance with any unique case situations preventing transfer of the case to CCP.

- (4) After CI has accepted the referral and uploaded the TC 914 to all balance due modules, the RO may need to close delinquent return modules. Follow the table below to determine if delinquent return modules must be manually closed prior to transfer to CCP.

Note: For CCP procedures regarding acceptance of case transfers for monitoring, see IRM 5.4.12.2.9, TC 914 Cases.

Case Type	Del Ret/Bal Due	Closure	Reference IRM
IMF or BMF	Balance Due Only, and Balance Due + Delinquent Return combination cases	<ul style="list-style-type: none"> CI posts TC 914 RO transfers case to CCP 	IRM 5.1.5.13.2, Procedures for Transferring Cases to Centralized Case Processing (CCP)
IMF	Delinquent Returns Only	<ul style="list-style-type: none"> CI posts TC 914 RO closes Delinquent Return modules using "CI Referral (IMF only)" 	IRM 5.1.11.7.2.1 (3)(a), Preparing and Processing Fraud Referrals
BMF	Delinquent Returns Only	<ul style="list-style-type: none"> CI posts TC 914 Case closes systemically 	IRM 5.1.11.7.2.1 (3)(b), Preparing and Processing Fraud Referrals

- (5) When delinquent return periods need to be manually closed by the RO, follow these steps:

- a. Select for closure the earliest delinquent return module for each Master File Transaction (MFT) as ICS will simultaneously close all subsequent modules of the same MFT.
- b. Select "**CI Referral (IMF Only)**" from the "Close Del Ret" menu when a case is referred to CI. The option to close delinquent return modules on a BMF case is not available.
- c. ICS will generate a TC 596 cc 057 once the closure is verified. No closing letter will be generated.

- (6) After the case transfers to CCP, if CI requests limited collection action should be taken during the criminal investigation, the RO GM will create an Other Investigation (OI) and follow procedures in IRM 5.1.5.3, IRS Policy Concerning Parallel Investigations.

5.1.33.7.4
(03-18-2024)
**Taxpayer Contact
Memorandum**

- (1) The SA may request the RO to prepare a Memorandum of Interview based on taxpayer and/or third party contacts. If a Memorandum of Interview is required, see the Fraud Development Knowledge Base Site for additional information or request assistance from the FEA.

5.1.33.7.5
(03-18-2024)
**Cooperating Revenue
Officer**

- (1) If CI determines the services of a cooperating RO are needed, FC employees will follow IRM 25.1.5.4, Cooperating Grand Jury Examiner/Revenue Officer Procedures.
- (2) Cooperating RO activities could include interviewing taxpayers or third parties, asset location and enforcement actions such as levies, liens or seizure.

5.1.33.7.6
(03-18-2024)
Quarterly Conferences

- (1) All criminal investigations (administrative and Grand Jury) involving cooperating ROs (referred to as joint investigations) are subject to mandatory quarterly (four-way) conferences. See IRM 25.1.4.4.4, Required Communications, for additional information.
- (2) Quarterly conferences are also required for all accepted criminal referrals (administrative and Grand Jury) in which a RO is not asked to participate (referred to as non-joint investigations).
- (3) FEAs are expected to be involved in all quarterly conferences on accepted criminal referrals and can assist with monitoring, scheduling, and documenting during the conference. See IRM 25.1.3.5 (6), Accepted Criminal Referrals, for additional information.

5.1.33.7.7
(03-18-2024)
**Tax Returns received
after Acceptance of
Criminal Referral**

- (1) If a taxpayer files a delinquent or amended return after CI has accepted the fraud referral, the RO must discuss such filing with the assigned SA. Refer to IRM 25.1.3.5 (8), Accepted Criminal Referrals, for further guidance.

5.1.33.7.8
(03-18-2024)
CI Declination

- (1) If CI evaluates the referral as not meeting the criminal criteria or there is an obvious barrier to prosecution, the referral will be declined. The reasons for declination should be fully discussed at the 30-day evaluative conference.
- (2) If the referral is declined, CI will complete the Form 2797 and return it to the FEA GM via secure e-mail along with a declination memorandum explaining the reason(s) for the declination.

