



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

5.9.6

APRIL 12, 2024

## EFFECTIVE DATE

(04-12-2024)

## PURPOSE

- (1) This transmits revised IRM 5.9.6, Bankruptcy and Other Insolvencies, Processing Chapter 7 Bankruptcy Cases.

## MATERIAL CHANGES

- (1) This IRM has been updated to provide clarification and expansion of existing material. The following table describes changes within this IRM revision.

IRM Subsection	Description of Change
IRM 5.9.6 2.3(3)	Created a new paragraph (4) to split information that was in paragraph (3).
IRM 5.9.6.9(9)	Added guidance when a case is converted from Chapter 7N to 7A.
IRM 5.9.6.10.3(3)	Added clarification to state managerial approval is required when holding a case in your inventory to pursue EAEP after discharge.
IRM 5.9.6.11.2(2)	Change timeframe to work APOC flags in violation of the stay from calendar days to business days.
IRM 5.9.6.11.3(2)	Change timeframe to work APOC flags in violation of the stay from calendar days to business days.
IRM 5.9.6.17(4)	Created a new paragraph (4) to split information that was in paragraph (3).
Throughout the IRM	Editorial changes were made throughout this section to add clarity and to update or correct citations

## EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 5.9.6 dated March 16, 2023. Interim Guidance Memo SBSE-01-0223-0007, Temporary Guidance Related to The Generation, Use and Retention of Business Object Reports (BOE), dated February 22, 2023, has been incorporated into this IRM.

**AUDIENCE**

Small Business/Self-Employed, Specialty Collection Insolvency

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5.9.6

Processing Chapter 7 Bankruptcy Cases

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5.9.6.1  
(10-09-2018)  
**Program Scope and Objectives**

- (1) **Purpose.** This Internal Revenue Manual (IRM) section describes the processes and procedures when a taxpayer, referred to as the debtor, files a bankruptcy petition under Chapter 7 of the U.S. Bankruptcy Code. A Chapter 7 bankruptcy case can be filed by an individual, business, or other entity where creditors are paid by liquidation and distribution of the debtor's available assets.
- (2) **Audience.** This IRM section is designed for use by Specialty Collection Insolvency (SCI) personnel. Advisors, revenue officers (RO), and other SB/SE employees may also refer to these procedures when working with a taxpayer who has filed a Chapter 7 bankruptcy case.
- (3) **Policy Owner.** The Director of Collection Policy is responsible for issuing policy for the Insolvency program.
- (4) **Program Owner.** The program owner is Collection Policy, Insolvency an organization within the Small Business / Self Employed (SB/SE) division.
- (5) **Primary Stakeholders.** The primary stakeholder of this section is Specialty Collection Insolvency.
- (6) **Program Goals.** To facilitate the effective monitoring and timely closure actions on behalf of the government's interest and ensure taxpayer rights are protected when processing Chapter 7 bankruptcy cases.

5.9.6.1.1  
(03-16-2023)  
**Background**

- (1) Internal Revenue Manual (IRM) 5.9, Bankruptcies and Other Insolvencies, contains the IRS position, procedures, information, instructions, guidance, and references concerning bankruptcy cases, stockbroker insolvencies, receiverships, assignments for the benefit of creditors, corporate dissolutions, and bulk sales.

5.9.6.1.2  
(10-09-2018)  
**Authority**

- (1) The Insolvency program operates within the guidelines of the US Bankruptcy Code (11 USC) and Federal Rules of Bankruptcy Procedure.

5.9.6.1.3  
(10-09-2018)  
**Responsibilities**

- (1) The Director, Specialty Collection Insolvency is responsible for program oversight.
- (2) Territory and frontline managers are responsible for ensuring reviews are completed as required per IRM 1.4.51.17.2, Operational Reviews, IRM 1.4.51.16.2, EQ Consistency Reviews, and IRM 1.4.51.5.2, Reviews (Overview).
- (3) Employees are responsible for following the provided guidance to process cases.

5.9.6.1.4  
(10-09-2018)  
**Program Management and Review**

- (1) **Program Reports.** Reports housed on the Automated Insolvency System (AIS) are used to support the Insolvency program. The required AIS reports are described in IRM 5.9.12, Insolvency Automated Processes, IRM 5.9.16, Insolvency Case Monitoring, IRM 1.4.51.8.3, Case Management Tools.
- (2) **Program Effectiveness.**

- a. Operational and Program reviews are conducted on a yearly basis. See IRM 1.4.51.17.2, Operational Review, and IRM 1.4.51.17.5, Program Reviews for more information.
- b. National quality reviews are conducted on a monthly basis. Consistency reviews are conducted annually. See IRM 1.4.51.16.1, NQRS, and IRM 1.4.51.16.2, EQ Consistency Reviews, for more information.

5.9.6.1.5  
(10-09-2018)

#### Program Controls

- (1) Insolvency managers are required to follow program management procedures and controls addressed in IRM 1.4.51.5.2, Reviews (Overview), IRM 1.4.51.15, Controls, and IRM 1.4.51.16, Quality.
- (2) Certain case actions and determinations explained in this IRM require managerial approval.
- (3) Caseworkers and managers utilize AIS for case management, assignment and documentation of insolvency and non-bankruptcy insolvency cases. See IRM 5.9.3.2, Automated Insolvency System (AIS).

5.9.6.1.6  
(04-12-2024)

#### Terms/Definitions/ Acronyms

- (1) A glossary of terms used by Insolvency can be found in IRM 5.9.1-1, Glossary of Common Insolvency Terms.
- (2) Common acronyms acceptable for use in AIS history are listed in IRM 5.9.1-2, Acronyms and Abbreviations.
- (3) Additional acceptable acronyms and abbreviations are found in the ReferenceNet Acronym Database, which can be viewed at: *Acronyms Database (irs.gov)*.

5.9.6.1.7  
(04-12-2024)

#### Related Resources

- (1) Automated Insolvency System (AIS) User Guide, Document 13219.
- (2) Title 11 of the United States Code, *OLRC Home Page*, known as the Bankruptcy Code.

5.9.6.2  
(03-16-2023)

#### Introduction to Chapter 7 Bankruptcy

- (1) **Chapter 7 Liquidation.** Liquidation under Chapter 7 of the Bankruptcy Code has traditionally been the most common form of relief sought by debtors. Chapter 7 is used primarily by individuals to free themselves of debt simply and inexpensively. Businesses wanting to liquidate and terminate their enterprises also file Chapter 7.
  - a. Chapter 7 provides relief to debtors regardless of the amount of the debts owed or whether a debtor is solvent or insolvent. However, when the debtor has primarily consumer debts, a case may be dismissed under the Chapter 7 “means test” depending on the debtor’s level of income and the computations set forth in 11 USC 707(b).
  - b. Assets of the debtor are converted into cash for distribution among creditors. Individual debtors receive a discharge of all pre-petition debts other than certain debts which are non-dischargeable under the Bankruptcy Code. (An individual’s right to a discharge through the filing of a Chapter 7 petition is not absolute.)
  - c. Corporations, partnerships, and Limited Liability Companies (LLCs) do not receive a discharge under Chapter 7. However, few or no assets may be available for the collection of tax liabilities not paid by the bankruptcy estate.

- d. A bankruptcy discharge does not extinguish any attachment of the statutory federal tax lien. A bankruptcy discharge does not invalidate any NFTL filed prior to the petition date.

- (2) **Parties.** A Chapter 7 bankruptcy involves three major parties: the debtor, the trustee, and the creditors.
- (3) **Voluntary/Involuntary.** A case under Chapter 7 begins either by the filing of a voluntary petition by the debtor or by the filing of an involuntary petition by the creditors.

**Note:** The IRS's position is that the IRS will not initiate or join in a proceeding to request an involuntary bankruptcy for a taxpayer except in extraordinary circumstances. Then, Insolvency must request the action through a referral to local Counsel.

5.9.6.2.1  
(03-16-2023)  
**Notice and Filings**

- (1) **Notice to IRS.** Notice of a Chapter 7 bankruptcy filing must be given to the IRS when the IRS is listed as a creditor in the debtor's schedules (Bankruptcy Rule 2002(f)).
- (2) **Documents Filed.** Bankruptcy Rule 1007 requires the Chapter 7 debtor to file supporting documents within a fixed time after filing the petition. Such filings include a mailing matrix, schedules, and a statement of financial affairs (SOFA). See 11 USC 521(a)(1).

5.9.6.2.2  
(03-16-2023)  
**The Trustee**

- (1) **Trustee's Role.** In general, a trustee administers a Chapter 7 liquidation. The trustee collects all of the debtor's assets, reduces the assets to cash, and distributes the funds to creditors in the priority set forth in 11 USC 726. The Chapter 7 trustee is a private party who manages the bankruptcy estate on behalf of creditors. The trustee is accountable to the court for all actions taken on the case.
- (2) **Trustee's Selection.** An interim trustee is appointed by the United States Trustee's Office, an office of the United States Department of Justice. A Chapter 7 trustee can also be elected by creditors. If the creditors do not elect a trustee, then the interim trustee becomes the permanent trustee.
- (3) **Trustee Responsibilities.** The responsibility of collecting assets of the estate falls to the trustee. This may include converting property to cash, avoiding unperfected liens, and setting aside preferential, fraudulent, and/or unauthorized transfers. If the business of the debtor is authorized to continue operating under 11 USC 721, the trustee may sell or lease property of the estate in the ordinary course of business. Notice and hearing of the sale or lease is not required if the sale is in the ordinary course of business. The trustee:
  - a. Examines claims of creditors and objects to those claims, when appropriate;
  - b. Is charged with investigating the finances of the debtor;
  - c. Files tax returns for the estate when required and pays taxes, if due;
  - d. May object to a debtor receiving a discharge if the debtor is uncooperative, found hiding assets, or is otherwise interfering with the effective administration of the case; and
  - e. Must file a final report with the court and the United States Trustee at the conclusion of the case (any creditor, including the IRS, may object to this report).

(4) **Trustee Responsibilities under BAPCPA.** In addition to the duties listed in paragraph (3) above, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) has given trustees the following duties for Chapter 7 cases filed on or after October 17, 2005.

- a. **Presumption of Abuse.** In the individual Chapter 7 bankruptcy case, the U.S. Trustee is required to review all materials filed by the debtor. No later than ten days after the first meeting of creditors, the U.S. Trustee must file a statement with the court stating whether a debtor's case is a presumption of abuse of Chapter 7 under the means test. Paragraph (b) below describes the means test. The court must supply a copy of that statement to all creditors within seven days. Within 30 days of the U.S. Trustee filing a statement that the presumption of abuse arises, they must file a motion for conversion or dismissal or file a statement explaining why they do not think filing such a motion is appropriate. See 11 USC 704(b)(1).

**Note:** The signature of the debtor's attorney on bankruptcy cases filed on or after October 17, 2005, constitutes certification the filing is well founded in fact, is warranted by existing law, and is not an abuse of the bankruptcy process. The court may assess civil penalties against the attorney if the court finds the attorney was negligent in their investigation into the circumstances of the bankruptcy. (See Rule 9011, Federal Rules of Bankruptcy Procedure.)

- b. **Means Testing.** The means test is applied in Chapter 7 cases filed by individuals who owe primarily consumer debts. The U.S. Trustee (or bankruptcy administrator, if any) determines whether the case is presumed to be an abuse of the Chapter 7 process. The standards for this means test are based in part on the IRS National and Local Expense Standards used in resolving delinquent tax accounts. If the debtor fails to meet the means test, the court or U.S. Trustee may move for conversion. In certain cases, any party in interest can move for dismissal or conversion. This IRM will not go into detail on the mechanics of the process. 11 USC 707(b)(2) provides a comprehensive explanation of means testing.

5.9.6.2.3  
(04-12-2024)

#### Chapter 7 Tax Refunds to Trustees

- (1) **Property of the Estate.** When the refund statute has not expired, the Chapter 7 debtor's pre-petition refund is property of the bankruptcy estate. However, the estate's right to refund is limited to the portion of the refund attributable to pre-petition events. As such, they are subject to turnover to the Chapter 7 trustee even though the debtor may be in full tax compliance.

**Example:** If a debtor files a Chapter 7 petition on October 12, the amount of their refund attributable to January 1 through October 11 is property of the bankruptcy estate.

- (2) **Turnover Procedures.** The IRS and the Executive Office of the U.S. Trustees (EOUST) and the Administrative Office of the United States Courts (AOUSC) have agreed to the conditions for the turnover of a debtor's income tax refunds. The conditions are:

- a. The refund is considered wholly or partially property of the Chapter 7 bankruptcy estate.



- b. The trustee must request the turnover of refunds in writing and/or through their software providers for specific taxpayers.
- c. The U.S. Trustee's office will encourage trustees to use the electronic method for requesting a refund turnover.
- d. Insolvency will honor trustee turnover request for the later of the following 180 days from receipt of the turnover request, or 180 days after the due date of a return (including extensions).

**Note:** If no return is received within these 180-day periods, the turnover request will not be honored.

**Example:** A trustee submits a turnover request on February 12, 2018, for a 2017 tax year refund. The debtor has an approved extension to file their 2017 return no later than October 15, 2018. Insolvency will turnover any refund available up to and through April 13, 2019.

**Example:** A trustee submits a turnover request on April 20, 2018, for a 2014 tax year refund. The debtor did not have an extension for filing their 2014 return. Insolvency will turnover any refund available up to and through October 17, 2018 (180 days after the request is made).

- e. Insolvency will not compute pre-petition and post-petition refund allocations. Insolvency will not compute amounts due the debtor as opposed to a non-debtor spouse on a jointly filed return. The trustee will complete these calculations. The trustee is responsible for refunding monies for post-petition allocations to the debtor and amounts due to non-debtor spouses, if applicable.
- f. Upon receipt of the turnover notice, Insolvency will input the appropriate bankruptcy freeze and closing code on related accounts to hold the refund. If no account is found on IDRS, the Insolvency caseworker will create a dummy module. The caseworker will input a Transaction Code (TC) 520 closing code (cc) 81 to hold credits.

**Reminder:** Establish dummy modules and input the TC 520 cc 81 on both SSNs in the joint bankruptcy case with no accounts present on IDRS. This will freeze both refunds if the spouses file separate tax returns for the refund period.

IRM 5.9.15.6, Unassessed Liability/No Open Modules, provides instructions for establishing dummy modules.

- g. Insolvency will not honor a refund turnover request received from the trustee after issuance of the refund to the debtor. Insolvency will not honor a refund turnover request for a pending refund that cannot be intercepted.

**Note:** The turnover agreement procedures do not limit the IRS right of setoff. The turnover agreement procedures do not limit the right of setoff to domestic support agencies. Generally, when the debtor has a pre-petition income tax refund, the refund can be setoff to a pre-petition income tax liability without an order lifting the stay. Post-petition refunds may be setoff to post-petition debts without an order lifting the stay.

- (3) **Processing New Trustee Turnover Requests.** As most Chapter 7 cases are assigned to the CIO, the CIO is primarily responsible for processing new

turnover requests. See the following exhibits for detailed guidance on processing turnover requests, including guidance on inputting the TC 520 cc 81:

- Exhibit 5.9.6-1, Processing Chapter 7 Turnover Requests when the Case is Not on AIS
- Exhibit 5.9.6-2, Processing Chapter 7 Turnover Requests when the Case is Closed on AIS
- Exhibit 5.9.6-3, Processing Chapter 7 Turnover Requests when the Case is Open on AIS
- Exhibit 5.9.6-4, Conversions and Turnover Requests
- Exhibit 5.9.6-5, Processing Withdrawals or Rescissions of Trustee Turnover Requests
- Exhibit 5.9.6-6, TC 520 Input Guide for Trustee Turnover Requests

(4) **Processing Turnover Requests.** When processing turnover requests, case-workers are reminded that:

- Any permissible setoffs should be completed prior to preparing Form 5792, Request for IDRS Generated Refund (IGR).
- After the turnover request has been processed, note your SEID and action taken on the document and place it in the review bin.
- Chapter 7 trustee turnover requests are kept in retention for one year since they are signed under penalty of perjury.
- When reviewing for filing status, if IDRS cc IMFOLI shows Filing Status (FS) 1 and “none” in the return posted field, the person filed as the spouse on a joint return (a TC 594 cc 84 will be present on the module on IDRS cc IMFOLT).
- The **TTEE RFND** case classification can be closed after all refunds requested for the debtor(s) have been issued.
- Turnover requests remain valid when the case is reassigned to another trustee and the case remains a Chapter 7.
- For each TC 520 cc 81 input to IDRS, add the TIN, period, and other applicable information to the AIS Freeze screen.

