



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

5.5.4

MAY 15, 2023

## EFFECTIVE DATE

(05-15-2023)

## PURPOSE

- (1) This transmits revised IRM 5.5.4, Proof of Claim Procedures in Decedent Cases.

## MATERIAL CHANGES

- (1) Added IRM 5.5.4.1: Program Scope and Objectives, incorporating previous overview section.
- (2) Added IRM 5.5.4.1.1: Background
- (3) Added IRM 5.5.4.1.2: Authority
- (4) Added IRM 5.5.4.1.3: Roles and Responsibilities
- (5) Added IRM 5.5.4.1.4: Program Management and Review
- (6) Added IRM 5.5.4.1.5: Program Controls
- (7) Added IRM 5.5.4.1.6: Terms & Acronyms
- (8) Added IRM 5.5.4.1.7: Related Resources
- (9) Revised IRM 5.5.4.14(2): Input an exception to the current language as requested.
- (10) Revised IRM Exhibit 5.5.4-1: Changed from bullet points to table format.
- (11) Minor editorial changes have been made throughout this IRM. Website addresses, legal references, and IRM references were reviewed and updated as necessary.

## EFFECT ON OTHER DOCUMENTS

This manual transmittal supersedes manual transmittal dated December 6, 2011.

## AUDIENCE

Small Business/Self-Employed Employees

Rocco Steco  
Acting Director, Collection Policy



5.5.4

Proof of Claim Procedures in Decedent Cases

## Table of Contents

5.5.4.1	Program Scope and Objectives
5.5.4.1.1	Background
5.5.4.1.2	Authority
5.5.4.1.3	Roles and Responsibilities
5.5.4.1.4	Program Management and Review
5.5.4.1.5	Program Controls
5.5.4.1.6	Terms and Acronyms
5.5.4.1.7	Related Resources
5.5.4.2	Establish Local Decedent Guide
5.5.4.3	Establishing Case Controls
5.5.4.4	Field and CEASO Responsibilities
5.5.4.5	CEASO Responsibilities on Controlled Cases
5.5.4.6	Proof of Claim Procedures
5.5.4.6.1	No Proof of Claim Requirement
5.5.4.6.2	Probate Claims in U.S. Territories
5.5.4.7	Comply With Bar Date
5.5.4.7.1	Missed Bar Dates
5.5.4.8	Claiming Penalty and Interest
5.5.4.9	Estimated Claims
5.5.4.10	Amended, Supplemental, and Consolidated Claims
5.5.4.11	Service and Distribution of Proof of Claim
5.5.4.12	Monitoring During Probate Proceedings
5.5.4.13	Application of Payments
5.5.4.14	Subsequent Closing Actions
5.5.4.15	Working Requests for Discharge
5.5.4.16	Proof of Claim Retention
Exhibits	
5.5.4-1	Template for Decedent Guide



5.5.4.1  
(05-15-2023)  
**Program Scope and Objectives**

- (1) **Purpose:** This IRM describes CEASO actions in relation to decedent estate proceedings and is meant to emphasize time sensitive deadlines in state probate proceedings that impact timely case actions to protect the government's interest.
- (2) **Audience:** The guidance in this IRM is specifically intended for revenue officer advisors and their managers in the Civil Enforcement Advice and Support Operations function as well as revenue officers and managers in field collection. This guidance may also be useful to employees in other functions.
- (3) **Policy Owner:** Director, Collection Policy, SB/SE.
- (4) **Program Owner:** Collection Policy, SB/SE, Global Strategic Compliance.
- (5) **Primary Stakeholders:** SB/SE Civil Enforcement Advice and Support Operations and SB/SE Field Collection.
- (6) **Program Goals:** Provide policy and procedural guidance to IRS Collection employees working accounts in state probate proceedings.

5.5.4.1.1  
(05-15-2023)  
**Background**

- (1) IRM 5.5.4 provides official procedures for employees working cases involved in decedent probate proceedings with emphasis on the time sensitive deadlines necessary to protect the government's interest in these matters.

5.5.4.1.2  
(05-15-2023)  
**Authority**

- (1) Congress has delegated the IRS the responsibility of administering the tax laws, known as the Internal Revenue Code, found in Title 26 of the United States Code. Congress enacts these laws and the IRS enforces them.