- (3) The FEA GM will forward, via secure e-mail, the declined referral and declination memorandum to the referring FEA. The FEA will then forward the declined referral and declination memorandum, via secure e-mail, to the referring RO and RO GM. Once notification of the declination is received per IRM 25.1.3.6, Declined Criminal Referrals, and no additional consideration is to be given, the referring RO and RO GM will update case coding and resume collection activity.
- (4) If a referral is declined and the FEA, RO, and RO GM disagree with the reasoning behind the declination, it is the FEA's responsibility to elevate the issue to the FEA GM. Follow IRM 25.1.3.6, Declined Criminal Referrals, to elevate the case through CI for reconsideration.
- (5) If the RO and RO GM disagree with CI's declination, the RO GM will elevate the issue to the Area Director through the Territory Manager for evaluation.
- (6) After evaluation and the declination by CI is final, if the case merits, a discussion should be held with the RO, the RO GM, and the FEA if the civil fraud penalty or fraudulent failure to file penalty would be appropriate to pursue. If the decision is to consider the potential of either of these penalties, the RO must refer to IRM 25.1.6, Fraud Handbook - Civil Fraud. The RO GM must remove the case from fraud development status by updating the case coding.

5.1.33.7.9
(03-18-2024)
CI Discontinuance

- (1) After acceptance of a fraud referral, CI may discontinue work on the criminal investigation.
- (2) The FEA and RO should be notified of the discontinuance as part of the ongoing quarterly meetings. The RO may request additional information on the discontinuance through the FEA, including the discontinuance report if it was not previously provided. The SA should also return all documents and files provided as part of the fraud referral package and any documents provided after acceptance of the referral.
- (3) The FEA should discuss any concerns with a discontinuance with the SA and SSA. If a resolution cannot be agreed upon with those parties, then the FEA Group Manager should be notified so that the issues can be elevated if needed.
- (4) A discontinued fraud referral case will be transferred back from CCP to the most recently assigned RO. The RO and the RO GM must verify and (if necessary) initiate corrective action to restore case coding to reflect normal case processing; for reference see IRM 5.1.33.4.1, ICS Fraud Development Status Case Code Table.
- (5) After reassignment of the Collection case, the RO, the RO GM, and the FEA should discuss alternative means of civil closure, including the potential for referring the case to Exam for consideration of civil fraud penalties.

5.1.33.8
(03-18-2024)
**Transfer of Suspected
Fraud Collection Cases**

- (1) Collection cases worked at the campus may have first indicators of fraud which require additional development by FC.

5.1.33.8.1
(03-18-2024)

**Transfers from Campus
to the Field**

- (1) The transfer process contains the following steps:
 - a. The Campus Collection Fraud Functional Coordinator, (CFFC) working in conjunction with an FEA, evaluates a case for potential transfer to FC by following IRM 25.1.11, Campus Collection Fraud Procedures.
 - b. CFFC or OFE analyst sends a secure email requesting the case transfer to the Collection Policy Fraud Analyst (CPFA). Attach completed Form 11661-A and supporting documents as a zip file.
 - c. The CPFA reviews the information for collectability and potential fraud development. If the CPFA concurs with the request to transfer the case to FC for additional fraud development, the CPFA will contact the RO GM based upon the taxpayer's address.
 - d. The CPFA will advise the RO GM of a pending case transfer, discuss priority inventory issues, imminent CSED's (per IRM 5.1.19.5, Imminent CSEDs) and any other factors to be taken into consideration before transfer.
 - e. The CPFA will email the electronic case file to the RO GM and notify the CFFC or OFE analyst of the agreement to transfer the case from the Campus to FC. If case transfer is agreeable to FC, the CFFC will follow IRM 25.1.11.13, Transfers to Field Collection.
 - f. When the case transfer is complete, FC will continue to work the case as a fraud development case in accordance with this IRM. Upon assignment of the case, the RO and RO GM are responsible for accurate FDS case coding. The RO will reach out to their assigned FEA for assistance and developing a plan of action for the case while in FDS.
 - g. When there is disagreement between OFE and/or the Collection Group Manager, the CPFA will make the final decision on whether to accept a campus case fraud transfer into Field Collection.