**Note:** For electronic trustee turnover requests, CIO will use the AIS Trustee Turnover Upload process before individual turnover requests are sent to technical teams for processing.

(5) **Invalid Turnover Requests.** Invalid turnover requests will not be honored. A request is invalid when:

- The request is incomplete and does not include necessary information. For example, the request does not include the case number or the tax period for which the refund is being requested, or
- The trustee is requesting a refund on a post-petition tax period (unless the post-petition turnover is due to a settlement between the IRS and the Chapter 7 Trustee).

(6) **Dismissals on Cases with Turnover Requests.** Dismissals extinguish the right to a turnover of a refund to the trustee. Close the TTEE RFND classification and proceed with closing actions on the case when a dismissal is received per guidance in IRM 5.9.17.6.5, Closing Dismissed Cases.

(7) **Orders Vacating Dismissal/Reinstatements When a Trustee Turnover was Present Prior to Dismissal.** When the dismissal in a Chapter 7 case is vacated and the case is reinstated, a valid trustee turnover request that was

present immediately before the dismissal was received is also reinstated. Take the following actions on AIS when a dismissed case is reinstated and there was a valid turnover request prior to the dismissal:

- Re-open the case by removing the closed date from the “On AIS” field on the Taxpayer screen.
- Remove the dismissed and noticed dates from the closing area on the Taxpayer screen.
- Re-open the **TTEE RFND** case classification.
- Re-input the TC 520 cc 81 to the respective module(s) on IDRS.
- Add each TC 520 input to IDRS to the Freeze screen.
- Re-assign the case to the appropriate employee, if needed.
- Document the history to reflect all actions taken.

- (8) **Refund Turnover Requests on Discharged Cases.** After the debtor receives a discharge in the bankruptcy case, the automatic stay is no longer in effect. However, a valid turnover request is in effect until the case is closed at the court or the trustee withdraws or rescinds the turnover request. The TC 520 cc 81 must remain on the account during the turnover period. If the taxpayer files a pre-petition refund return after discharge, ensure the TC 520 cc 81 is posted to IDRS. Then, offset the refund against any existing debt owed to IRS by the taxpayer and manually refund the remaining credit to the trustee, if the trustee has requested a turnover of that refund. In either instance, a refund cannot be issued or credited for a return filed after the Refund Statute Expiration Date (RSED) has expired.

**Note:** The Bureau of the Fiscal Service (BFS) will offset any appropriate amounts from the refund turnover through the Treasury Offset Program before the manual refund goes to the trustee. Include TOP Bypass Indicator (BPI) 07 on Form 5792, Request for IDRS Generated Refund (IGR), for requests for manual refunds to debtors or trustees in cases filed on or after October 17, 2005. (See IRM 5.9.4.5.3, Offsets to Other Agencies, and related subsections for additional information.)

- (9) **Actions on Discharged Cases after the Turnover.** Caseworkers must take the following actions on cases where discharge actions have been completed and the trustee turnover request for all periods has been addressed. A turnover request from the trustee for a pre-petition refund does not affect the requirement that closing actions be initiated within 30 days of receipt of discharge or dismissal. Nor, does a turnover request from the trustee change the time frame for release of liens in IRM 5.9.17.18, Release of Federal Tax Liens, when a release is required. These procedures must be followed when Chapter 7 cases are closed by CIO caseworkers and by FI caseworkers.

Method of Closure Is...	Then....
No Liability	<ul style="list-style-type: none"> <li>• Close the TTEE RFND classification</li> <li>• Manually input/request TC 522 cc 81</li> <li>• Update the Freeze screen</li> <li>• Document actions</li> <li>• Input “On AIS” date to close the case on AIS.</li> </ul>

Method of Closure Is...	Then....
Notice of discharge date is populated	<ul style="list-style-type: none"> <li>• Close the TTEE RFND classification</li> <li>• Request "RI CH7&amp;HARDSHIPCH13 RI" method of closure</li> <li>• Document actions.</li> </ul>
Method of Closure is REG DIS COMPLTE (RC)	<ul style="list-style-type: none"> <li>• Close the TTEE RFND classification</li> <li>• Manually input/request TC 521 cc 81</li> <li>• Update the Freeze screen</li> <li>• Document actions</li> <li>• Input "On AIS" date to close the case on AIS.</li> </ul>
Method of Closure is REG DIS PROCSNG (RA)	<ul style="list-style-type: none"> <li>• Close the TTEE RFND classification</li> <li>• Complete the DDR actions, if required</li> <li>• Document actions.</li> </ul>
Method of Closure is Request RI CH7&HARDSHIPCH13 RI method of closure	<ul style="list-style-type: none"> <li>• Close the TTEE RFND classification</li> <li>• Document actions.</li> </ul>

5.9.6.3  
(03-06-2015)  
**Eligible Entities**

- (1) **Petitioners.** Any person, with the exception of governmental units, railroads, insurance companies, banks, and other financial institutions, can file a Chapter 7 petition. Eligible entities include the following:

- Individuals
- Corporations
- Partnerships
- Limited Liability Companies (LLCs)

**Reminder:** Only individuals may receive a discharge.

5.9.6.4  
(03-16-2023)  
**Referrals to Insolvency**

- (1) **Referrals to Insolvency.** Non-Insolvency IRS employees must send Form 4442, Inquiry Referral, to the CIO as soon as they learn a Chapter 7 bankruptcy case has been filed (same day notification, if possible). The Form 4442 may be faxed to the CIO at 1-855-235-6787 or mailed by overnight courier to the CIO. Mark the outside of the envelope containing written referrals with **Expedite**. The referral can be mailed to:

2970 Market St.

(Mail Stop - Q30.133)

Philadelphia, PA 19104-5016

**Note:** The referral to Insolvency may also be phoned to the CIO. The CIO phone numbers for internal referrals can be found on the Servicewide Electronic Research Program (SERP). (See IRM 5.9.5.2, Notice of Bankruptcy Filing, for additional information.)

5.9.6.5  
(03-16-2023)  
**Automatic Stay**

- (1) **The Automatic Stay.** IRM 5.9.3.5, Automatic Stay, provides an overall explanation of the issues involved in the imposition of the automatic stay. The stay against property of a Chapter 7 estate continues until such property is no longer property of the estate (i.e., the property is being administered by the trustee). Unless the debtor is a serial filer, the stay in the case of an individual remains in effect until the earlier of:

- Dismissal,
- Discharge,
- Denial of Discharge, or
- Closure of the case by the court.

**Note:** See IRM 5.9.2.10, The Effect of Bankruptcy on Collection, for additional information.

- (2) **Serial Filers and the Automatic Stay.** IRM 5.9.5.7, Serial Filers, discusses BAPCPA provisions regarding the automatic stay when an individual is a serial filer. A serial filer is an individual that has one or more prior bankruptcies dismissed within one year of the current bankruptcy case and dismissal was not for failure to pass the means test. The effect of prior dismissals on the stay in the debtor's current case depends on the number of prior dismissals the debtor received. The stay may terminate 30 days after the current petition date when the debtor had one prior dismissal within one year of the current case. The stay may not go into effect at all when the debtor had two or more dismissals within one year of the current case. The following IRM sections provide required caseworker actions regarding the automatic stay in **serial filer** cases:

- IRM 5.9.5.7, Serial Filers
- IRM 5.9.5.7.1, Systemic Identification in Serial Filer Cases
- IRM 5.9.5-4, Common Processing Steps in Serial Filer Cases
- IRM 5.9.5-5, Processing the Serial Filer Case When the Stay Terminates After 30 Days
- IRM 5.9.5-6, Processing the Serial Filer Case When No Stay Goes Into Effect

- (3) **Limited Bankruptcy Time Frames.** In the majority of Chapter 7 individual cases, the time between the filing of the petition to discharge is usually 90 to 120 days. Thus, the automatic stay period in the individual bankruptcy case is short. Additionally, the extension of the Collection Statute Expiration Date (CSED) in the individual bankruptcy case is short. The CSED on non-dischargeable liabilities is extended for the time the stay is in place plus six months. Generally, the court grants a discharge:

- Shortly after the 341 Meeting of Creditors has been held and
- The time has expired for creditor to file complaints objecting to discharge.

- (4) **Preventing Stay Violations.** The IRS must exercise due diligence to comply with the provisions of the Bankruptcy Code to avoid violating the automatic

stay. In bankruptcies filed before October 17, 2005, accounts must remain in bankruptcy status (ST 72) on IDRS until lifting of the automatic stay. In bankruptcies filed on or after October 17, 2005, accounts must remain in bankruptcy status (ST 72) unless there is an order limiting or eliminating the automatic stay. Additionally, the stay in the case of a serial filer may terminate or not go into place at all when there is no order extending the stay in the current case.

**Note:** Input of TC 520 with the appropriate closing code (cc) on IDRS places the module in bankruptcy status (ST 72) on IDRS.

5.9.6.5.1  
(03-16-2023)  
**Debtor Payments on  
Dischargeable Taxes**

- (1) **Payments Received for Dischargeable Tax.** IRS cannot keep a payment designated to dischargeable liabilities when the payment is received after the bankruptcy was filed and prior to a discharge being granted. Once the payment posts to the dischargeable period, it must either be refunded to the taxpayer or moved to a non-dischargeable period, if one exists. If a payment is received prior to the bankruptcy petition date, the payment may be retained after the bankruptcy petition date without violating the automatic stay. It does not matter if the payment received prior to the bankruptcy filing is designated to a dischargeable or non-dischargeable liability. Refer to (2) or (3) below to determine if additional action is warranted.

**Note:** A debtor may voluntarily pay a discharged tax. (11 USC 524(f)) Therefore, if a debtor knowingly and voluntarily pays a discharged tax after the discharge is granted, the IRS may retain it.

- (2) **Payments Applied to Dischargeable Tax.** If a voluntary post-petition payment has posted to a dischargeable tax period and no non-dischargeable periods exist, the payment generally must be refunded. See 11 USC 524(f). The IRS must initiate the refund process within two business days of identification of receipt of the payment. To refund a payment, Insolvency must complete and expedite a Form 5792, Request for IDRS Generated Refund (IGR), using established manual refund procedures. (See IRM 5.9.16.3, Manual Refunds.)

**Note:** Unless evidence exists that the debtor knows they are not obligated to pay the discharged liability (such as a letter from the debtor stating as much), Insolvency will assume the payment has been made in error and a refund will be issued. If an Insolvency caseworker is unsure if the refund should be sent to the trustee or to the debtor, guidance from Counsel should be sought.

- (3) **Payments to Non-dischargeable Periods.** If a voluntary post-petition payment has posted to a dischargeable tax period and a non-dischargeable period exists, the payment should be transferred from the dischargeable module to the non-dischargeable module.

**Note:** Debtors who are aware that penalties and interest accrue on non-dischargeable liabilities may make voluntary payments to those debts outside the bankruptcy. By doing so, they lessen their tax burden after the close of the bankruptcy.



5.9.6.5.2

(03-06-2015)

**Voluntary Payments on  
Non-Dischargeable  
Taxes**

- (1) **Prior Installment Agreements.** IRM 5.9.4.20, Installment Agreements and Bankruptcy, and IRM 5.9.4.5.2, Post-Petition Payments and Credits, explain how to address voluntary payments received during the pendency of a bankruptcy.

5.9.6.6

(03-16-2023)

**Chapter 7 No Asset (7N)  
Process**

- (1) **Chapter 7N Process under BAPCPA.**

Steps	The steps listed below are typical in a 7N bankruptcy case filed on or after October 17, 2005. The order of occurrence may vary from court to court.
1	The debtor attends credit counseling within the 180 days prior to the filing of the bankruptcy petition.
2	The petition is filed.
3	The debtor files Form 122A-1, Statement of Current Monthly Income and Form 122A-2 Means-Test Calculation, with the petition or within 14 days thereafter.
4	The debtor's attorney certifies the client's filing is not abusive (Bankruptcy Rule 9011).
5	The court provides written notice to creditors not later than ten days after the petition date, if a presumption of abuse arises in an individual's case.
6	The United States trustee files a statement with the court determining if the current case is presumed to be an abuse of the bankruptcy system.
7	A hearing is held on the motion to convert or dismiss based on abuse, if applicable
8	The debtor provides the most recent tax return to the trustee no later than seven days before the 341 meeting of creditors.
9	The 341 meeting of creditors is held.
10	The trustee checks for assets.
11	The trustee approves and files a report of no distribution.
12	For individuals, the court enters a discharge or denial of discharge (normally within 90 to 120 days after the filing of the petition).
13	The court approves the no asset report and discharges the trustee of their duties.
14	The case is closed.

5.9.6.7

(03-16-2023)

**Chapter 7 Asset (7A)  
Process****(1) Chapter 7A Process under BAPCPA.**

<b>Steps:</b>	<b>The steps in a 7A bankruptcy typically are:</b>
1	The debtor attends credit counseling within the 180 days prior to the filing of the bankruptcy petition.
2	The petition is filed.
3	The debtor files Form 122A-1, Statement of Current Monthly Income and Form 122A-2 Means-Test Calculation, with the petition or within 14 days thereafter.
4	The debtor's attorney certifies the client's filing is not abusive (Bankruptcy Rule 9011).
5	The court provides written notice to creditors not later than ten days after the petition date, if a presumption of abuse arises in an individual's case.
6	The trustee files a statement with the court determining if the current case is presumed to be an abuse of the bankruptcy system.
7	A hearing is held on the motion to convert or dismiss based on abuse, if applicable.
8	The debtor provides the most recent tax return to the trustee no later than seven days before the 341 meeting of creditors.
9	The 341 meeting of creditors is held.
10	The trustee files an interim report of assets.
11	The trustee checks for any additional assets.
12	A proof of claim is filed.
13	The court enters discharge or denial of discharge (for individuals).
14	The trustee administers the case, including <ol style="list-style-type: none"> <li>Liquidating all assets that create a benefit for the estate</li> <li>Objecting to questionable proofs of claim,</li> <li>Determining the distribution of proceeds based on the priority of claims, and</li> <li>Filing a final report.</li> </ol>

5.9.6.8

(03-16-2023)

**Commodity Broker  
Bankruptcies**

- (1) Overview.** Commodity brokers are not eligible to file Chapter 9, 11, 12, or Chapter 13 bankruptcies, leaving Chapter 7 as their only option. A commodity broker is a licensed agent involved in the trading of commodities also known as commodity **futures** trading. (See IRM 5.9.1-1, Glossary of Common Insolvency Terms.) A broker may be an individual or a company. 11 USC 761 through 767 provide requirements and procedures for commodity broker bankruptcies.



- (2) **Commodity Futures Trading Commission (CFTC).** The CFTC is an independent agency of the US government that oversees futures markets to:
- Encourage competition and efficiency
  - Ensure their integrity
  - Protect against manipulation, abusive trading practices and fraud
  - Ensure the financial integrity of the clearing process
- (3) **CFTC and Bankruptcy.** A commodity broker must advise the CFTC within one business day of filing a bankruptcy. The role of CFTC is to regulate liquidating commodity brokers. The CFTC may:
- Exempt the trustee from time limits imposed by the Commission
  - Extend time limits imposed on the trustee
  - Inspect trustee records
  - Become involved in account transfers
- Note:** Although the CFTC has regulatory authority over an insolvent commodity broker, the Bankruptcy Code still applies.
- (4) **AIS Processing.** The CIO will do initial clerical processing of commodity broker bankruptcies as they would for any other Chapter 7 bankruptcy.
- (5) **Normal Chapter 7 Procedures.** Commodity broker bankruptcies are handled by the FI office that handles that court's jurisdiction.
- a. TFRP investigations are conducted and assertions made, as in any other Chapter 7 bankruptcy.
  - b. Unfiled tax returns are addressed.
  - c. Claims are filed with the bankruptcy court.
  - d. Payments are posted through AIS according to Chapter 7 priorities.
  - e. Collection from exempt, abandoned, or excluded property (EAEP) is addressed in cases filed by individuals.
  - f. Discharges are processed following Chapter 7 guidance provided in IRM 5.9.17, Closing a Bankruptcy Case.
- (6) **Payment Preference.** Allowed claims for a **consumer debt** (IRM 5.9.1-1, Glossary of Common Insolvency Terms) owed to customer creditors generally receive priority preference with respect to all other claims. The only exception is administrative expense claims under 11 USC 503 that are attributable to the administration of customer property. The IRS is never a customer creditor. After distribution is made to customer creditors, distribution is made to the claims of other creditors in the same priority of distribution in the Chapter 7A case of debtors that are not a commodity broker (11 USC 507).
- (7) **Counsel Guidance.** Issues surrounding commodity broker bankruptcies not covered by this IRM should be discussed with Counsel.