5.5.4.1.3  
(05-15-2023)  
**Roles and Responsibilities**

- (1) The Director, Collection Policy, is responsible for overseeing policy and procedures related to collection of decedent tax accounts.
- (2) Civil Enforcement Advice and Support Operations (CEASO) revenue officer advisors and field collection revenue officers are authorized to work decedent tax cases.
- (3) CEASO supervisory revenue officers are responsible for ensuring that subordinates process, evaluate, and monitor assigned inventory in a timely manner in accordance with current law, policy and IRM procedures.

5.5.4.1.4  
(05-15-2023)  
**Program Management and Review**

- (1) Per IRM 1.4.53, CEASO and Property Appraisal and Liquidation Specialist Group Manager Operational Aid, group managers are charged with ensuring employee case actions are timely and in accordance with current law, policies, and procedures. Group managers are responsible for performance evaluations to document how employees are performing their duties and responsibilities to ensure they are working efficiently and effectively to accomplish assigned tasks.
- (2) Operational and program reviews are conducted to ensure that program delivery and case actions are in accordance with administrative and compliance requirements.

5.5.4.1.5  
(05-15-2023)  
**Program Controls**

- (1) The Integrated Collection System (ICS) is used to control decedent accounts and document case work.

- (2) The ENTITY Case Management System can also generate reports to assist in managing assigned inventory.

5.5.4.1.6  
(05-15-2023)

#### Terms and Acronyms

- (1) The table below lists commonly used acronyms and their definitions referenced throughout this IRM:

Acronym	Definition
CEASO	Civil Enforcement Advice and Support Operations
DOJ	Department of Justice
ICS	Integrated Collection System
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
NFTL	Notice of Federal Tax Lien
POC	Proof of Claim
USC	United States Code

5.5.4.1.7  
(05-15-2023)

#### Related Resources

- (1) IRM 5.5.1, Decedent and Estate Tax Accounts
- (2) IRM 5.5.2, Probate Proceedings
- (3) IRM 5.5.3, Working Decedent Cases
- (4) IRM 5.17.13, Legal Reference Guide, Insolvencies and Decedents' Estates, consult with area counsel when confronted with decedent issues beyond your scope of knowledge and expertise.
- (5) Pub 559, Survivors, Executors, and Administrators
- (6) *State Law Guides*

5.5.4.2  
(05-15-2023)

#### Establish Local Decedent Guide

- (1) CEASO offices responsible for processing decedent cases and related claims will draft a local decedent guide for the states they work. This guide must address specific state proceeding time requirements and thresholds that will assist employees in taking timely action to protect the Government's interest. The guide should address issues such as time periods for filing a proof of claim, period of time to reject a claim, deadlines to institute suit or appeal rejected claims, thresholds on fees, bond requirements, deadlines for filing an inventory, etc. Confer with Area Counsel for their input and assistance with interpretation of state law provisions. Review local law guides to determine if these time requirements or thresholds have been addressed and conduct internet research of state probate codes for information to be included in the guide.
- (2) See template for preparation of Decedent Guides in Exhibit 5.5.4-1. Decedent guides will not reiterate procedures that are currently addressed in the decedent IRMs. Instead, the decedent guides should address specific time

frames that are mandated for state probate proceedings that have impact on timeliness of action that needs to be taken by CEASO. These guides should be updated every two years based on probate rulings within that period, any modifications should be approved by Counsel.

- (3) If Area Counsel advises not to file POCs in specific jurisdictions, the Counsel opinion must be added to the local decedent guide or local law guide. In such a case, the local decedent guide should address actions the office will take to protect the Government's interest in these jurisdictions, see IRM 5.5.4.6.1, No Proof of Claim Requirement.

#### 5.5.4.3 (05-15-2023) Establishing Case Controls

- (1) CEASO may receive requests for actions such as POC, payoff or release of lien from various sources including estate administrators, requests for assistance from Counsel or referrals from revenue officers or ACS.
- (2) These requests should be acted on promptly, within the state time frames established for the action requested.
- (3) Upon receipt of these requests CEASO will establish decedent case controls on the Integrated Collection System (ICS). CEASO will create an ICS Non-Field Investigation (NFOI) with ICS action code 198.
- (4) When creating an NFOI in the summary screen, under the section titled **Module Dates**, input the due date for any action necessary, the earliest CSED, and the lien refile date.
- (5) Schedule follow up notifications in ICS at appropriate dates that coincide with time sensitive deadlines established by state probate proceedings to ensure maximum collection and protection of the Government's interests.
- (6) Input all cross reference EIN's (for 1041 returns), SSN's (for 706 returns) or any business entity operated by the estate, in the cross reference fields or ICS history.