5.1.33.8.2
(03-18-2024)

**FDS Case Transfers
within Field Collection**

- (1) When a case in FDS is transferred to another TSIGN within FC (for example: transferring a case from one RO to another RO for various reasons), there is a potential for FDS coding to be reversed. ROs must check their case for miscoding and follow the table below for resolution:

If	Then
The date of the last TC 972 AC 281 is later than the date of the last TC 971 AC 281	The RO GM will manually enter a new TC 971 AC 281 through the ICS Collection Menu.
The date of the last TC 972 AC 281 is earlier than the date of the last TC 971 AC 281	No action is needed.

5.1.33.9
(03-18-2024)

**Special Program Fraud
Development
Considerations**

- (1) ROs may have cases in their inventory in FDS that have impact from other specialized programs and need additional considerations.

- 5.1.33.9.1
(03-18-2024)
Compliance Initiatives
- (1) Occasionally, cases will be worked in FC which have been identified by OFE's Emerging Threats Mitigation Team. Specific initiative case processing procedures, IRM deviations and interim guidance will be developed by the impacted IRM owners when FC involvement is anticipated. These procedures will outline any specialized actions ROs will need to take when working these pre-identified cases.
- 5.1.33.9.2
(03-18-2024)
Special Procedures for International Cases
- (1) Cases that are defined as "International" follow normal fraud development procedures except where unique international restrictions apply. Contact Collection Policy – Global Strategic Complete (GSC) for additional guidance as necessary.
- 5.1.33.9.3
(03-18-2024)
Non-Master File (NMF) Accounts
- (1) Fraud development investigations and criminal referral of collection cases designated as NMF may proceed per all sections of this IRM. Contact owner of this IRM for assistance as required.
- 5.1.33.9.4
(03-18-2024)
Bankruptcy
- (1) If a taxpayer's account is in FDS and the RO determines that the taxpayer has filed bankruptcy, the RO must notify the RO GM, the FEA, and Insolvency per procedures in IRM 5.9.3.9, Revenue Officers and Insolvency.
- 5.1.33.9.5
(03-18-2024)
Offer In Compromise
- (1) If a taxpayer submits an Offer in Compromise while the case is in FDS, follow IRM 5.8.4.18, Potential Fraud Referrals.
- (2) Forward Form 657, Offer In Compromise/Revenue Officer Report, with included notation, "Case is in FDS," on Box 16. Include Form 11661-A as an attachment.
- 5.1.33.9.6
(03-18-2024)
Civil Enforcement Advice and Support Operations
- (1) The RO advises the FEA of a case transfer to CEASO. If a case is in FDS and requires transfer to CEASO, the RO will:
- a. Verify and retain FDS coding prior to transfer. If necessary, fraud development work by the RO may continue while the case is assigned to a CEASO group. If the RO will continue fraud development, then the RO will open an OI for purposes of time keeping and case visibility.
- b. If a case no longer warrants continued fraud development, then the RO GM will change the FDS coding prior to transfer to CEASO. Please refer to chart in IRM 5.1.33.4.1.
- 5.1.33.9.7
(03-18-2024)
Appeals
- (1) If a request for a Collection Due Process (CDP) or Equivalent Hearing (EH) is received while the case is in FDS, see IRM 5.1.9.3.3(13), Processing CDP and EH Requests. This IRM section allows the RO to hold a hearing request for a maximum of 180 days while the fraud referral is being developed, after which, the hearing request must be sent to Appeals.

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This IRM provides general guidance to FC employees related to all aspects of the fraud development process, including actions required prior to, during and following referral to Criminal Investigation (CI). It defines and establishes roles and responsibilities of FC personnel while observing taxpayer rights.....1