5.9.6.9  
(04-12-2024)  
**Opening a Chapter 7  
Case**

- (1) **Asset/No Asset.** Upon receipt of a Chapter 7 case by CIO, each case is categorized as either an "asset" or a "no asset" case. Some bankruptcy courts simplify the asset/no asset determination considering all Chapter 7 petitions as "no asset" until the court issues a notice of possible dividends and sets a bar date. Other courts issue separate notices identifying the cases as either "asset" or "no asset."

**Note:** The CIO must load all new cases on AIS and run IIP processes C and D within five workdays of receipt. (See IRM 5.9.12.5, Insolvency Interface Program (IIP), for additional information.)

- (2) **No Asset Case.** The IRS and other creditors do not receive payments (or dividends) from the bankruptcy estate in a 7N case. For IRS purposes, a no asset case is defined as any case:
- Where the trustee determines **no dividend** will be paid
  - In which assets of the debtor are less than allowed exemptions and costs of administration
  - Involving a partnership or corporation where the costs of administration exceed the value of the assets

**Note:** Since tax liabilities on unfiled returns are not dischargeable in 7N cases, and no proof of claim is filed, the IRS will not expend resources on procuring unfiled returns through the bankruptcy process on those cases.

- (3) **Stay Research Required.** No asset cases filed prior to October 17, 2005, require limited or no follow-up. To prevent violations of the automatic stay on those cases, TC 520 with the applicable closing code is input when the IRS is listed as a creditor. Follow-up on specifically identified cases filed on or after October 17, 2005, is required to check for possible stay variations resulting from serial filings. Additional procedures for caseworkers addressing serial filers in all chapters, including Chapter 7 cases, are found in:

- IRM 5.9.5.7, Serial Filers
- IRM 5.9.5.7.1, Systemic Identification in Serial Filer Cases
- IRM 5.9.5-4, Common Processing Steps in Serial Filer Cases
- IRM 5.9.5-5, Processing the Serial Filer Case When the Stay Terminates after 30 Days
- IRM 5.9.5-6, Processing the Serial Filer Case When No Stay Goes Into Effect

**Note:** The IRS does not file a proof of claim in a 7N case. If assets are realized at a later date and the case becomes a 7A case, a claim will be filed when there are outstanding liabilities owed the IRS.

- (4) **IDRS Closing Code (CC) 84 and Corporate Chapter 7 Cases.** IIP is programmed to input TC 520 cc 84 on all Chapter 7 cases with an 1120 filing requirement. This closing code cannot be changed. The TC 520 cc 84:
- a. Allows an assigned revenue officer to complete TFRP investigations and assessment determinations;
  - b. Permits an assigned revenue officer to close the case as currently not collectible;
  - c. Alerts ACS or Field Collection not to take collection actions without first contacting Insolvency;
  - d. Does not suspend the CSED;
  - e. Does not move the account to Status 72; and
  - f. Does not prevent collection actions.
- (5) **ACS and CC 84.** An account assigned to ACS may display a TC 520 cc 84. The CIO must access ACS when the case is identified on the IIP "stat 22 notice" and ensure any outstanding levies are released and any NFTLs filed

after the TC 520 date are withdrawn. After necessary actions are taken by the CIO, including determining if an OI is appropriate for a TFRP investigation, the case should be moved to the queue to delete it from ACS inventory. If ACS identifies a bankruptcy TC 520 cc 84 before Insolvency makes contact, ACS should put a 45 day hold on the account to allow sufficient time for the CIO to take necessary actions. For assistance in determining if an OI is appropriate for a TFRP investigation, see the following:

- IRM 5.9.3.10, Trust Fund Recovery Penalty
- IRM 5.9.6.15, Trust Fund Recovery Penalty
- IRM 5.9.17.12(3), Chapter 7 No Asset TFRP Issues

- (6) **Consolidated Filings.** Under consolidated group regulations, each member of the group is severally liable for the income taxes of the group for each year it was a member. However, the IRS makes only one assessment which is in the name of the parent of the group. The procedures in IRM 5.9.17.13.2, Consolidated Chapter 11 Filings, should be followed before a parent's Chapter 7 account is closed as currently not collectible so the group's liability can be collected from other members, if possible.
- (7) **Conversion of Corporate Chapter 11 to Chapter 7.** When corporate Chapter 11 cases convert to Chapter 7 proceedings, TFRP determinations may already be underway or completed. If a TFRP investigation has not been requested on the case, the actions in the IF/THEN chart in IRM 5.9.6.15 should be followed. Barring local practice to the contrary, the TC 520 freeze code used for the Chapter 11 bankruptcy may remain on the account when it is converted to Chapter 7.
- (8) **Conversion of Individual Chapter 11, 12, and 13 Cases to Chapter 7.** Two types of post-petition, pre-conversion taxes must be considered in a converted case of an individual.
- a. Taxes that were entitled to be paid as administrative expenses of the pre-conversion case remain administrative expenses in the Chapter 7 case but are subordinated to Chapter 7 administrative expenses. (Typically only Chapter 11 estates owe administrative expense taxes.) See 11 USC 726(b) for additional information.
  - b. Taxes owed by the debtor for post-petition, pre-conversion periods are considered for all purposes as claims that arose on the day before the bankruptcy petition was filed; that is, they are considered pre-petition, priority tax claims that are non-dischargeable. See 11 USC 348(d). Usually a debtor who is an individual incurs income tax liability for earnings for tax years ending during the time they are in a Chapter 11, 12, or 13 bankruptcy. Under 11 USC 1115 and the separate taxable entity rule of IRC 1398, income taxes on earnings during a Chapter 11 case may be taxable to the estate and considered administrative expenses of the pre-conversion case.
- (9) **Conversion from a Chapter 7N to a Chapter 7A.** When cases are converted from a Chapter 7N to a Chapter 7A, CIO must transfer the case to FI regardless of the liability amount, for review and possible proof of claim filing. See IRM 5.9.6.7, Chapter 7 Asset (7A) Process.

5.9.6.10  
(04-12-2024)  
Chapter 7 Case  
Assignments

- (1) **General Information.** CIO and FI share work on Chapter 7 cases. CIO completes up-front clerical processing on all Chapter 7 cases. Then, 7A cases are systemically assigned to caseworkers in FI. FI completes the initial case review, files any required proofs of claim, and takes any other action required by FI. Most 7A cases are then transferred to CIO. Cases requiring action or follow-ups due to referrals to Counsel, TFRP actions, etc. must remain in FI inventory until the issues are resolved. CIO then monitors for discharge and/or takes any required closing actions. Other than 7N cases that require an EAEP investigation by FI, most 7N cases remain at the CIO where CIO takes all required actions on the case. However, if another issue arises in a 7N case that requires FI action, the case is transferred from CIO to FI (IRM 5.9.1.4, The Role of Insolvency). The subsections below discuss in detail the Chapter 7 work handled by FI and by CIO.
- (2) **Limited Liability Companies (LLCs).** IRM 5.9.17.12, Closing Corporate Chapter 7 Bankruptcies and Chapter 7 Bankruptcies Filed by Limited Liability Companies (LLCs), and IRM 5.9.17.12.1, Chapter 7 Single Member Disregarded Entity LLCs, discuss required actions for closing Chapter 7A cases filed by a LLC. Prior to transfer of a 7A case from FI to CIO, the FI caseworker will include detailed instructions in the AIS “Summary History” about actions needed when CIO is closing the case. Due to the complex nature of LLCs that file a 7N case, transfer from CIO to FI for directions in closing the 7N case may be necessary. If a LLC files a 7N case, and there is no liability on IDRS, CIO should proceed with closing the case as **no liability**. Required actions in the 7N case of a LLC with a balance due depend on the income tax filing requirement on IDRS for the LLC. See the following guidance.

If...	Then...
the LLC in a 7N case has a liability on IDRS, and a Form 1120 filing requirement,	<div>CIO will:</div> <div><div><div>Add a “LLC” case classification to AIS.</div></div><div><div>Closing Corporate Chapter 7 Bankruptcies and Chapter 7 Bankruptcies Filed by Limited Liability Companies (LLCs), Chapter 7 No Asset TFRP Issues. Input a TC 530 cc 07 to all outstanding modules after the TFRP has been addressed.</div></div><div><div>standing modules.</div></div><div><div>Input a TC 521 with a two-cycle posting delay after the TC 530 cc 07 is input.</div></div><div><div>Close the case on AIS using “Other” as the method of closure.</div></div></div>

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If...	Then...
<p>the LLC in a 7N case has a liability on IDRS, there is no Form 1120 filing requirement, and there is no prior guidance in the AIS history from FI on closure of the case:</p>	<ul style="list-style-type: none"> <li>• CIO will add a “LLC” case classification to AIS.</li> <li>• CIO will enter a history in AIS stating, “FI guidance is needed on how to proceed in closing the LLC.”</li> <li>• CIO will transfer the case to the appropriate FI caseworker using the Case Assignment Guide (CAG) tool for 7A cases.</li> <li>• FI will determine responsibility for the liability and ensure assertion of the TFRP, if required.</li> <li>• Once any required TFRP has been completed, FI will document the AIS “Summary History” with closing directions for CIO based on the guidance for 7A LLCs in IRM 5.9.17.12, Closing Corporate Chapter 7 Bankruptcies and Chapter 7 Bankruptcies Filed by Limited Liability Companies (LLCs) and IRM 5.9.17.12.1, Chapter 7 Single Member Disregarded Entity LLC’s</li> <li>• FI will reassign the case to CIO.</li> <li>• CIO will take the closing actions directed by FI in the AIS “Summary History”.</li> </ul> <p><b>Note:</b> If the 7N case was previously a 7A, 11, or 12 case, FI may have documented actions needed for closure of the case prior to conversion or upon conversion. These cases may not require a transfer from CIO to FI.</p>

(3) **Field Insolvency (FI) Actions on the 7N Limited Liability Company (LLC).**

Upon receipt of the 7N case of a LLC from CIO, actions taken by FI depend upon the income tax filing requirement of the LLC.

- If there is no income tax filing requirement for the LLC on IDRS cc ENMOD/INOLE, the FI caseworker will treat the LLC as a single member LLC. Follow the guidance in IRM 5.9.17.12.1, Chapter 7 Single Member Disregarded Entity LLCs.
- If the income tax filing requirement for the LLC on IDRS cc ENMOD/INOLE is Form 1065, and the establishment date is on or after July 1, 2007, treat the LLC the same as a corporation. Follow the guidance in IRM 5.9.17.12, Closing Chapter 7 Bankruptcies and Chapter 7 Bankruptcies Filed by Limited Liability Companies (LLCs).

**Note:** No proof of claim is required in a 7N case. The TFRP must be

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- If the income tax filing requirement for the LLC on IDRS cc ENMOD/INOLE is Form 1065, and the establishment date is prior to July 1, 2007, follow the guidance in the following chart:

Step	Action
1.	Ensure that a TC 520 cc 84 (or 6X) is present on all balance due modules on IDRS.
2.	Add an <b>LLC</b> case classification to AIS, if not present.
3.	<p>Review the entity on IDRS cc ENMOD/INOLE. Determine if there are two or more members listed on the entity.</p> <ul style="list-style-type: none"><li>• If there are two or more members, treat the LLC case the same as the LLC with a Form 1065 filing requirement and an establishment date on or after July 1, 2007. These entities are treated like a corporation. Go no further in this chart.</li><li>• If there is only one member listed on the entity, proceed to Step 4.</li></ul>

Step	Action
4.	<p>For the entity to have a Form 1065 filing requirement, the LLC must have more than one member. The taxpayer may have included only the name of the general partner on the application for an EIN. Additional research is needed to determine if the LLC has more than one member. Research may include, but is not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Have any modules ever been in Status 26 on IDRS? If so, check the history on ICS. The RO may have determined members and the correct income tax filing requirement. If there is information on ICS, proceed based on the determination made in the case by the RO. If there is no information on ICS, continue to the next bullet.</li> <li>• Review IDRS cc BMFOLI. Has the business ever filed Form 1065? If so, assume the filing requirement is correct on IDRS. Treat the entity the same as the LLC established on or after July 1, 2007. These entities are treated like a corporation. If a Form 1065 was never filed, continue to the next bullet.</li> <li>• Contact the member or the debtor's attorney by telephone. Ask if there are additional members. If so, ask for their names. Ask if the LLC made any elections regarding income taxation, such as Form 1065 or Form 1120. If the information cannot be obtained by telephone, continue below.</li> <li>• If unable to question the debtor or representative, conduct electronic research to determine if the LLC has more than one member. For example, research on <a href="http://www.accurint.com">http://www.accurint.com</a> may reveal the names of all members. Alternatively, many states have electronic websites with the information for all members or parties for licensed businesses. Finally, a review of the bankruptcy SOFA and schedules on PACER may disclose the names of members.</li> <li>• If research reveals only one member, treat the member as a single member LLC and follow the guidance in IRM 5.9.17.12.1.</li> <li>• If research results indicate the LLC had more than one member, assume the Form 1065 filing requirement on IDRS is correct. Treat the entity the same as the LLC established on or after July 1, 2007. The case is treated like a corporation.</li> <li>• If attempts to contact the debtor or representative are unsuccessful and the number of members cannot be determined using electronic research, a physical records check may be necessary. Request an Other Investigation (OI) to Field Collection to request a records check. If the TFRP is above tolerance for a TFRP investigation and an investigation has not been completed, request a TFRP investigation at the same time.</li> </ul> <p><b>Note:</b> According to local practices, some FI offices may complete the records check and TFRP investigation within FI.</p>



Step	Action
5.	<p>Once all field issues in the case have been resolved and any required TFRP investigations completed, update the “Summary History” with the closing actions required by CIO.</p> <p><b>Reminder:</b> If a TC 530 cc 07 is needed in the case, the FI manager must document approval for input of the TC 530 cc 07 in the history.</p> <p>See IRM 5.9.17.12, Closing Corporate Chapter 7 Bankruptcies and Chapter 7 Bankruptcies Filed by Limited Liability Companies (LLCs), and IRM 5.9.17.12.1, Chapter 7 Single Member Disregarded Entity LLCs for “Summary History” requirements. CIO will return the case to FI if there is no closing guidance included in the “Summary History”.</p>
6.	Reassign the case to CIO.

5.9.6.10.1  
(03-16-2023)  
**Field Insolvency (FI)  
Case Assignments**

- (1) **Assignments.** After the up-front clerical work on all Chapter 7 cases is performed by the CIO, 7A cases are assigned to FI. Chapter 7N cases may also be reassigned to FI when certain conditions are present. Actions taken by FI depend on the whether the case is a 7N or a 7A and the type of entity that filed bankruptcy.
- (2) **General Information - Chapter 7A Cases.** FI groups work all 7A cases by completing initial case reviews, perfecting automated proofs of claim, preparing manual proofs of claim when the claim cannot be completed through APOC, ensuring assessment of the TFRP, when required, and resolving complex issues. Generally, if there are no complex or non complex issues in the case that require the case to remain in FI cases are transferred from FI to CIO after the initial case review and acknowledgment of all claims (IRM 5.9.1.4(6), Complex and Non-Complex Issues Worked by FI). However, prior to transfer, FI must add a “Chapter 7 Summary History” and enter any required case classifications to alert caseworkers to actions that may be required during case closure. (See IRM 5.9.5.4.1, Case Classifications, IRM 5.9.5.4.4, Chapter 7 Summary Histories, and IRM 5.9.17.2(4), Chapter 7 Asset Closures, for additional information.)
- (3) **Chapter 7A Individual Cases.** After the initial case review, acknowledgement of all proofs of claim and resolution of all complex issues, most individual cases are transferred by FI to the CIO. The CIO monitors for dismissal or discharge and takes appropriate closing actions on the case upon receipt of the dismissal or discharge. (See IRM 5.9.17.10(6), Transfer of the Individual or Joint 7A Case to the CIO Prior to Dismissal or Discharge, for additional information.)
- (4) **Chapter 7A Case Dismissed or Discharged While Assigned to FI.** If the case is not transferred from FI to the CIO prior to receipt of a dismissal, the FI caseworker must take appropriate closing actions on the dismissed case. (See IRM 5.9.17.6.5, Closing Dismissed Cases, for additional information.) If the case is not transferred from FI to the CIO prior to receipt of a discharge, FI caseworkers must follow IRM 5.9.17.10(7), Transfer of the Individual or Joint Chapter 7A Case to the CIO After Discharge. Generally, the case can be transferred from FI to CIO after FI has updated AIS with the appropriate method of closure and entered the appropriate “Summary History” and case classifications in the case.



**Note:** If the case has no liability and must remain open to comply with a trustee turnover order, the case can be transferred to the CIO prior to the issuance of the discharge and input of the “RI” on the Taxpayer screen.