#### 5.5.4.4 (05-15-2023) Field and CEASO Responsibilities

- (1) There is no absolute rule when a decedent case should be transferred from the field to CEASO. Every case needs to be evaluated and a determination made based on the facts of each case. This may depend on what action or inaction is being taken to liquidate estate assets to pay creditors of the estate. Factors to be considered in your determination are listed below, also refer to IRM 5.5.3.11, Advisory Referrals.
- (2) If the estate's assets are presently under control of the probate or surrogate's court (a probate proceeding is usually dependent or supervised), the case should be referred to CEASO to maintain control.
- (3) If the estate's assets are **not** under the control of the court and the case is assigned to the field, the revenue officer can continue collection efforts. The revenue officer must conduct research at the probate court to determine if there is a probate proceeding and the present status of that proceeding (open, closed, assets in litigation, assets pending distribution, etc). The docket sheet outlines what has been filed in a proceeding. It may be available electronically or in the probate file. Obtaining records from probate proceedings is critical to decision making. CEASO should document the ICS history concerning any documentation received concerning payment of creditors or distribution of assets, as this may impact collection actions.

- (4) If the account is assigned to the field, the revenue officer should determine if a POC has been filed by researching probate records and before contacting the estate administrator or CEASO. If a POC has not been filed and the probate proceeding is open, contact CEASO and request the claim be filed to protect the Government's interest. It may not be necessary to close the case to CEASO simply to file a POC if collection can continue.
- (5) If the estate is involved in litigation (concerning estate assets, lien priority, heirship, etc) or the estate administrator is not taking action to pay creditors, CEASO or Counsel should be consulted on how to proceed. Documents concerning the litigation will need to be reviewed and sent with a referral. See IRM 5.5.2.10, Referral to Area Counsel for Judicial Action for additional information.
- (6) If the probate proceeding is closed, the estate's assets distributed, the estate administrator did not have knowledge of tax due the case should not be referred to CEASO. See IRM 5.5.3, Working Decedent Cases, for guidance on case actions in this circumstance.
- (7) If CEASO files a POC, CEASO is responsible for the following:
  - follow up on acceptance or rejection of the claim
  - reviewing notices related to distribution of estate assets/funds to determine if the Service is paid the appropriate amount
  - follow up on status of assets and probate proceedings
  - determination if all required tax returns have been filed
  - that distribution is made in accordance with final accounting
  - preparation of a referral to Counsel if required
- (8) Whether the account is in the field or CEASO, related accounts for entities that were owned by the decedent should be associated to address all tax due accounts and POCs can be filed if necessary.

## 5.5.4.5

(05-15-2023)

**CEASO Responsibilities  
on Controlled Cases**

- (1) Once an NFOI is established CEASO needs to analyze what action is needed, document a plan of action and set follow up dates in ICS. IRM 5.5.3.4, Field Collection Actions, provides guidance to assist in your initial analysis concerning estate assets.
- (2) Determine outstanding tax liabilities, cross reference related entities and secure unfiled returns to file accurate POCs or provide notice of tax due to estate administrators.
- (3) CEASO is responsible for input of TC 520, 521 and 550.
- (4) IRC 6503(b) suspends the period for collection in any judicial proceeding **when all or substantially all of the assets of a taxpayer are under the control of a court**. If this condition is present, input Transaction Code (TC) 520, Closing Code (CC) 80 in the case of a probate. See IRM 5.5.1.9, Collection Statute Expiration Dates, for additional information regarding CSEDs.
- (5) CEASO is responsible to take action to refile NFTLs on accounts they are monitoring and at the time an NFOI is being closed. Document the ICS history as to whether the NFTL was refiled or the reason why it was not.
- (6) Ensure the NFTL is filed in the proper location based on estate assets (not the location of the executor).



- (7) If the Service is in litigation keep NFOI controls open and set a notification in ICS to refile the lien, so the NFTL does not self release.
- (8) In all cases being monitored, contact Area Counsel immediately if any document (without limitation: application, motion, notice, objection, petition, etc.) is filed with the Court that seeks to contest, defeat, dispute, disregard or misclassify the IRS claim, or that may have that effect. Time is of the essence in such cases because a notice of removal to the federal district court of any dispute of the merits of a federal tax assessment or lien must be filed generally within thirty days of receipt by the IRS of the initial pleading raising such an issue. It is essential that such issues be litigated in the federal courts whenever possible.
- (9) CEASO will follow up with the court or estate administrator to determine the status of proceedings and secure additional documents related to probate proceedings. Research electronic systems that provide access to docket sheets or court records, review correspondence from the court or administrator or make contact with the estate administrator.
- (10) CEASO will be responsible for actions outlined in IRM 5.5.4.4(7).

## 5.5.4.6 (05-15-2023) **Proof of Claim Procedures**

- (1) A proof of claim (POC) is a written statement that sets forth a claim against the probate estate of a deceased debtor. To share in distribution from the probate estate most probate courts will not consider payment of a debt unless a timely claim is submitted. Under state law an estate administrator may be subject to liability for paying creditors who do not file a claim.
- (2) The IRS may file a Form 4490, Proof of Claim for Internal Revenue Taxes, with the court or location mandated by state law to give notice of taxes due. By filing a POC the Service is notifying the estate administrator of taxes due, putting the Service in a higher priority among other creditors to be paid.
- (3) Delegation Order Number 25-3 establishes authority for CEASO and Insolvency employees to sign POCs. The signature should be notarized if required by state law or court rules.
- (4) Prior to the bar date, file the POC for the full assessed tax liability even when other action is pending that may alter the amount.
- (5) When related taxpayer entities (such as a business) are involved in separate proceedings, prepare a separate POC for each of them. If taxes accrue after the proceeding commences file Form 2373, Statement of Internal Revenue Taxes Due as an Expense of Administration of an Estate. See IRM 5.5.2.3, Providing Notification of Federal Taxes Due.
- (6) Form 4490 can be generated on ICS; when you are in the case pull up the templates and click on "Enter Data Grid". It populates the taxpayer TIN, Name, Address, Advisor information etc. The user will have to enter the Tax Periods since the NFOI does not contain them and can then print the form.
- (7) Letter 4653 , Proof of Claim Cover Letter, will be sent with the POC. This cover letter provides information to estate administrators on the Government's position regarding federal law and its impact on state statutes. A facsimile NFTL generated by ALS (Automatic Lien System) may be included as an attachment to the proof of claim to support the Service's secured status.

- (8) It is critical that POCs are followed up on timely to ensure they are received and to determine whether the claim is rejected. If an estate representative does not act on a presented claim in accordance with deadlines specified in state statutes (usually 30 days) such failure may constitute rejection of the claim.
- (9) Typically state statutes set a specific time period, usually 30 to 90 days, for the claimant to institute suit or appeal rejection of the claim. If appeal action is not taken the claim may be barred forever from being paid. If a claim is rejected it may be necessary to file a suit in federal district court and Counsel should be consulted as soon as possible to take action before the deadline.
- (10) Federal courts do have jurisdiction on actions to determine validity, priority and amount of claims against a decedent's estate. Filing suit in federal court is highly recommended in circumstances when the assessment lien or recorded lien has been established prior to death to determine priority of payment of taxes due.
- (11) If estate assets are under control of the probate court (supervised or dependent administration) enforced collection efforts should not be taken after the claim is filed or notice and demand is made without seeking Counsel approval before.
- (12) Any property which is exempt from a proceeding by statute may be levied upon. Before levy, consult with Counsel to determine that the property is not subject to administration by the court. Amounts not collected in the proceeding may be collected from non-probate property.
- (13) Probate proceedings do not typically have an automatic stay that prohibits collection or filing of a federal tax lien. Attempts to collect are first addressed with the estate administrator. If claims or demand for payment are not honored, Counsel and/or the local decedent guide should be consulted on next actions to take.

## 5.5.4.6.1

(05-15-2023)