- (5) **Chapter 7A Business Cases.** When a business files a 7A petition, actions taken by FI depend upon the type of business that filed the petition. See the chart below for additional guidance.

If the Business Entity is a...	Then...
Partnership	<p>Chapter 7A cases filed by partnerships remain in FI during the pendency of the bankruptcy case. The FI caseworker will:</p> <ol style="list-style-type: none"> <li>Complete an initial case review,</li> <li>Ensure all required proofs of claim are prepared and acknowledged,</li> <li>Monitor the case for closure by the court,</li> <li>Complete all closing actions required in the case (IRM 5.9.17.11, Closing Chapter 7 or Liquidating Chapter 11 Partnerships), and</li> <li>Document all actions taken during the pendency of the case and during closure in the AIS case history. (See IRM 5.9.5.4, Automated Insolvency System (AIS) Documentation, for additional information.)</li> </ol>
Corporation	<p>The FI caseworker will:</p> <ol style="list-style-type: none"> <li>Complete an initial case review,</li> <li>Ensure all required proofs of claim are prepared and acknowledged,</li> <li>Ensure that the TFRP investigation has been completed and the TFRP assessed, if required (IRM 5.9.6.15, Trust Fund Recovery Penalty),</li> <li>Secure managerial approval for input of a TC 530 cc 07 (approval must be documented in the AIS history),</li> <li>Enter a “Summary History” on AIS (IRM 5.9.5.4, Automated Insolvency System (AIS) Documentation, and IRM 5.9.5.4.4, Chapter 7 Summary Histories), and</li> <li>Reassign the case to the CIO for closing actions. (See IRM 5.9.17.12, Closing Corporate Chapter 7 Bankruptcies and Chapter 7 Bankruptcies Filed by Limited Liability Companies (LLCs), for additional information.)</li> </ol>

If the Business Entity is a...	Then...
<p>LLC - Not a disregarded entity (income reported on Form 1065 or Form 1120)</p> <p><b>Note:</b> This LLC entity is treated like a Chapter 7 corporation. There is no need for the case to remain open for distribution.</p>	<p>The FI caseworker will:</p> <ol style="list-style-type: none"> <li>Complete an initial case review,</li> <li>Add an <b>LLC</b> case classification to AIS, if not present,</li> <li>Ensure all required proofs of claim are prepared and acknowledged,</li> <li>Ensure that the TFRP investigation has been completed and the TFRP assessed, if required (IRM 5.9.6.15, Trust Fund Recovery Penalty),</li> <li>Determine if there are issues that require the case to remain open and assigned to FI (IRM 5.9.17.12(2), Chapter 7 Asset Corporations and Certain LLCs), and</li> <li>Proceed with processing the case based on whether there are/are not issues requiring the case to remain open and assigned to FI.</li> </ol> <p><b>If issues exist that require the case to remain open:</b></p> <ol style="list-style-type: none"> <li>Do not request input of the TC 521, closure of the filing requirements, or input of the TC 530 cc 07,</li> <li>Document the AIS history with actions taken to resolve the issues, and</li> <li>Leave the case assigned to FI until the issues are resolved.</li> <li>Once all issues have been resolved that required the case to remain open, the case can be transferred to the CIO for closure. Follow the procedures below for the case with no issues.</li> </ol> <p><b>If no issues exist that require the case to remain open:</b></p> <ol style="list-style-type: none"> <li>Secure managerial approval for input of a TC 530 cc 07 (approval must be documented in the AIS history),</li> <li>Enter a "Summary History" on AIS (IRM 5.9.5.4, Automated Insolvency System (AIS) Documentation, and IRM 5.9.5.4.4, Chapter 7 Summary Histories), and</li> <li>Reassign the case to the CIO for closing actions. (See IRM 5.9.17.12, Closing Corporate Chapter 7 Bankruptcies and Chapter 7 Bankruptcies Filed by Limited Liability Companies (LLCs), for additional information.)</li> </ol>

If the Business Entity is a...	Then...
<p>LLC - Disregarded entity and:</p> <ul style="list-style-type: none"> <li>Income reported on the Form 1040 of the single member,</li> <li>All liability is for excise tax periods beginning on or after 1/1/2008, and/or</li> <li>All liability is for employment tax periods beginning on or after 1/1/2009</li> </ul> <p><b>Note:</b> The LLC is the responsible party. The case of the LLC can be closed like a corporate case.</p>	<p>FI caseworkers will follow the guidelines for the "LLC - not a disregarded entity", above. (See IRM 5.9.17.12.1(3), Chapter 7 Single Member Disregarded Entity LLCs, LLC Only Liable, for additional information.)</p>
<p>LLC - Disregarded entity and:</p> <ul style="list-style-type: none"> <li>Income reported on the Form 1040 of the single member,</li> <li>All liability is for excise tax periods beginning prior to 1/1/2008, and/or</li> <li>All liability is for withholding taxes prior to 1/1/2009</li> </ul> <p><b>Note:</b> Single member individual is the only responsible party. The LLC is not responsible.</p>	<p>The FI caseworker will complete an initial case review and follow the guidance in IRM 5.9.17.12.1(2), Chapter 7 Single Member Disregarded Entity LLCs, Individual Single Member Only Liable.</p>
<p>LLC - Disregarded entity and:</p> <ul style="list-style-type: none"> <li>Income is reported on the Form 1040 of the single member,</li> <li>There are excise tax liabilities beginning before and after 1/1/2008, and/or</li> <li>There are withholding tax liabilities beginning before and after 1/1/2009</li> </ul> <p><b>Note:</b> The single member is liable for withholding taxes for periods beginning prior to 1/1/2009 and excise taxes for periods beginning prior to 1/1/2008. The LLC is liable for withholding taxes for periods beginning on or after 1/1/2009 and excise taxes for periods beginning on or after 1/1/2008.</p>	<p>The FI caseworker will complete an initial case review and follow the guidance in IRM 5.9.17.12.1(4), Chapter 7 Single Member Disregarded Entity LLCs, LLC and Individual Single Member Disregarded Entity Liable.</p>

- (6) **Chapter 7N Cases.** Certain "complex" or "non-complex" cases (IRM 5.9.1.4(6), Complex and Non-Complex Issues to Be Worked by FI) are transferred from CIO worked by FI. Once the issues are resolved by FI, the cases are generally transferred back to the CIO after entry of any required case classifications and entry of a "Summary History" on AIS. CIO takes closing actions on the case. Large dollar 7N cases are also transferred from CIO to FI for a determination of collectibility from exempt, abandoned, or excluded property (EAEP) after the CIO has screened for possible EAEP assets. Certain other cases are transferred from CIO to FI for a determination if taxes are excepted from discharge due to fraud or willful evasion. Once FI determines if the taxes are excepted from discharge, or that there is no collection potential from EAEP, the cases

are transferred back to the CIO. However, prior to reassignment to CIO, the FI caseworker enters any required case classifications and a “**Summary History**” on AIS. As discharges are entered rather quickly in a 7N case, cases remain in FI to monitor for discharge after FI has determined that there is collection potential from EAEP. After discharge, FI takes appropriate action to collect from the EAEP. See the following IRM subsections for additional information on EAEP:

- IRM 5.9.17.5, Exempt, Abandoned or Excluded Property (EAEP)
- IRM 5.9.17.5.1, Pre-discharge Review for Exempt, Abandoned or Excluded Property (EAEP) in Chapter 7 No Asset Cases
- IRM 5.9.17.5.2, Collection from Exempt, Abandoned or Excluded Property (EAEP)
- IRM 5.9.17.5.3, Addressing Lien Issues
- IRM 5.9.17.5.4, Insolvency Levy Procedures for Excluded Retirement Plans
- IRM 5.9.17.5.4.1, Thrift Savings Plan (TSP)

**Reminder:** Prior to transfer of the case back to the CIO, the FI caseworker must include a “Summary History” to assist the CIO in closing the case. See IRM 5.9.5.4.2, Summary Histories, and IRM 5.9.5.4.4, Chapter 7 Summary Histories, for additional information.

**Note:** If a FI caseworker wants a closure delayed on a 7N or 7A case, they must ensure that a case classification is open on AIS that prevents closure of the case. (See IRM 5.9.17.2(5), Preventing Premature Closures, and IRM 5.9.5.4.1, Case Classifications, for additional information).

(7) **Complex Issues.** Cases identified to have complex issues such as, adversarial motions, trustee turnover splits, amending claims, etc., are transferred to FI for resolution when the case is assigned to the CIO. (See IRM 5.9.1.4(5), Complex Issues, for a complete list of issues.) Once the complex issues have been addressed and resolved, and all required case histories or classifications are entered on AIS, the FI caseworker generally transfers the case back to the appropriate CIO unit.

5.9.6.10.2  
(04-12-2024)  
**Centralized Insolvency  
Operation (CIO) Case  
Assignments**

- (1) **Assignments.** The CIO loads all Chapter 7 cases to AIS, runs IIP and works the subsequent reports, posts payments received outside of bankruptcy when those payments are received at the CIO address, and closes all Chapter 7 cases assigned to the CIO.
- (2) **Chapter 7N Cases.** CIO works most 7N business cases from receipt through closure. Unless there are “complex” issues in an individual 7N case, or the case meets the criteria established by the Director, Specialty Collection - Insolvency, the CIO works the individual 7N case from receipt until closure. Cases with complex issues as defined in IRM 5.9.1.4(6), Complex Issues, may be transferred to FI for resolution. Responsibilities for 7N Large Dollar EAEP investigations are shared by CIO and FI. See IRM 5.9.6.10.3, Large Dollar 7N Case Assignments, below for additional information.
- (3) **Chapter 7A Cases.** As mentioned previously, most 7A cases are transferred from FI to CIO after the initial case review has been completed, all proofs of claim have been acknowledged, and there are no actions that require the case to remain in FI. CIO monitors the individual case for dismissal or discharge.

Upon dismissal or discharge, CIO takes closing actions based on guidance in IRM 5.9.17.6.5, Closing Dismissed Cases, and IRM 5.9.17.10, Chapter 7 Discharge Actions. CIO takes closing actions on the 7A business cases transferred to them by FI following guidance in IRM 5.9.17.12, Closing Corporate Chapter 7 Bankruptcies and Chapter 7 Bankruptcies Filed by Limited Liability Companies (LLCs), and IRM 5.9.17.12.1, Chapter 7 Single Member Disregarded Entity LLCs. Chapter 7A partnership cases are not transferred from FI to CIO for closure. See Exhibit 5.9.6-7, CIO Actions on 7A Cases, for additional information.

5.9.6.10.3  
(04-12-2024)  
**Large Dollar 7N Case  
Assignments**

- (1) **Large Dollar 7N Case Assignment.** Large dollar 7N cases may be worked by CIO, FI, or both to investigate exempt, abandoned, or excluded property (EAEP). In most instances, investigations are completed "up-front" instead of when a discharge is received. By identifying these cases early in the Chapter 7 process, cases are generally reassigned to FI in sufficient time for attendance at the Section 341 meeting of creditors, if deemed necessary. See IRM 5.9.17.5, Exempt, Abandoned or Excluded Property (EAEP), and subsections, as well as IRM 5.9.5.4.1, Case Classifications, IRM 5.9.5.4.2, Summary Histories, and IRM 5.9.5.4.4, Chapter 7 Summary Histories, for additional information.
- (2) **CIO Screening.** Each week, CIO generates a report to identify 7N cases that may be considered for an EAEP investigation. CIO reviews each module to determine if liabilities are dischargeable using guidance in IRM 5.9.17.8, Discharge and Exceptions to Discharge, and subsections.

**Note:** CIO references the Chapter 7N Large Dollar Processing Checklist during their screening of Large Dollar Chapter 7N cases.

If...	Then...
there are no dischargeable liabilities,	CIO notates the AIS history accordingly. The case remains at CIO. No further investigation is required.
there are dischargeable liabilities with an aggregate assessed dischargeable amount less than the amount established by the Director, Specialty Collection Insolvency,	CIO notates the AIS history accordingly. CIO inputs the "No EAEP" and "No WFTP" case classifications on AIS. The case remains at CIO. No further investigation is required.

If...	Then...
there are aggregate assessed liabilities that exceed the amount determined by the Director, Specialty Collection Insolvency,	<p>CIO <b>screens</b> for EAEP assets. Screening actions depend on whether there is a Notice of Federal Tax Lien (NFTL) and the aggregate assessed amount of the dischargeable liability. CIO case-workers review IDRS, bankruptcy schedules found on Public Access to Court Electronic Records (PACER), and other external websites to identify EAEP assets and the value of those assets. CIO also looks for abandoned or excluded assets that may be collectible due to the IRS statutory lien. CIO screening may include a review of the following:</p> <ul style="list-style-type: none"> <li>a) IRPTRL (for retirement account information only)</li> <li>b) Bankruptcy Schedule A (if no is property listed on Schedule A, pull Accurint at <a href="http://www.accurint.com/">http://www.accurint.com/</a>)</li> <li>c) Bankruptcy Schedule B</li> <li>d) Bankruptcy Schedule C</li> <li>e) Bankruptcy Schedule D</li> <li>f) Bankruptcy Schedule I</li> <li>g) Bankruptcy Schedule J</li> <li>h) Zillow at <a href="http://www.zillow.com/">http://www.zillow.com/</a></li> <li>i) TRDBV</li> </ul> <p><b>Note:</b> If no bankruptcy schedules are available on PACER, CIO will perform the dischargeability review mentioned above. If case meets dischargeability tolerance, reassign the case to FI to determine if their attendance is needed at the 341 meeting. If dischargeability tolerance is not met, notate in history and retain case in CIO. No other action needed.</p>
assets are located,	<p>CIO documents those assets in the AIS history. If the account requires an investigation for the willful failure to pay (WFTP) exception to discharge, the CIO documents the requirement for a WFTP investigation in the AIS case history. In either instance, the CIO reassigns the case to FI. To reassign the cases, CIO uses the Chapter 7N Large Dollar tool found on SERP at <i>Chapter 7N Large Dollar tool (irs.gov)</i>.</p> <p><b>Note:</b> If the case is reassigned to an incorrect FI caseworker, the FI caseworker will reassign the case to the appropriate FI caseworker.</p>

- (3) **FI Investigation.** Upon receipt of the case from CIO, the FI caseworker determines if taxes are excepted from discharge due to Willful Failure to Pay

(WFTP), when required, and/or if there is collection potential from Exempt, Abandoned or Excluded Property (EAEP). See the chart below for additional guidance:

If the FI caseworker determines...	Then the FI caseworker will...	CIO caseworker will....
taxes are excepted from discharge due to WFTP or fraud,	<ul style="list-style-type: none"> <li>Document the AIS "Summary History,"</li> <li>Add "WILLFUL" and "7N – NQRS" case classifications to the AIS Classification screen, and</li> <li>Reassign the case to CIO.</li> </ul>	Take closing actions upon dismissal or discharge. <b>Reminder:</b> The liabilities are non-dischargeable.
there is no WFTP exception to discharge and/or there is no collection potential from EAEP after discharge,	<ul style="list-style-type: none"> <li>Secure managerial approval of no collection potential and/or WFTP pursuit,</li> <li>Document the AIS "Summary History,"</li> <li>Add "7N-NQRS", "No EAEP" if applicable, (based on case specifics) and "No WFTP" case classifications to the AIS Classification screen, and</li> <li>Reassign the case to CIO.</li> </ul> <p><b>Note:</b> Managerial approval must be documented in AIS.</p>	Take closing actions upon dismissal or discharge.
there is EAEP subject to collection after the discharge,	<ul style="list-style-type: none"> <li>Document the AIS "Summary History",</li> <li>Add "7N-NQRS" and "EXEMPT" case classifications to the AIS Classification Screen.</li> <li>The case should remain in Field Insolvency until all collection activity has been completed from the EAEP.</li> </ul> <p><b>Note:</b> Manager concurrence and AIS documentation is needed to hold the case open if the determination is to proceed with collection after discharge.</p>	N/A



- (4) **CIO Closure.** CIO takes closing actions on the large dollar 7N cases upon discharge when the case is assigned to CIO. Actions depend upon the results of the EAEP investigation. If the case is reassigned from FI to CIO after an EAEP investigation, CIO will follow the guidance in the “Summary History”. If there is no “Summary History” provided by FI, the CIO will return the case to FI for guidance.

5.9.6.11  
(03-06-2015)  
**Initial Case Review by  
Field Insolvency (FI)**

- (1) **General Information.** FI caseworkers conduct an initial case review in all Chapter 7 cases assigned to them. The acceptable time frame for completing the initial case review depends on the type of case and the type entity that filed the Chapter 7 petition. The actions required in the initial case review also depend on the type of case and the type of entity that filed the Chapter 7 petition. See the following subsections within this section for additional information.

5.9.6.11.1  
(12-16-2020)  
**Initial Case Review of  
Large Dollar 7 No Asset  
(7N) Reassignments by  
FI**

- (1) **Initial Case Review of Large Dollar 7N Cases.** Individual large dollar 7N cases are reassigned from the CIO to FI early in the case to determine if there is any collection potential from EAEP. The early investigation facilitates unnecessary transfers between the CIO and FI caseworkers during case closure. The early investigation also allows for the reassignment of the case to FI in sufficient time for the FI caseworker to attend the 341 meeting, if deemed necessary.
- (2) **Time Frame for Completion of the Initial Case Review in the Large Dollar 7N Case.** The initial case review should be completed within 60 calendar days of the assignment. If the case has already been discharged, the review should be at least 30 days prior to the last date to object to the discharge in case a referral to Area Counsel is necessary.
- (3) **Aspects of the Initial Case Review in the Large Dollar 7N Case.** At minimum, the FI caseworker must determine the following when conducting the initial case review:
- Are there any outstanding liabilities that are potentially dischargeable? If not, the case can be reassigned back to the CIO without proceeding further once the discharge determination is documented in the AIS history and any required case classifications are added to AIS.

**Note:** Generally, the CIO has already determined that there are dischargeable liabilities during the **screening** process mentioned above. The large dollar 7N case is not transferred from CIO to FI for an EAEP investigation if there are no dischargeable liabilities.

- Is attendance at the 341 meeting to question the debtor warranted in the case?
- What are the issues to be addressed at the 341 meeting of creditors?
- Are there violations of the stay to be addressed?
- If the debtor is a serial filer, is the automatic stay in the current case impacted by the filing of previous bankruptcy petitions?
- Is there an NFTL present that requires refiling because the CSED has been extended? Remember, one NFTL can list (and so be the notice for) up to 15 statutory liens. The expiration for the individual “notice” (NFTL) for a statutory lien is listed in column “e” on the NFTL. So, check column “e” and schedule a follow-up in sufficient time to refile within the 12 month window ending with the refile-by date(s) in column “e” on the NFTL.



- g. Is there exempt property subject to collection after the discharge due to the NFTL?
  - h. Is there any excluded property, such as an ERISA, that is subject to collection due to the statutory lien after the discharge?
  - i. Is there any abandoned property subject to collection after the discharge due to the statutory lien?
  - j. Did the debtor list excluded property erroneously as “exempt” property? If so, the debtor should be asked to remove the property from Schedule A/B Property in the bankruptcy schedules. A referral to Counsel may be required if the debtor does not amend the schedules and the case was filed in the 9th Circuit. (See IRM 5.9.2.10.1.1, Exempt or Excluded Property, for additional information.)
- (4) **FI Research.** There are many tools available to the FI caseworker to assist in completion of the initial case analysis. The facts and circumstances in the case determine the extent of the research conducted by the FI caseworker. Research should include a review and analysis of the debtor’s bankruptcy petition available on PACER, including the SOFA and bankruptcy schedules. Circumstances in the case may also warrant:
- a. A review and analysis of locator services, such as Accurant.
  - b. A review of any other available on-line courthouse records.
  - c. A review of the collection case history on ICS and contact with the RO.
  - d. A review of IDRS cc AMDISA and contact with the revenue agent or examiner.
  - e. A review of IRPTRL for possible mortgage interest paid or to identify monies deducted from wages as contributions to retirement funds.
  - f. A review of DMV records, if there are expensive or vehicles that are collector items.
- (5) **Case History Documentation and Case Classifications.** All aspects of the review must be documented in the AIS history. Prior to reassigning the case back to the CIO, all cases must have a “Summary History” and any required case classifications added to AIS. See the following IRM subsections:
- IRM 5.9.5.4, Automated Insolvency System (AIS) Documentation
  - IRM 5.9.5.4.1, Case Classifications
  - IRM 5.9.5.4.2, Summary Histories
  - IRM 5.9.5.4.4, Chapter 7 Summary Histories

**Note:** See IRM 5.9.17.5, Closing a Bankruptcy Case, Exempt, Abandoned or Excluded Property (EAEP), and subsections, for additional guidance on closing procedures in EAEP cases.

5.9.6.11.2  
(04-12-2024)  
**Initial Case Review of  
the 7A Individual Case  
by FI**

- (1) **Initial Case Review of Individual 7A Cases.** When an individual debtor who files Chapter 7 bankruptcy has non-exempt assets, those assets can be available for satisfying the claims of creditors. Asset cases require complete processing and appropriate research must be conducted by Insolvency case-workers.
- (2) **Time Frame for Completion of the Initial Case Review in the 7A Individual Case.** When a case is assigned to a FI caseworker prior to the 341, the case-worker must conduct an initial case review at least five calendar days prior to the scheduled 341 meeting date. The review must be completed within 30 calendar days of assignment when the case is not received at least five

calendar days prior to the 341 meeting or 30 calendar days from the Automated Proof of Claim (APOC) run date when APOC is not available due to the IDRS dead cycles. When the bar date or discharge hearing is within 30 days of assignment, the review must be completed earlier. See IRM 5.9.17.8.9, Procedures for Processing Bankruptcy Discharges when the IRS Received No Notice or Late Notice in the Asset Case. Most APOC flags should be worked at least five calendar days before the 341 meeting. However, APOC flags that identify a potential violation of the stay should be worked within five business days of APOC identifying the flagged condition. APOC flags that identify potential stay violations are the Credits Posted after Petition Date and Lien Recorded Date Blank or Greater Than the Petition Date flags. See IRM 5.9.14.2.7, APOC Flag Condition Time Frame Requirements, for additional information.

- (3) **Aspects of the Initial Case Review in the 7A Individual Case.** Generally, the aspects in the initial case review in a 7A individual case mirror the aspects in the initial case review in the large dollar 7N case (IRM 5.9.6.11.1 Initial Case Review of Large Dollar 7 No Asset (7N) Reassignments by FI). If a case is added as a Chapter 7A case because of the receipt of a Trustee Turnover and the case is updated by APOC as NL, no initial review is required. A “Summary History” will be input by the caseworker and the case will be reassigned to CIO for monitoring of the Trustee Turnover. However, the Director, Specialty Collection Insolvency, may develop **streamlined** procedures in certain 7A individual cases. These aspects of the initial case review include but are not limited to:
- a. **Stay Review.** Cases filed on or after October 17, 2005, should be reviewed for dismissals of previous bankruptcies within one year of the current bankruptcy. For cases filed on or after October 17, 2005, the caseworker assigned to the 7A case must check for possible stay variations resulting from serial filings. IRM 5.9.5.7, Serial Filers, IRM 5.9.5.7.1, Systemic Identification in Serial Filer Cases, and IRM 5.9.5-4, Common Processing Steps in Serial Filer Cases, through IRM 5.9.5-6, Processing the Serial Filer Case When No Stay Goes Into Effect, provide procedures for working stay variations.
  - b. **Discharge Limitations.** IRM 5.9.5.7.1(5), Discharge Limitations, and IRM 5.9.5-3, Allowable Elapsed Time Between Bankruptcy Filings and Discharges, provide instructions for reviewing accounts to determine if the debtor is eligible to receive a discharge in the current Chapter 7 bankruptcy case. Eligibility for discharge in the current Chapter 7 case depends on the petition date of each bankruptcy case and the type of bankruptcy previously filed by the debtor. If the debtor is ineligible to receive a discharge in the current bankruptcy case, the FI caseworker should consult Counsel to determine if other actions are required, such as court notification, in that specific jurisdiction.
  - c. **Discharge Prior to Conversion.** When the case was previously a 7N case, and a discharge was entered prior to conversion to a 7A case, the FI caseworker should determine if there were liabilities that were abated that must be manually added to the proof of claim. Liabilities must also be manually added to the proof of claim when the debtor’s petition was filed as a Chapter 11, 12, or 13, and the case was discharged prior to conversion to a 7A case. See IRM 5.9.13.4(2), Manual POC Review, IRM 5.9.14.2.2(5), Reopened Chapter 7 Cases, and IRM 5.9.14.2.8(4), Case Flag Conditions and Resolutions - Discharged, Dismissed, or Closed Date on AIS Flag, for additional instructions in working these cases. As payments may be received long after dischargeable liabilities have been

abated, apply payments per IRM 5.9.15.3.5, Payments Received after AIS Discharge Closure, and IRM 5.9.17.10(8), Actions Required at Discharge. When a discharge was entered in the case prior to conversion to a 7A case, PACER should be reviewed to see if the discharge was revoked in the case. If so, remove the discharge date from the "Taxpayer screen". Update the AIS history with the date the discharge was revoked. A notice of discharge revocation acts in the same manner as a notice of dismissal. The stay terminated when the discharge was entered. The stay is not reimposed when the discharge is revoked. Do not reinput a TC 520 on the account on IDRS as the automatic stay has already been lifted.

**Caution:** Unless the court entered an order revoking the discharge, do not remove the discharge date from the "Taxpayer screen." The debtor has already received a discharge in the current case. The discharge date will not change.

- d. **PACER Review.** The debtor's bankruptcy schedules and SOFA should be reviewed on PACER. The review will assist the FI caseworker in determining if the IRS is a secured creditor in the case and in resolving any "secured period flags" on APOC (IRM 5.9.14.2.9(5), Period Flag Conditions and Resolutions - Secured Period Flag). Additionally, the review will assist the FI caseworker in locating EAEP assets that may be available for the collection of dischargeable liabilities after the discharge. If excluded assets are erroneously listed on Schedule B - Personal Property, a referral to Counsel may be required if the schedules are not amended and the debtor is in the 9th Circuit.

**Note:** If the case was converted to a 7A case, and the SOFA and schedules were previously reviewed and documented in the AIS history, a second review is not required unless the SOFA and schedules were amended.

Caseworkers no longer have to review PACER to determine if the trustee has filed a report with the court stating when distribution is anticipated in the case. Nor, do caseworkers have to contact the 7A trustee by phone or Letter 984, Request for Payment from Trustee, to determine when distribution is anticipated in the case. During operational reviews, it was determined that these contacts were ineffective since the trustee may not make a distribution until several years after the case is filed.

**Note:** See IRM 5.9.17.10(5), Asset Discharge for Individual Debtor, for additional information.

- e. **Unfiled Returns.** BAPCPA provides for conversion or dismissal in the case of unfiled returns. IRM 5.9.4.16 Unfiled Pre-Petition Returns, and IRM 5.9.13.18.2, Addressing Unfiled Returns, explain how the IRS advises trustees of unfiled returns for 7A cases and all other cases for which a proof of claim is prepared.
- f. **NFTL Refile Determinations.** A NFTL refile review must be conducted during initial case review if a secured claim will be filed by the IRS or the IRS has identified EAEP that may be used to satisfy the debtor's liabilities after the discharge has been granted. See IRM 5.9.5.9.2, Refiling Notices of Federal Tax Lien (NFTLs).
- g. **Additional Aspects of the Review.** Circumstances in the individual 7A case may warrant additional research and analysis by the FI caseworker. See IRM 5.9.6.11.1, FI Research, for additional information.

**Note:** The Director, Specialty Collection Insolvency (SCI), may provide **streamlined procedures** for FI caseworkers to follow in certain Chapter 7A cases. Certain aspects of the initial case review within this IRM may not be required in the “streamlined” case.

- (4) **Case History Documentation and Case Classifications.** Most 7A individual cases can be transferred from FI to CIO after the initial case review and acknowledgement of all proofs of claim. CIO takes closing actions upon dismissal or discharge. As such, all aspects of the initial case review must be documented in the AIS history. Additionally, a “Summary History” and any required case classifications must be entered on AIS by the FI caseworker prior to transfer of the case from FI to CIO. The “Summary History” and case classifications assist CIO in properly closing the case. See IRM 5.9.5.4, Automated Insolvency System (AIS) Documentation, IRM 5.9.5.4.1, Case Classifications, IRM 5.9.5.4.2, Summary Histories, and IRM 5.9.5.4.4, Chapter 7 Summary Histories, for additional information.

5.9.6.11.3  
(04-12-2024)

**Initial Case Review of  
the 7A Business Case  
by FI**

- (1) **Initial Case Review of 7A Business Cases.** The initial case review of the 7A business case is similar to the initial case review in the Chapter 11 bankruptcy case. The time frame for the review and aspects of the review are discussed in the paragraphs that follow.
- (2) **Time Frame for Completion of the Initial Case Review in the 7A Business Case.** When a 7A case is assigned to a FI caseworker prior to the 341, the caseworker must conduct an initial case review at least five calendar days prior to the 341 meeting date. The review must be completed within 30 calendar days of assignment when the case is not received at least five calendar days prior to the 341 meeting or 30 calendar days from the APOC run date when APOC is not available due to the IDRS dead cycles. When the bar date or discharge hearing is within 30 days of assignment, the review must be completed earlier. See IRM 5.9.17.8.9, Procedures for Processing Bankruptcy Discharges when the IRS Received No Notice or Late Notice in the Asset Case. Certain elements of this review may be required sooner; for example, to resolve stay violations or to respond to pending motions or defensive litigation. Most Automated Proof of Claim (APOC) flags should be worked at least five calendar days before the 341 meeting. However, APOC flags that identify a potential violation of the stay should be worked within five business days of APOC identifying the flagged condition. APOC flags that identify potential stay violations are the Credits Posted after Petition Date and Lien Recorded Date Blank or Greater Than the Petition Date flags. See IRM 5.9.14.2.7, APOC Flag Condition Time Frame Requirements, for additional information.
- (3) **Aspects of the Initial Case Review in the 7A Business Case.** With the exception of reviewing for adequate protection, the initial review for Chapter 11 BMF cases outlined in IRM 5.9.8.4.2, Aspects of the Initial Case Review in the Chapter 11 Case, should be followed for 7A business cases. Additionally, when the entity filing Chapter 7 is a Limited Liability Company (LLC), research may be required to determine if the LLC or single member **disregarded entity** is liable for the debt in the bankruptcy proceeding. The FI caseworker will need to review the SOFA and bankruptcy schedules on PACER, IDRS and CFOL, and other sources to determine responsibility. See IRM 5.1.21, Collecting from Limited Liability Companies, IRM 5.9.13.14, Limited Liability Companies (LLC), and subsections, IRM 5.9.17.12, Closing Corporate Chapter 7 Bankruptcies

and Chapter 7 Bankruptcies Filed by Limited Liability Companies (LLCs), and IRM 5.9.17.12.1, Chapter 7 Single Member Disregarded Entity LLCs, for additional information.

- (4) **Case History Documentation and Case Classifications.** Other than 7A cases of partnerships that file Chapter 7, most 7A business cases are transferred from FI to CIO for closure after the initial case review has been completed, all claims have been acknowledged, any required TFRP has been assessed, and there is no danger of violating the automatic stay. Other than certain 7A single member disregarded entity LLCs, there is no requirement to keep cases open for distribution. Aspects of the initial case review must be thoroughly documented in the AIS history. Before the FI caseworker transfers the 7A business case to CIO, the FI caseworker must enter a "Summary History" on AIS with directions on closing the case. Any case classifications applicable in the case must also be added to the AIS Classification screen. See IRM 5.9.5.4.1, Case Classifications, and IRM 5.9.5.4.4, Chapter 7 Summary Histories, for additional information.

5.9.6.12  
(03-16-2023)  
**Proof of Claim - Asset  
Cases**

- (1) **Notice Given if Dividends Likely.** The court may initially conclude no assets exist in a case but later determine a dividend payment is possible. At that time, the court will issue a notice for the filing of claims. Generally, the notice sets the date for creditors to file claims. A creditor, including the IRS, must file a proof of claim in a Chapter 7 Asset case to share in the distribution of the estate. The procedures for filing claims in Chapter 7 are set forth in Bankruptcy Rule 3001, Proof of Claim, and Bankruptcy Rule 3002, Filing Proof of Claim or Interest. Bankruptcy Rule 1019, Conversion of a Chapter 11 Reorganization Case, Chapter 12 Family Farmer's Debt Adjustment Case, or Chapter 13 Individual's Debt Adjustment Case to a Chapter 7 Liquidation Case, discusses Chapter 11, 12, or 13 cases that are converted, or reconverted, to a Chapter 7 case.
- (2) **Unassessed Claim.** To protect the government's interests, the IRS can file an unassessed (estimated) claim when the exact amount of a debtor's liability is unknown (e.g., unfiled returns, TFRP under investigation, pending audit, etc.). However, the claim must have a factual basis. The government should be in a position to show the court the liability is reasonable. (See IRM 5.9.13.18.1, Unassessed Claims.)
- (3) **Monitoring.** If Insolvency files an unassessed claim based on a pending assessment, it must monitor the case for the receipt of more information from either the debtor or the IRS function proposing the assessment. After all pending actions are completed, Insolvency may amend or withdraw the claim, or file a \$0 claim if appropriate. (See IRM 5.9.13.18.1(12), Liability Not Pursued.)
- (4) **Claim Filed on Behalf of Creditor.** If a creditor (IRS) does not file a proof of claim, the debtor or the trustee may file a claim on behalf of the creditor. Usually, the IRS files an amendment or correction to the debtor's or trustee's claim with the court to show accurate tax figures based on the IRS tax database.
- (5) **Objections to Claims.** The duty to object to any duplicative, overstated, previously paid, or otherwise questionable proof of claim falls to the trustee. Objections to a claim may also be made by other parties, including the debtor.