**No Proof of Claim Requirement**

- (1) If Area Counsel advises not to file POCs in specific jurisdictions the Counsel opinion must be added to the local decedent guide or local law guide. Notice of taxes due must still be provided to the estate administrator.
- (2) Filing a POC **may** subject the claim to action by the court where the proceeding is conducted. In a probate action, a state court can rule on the merits of a claimed federal tax liability. Do not file a POC in jurisdictions where there is a **history of adverse decisions**.
- (3) In jurisdictions where POCs are not filed, provide notification of amounts owed to the estate administrator or other fiduciary. Form 10492 , Notice of Federal Taxes Due, must be sent to the estate administrator. A copy of the letter may be filed with the court. This form advises the estate administrator of the taxes owed and of their potential personal liability under 31 USC 3713. The ICS history must be documented indicating the date the Form 10492 was sent putting the estate administrator on notice of tax due. See IRM 5.5.2.3, Providing Notification of Federal Taxes Due, for additional guidance.
- (4) If taxes accrue after the probate proceeding commences send Form 2373 to the estate administrator if this person is responsible for paying the taxes. If a person operating the business is different from the estate administrator and it is unclear whether the person operating the business is a fiduciary appointed

by the court, send a Form 2373 to the estate administrator, in addition to the person operating the business. A copy of the form should be filed with the court. Filing a copy of the form with the court makes the judge aware that estate liabilities are increasing and unresolved. See IRM 5.5.2.6.1.1.1, Claiming Taxes as an Administrative Expense, for additional guidance.

- (5) In all cases, contact Area Counsel immediately if any document (without limitation: application, motion, notice, objection, petition, etc.) is filed with the court that seeks to contest, defeat, dispute, disregard or misclassify the IRS claim, or that may have that effect. Time is of the essence in such cases because a notice of removal to the federal district court of any dispute of the merits of a federal tax assessment or lien must be filed within thirty days of receipt by the IRS of the initial pleading raising such an issue. It is essential that such issues be litigated in the federal courts whenever possible.

5.5.4.6.2  
(05-15-2023)  
**Probate Claims in U.S.  
Territories**

- (1) U.S. territories generally model their revenue laws on the Internal Revenue Code (IRC). For guidance concerning laws in U.S. Territories read the local law guide on the SBSE Counsel website *State Law Guides*.

5.5.4.7  
(05-15-2023)  
**Comply With Bar Date**

- (1) The bar date (court deadline) for filing a POC is time sensitive. The deadline to file a creditor claim is mandated by state law. Many state probate codes will indicate that creditor claims not filed timely will be barred from payment forever or that a debt cannot be considered for payment unless a claim is filed. Check state probate codes or your local law guide to determine the established deadline to file a timely claim to be considered for payment.
- (2) Although the Service is not bound by state statutes of limitations in the collection of taxes, comply with the bar date when possible. State probate proceedings will continue based on deadlines specified by state law. Once filed the claims will be evaluated and decisions made to pay creditors based on those timely filed claims. Therefore it is critical that claims made on behalf of the Service be filed timely. If claims are not filed timely, the Service may have to litigate to establish its priority. It is of no benefit to the Service to submit a claim for payment after claims have been paid and estate assets have been distributed.
- (3) Timely filed claims may avoid additional litigation to pursue assets after distribution.
- (4) It is not in the state court's interest to prolong probate proceedings longer than necessary. That is why there are mandated deadlines to keep necessary actions occurring to resolve estate matters and close the proceedings.

5.5.4.7.1  
(12-06-2011)  
**Missed Bar Dates**

- (1) If the claim filing period has expired, secure probate records to determine the status of estate assets (available or distributed).
- (2) If the bar date has passed and estate assets have **not** been distributed or **involved** in litigation file the POC with the proper authority.
- (3) If the bar date has passed and estate assets have been distributed **and** the estate is closed do not file the POC. At this point it is best to contact the estate administrator and request documentation concerning distribution of estate assets to consider transferee issues. In such case determine if the estate administrator had knowledge of taxes due.

5.5.4.8  
(12-06-2011)  
**Claiming Penalty and Interest**

- (1) In decedent estate proceedings, claim interest to the anticipated date of payment. Typically that date would be after the filing and rejection period deadlines. Some states may dictate a time period when claims must be presented to the court for approval, that date may also be used.
- (2) Claim all applicable penalties to the expected payment date. State statutes limiting penalties do not bind the Service.
- (3) The advisor can calculate the tax, penalty and interest for the claim using IDRS command codes INTST or COMPA. Refer to IRM 2.3.29, Command Codes INTST, ICOMP and COMPA.
- (4) Command code INTSTB shows the tax, the assessed failure to pay (FTP), the assessed interest, assessed penalties other than FTP; these amounts comprise the "Assessed Total." INTSTB also reflects the accrued interest, accrued FTP and total accruals. Finally, it gives the total FTP (assessed and accrued), and the total interest (assessed and accrued) for a "Total Balance Due" (assessed total and accrued total).
- (5) Claim interest and penalties on tax liabilities incurred related to the administration of the estate.