- (6) **Bar Date.** Under 11 USC 502(b)(9) and Bankruptcy Rule 3002, the governmental bar date cannot be less than 180 days after the order for relief. If the debtor's petition was originally filed as a 7N, and assets were subsequently realized, the bar date for the IRS will be the later of 180 days from the Chapter 7 petition date or the new date set by the court. See Bankruptcy Rules 3002(c)(1) and 3002(c)(5). However, if possible, the IRS should file the proof of claim by no later than 180 days from the petition date.

**Note:** If the debtor originally filed a Chapter 11, 12, or 13 petition, and the case subsequently converted to a Chapter 7, the government has at least 180 days from the conversion date to file a proof of claim. Bankruptcy Rule 1019(2) provides that a new time period for filing a claim shall commence if a Chapter 11, 12, or 13 case is converted (but not reconverted) to Chapter 7.

- (7) **Expired Bar Dates.** When IRS is timely noticed in a case, caseworkers must file claims prior to the governmental bar date. If a caseworker becomes aware that the governmental bar date in a case has been missed, the person identifying the missed bar date must follow the procedures in IRM 5.9.13.7(10), Bar Dates, Reporting Expired Bar Dates. If the claim is not filed before expiration of the governmental bar date, the caseworker may file a late claim in the case. The IRS may still be able to participate in distribution in the 7A case as long as the claim is filed before certain actions of the trustee. 11 USC 726(a) provides that a late-filed priority claim is entitled to share in a distribution with timely-filed priority claims, as long as the claim is filed before:

- a. The date that is ten days after the mailing to creditors of the summary of the trustee's final report; or
- b. The date on which the trustee commences final distribution.

**Note:** If IRS was not notified in sufficient time to file a proof of claim prior to the governmental bar date, the liability in the individual 7A case may be excepted from discharge. Additional information on Chapter 7 bar dates and late filed claims can be found in IRM 5.9.13.7, Bar Dates, IRM 5.9.13.7.1 Late Filed Claims, IRM 5.9.17.8.9, Procedures for Processing Bankruptcy Discharges when the IRS Received No Notice or Late Notice in the Asset Case, and IRM 5.17.8.13, Proofs of Claim.

5.9.6.13  
(03-16-2023)  
**Post-petition Liabilities**  
**— Individuals**

- (1) **Rule for Individuals – Chapter 7 Post-petition Debts.** In a Chapter 7 case, the individual debtor is considered to be a separate taxable entity from the estate. Taxes on the individual debtor's post-petition income is incurred by the individual debtor and reported on Form 1040, U.S. Individual Income Tax Return. A post-petition income tax liability incurred by an individual debtor in a Chapter 7 proceeding cannot be claimed in the bankruptcy case.
- (2) **Taxes Incurred by the Estate.** Taxes on income arising from assets which are property of the bankruptcy estate are incurred by the estate and reported on Form 1041, U.S. Income Tax Return for Estates and Trusts. Generally, these taxes are incurred when a Chapter 7 trustee liquidates assets of the bankruptcy estate. These taxes may also be incurred by the bankruptcy estates of individuals who file Chapter 11 and the case subsequently converts to Chapter 7. In either instance, the liability on the Form 1041 is an administrative expense of the bankruptcy estate. The debt is claimable on Form 6338-A (C), Request for Payment of Internal Revenue Taxes, in the bankruptcy case. For additional information, see IRM 5.9.6.14 and:

- IRM 5.9.8.14.1, Post-petition Debts - Chapter 11 Individuals
- IRM 5.9.8.14, Internal Revenue Code Section 1398 Issues
- IRM 5.9.8.19.4.2, Post-Confirmation Tax Liabilities of the Individual Debtor (Post-BAPCPA)

- (3) **Post-Petition Employer Shared Responsibility Payment (ESRP) MFT 43 Liabilities.** Since most Chapter 7 cases filed by individuals do not involve the post-petition operation of a business, the Chapter 7 bankruptcy estate will rarely have employees and incur a post-petition ESRP. If, however, the Chapter 7 estate filed employment tax returns (and therefore did have employees), contact Counsel to determine if the estate was the employer for the purposes of the ESRP. Otherwise, the post-petition ESRP will be a post-petition excise tax incurred by the debtor and will not be claimable (or dischargeable) in the Chapter 7 cases. If a claim does need to be filed against the Chapter 7 estate for the post-petition ESRP, use Form 6338-A (C), Request for Payment of Internal Revenue Taxes, include proof of claim statement Z9, caption ESRP on the form stating, "ESRP is post-petition since Letter 226J was issued post-petition."

5.9.6.13.1  
(03-16-2023)  
**Post-petition Liabilities**  
**— Businesses**

- (1) **Business Files Chapter 7.** When most businesses file Chapter 7, the business ceases to operate. 11 USC 721 authorizes the Chapter 7 trustee to operate the business of the debtor for a limited period. Operation must be in the best interest of the estate and consistent with the orderly liquidation of the estate. If post-petition taxes are incurred in these rare cases, consult Counsel for guidance on how to proceed in the case.
- (2) **Business Files Chapter 11 and Converts to Chapter 7.** Most businesses file Chapter 11 bankruptcy to reorganize their business while they repay creditors under a plan of reorganization. They may also file Chapter 11 to liquidate their business as a "Debtor-in-Possession" instead of liquidating in Chapter 7 with a court appointed trustee. However, many Chapter 11 cases convert to Chapter 7 when the debtor cannot successfully reorganize. The Chapter 11 case may also convert to Chapter 7 when a **party in interest** files a motion for conversion with the bankruptcy court. In these instances, unpaid post-petition taxes are claimable on Form 6338-A (C), Request for Payment of Internal Revenue Taxes. Penalty and interest are calculated on the post-petition liabilities through the Chapter 7 conversion date. If a case converts from Chapter 11 to Chapter 7 after confirmation of the plan, and post-confirmation taxes are due, refer the case to Counsel for advice. See IRM 5.9.13.11, Administrative Claims, and IRM 5.9.8.13, Post-petition/Pre-confirmation BMF Monitoring, for additional information.
- (3) **Post-Petition Employer Shared Responsibility Payment (ESRP) MFT 43 Liabilities.** In Chapter 7 cases filed by non-individual debtors, the bankruptcy estate is not a separate taxable entity. Any post-petition ESRP MFT 43 liability incurred by the non-individual debtor is claimable as an administrative expense of the bankruptcy estate on Form 6338-A (C), Request for Payment of Internal Revenue Taxes, include proof of claim statement Z9, caption ESRP on the form stating, "ESRP is post-petition since Letter 226J issued post-petition."

5.9.6.14  
(03-16-2023)  
**Bankruptcy Estate  
Income Taxes –  
Separate Taxable Entity**

- (1) **Individual Chapter 7 – IRC 1398.** The bankruptcy estate in an individual Chapter 7 bankruptcy is a separate taxable entity required to file its own Form 1041, U.S. Income Tax Return for Estates and Trusts.
- a. IRC 1398 contains special provisions for an individual under Chapter 7.
  - b. Individual debtors have the right to terminate their tax year when the petition is filed.
  - c. The Chapter 7 trustee has a duty to file the estate's tax return.
  - d. The return filing requirements are generally the same as for individual Chapter 11 cases, as discussed in IRM 5.9.8.14, Internal Revenue Code 1398 Issues.

5.9.6.14.1  
(03-06-2015)  
**Bankruptcy Estate  
Income Taxes – No  
Separate Taxable Entity**

- (1) **No Separate Taxable Entity.** In non-individual cases, no separate taxable entity is created. The trustee or debtor-in-possession (DIP) is responsible for filing any required returns.
- (2) **Relief from Filing Requirement.** A trustee or DIP can apply to be relieved of the return filing requirements in corporate cases when the corporation:
- a. Has ceased business;
  - b. Has no assets to be liquidated by the trustee; and
  - c. Has no income for the taxable year.

**Caution:** The procedures are found in Revenue Procedure 84–59, which has not been updated to reflect the IRS's reorganization in 2000. These procedures are outlined below in paragraph (4) with supplemental guidance.

**Note:** In addition to a bankruptcy trustee or DIP, these procedures may be used by a receiver or trustee of a corporation that is in receivership, dissolution, or in the hands of an assignee by order of a court, operation of law or otherwise. In particular, a trustee in a Securities Investor Protection Act (SIPA) proceeding may use these procedures to request exemption from return filing.

- (3) **Content of Exemption Request.** The bankruptcy trustee or DIP must submit a written request for exemption from return filing to the IRS. The request should contain the following:
- a. The name, address, and employer identification number of the corporation;
  - b. The facts, with supporting documents, if necessary, explaining why relief from the filing requirements is needed; and
  - c. The following statement signed by the bankruptcy trustee or DIP: "I hereby request relief from filing federal income tax returns for tax year(s) ending [date(s)] for the above named corporation and declare under penalties of perjury that to the best of my knowledge and belief the information contained herein is correct."

**Note:** Trustees (other than a bankruptcy trustee or DIP), receivers, and assignees requesting exemption from return filing must also include in their requests the notice of appointment to act, as required under Treas. Reg. 301.6036-1(a).

- (4) **Procedures for Exemption Requests.** The trustee must make a written request to the IRS giving the reasons to support a filing exemption. The request must be signed under penalties of perjury.



1. Requests must be submitted to the local Insolvency office handling the case.
2. Requests must be reviewed by a Grade 12 Insolvency caseworker, with assistance from Counsel, if needed.
3. The preliminary determination (either to approve or deny) made by the caseworker must be approved by an Insolvency group manager within 45 days from the received date of the request.
4. Upon managerial approval of the decision to deny or accept the request for exemption from filing, FI will draft an "ad hoc" letter to the trustee. At minimum, the letter must state if the exemption request is accepted or denied.

**Example:** We have received your request for relief from filing federal income tax return(s) for tax year(s) ending MM-DD-YYYY. We approve/deny the request.

5. The FI manager will forward the letter and their recommendations to the Territory Manager (TM).
6. The TM will review the request and recommendations of the FI manager. If the TM agrees with the recommendations of the FI manager, the TM will sign the letter and return it to the FI manager. The FI group will mail the letter to the trustee. If the TM does not agree with the recommendations of the FI manager, the recommendation will be returned to the FI Manager. In either situation, all actions regarding the determination must be documented in the AIS history.

**Note:** The determination to grant or deny the request must be made within 90 days of receipt of the request.

5.9.6.15  
(03-16-2023)  
**Trust Fund Recovery  
Penalty**

- (1) **Corporation and Responsible Officers in Bankruptcy.** Assessment of the Trust Fund Recovery Penalty (TFRP) under IRC 6672 becomes an issue when a corporation, having unpaid trust fund liabilities, files a Chapter 7 petition. In addition, the potentially responsible persons of the corporation may have filed their own bankruptcy petitions.
- (2) **Objections Filed by Responsible Persons.** The responsible persons frequently object to the TFRP investigation the IRS conducts against them, claiming trust fund taxes will be paid through the corporate bankruptcy proceeding.
- (3) **Field Compliance Assignment.** If research on corporate 7A cases shows balance due accounts or return delinquency periods assigned to Field Collection, Insolvency should contact the revenue officer (RO) group to determine what information is available on the case.
- (4) **Investigations.** If an investigation of the TFRP is warranted, guidance in the IF/THEN chart below should be followed. See IRM 5.9.3.10, Trust Fund Recovery Penalty, and subsections for additional information.

IF...	THEN...
Local procedures provide for issuance of an OI to a RO group and the unpaid trust fund liability meets the tolerance for a TFRP investigation (IRM 5.9.3.10(11), TFRP Investigation Criteria),	An OI should be issued to the appropriate RO group to complete a TFRP investigation.
Local procedures provide for handling TFRP investigations within the Insolvency function and locally established tolerances are met,	The case should be reassigned to a FI caseworker with properly delegated authority to complete the TFRP investigation.

- (5) **TFRP Assessments Against Responsible Persons.** IRM 5.9.3.10(14), Chapter 7, provides that assessment of the TFRP against the responsible persons of a corporate Chapter 7 debtor will generally be recommended unless compelling evidence indicates the assets of the estate are sufficient to satisfy all of the liabilities of the debtor (which is rare). If the decision is made not to assess the TFRP, Insolvency must indicate the reasons for non-assertion in the case history. The decision to withhold the TFRP assessment should be reviewed with the manager in accordance with local procedures.

**Caution:** Should the circumstances/factors change that prompted Insolvency to delay the TFRP assessment (e.g., a current review indicates non-compliance, plan deficiencies, etc.), reconsideration should be given to making the TFRP assessment. Also, if the Assessment Statute Expiration Date (ASED) will expire before the liability is paid in full, the assessment should be made before the ASED expires.

- (6) **Field Assignment of Accounts.** If a RO group wants an account to remain open to Field Collection, TC 520 with closing code (cc) 84 will not suspend a balance due account for the module on which it is input.

**Caution:** Although cc 84 is available for circumstances that require extensive field work and involve little risk of a violation of the Bankruptcy Code, caution must still be employed. The can be liable for damages if a violation of the Bankruptcy Code occurs.

#### 5.9.6.16 (03-16-2023) Conversion

- (1) **Voluntary.** Chapter 7 debtors may voluntarily convert their cases to proceedings under Chapters 11, 12, or 13 at any time, as long as the Chapter 7 case was not originally converted from a Chapter 11, 12, or 13 proceeding.
- (2) **Involuntary.** Involuntary conversions to Chapter 11 sought by creditors or the trustee can also occur.
- (3) **Under BAPCPA.** For cases filed on or after October 17, 2005, the IRS may move to dismiss or, with the debtor's consent, convert a Chapter 7 bankruptcy filed by an individual to a Chapter 11 or Chapter 13 case where a presumption of abuse of the bankruptcy process arises because of the means test.

**Note:** Presumption of abuse because of the means test is explained in 11 USC 707(b)(2).

5.9.6.17  
(04-12-2024)  
**Subordination of Tax  
Liens**

- (1) **Subordination.** 11 USC 724(b) provides for the distribution of the proceeds of property encumbered by a valid pre-petition tax lien where the IRS has properly filed a NFTL prior to the bankruptcy. Specifically, it provides that holders of unsecured priority claims under 11 USC 507(a)(1) through 507(a)(7) are paid before the IRS's secured tax claim is paid. This is referred to as a subordination of the tax lien (taking a lower position). (See IRM 5.9.6.19, Distribution, and IRM 5.9.4.6.1(6), Certificate of Discharge.)
- (2) **Administrative Expenses.** The IRS claim for administrative expenses that accrue during the bankruptcy proceeding is entitled to priority classification. Accordingly, the secured tax claim will be subordinated to the payment of the IRS administrative tax claim, if any.

**Note:** On cases filed prior to October 17, 2005, in addition to the federal secured tax claim, state and local secured tax claims are also subordinated.

- (3) **BAPCPA Amendment.** BAPCPA has amended 11 USC 724(b) for Chapter 11 cases filed on or after October 17, 2005, which are converted to 7A cases. In those cases, the tax lien will not be subordinated to administrative claims incurred in the prior Chapter 11 case except for the following:
  - Wages
  - Salaries
  - Commissions
- (4) **Personal and Real Property.** Before the trustee can subordinate a tax lien on personal or real property, the trustee must:
  - a. Exhaust the unencumbered assets of the estate, and
  - b. Recover from property securing an allowed secured claim, the reasonable and necessary expenses of preserving or disposing of the property.

**Note:** Tax liens arising in connection with ad valorem taxes on property are no longer subordinated with exceptions being claims for wages, salaries and commissions, or for contributions to an employee benefit plan.

5.9.6.18  
(03-16-2023)  
**Sale of Property by the  
Trustee**

- (1) **Lien Interest.** When the trustee disposes of the debtor's assets by selling property, and the IRS has a valid pre-petition NFTL on file, the IRS rights to distribution based on its lien interest in such property is unknown until all priority claims, including administrative expenses, are determined. Thus, Insolvency should not interfere with, or object to, any sale of property by the trustee without specific cause.

**Note:** Chapter 7 trustees have in the past avoided the fixing of the IRS lien on motor vehicles by arguing they assume the status of purchaser under IRC 6323. Under the provisions of BAPCPA, trustees cannot assume the status of a purchaser.

- (2) **Certificate of Discharge.** A need to issue a Certificate of Discharge may arise, if requested, to clear title concerns after the completion of a sale. If appropriate, a no-value lien discharge may be considered. (See IRM 5.9.4.6.1, Sale of Property Considerations.)
- (3) **Post-Discharge NFTLs.** NFTLs filed against the individual debtor after a discharge from bankruptcy is granted may interfere with the sale of estate

property. Because the bankruptcy estate is a separate entity, such post-discharge NFTLs do not attach to estate property. Therefore, a no-value lien discharge may be provided.

- (4) **Tax Consequences.** The U.S. Trustee encourages trustees to evaluate the tax aspects of any sale and discourages them from administering any property with significant tax consequences.
- (5) **Objections to Sale.** Insolvency caseworkers should review sale motions with tax consequences in mind and object to sales when appropriate, as provided in IRM 5.9.4.6.1(8), Tax Consequences.

**Note:** In rare instances, estate property may be abandoned after the debtor has received a discharge and before the court has closed the case. If the IRS files a NFTL after the debtor receives a discharge, but before the abandonment of the property and court closure, the federal tax lien will attach to the property once it is abandoned (11 USC 554(c)).

#### 5.9.6.19 (03-16-2023) Distribution

- (1) **Order of Distribution.** The order of distribution in a Chapter 7 case for estate property not subject to liens is established in 11 USC 726 and is as follows:
  - 1. 11 USC 507 priority claims (includes administrative expenses, post-petition taxes incurred by the estate, including interest on these taxes, and priority tax claims) which are timely filed, or which are untimely filed but meet the filing time frames outlined in IRM 5.9.13.7, Bar Dates.
  - 2. General unsecured claims which are timely filed, or filed late due to lack of notice.
  - 3. Late claims (other than those in items (1) and (2)).
  - 4. Non-pecuniary loss penalties (punitive in nature, for example, failure to pay penalty) and fines.
  - 5. Post-petition interest.
  - 6. The debtor receives the remainder of any distribution.
- (2) **Rights of a Private Secured Party.** The distribution does not affect the rights of a private secured party. If property in which a secured party has a lien is sold by the trustee, that creditor will be paid first from the sale proceeds after the expenses of the sale.
- (3) **Treatment of the Tax Lien of IRS.** The IRS, as a secured creditor, does not have the same rights as private secured creditors in a Chapter 7 case. This is because the tax lien is subordinated to certain priority claims, pursuant to 11 USC 724. Other priority claims will be paid before the tax lien is paid. (See IRM 5.9.6.17, Subordination of Federal Tax Lien, and IRM 5.9.6.18, Sale of Property by the Trustee.) However, if the NFTL has priority over the interest of a private secured party, the NFTL may be paid before the secured party depending on calculation under 11 USC 724.

**Exhibit 5.9.6-1 (03-06-2015)****Processing Chapter 7 Trustee Turnover Requests when the Case is Not on AIS**

The following table outlines procedures to be taken on tax periods subject to a Chapter 7 trustee's request for turnover of a refund where the bankruptcy case has not yet been discharged and the case is not on AIS. (For turnover requests on cases where the bankruptcy has been discharged before the debtor's refund has posted, see IRM 5.9.6.2.3, Refund Turnover Requests for Discharged Cases.) See IRM 5.9.6.2.3, Invalid Turnover Requests, for additional information on what constitutes an invalid turnover request. When the Chapter 7 case is not on AIS, review IDRS to determine the following:

<b>If...</b>	<b>Then...</b>
The turnover request is not valid; i.e., post-petition period, and no balance dues or unfiled returns,	<ul style="list-style-type: none"> <li>• Do not add the case to AIS.</li> <li>• Issue a letter to the trustee to advise that the request is not valid.</li> </ul>
The turnover request is not valid; i.e., the request is only for a post-petition period (no portion of the refund is pre-petition) or the turnover order/request does not include all the required information and a pre-petition balance due and/or unfiled return exists,	<ul style="list-style-type: none"> <li>• Obtain case information from PACER and establish a case on AIS.</li> <li>• Issue a letter to the trustee to advise that the request is not valid.</li> <li>• Document the AIS history to state, "Received trustee turnover request on MM/DD/YYYY (the received date stamped on the turnover request) for tax year YYYYMM (example 201312). Chapter 7 request is not valid (period requested did not include any pre-petition portion of the tax year or request does not include the required information). Letter sent to trustee."</li> <li>• Do not input TC 520 cc 81.</li> <li>• Do not add a "TTEE RFND" case classification to the case on AIS.</li> <li>• Allow the case to process systemically through AIS.</li> </ul>
The turnover request is valid and the refund(s) have already been issued for the period(s) requested and there are no balances due or unfiled returns,	<ul style="list-style-type: none"> <li>• Do not add the case to AIS.</li> <li>• Issue a letter to the trustee to advise the trustee that the requested refund(s) were issued prior to receipt of the turnover request.</li> </ul>

**Exhibit 5.9.6-1 (Cont. 1) (03-06-2015)****Processing Chapter 7 Trustee Turnover Requests when the Case is Not on AIS**

If...	Then...
<p>One or more of the periods included on the refund request has been filed, a refund is due, the refund has not been issued, and the request is valid,</p>	<ul style="list-style-type: none"> <li>• Obtain information from PACER and establish a case on AIS.</li> <li>• Input a TC 520 cc 81 per the instructions in Exhibit 5.9.6-6, TC 520 Input Guide for Trustee Turnover Requests.</li> <li>• Add the TC 520 input information to the AIS Freeze screen for each TC 520 input to IDRS.</li> <li>• Add a "TTEE RFND" case classification to the case on AIS.</li> <li>• Prepare Form 5792, Request for IDRS Generated Refund (IGR), to have the refund mailed to the trustee.</li> <li>• If the refund is only requested on one module, input a 14 day follow-up on the AIS Letter Screen to monitor for refund issuance (TC 840 posting on IDRS).</li> <li>• Document the AIS history, "Received trustee turnover request on MM/DD/YYYY (received date from the date stamp on the request) for tax year YYYYMM (example 201312). Added TTEE RFND case classification on the Classification Screen. Credit available on module. Prepared Form 5792 for \$\$ for YYYYMM (period). Input 14 day follow-up on the Letter Screen."</li> <li>• DO NOT ASSIGN CASE ON AIS.</li> </ul>



**Exhibit 5.9.6-1 (Cont. 2) (03-06-2015)****Processing Chapter 7 Trustee Turnover Requests when the Case is Not on AIS**

If...	Then...
One or more of the periods included on the refund turnover request has not been filed and the request is valid,	<ul style="list-style-type: none"> <li>Obtain information from PACER and establish a case on AIS.</li> <li>Input a TC 520 cc 81 per the instructions in Exhibit 5.9.6-6, TC 520 Input Guide for Trustee Turnover Requests.</li> <li>Add the TC 520 input information to the AIS Freeze screen for each TC 520 input to IDRS.</li> <li>Input a "TTEE RFND" case classification to the case on AIS.</li> <li>Input a 180 day follow-up on the AIS Letter screen.</li> <li>Document the AIS history, "Received trustee turnover request on MM/DD/YYYY (received date from the date stamp on the request) for tax year YYYYMM (example 201312). Input TC 520 cc 81 on XXX-XX-XXXX for tax period YYYYMM and added to Freeze screen. Added TTEE RFND on the Classification screen on AIS. Input a 180 day follow-up on the Letter screen."</li> <li>DO NOT ASSIGN CASE ON AIS.</li> </ul>
One or more of the periods included on the refund request has been filed, there is a balance due, and the request is valid,	<ul style="list-style-type: none"> <li>Obtain information from PACER and establish case on AIS.</li> <li>Issue a letter to the trustee to advise no refund is available.</li> <li>Document the AIS history, "Received trustee turnover request on MM/DD/YYYY (received date from the date stamp on the request) for tax year YYYYMM (example 201312). Return filed with a balance due. No refund available. Letter sent to Chapter 7 trustee."</li> <li>Take no further action. Do not input TC 520 cc 81 or TTEE RFND case classification.</li> <li>Allow the case to process systemically.</li> </ul> <p><b>Note:</b> If at least one period listed on the turnover request has not been filed, see the row above for actions to be taken.</p>

**Exhibit 5.9.6-2 (03-06-2015)****Processing Chapter 7 Turnover Requests when the Case is Closed on AIS**

The table below provides guidance for processing trustee turnover requests when the case is closed on AIS. The case may be closed on AIS because it was closed as a **no liability case**, the case was dismissed, or the case was discharged and closed. (See IRM 5.9.6.2.3 (7) and (8) for additional guidance on discharged cases.) In all instances, access the TIN screen on AIS to secure the TINs in the case. Review IDRS cc IMFOLI for each individual master file (IMF) TIN to determine if a return has been filed.

If...	Then...
The refund has already been issued for the period the trustee requested,	<ul style="list-style-type: none"><li>• Document the AIS history to reflect receipt of the turnover request and the period(s) subject to turnover.</li><li>• Issue a letter to the trustee to advise that no refund is available.</li><li>• Document the AIS history with the information regarding the refund. For example, "Received trustee turnover request on (received date stamped on the turnover request) for tax year YYYYMM. Refund already issued to taxpayer for YYYYMM on MM/DD/YYYY. Letter sent to Chapter 7 trustee advising no refund is available."</li><li>• Do not add the "TTEE RFND" case classification to AIS.</li></ul>

**Exhibit 5.9.6-2 (Cont. 1) (03-06-2015)****Processing Chapter 7 Turnover Requests when the Case is Closed on AIS**

If...	Then...
<p>A return was filed with a balance due for the period(s) requested on the turnover request,</p>	<ul style="list-style-type: none"> <li>Issue a letter to the trustee to advise that no refund is available.</li> <li>If a case was closed due to discharge, then document the AIS history. No further action is required.</li> <li>If the case was closed as a "No Liability", determine if the liability is pre-petition or post-petition and take appropriate actions as directed below:</li> </ul> <p>Pre-petition:</p> <ol style="list-style-type: none"> <li>Re-open the case on AIS.</li> <li>Input a TC 520 (use the appropriate closing code based on court jurisdiction) to the module(s) on IDRS.</li> <li>Add the TC 520s that were input on IDRS to the Freeze screen on AIS.</li> <li>Reassign the case to the appropriate employee, if needed.</li> </ol> <p>Post-petition: No action needed.</p> <p>Then: Document the AIS history, "Received trustee turnover request on MM/DD/YYYY (received date stamp on request) for tax year YYYYMM. Return filed with balance due. No refund available for period requested. Letter sent to Chapter 7 trustee." Also, include any other actions taken in the AIS history.</p>
<p>A return was filed with no refund due and no balance due,</p>	<ul style="list-style-type: none"> <li>Issue a letter to the trustee to advise that no refund is due.</li> <li>Document the AIS history to reflect receipt of the turnover request and the period(s) subject to turnover.</li> <li>Document the AIS history that no refund was issued for the period(s) requested because there was no refund due on the return. Document that there was also no balance due on the return. For example, "Trustee requested turnover of the YYYYMM refund. The YYYYMM return was filed with \$00 due. There is no balance due and no refund to issue. Letter sent to Chapter 7 trustee to advise no refund is due."</li> <li>Do not add the "TTEE RFND" case classification to AIS.</li> </ul>

**Exhibit 5.9.6-2 (Cont. 2) (03-06-2015)****Processing Chapter 7 Turnover Requests when the Case is Closed on AIS**

If...	Then...
The return(s) has not been filed for the period(s) requested on the turnover request,	<ul style="list-style-type: none"> <li>• Reopen the case on AIS by removing the closing information from the "On AIS" field on the Taxpayer screen.</li> <li>• Add a TTEE RFND case classification to AIS.</li> <li>• Re-assign the case to CIO, if not currently in CIO inventory and the case was closed as "NL" or "N" is present in the "Proof Req'd" field on the Taxpayer screen. Allow the case to remain assigned to Field Insolvency (FI) if other conditions exist.</li> <li>• Determine the filing status of the debtor(s).</li> <li>• Input TC 520 cc 81 depending on the information found on IDRS per Exhibit 5.9.6-6, TC 520 Input Guide for Trustee Turnover Requests.</li> <li>• Add TC 520 for each TIN and period input to IDRS on the AIS Freeze screen.</li> <li>• Add "TTEE RFND" case classification to AIS.</li> <li>• Input a 180 day follow up to the Letter screen on AIS.</li> <li>• Document the AIS history, "Received trustee turnover request on MM/DD/YYYY (received date from the date stamp on the turnover request) for tax year YYYYMM (note if specific year or for all post-petition refunds). Input TC 520 cc 81 on XXX-XX-XXXX (list all TINs where a TC 520 was input). Added TC 520s to the Freeze screen and added TTEE RFND case classification. Input a 180 day follow-up on the Letter screen."</li> </ul>

**Exhibit 5.9.6-3 (03-06-2015)****Processing Chapter 7 Trustee Turnover Requests when the Case is Open on AIS**

When a case is open and assigned to Field Insolvency:

- Input a TC 520 cc 81 to respective modules on IDRS per Exhibit 5.9.6-6, TC 520 Input Guide for Trustee Turnover Requests.
- Add the information regarding the TC 520s input to IDRS to the AIS Freeze screen.
- Add "TTEE RFND" case classification to the Classification screen.
- Document the AIS history, "Received trustee turnover request on MM/DD/YYYY (the received date stamped on the request) for tax year YYYYMM. Input TC 520 cc 81 on XXX-XX-XXXX (TIN) for XX-YYYYMM (MFT & period) and added TTEE RFND case classification to the Classification screen."

When an open case is assigned to CIO, check IDRS cc IMFOLI for the period(s) on the trustee turnover request. Then, follow the guidance in the table below to process the turnover request:

If...	Then...
The refund has already been issued for the period(s) the trustee requested,	<ul style="list-style-type: none"> <li>• Issue a letter to the trustee to advise that no refund is available.</li> <li>• Document the AIS history, "Received trustee turnover request on MM/DD/YYYY (received date stamped on the request) for tax year YYYYMM. Refund already issued to TP. Letter sent to Chapter 7 trustee."</li> </ul>
Return(s) filed with balances due for period(s) requested or return(s) filed with no refund due and/or tax due,	<ul style="list-style-type: none"> <li>• Issue a letter to the trustee to advise the trustee that no refund is available.</li> <li>• If the return was filed with a balance due, document the AIS history, "Received trustee turnover request on MM/DD/YYYY (received date stamped on the request) for tax year YYYYMM. Return filed with balance due, no refund available for period requested. Letter sent to Chapter 7 trustee."</li> <li>• If the return was filed with a \$.00 balance due and no refund due, document the AIS history, "Received trustee turnover request on MM/DD/YYYY (received date stamped on the request) for tax year YYYYMM. Return was filed with no tax due and no refund due for the period requested. Letter sent to Chapter 7 trustee."</li> </ul>

**Exhibit 5.9.6-3 (Cont. 1) (03-06-2015)****Processing Chapter 7 Trustee Turnover Requests when the Case is Open on AIS**

If...	Then...
Credit is available on the period requested,	<ul style="list-style-type: none"> <li>• Prepare Form 5792 to redirect the refund to the trustee if there is a TC 520 cc present on IDRS with a closing code that will hold the refund. If no such TC 520 is present, do not prepare Form 5792 or input a TC 520 cc 81 (unless multiple tax years are requested to be redirected to the trustee), but follow procedures as if refund already issued.</li> <li>• Add a "TTEE RFND" case classification to the Classification screen.</li> <li>• If the refund is only requested on one period, input a 14 day follow-up on the AIS Letter screen to monitor for refund issuance (TC 840 posting on IDRS).</li> <li>• Document the AIS history, "Received trustee turnover request on MM/DD/YYYY (received date stamped on the request) for tax year YYYYMM (example 201312). Added TTEE RFND to Classification screen. Credit available on module. Prepared Form 5792 for \$\$ for XX-YYYYMM (MFT &amp; period). Input 14 day follow-up on the Letter screen."</li> </ul>
Return(s) not filed for year(s) requested	<ul style="list-style-type: none"> <li>• See Exhibit 5.9.6-6, TC 520 Input Guide for Trustee Turnover Requests for instructions on input of the TC 520 cc 81.</li> <li>• Add each TC 520 cc 81 input to IDRS on the AIS Freeze screen.</li> <li>• Add "TTEE RFND" case classification to the Classification screen.</li> <li>• Input a 180 day follow-up on the AIS Letter screen.</li> <li>• Document the AIS history, "Received trustee turnover request on MM/DD/YYYY (received date stamped on the request) for tax year YYYYMM (example 201312). Input TC 520 cc 81 on (list each SSN where a TC 520 cc 81 was input) on tax period YYYYMM and added the TC 520s to the Freeze screen. Added TTEE RFND classification to the Classification screen. Input a 180 day follow-up on the Letter screen."</li> </ul>



**Exhibit 5.9.6-3 (Cont. 2) (03-06-2015)****Processing Chapter 7 Trustee Turnover Requests when the Case is Open on AIS**

<b>If...</b>	<b>Then...</b>
The turnover request is not valid because it does not include all required information or because the request is for a post-petition period only (no portion of the return is pre-petition),	<ul style="list-style-type: none"><li>• Issue a letter to the trustee to advise that the refund request is not valid.</li><li>• Document the AIS history, "Received trustee turnover request on MM/DD/YYYY (the received date stamped on the request) for tax year YYYYMM (example 201312). Chapter 7 request not valid (period requested did not include any pre-petition portion of the tax year or request does not include required information.)"</li></ul>

**Exhibit 5.9.6-4 (03-06-2015)****Conversions and Turnover Requests**

When a Chapter 7 case converts to a Chapter 11, Chapter 12, or Chapter 13 case, any Chapter 7 trustee turnover request in the case is no longer valid. When a Chapter 7 Asset case becomes a Chapter 7 No Asset case, or vice versa, the case is still a Chapter 7 case. Any trustee turnover request in the Chapter 7 case remains valid until it is withdrawn, rescinded, or expires. Follow the chart below when processing conversions from Chapter 7A or Chapter 7N to another bankruptcy chapter.