5.5.4.9  
(05-15-2023)  
**Estimated Claims**

- (1) An estimated (or unassessed) claim is a POC that is filed when the exact amount owed is still unknown. This may be necessary when the examination of a tax return is not completed or a tax return has not been filed. An estimated POC protects the Government's interest before the exact liability is determined.
- (2) One Form 4490 can include both assessed and estimated amounts, identify the estimated portion as **Estimated Liability** in the **Remarks** column. Show the amount due for each tax period separately.
- (3) File an amended or supplemental POC as soon possible when the correct tax liability is determined, once returns are filed or Examination determines the amount of a tax liability or tax deficiency.
- (4) If no return information is available for a period from which to compute an estimate, annotate **Not Filed** next to the period, and put \$100 in the tax due column.
- (5) The estimated claim should be based on as much internal information as possible. If the evidence indicates the probability of a refund or no tax due situation exists do not add an estimate to the claim.
- (6) The following resources may be used to determine an estimated tax liability:
  - IDRS data using command codes such as IRPTR, SUPOL, PMFOL, RTVUE, and BRTVU
  - last return filed information (command code TRDBV)
  - income and expense schedules
  - inventory and appraisalment (which may include assets that may not be on IRPTR such as pension or retirement accounts, stock accounts and IRA's)
  - information available from revenue officer's case file
  - examination files or information from exam functions (proposed notice of deficiency or statutory notice)

- under reporter information
- information from the estate administrator

- (7) If estimated liabilities are listed for **unfiled** returns, penalties and/or interest do not have to be computed.
- (8) Taxes subject to deficiency procedures remain estimates even if the taxpayer disagrees with the proposed assessment or fails to respond within the 30 day period because the Service must then issue a statutory notice of deficiency before assessment.

## 5.5.4.10 (05-15-2023) **Amended, Supplemental, and Consolidated Claims**

- (1) If a POC has been filed and situations warrant, an amended claim may be filed as necessary to claim the correct liability owed the Service. Amended claims for additional tax due should be filed if the probate proceeding is open and:
  - additional returns are filed
  - examinations are completed
  - additional liabilities are determined (for example Trust Fund Recovery Penalty)
- (2) After the bar date, file an **amended** POC to change the amount in a filed claim. Mark the front of the Form 4490 as follows: **Amendment No. \_\_\_ to Proof of Claim dated \_\_\_\_\_**. Avoid filing repeated amendments whenever possible.
- (3) File a **supplemental** POC when an additional liability is discovered after the original claim was filed. Mark the front of Form 4490 as follows: **Supplemental No. \_\_\_ to Proof Of Claim dated \_\_\_\_\_**.
- (4) File a **consolidated** POC when two **amended** or **supplemental** claims have been filed and another change is needed unless the statement of taxes owed is extremely long and complex. **This claim consolidates Proofs of Claim dated \_\_\_\_\_ and \_\_\_\_\_**.

## 5.5.4.11 (05-15-2023) **Service and Distribution of Proof of Claim**

- (1) Mail or hand deliver (if a fee is required) parts one and two of the POC to the court official if designated by state law or to the responsible estate administrator when appropriate. Form 4490 provides distribution directions. A facsimile NFTL generated by ALS (Automatic Lien System) may be included as an attachment to the proof of claim to support the Service's secured status.
- (2) Letter 4653, Proof of Claim Cover Letter, will be sent with the POC. This cover letter provides information to estate administrators on acknowledging the claim, the Government's position regarding federal lien law and its impact on state statutes.
- (3) The court official will acknowledge receipt by stamping the time and place received on part 2. Estate administrators should include an acknowledgement letter when returning part 2.
- (4) Retain acknowledgment copy and part 5 file copy with the CEASO case file.
- (5) Furnish part three to the estate administrator, or Court if part 1 is sent to estate administrator.
- (6) Provide part four to the U.S. Attorney, unless that office previously advised the Area Director that they prefer **not** to receive a copy.

- (7) If an acknowledged POC part 2 is not received from the court or the fiduciary within 21 days, take the following actions to secure one.
  1. check the docket sheet to see if receipt of the claim was acknowledged in the probate proceeding records.
  2. contact the court or estate administrator and request the acknowledgment copy.
  3. if still no acknowledgement send a duplicate Form 4490 and Letter 4653 to the court or the estate administrator by certified mail.