Step	Action
1.	Ensure the trustee listed on AIS is the trustee for the current chapter. This may require a review of PACER. There may be no trustee if the case converts to a Chapter 11.
2.	Input the new bar date, if needed.
3.	Close the "TTEE RFND" case classification on the Classification screen.
4.	Close the follow-up on the Letter screen scheduled due to the trustee turnover request, if present.
5.	Generally, a TC 520 cc 81 is used when a trustee turnover request is present. Check IDRS to see if an unreversed TC 520 cc 60 - 67, 83, or 85 is present on the balance due modules. If there is no unreversed TC 520 cc 60 - 67, 83, or 85 present, check the Bankruptcy TC 520 Closing Codes tool on SERP to determine the appropriate TC 520 closing code for the new chapter type and court jurisdiction. The SERP tool can be found at <a href="http://serp.enterprise.irs.gov/databases/who-where.dr/insolvency/tc-520-closing-codes.html">http://serp.enterprise.irs.gov/databases/who-where.dr/insolvency/tc-520-closing-codes.html</a> . Input the appropriate TC 520 closing code for the new bankruptcy chapter on applicable modules on IDRS.
6.	Reverse the TC 520 cc 81 on IDRS using a TC 522 cc 81.
7.	Add any TC 520 and TC 522 transactions input on IDRS to the Freeze screen on AIS.
8.	Reassign the Chapter 7 case to the appropriate FI caseworker using the CIO Case Assignment Tool on SERP. The case assignments in FI may differ for a Chapter 7A and Chapter 11, 12, or 13 case. The CIO Case Assignment Tool can be found at <a href="http://serp.enterprise.irs.gov/cgi-bin/AISCT_Search.cgi">http://serp.enterprise.irs.gov/cgi-bin/AISCT_Search.cgi</a> .

Follow the chart below when assets are realized in a Chapter 7 case or when the trustee determines there are no assets in a Chapter 7 case previously identified as a 7A case:

Step	Action
1.	Ensure the trustee listed on AIS is still the trustee for the Chapter 7 case (this may require a PACER review).
2.	If the trustee changed, update the trustee information on AIS.
3.	Input the new bar date, if needed.

**Exhibit 5.9.6-4 (Cont. 1) (03-06-2015)**  
**Conversions and Turnover Requests**

Step	Action
4.	<ul style="list-style-type: none"><li>Reassign the case to CIO if the case was a 7A and there are now no assets. Use the Centralized Insolvency Operation (CIO) Team Assignment tool found on SERP at <a href="http://serp.enterprise.irs.gov/databases/who-where.dr/insolvency/cio-team-assignment.html">http://serp.enterprise.irs.gov/databases/who-where.dr/insolvency/cio-team-assignment.html</a> to reassign the case.</li><li>Reassign the case to Field Insolvency if there were no assets and now there are assets. Use the CIO Case Assignment Tool found on SERP at <a href="http://serp.enterprise.irs.gov/cgi-bin/AISCT_Search.cgi">http://serp.enterprise.irs.gov/cgi-bin/AISCT_Search.cgi</a> to reassign the case.</li></ul>

**Exhibit 5.9.6-5 (03-06-2015)****Processing Withdrawals or Rescissions of Trustee Turnover Requests**

When a trustee withdraws or rescinds a turnover request, review IDRS to determine if refund issuance is pending. If so, schedule a follow-up to allow for processing of the refund to prevent a duplicate refund from being issued. If no refund is in process, the following actions should be taken:

If...	Then...
The case is assigned to Field Insolvency,	<ul style="list-style-type: none"> <li>• Close the "TTEE RFND" case classification on the Case Classification screen.</li> <li>• Close the follow-up (for the turnover only) on the Letter screen, if present.</li> <li>• Reverse the TC 520 cc 81 on the modules on IDRS.</li> <li>• Input the TC 522 cc 81 information on the AIS Freeze screen .</li> <li>• Document the AIS history to reflect receipt of the withdrawal request and with all actions taken.</li> </ul>
The case is assigned to CIO and there is no balance due or unfiled returns,	<ul style="list-style-type: none"> <li>• Close the "TTEE RFND" case classification on the Classification screen.</li> <li>• Close the follow-up (for turnover only) on the Letter screen, if present.</li> <li>• Reverse TC 520 cc 81 (and any other bankruptcy closing codes with the same petition date) on modules on IDRS.</li> <li>• Input all TC 522 information on the AIS Freeze screen.</li> <li>• Document the AIS history to reflect receipt of the withdrawal request and actions taken.</li> <li>• Select "No Liability" as the method of closure in the Closure Method field.</li> <li>• Place the current date in the "On AIS" date field.</li> </ul>

**Exhibit 5.9.6-5 (Cont. 1) (03-06-2015)****Processing Withdrawals or Rescissions of Trustee Turnover Requests**

If...	Then...
<p>The case is assigned to CIO and there is a balance due and/or unfiled returns present,</p>	<ul style="list-style-type: none"> <li>• Close the TTEE RFND case classification on the Classification screen.</li> <li>• Close the follow-up (for turnover only) from the Letter screen, if present.</li> <li>• Normally, a TC 520 cc 81 is used when a trustee turnover request is present. If an unreversed TC 520 with a closing code of 60 - 67, 83, or 85 is not present on the balance due module(s), check the Bankruptcy TC 520 Closing Codes on SERP for the chapter type and court jurisdiction, and input the appropriate TC 520 to applicable modules on IDRS. The correct closing codes can be found at <a href="http://serp.enterprise.irs.gov/databases/who-where.dr/insolvency/tc-520-closing-codes.html">http://serp.enterprise.irs.gov/databases/who-where.dr/insolvency/tc-520-closing-codes.html</a>.</li> <li>• Input TC 522 cc 81 to reverse all unreversed TC 520 cc 81s.</li> <li>• Add all TC 520 and TC 522 data input to IDRS to the AIS Freeze screen.</li> <li>• Input history to reflect all actions taken.</li> <li>• Ensure the case is assigned to the appropriate office (CIO or FI).</li> </ul>

**Exhibit 5.9.6-6 (03-06-2015)****TC 520 Input Guide for Trustee Turnover Requests**

The information in the chart below supplements instructions for loading a new case to AIS found in IRM 5.9.12.3, Paper Petitions, and inputting a TC 520 manually when processing trustee turnover requests.

<b>Bankruptcy Petition Filed as...</b>	<b>Tax Returns filed as...</b>	<b>Actions needed...</b>
Joint	Joint (FS 2)	<ul style="list-style-type: none"> <li>List both debtors on the AIS Taxpayer and TIN screen.</li> <li>Input TC 520 cc 81 with appropriate CSED indicator (B) on the last period for which a joint tax return was filed.</li> <li>If IMFOLI shows jointly filed tax returns, and the spouses alternate as <b>primary</b> on the returns, input a TC 520 cc 81 on the latest tax period where each spouse filed as <b>primary</b>.</li> <li>Ensure all TC 520 cc 81 data is added to the AIS Freeze screen.</li> </ul>
Joint	Separate (FS 1, FS 3, or FS 4)	<ul style="list-style-type: none"> <li>List both debtors on the AIS Taxpayer and TIN screen.</li> <li>Input the TC 520 cc 81 with the appropriate CSED indicator (P) on the last period filed by each debtor</li> <li>Ensure all TC 520 cc 81 data is added to the AIS Freeze screen.</li> </ul>



## Exhibit 5.9.6-6 (Cont. 1) (03-06-2015)

## TC 520 Input Guide for Trustee Turnover Requests

Bankruptcy Petition Filed as...	Tax Returns filed as...	Actions needed...
Individual	Joint (FS 2)	<ul style="list-style-type: none"> <li>• Add debtor information to the AIS Taxpayer and TIN screen.</li> <li>• If debtor is the primary taxpayer on the jointly filed return, input the TC 520 cc 81 with CSED indicator (P) on the last jointly filed period.</li> <li>• If the debtor is the secondary taxpayer on the jointly filed return:               <ol style="list-style-type: none"> <li>a. Input TC 520 cc 81 with CSED indicator (S) on the last jointly filed period.</li> <li>b. Create a dummy module* for the debtor's TIN for the same period as the jointly filed return and input a TC 520 cc 81 with a CSED indicator (P).</li> <li>c. Add TIN of the primary number (non-debtor) on the jointly filed return to the TIN screen reflecting they are non-debtor spouse (NDS), if not already present.</li> </ol> </li> </ul>
Individual	Separate (FS 1, FS 3, or FS 4)	<ul style="list-style-type: none"> <li>• List debtor only on the AIS Taxpayer and TIN screen.</li> <li>• Input TC 520 cc 81 with appropriate CSED indicator (P) on the last period filed by the debtor only.</li> </ul>

\*It is not necessary to create a dummy module if IDRS cc IMFOLI shows jointly filed tax returns where the spouses alternated as "primary" on the returns. In this instance, you should input a TC 520 cc 81 on the latest tax periods where each of the spouses filed as "primary."

**Note:** To secure the TIN of a debtor's spouse, access IDRS cc INOLES and look under XREF/TRANS INFO. If multiple TINs are present, use the TIN with the most current cycle date.

**Exhibit 5.9.6-6 (Cont. 2) (03-06-2015)****TC 520 Input Guide for Trustee Turnover Requests**

**Note:** During dead cycles, use IDRS cc MFREQD to create a dummy module for the period the trustee requests the refund for since you cannot input a TC 520 cc 81 on the last period filed. If a refund turnover is requested for multiple years, create the dummy module on the earliest year requested by the trustee.

**Exhibit 5.9.6-7 (03-06-2015)****CIO Actions on Chapter 7 Asset (7A) Cases**

Most 7A cases are transferred from FI to the CIO after the initial case review has been completed, all proofs of claim have been prepared and acknowledged, and there are no issues that require the case to remain in FI. Actions taken by the CIO after reassignment depend upon the type of case and the type entity that filed bankruptcy. The following chart details actions that will be taken by the CIO.

If...	Then...
IMF and dismissal received	<ul style="list-style-type: none"> <li>• Check for "SUMMARY HISTORY" entry and follow instructions provided, if Summary History present.</li> <li>• Review the Classification screen for any open case classifications.</li> <li>• Input the appropriate method of closure on AIS, "REGULAR DISMISSAL - D1" or "DISMISSED FOR FMT - D2".</li> <li>• Document the AIS history to reflect actions taken.</li> </ul> <p><b>Note:</b> See IRM 5.9.17.6.5, Closing Dismissed Cases, for additional information.</p>
IMF and discharge received	<ul style="list-style-type: none"> <li>• Check for "SUMMARY HISTORY" entry and follow instructions provided, if Summary History present.</li> <li>• Review the Classification screen for any open case classifications.</li> <li>• If an order was entered by the court denying discharge, enter "DISCHARGE DENIED" as the method of closure on AIS and follow the procedures in IRM 5.9.17.8.3, Discharge Denied.</li> <li>• If there is a "No Notice" case classification on AIS, enter "No Notice" as the method of closure on AIS and follow.</li> <li>• Other guidance in IRM 5.9.17.8.9(7), CIO "No Notice" Procedures.</li> <li>• In other cases where the debtor received a discharge in the Chapter 7A case, enter "RI CH7&amp;HARDSHIPCH13 RI" as the method of closure on AIS. Follow the procedures in IRM 5.9.17.10, Chapter 7 Discharge Actions.</li> </ul> <p><b>Note:</b> CIO should address any Discharge Determination Reports (DDRs) generated in accordance with normal procedures.</p>

**Exhibit 5.9.6-7 (Cont. 1) (03-06-2015)****CIO Actions on Chapter 7 Asset (7A) Cases**

If...	Then...
Corporate Entity	<p>Follow the closing actions in IRM 5.9.17.12, Closing Corporate Chapter 7 Bankruptcies and Chapter 7 Bankruptcies Filed by Limited Liability Companies (LLCs), which includes the following:</p> <ul style="list-style-type: none"> <li>• Check for “SUMMARY HISTORY” entry and follow instructions provided, if Summary History present.</li> <li>• Review the <b>Classification screen</b> for any open case classifications.</li> <li>• Ensure managerial approval is documented for any request for input of a TC 530 cc 07. If not present, reassign to FI stating managerial approval is needed for input of the TC 530 cc 07.</li> <li>• Take actions requested in the AIS history.</li> <li>• Document history to reflect actions taken.</li> <li>• Close the case on AIS using “Other Closing Action” as the method of closure.</li> </ul> <p><b>Note:</b> Use a two cycle posting delay for input of the TC 521 to allow time for the TC 530 cc 07 to post to IDRS.</p>
Partnership Entity	<p>Chapter 7 partnership entities are only worked by FI. (See IRM 5.9.17.11, Closing Chapter 7 or Liquidating Chapter 11 Partnerships, for additional information.)</p> <ul style="list-style-type: none"> <li>• Reassign the case to FI.</li> <li>• Enter “All actions on partnership accounts must be performed by FI” in the AIS case history.</li> </ul>

## Exhibit 5.9.6-7 (Cont. 2) (03-06-2015)

## CIO Actions on Chapter 7 Asset (7A) Cases

If...	Then...
Limited Liability Company (LLC)	<p>Closing actions in the case of a LLC depend on whether the LLC was a single member disregarded entity (IRM 5.9.17.12.1, Chapter 7 Single Member Disregarded Entity LLCs) or a LLC that reported income as a partnership or corporation (IRM 5.9.17.12, Closing Corporate Chapter 7 Bankruptcies and Chapter 7 Bankruptcies Filed by Limited Liability Companies (LLCs)).</p> <ul style="list-style-type: none"> <li>Review the "SUMMARY HISTORY" for actions needed at case closure.</li> </ul> <p><b>Note:</b> If there is no "SUMMARY HISTORY" providing guidance on how the case should be closed, reassign the case back to FI. Enter a history on AIS stating "Case returned to FI for entry of a "SUMMARY HISTORY" with guidance on closing the case as required in IRM 5.9.17.12 or IRM 5.9.17.12.1 (as appropriate)."</p> <ul style="list-style-type: none"> <li>Ensure managerial approval is documented for any request for input of a TC 530 cc 07. If not present, reassign the case to FI stating managerial approval is needed for input of the TC 530 cc 07.</li> <li>Take actions requested.</li> <li>Document the AIS history to reflect actions taken.</li> <li>Close the case on AIS using "Other Closing Action" as the method of closure unless another method of closure is present.</li> </ul> <p><b>Note:</b> Actions should be taken per the guidance in the "SUMMARY HISTORY". If both a TC 521 and a TC 530 cc 07 are requested, use a two cycle delay for input of the TC 521 to allow time for the TC 530 cc 07 to post to prevent the issuance of balance due notices.</p>