5.5.4.12  
(05-15-2023)

**Monitoring During  
Probate Proceedings**

- (1) On controlled cases CEASO will follow up with the court or estate administrator to determine the status of the POC, proceedings and/or estate assets. Research electronic systems that provide access to docket sheets or court records. Review correspondence from the court or administrator or make contact with the estate administrator. CEASO should document the ICS history concerning any documentation they receive concerning payment of creditors or distribution of assets.
- (2) Each state has specific time frames to consider and reject or approve claims. CEASO needs to input follow up dates on ICS to coincide with these deadlines. Generally the estate administrator will send a notice to the party who submitted the claim to notify them if they will be paid in full, a partial payment or nothing.
- (3) When the estate administrator or court decides who gets paid a notice of distribution (or proposed notice of distribution) of estate assets is sent advising what claims get paid and how much. It must be reviewed in the stated time period to ensure the Service is paid in proper priority and in the appropriate amount. IRM 5.5.2, Probate Proceedings, provides guidance on administrative expenses.
- (4) There is a set time period (generally 30 days, check state law) to appeal this decision (or proposal) and it is critical that this time period is monitored because the Service can lose its appeals rights, which may result in additional litigation in federal court.
- (5) On occasion there may be a hearing to dispute priority of creditors. If the Service's priority is in question, a referral to Area Counsel is necessary .
- (6) Once distribution is made (received) if there is still tax due a determination needs to be made if there are non-probate assets to collect from or if the case should be closed.
- (7) Follow up dates in ICS should coincide with state time frames for filing a claim, deadlines for response to proposed distribution plan, deadlines to appeal rejection of a claim, etc. A follow up date may be based on anticipated sale date of a property in which payment from the sale proceeds will be applied to outstanding taxes. Follow ups in ICS will help the advisor protect the Government's interest and move the case to resolution in a timely manner.
- (8) If it appears that the executor is not taking appropriate action to pay the creditors of the estate it may be necessary to consult Area Counsel for direction or assistance to resolve a stagnant case. See IRM 5.5.2.10, for additional information concerning referrals to Counsel.



- (9) If taxes accrue after the probate proceeding commences send Form 2373, Statement of Internal Revenue Taxes Due as an Expense of Administration of an Estate, to the estate administrator if this person is responsible for paying the taxes. If a person operating the business is different from the estate administrator and it is unclear whether the person operating the business is a fiduciary appointed by the court, send a Form 2373 to the estate administrator, in addition to the person operating the business. A copy of the letter should be filed with the court. Filing a copy of the letter with the court makes the judge aware that estate liabilities are increasing and unresolved. See IRM 5.5.2.6.1.1.1, Claiming Taxes as an Administrative Expense, for additional guidance.

5.5.4.13  
(05-15-2023)

**Application of Payments**

- (1) Apply payments as directed when a court order specifies how amounts must be credited.
- (2) Otherwise, apply payments in this order:
- Accounts where the statutory period is about to expire, then the next oldest period.
  - Trust fund portion of accounts, only when the statutory period for assertion of the Trust Fund Recovery Penalty (TFRP) has expired without assessment of the TFRP.
  - Non-trust fund portion of accounts or non-trust fund liabilities.
  - Other trust fund portion of accounts.
- (3) Do not apply payments received from a proceeding to any non-claimable liability.
- (4) Apply taxes paid by an estate administrator as an expense of administration only against taxes incurred by the estate administrator during the administration of the estate. These taxes are usually listed on a Form 2373.
- (5) Designated payment code (DPC) 59 should be used for most POC payments. Document 6209 provides information on designated payment codes.

5.5.4.14  
(05-15-2023)

**Subsequent Closing  
Actions**

- (1) When a state court determines that the Federal tax liability should be reduced **and** Counsel concludes that the court determination is binding, take necessary action to adjust the liability consistent with the specifics of the court order. Use Form 3870 **Request for Adjustment**.
- (2) Input TC 521 to reverse the systemic litigation freeze after insuring that a TC 550 updating the Collection Statute Expiration Date (CSED) has been input if the Closing Code used to input the TC 521 does not automatically update the CSED upon reversal. See IRM 5.5.1.9, Collection Statute Expiration Dates, for additional information on TC 521 input.

**Exception:** If a suit was referred to the Department of Justice (DOJ) against a third party (e.g., fiduciary, heirs, or transferees of decedent's property), then do not input the TC 521 until resolved.

- (3) Advisory is responsible to take action to refile NFTLs on accounts they are monitoring and at the time an NFOI is being closed. Document the ICS history as to whether the NFTL was refiled or the reason why it was not.

- (4) Close out any internal controls that are kept on the case such as those on ICS.

5.5.4.15  
(05-15-2023)

**Working Requests for  
Discharge**

- (1) CEASO is responsible for processing of requests for discharge of property from the tax lien.
- (2) Settlement statements must be reviewed to determine that no expenses are paid ahead of the Government, unless they meet the super priority creditor criteria under IRC 6323(a).
- (3) For guidance on allowable expenses see IRM 5.5.2.6, Administrative Expenses, IRM 5.5.2.6.1, Reasonable Administrative Expenses, IRM 5.5.2.6.1.1, Necessary Administrative Expenses.
- (4) IRM 5.12.3.12, Discharge of Property, provides additional information.

5.5.4.16  
(05-15-2023)

**Proof of Claim Retention**

- (1) POC copies are to be retained in the CEASO group. Destroy 2 years after court proceedings have been closed.
- (2) If litigation is pending, destroy 2 years after litigation case is closed.



**Exhibit 5.5.4-1 (05-15-2023)**  
**Template for Decedent Guide**

Decedent guides will not reiterate procedures that are currently addressed in the decedent IRMs. Instead, the decedent guides should address specific time frames that are mandated for state probate proceedings that have impact on timeliness of action that needs to be taken by CEASO, such as:

Items to include in the Decedent Guide	Reasoning for inclusion
What is the period for opening a probate proceeding and appointing an estate administrator?	This will let the employee know when to look for a probate proceeding while the case is in their active inventory.
What is the time period to provide an inventory and appraisal of assets to the court?	This allows the employee to set the appropriate case follow up to determine estate assets.
Is there a provision for supervised (dependent or formal) and unsupervised (independent or informal) probate proceedings?	TC 520 should be input for assets under the control of the court.
Are estate assets (real or personal) considered under control of the probate court jurisdiction?	Determine whether CSED extension is appropriate under IRC 6503.
Does the state require a bond for certain types of administration?	Determine whether the bond is based on gross estate value or a percentage of the estate.
Does this specific state charge filing fees for claims?	This is needed to coordinate with field collection revenue officers through OI's to file and pay the claims.
What is the time period to file a timely POC?	This is important as the IRS wants its' claim to be considered for payment.
What is the proper venue for filing a POC?	Is the claim filed with an estate administrator or with the probate court?
How does the state require the POC be signed?	Does the IRS POC need to be notarized or is the IRS seal adequate to certify taxes due?
Does state law prohibit fiduciary from paying claims not presented for payment?	NA
What is the time period for the estate administrator to consider creditor claims and/or reject claims?	This lets the employee know when to follow up on the filed IRS POC.
What is the time period to appeal a rejected claim?	The importance of this cannot be understated. The information is needed to determine whether to appeal or pull the case to federal court depending on the reason for denial.
What is the period to object to a motion to disburse estate funds?	The employee needs to review the distribution list and decide whether to disagree to disbursement.
Are there state law provisions that dictate thresholds for reasonable expenses, family allowances, homestead allowances, funeral expenses etc.?	This information is needed to determine if only reasonable expenses were paid and if the amount to be paid to the IRS is correct or in consideration of lien discharges.

**Exhibit 5.5.4-1 (Cont. 1) (05-15-2023)**  
**Template for Decedent Guide**

<b>Items to include in the Decedent Guide</b>	<b>Reasoning for inclusion</b>
Is the estate liable for funeral expenses if the decedent had a funeral or burial policy or contract to pay costs associated with final disposition?	This can be used to determine whether the funeral expense can be disallowed by the IRS.
Is there a provision for necessity of administration if the estate assets are less than the specific stated value?	This helps the employee decide whether a POC should be filed.
Are there guidelines on priority of payment for insolvent estates?	Has our interest been properly considered?
Does the liability of the estate administrator terminate with the final settlement of the estate or remains until the administrator has any duties to perform in their capacity as representative?	The IRS employee needs to know when does the fiduciary liability expire? This impacts assertion of 3713 fiduciary liability.
Can the final order issued by the probate court be appealed to the court of appeals?	If so, what is the time period?
Does the filing of a POC toll or extend the CSED in the specific state?	NA