



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

25.24.4

OCTOBER 7, 2020

## EFFECTIVE DATE

(10-07-2020)

## PURPOSE

- (1) This transmits a revision for IRM 25.24.4, Return Preparer Misconduct Program, Return Preparer Misconduct Field Collection.

## MATERIAL CHANGES

- (1) The following table outlines changes made to IRM 25.24.4, Return Preparer Misconduct Program, Return Preparer Misconduct Field Collection. It includes internal controls and updated procedures, including editorial changes and clarifications since the revision dated March 17, 2017.

IRM Subsection	Description
IRM 25.24.4.1, Program Scope and Objectives	Revised this section, creating a new section for Program Scope and Objectives to comply with managements internal control requirements.
IRM 25.24.4.1.1, Background	Inserted new subsection for Background to comply with managements internal control requirements.
IRM 25.24.4.1.2, Authority	Inserted new subsection added for general authorities to comply with managements internal control requirements.
IRM 25.24.4.1.3, Responsibilities	Inserted new subsection added to state program responsibilities to comply with managements internal control requirements.
IRM 25.24.4.1.4, Program Management and Review	Inserted new subsection added for program management and review to comply with managements internal control requirements.
IRM 25.24.4.1.5, Terms/ Acronyms	Inserted new subsection added for the most common program related terms and acronyms to comply with managements internal control requirements.
IRM 25.24.4.1.6, Related Resources	Inserted new subsection added to list related resources to comply with managements internal control requirements.
IRM 25.24.4.2.1, Return Preparer Definitions	Converted definitions to table format and added one definition.
IRM 25.24.4.5.1, Return Preparer Misconduct Documentation	Converted acceptable evidence and supporting documentation content to table format.
IRM 25.24.4.6.3.2, Category 3 Accepted Complaint	Restructured tables in paragraph (1) and (2).
IRM 25.24.4.6.4.2, Category 4 Accepted Complaint	Restructured table in paragraph (1).
IRM 25.24.4.8, Incomplete or Missing Documentation	Restructured table in paragraph (6).

<b>IRM Subsection</b>	<b>Description</b>
IRM 25.24.4.9.1, Full Disallowance	Restructured table in paragraph (3).
IRM 25.24.4.15.2, Return Preparer Contacts	Removed EITC coordinator from paragraph (1) due to organizational changes. Inserted new paragraph (1)(b) to describe additional research step. Renumbered subsequent alpha list accordingly. Removed reference to EITC coordinator from paragraph (2) due to organizational changes.
Editorial changes throughout the IRM	Editorial changes throughout include: <ul style="list-style-type: none"><li>• Added IRM, IRC, Form and Letter citations</li><li>• Corrected spelling and grammatical errors</li><li>• Added web links</li><li>• Added titles for IRM, Form and Letter citations</li></ul>

#### **EFFECT ON OTHER DOCUMENTS**

This material supersedes IRM 25.24.4, dated March 17, 2017.

#### **AUDIENCE**

Revenue officers and other caseworkers in SB/SE Collection

Ronald Takakjy  
Acting Director, Collection Policy

25.24.4

Return Preparer Misconduct Field Collection

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25.24.4.1  
(10-07-2020)  
**Program Scope and Objectives**

- (1) The objective of this IRM is to provide direction and guidance specifically for revenue officers and other Collection caseworkers working cases involving taxpayer claims of misconduct by a tax return preparer. This IRM also provides guidance on the collection of preparer, promoter, appraiser, material advisor, and aiding and abetting penalties.
- (2) **Purpose:** In general, written, phone or face to face contacts with taxpayers that are related to claims of return preparer misconduct will be processed using this IRM. This IRM provides the fundamental knowledge and procedural guidance for employees who work cases involving claims of return preparer misconduct. By following the processes and procedures provided by this IRM, employees will process claims of return preparer misconduct in a manner that follows IRS policy and procedures while promoting the best interests of the Government.
- (3) **Audience:** These procedures apply to IRS employees who are responsible for working cases involving claims of return preparer misconduct. These employees are located in the Small Business/Self-Employed (SB/SE) business operating divisions, in the field function.
- (4) **Policy Owner:** Director, Collection Policy, SBSE
- (5) **Program Owner:** Collection Policy, SBSE, Case Resolution Alternatives (CRA), is the program owner of this IRM.
- (6) **Primary Stakeholders:**
  - SB/SE, Field Collection employees,
  - Return Preparer Office, Return Preparer Coordinators.

25.24.4.1.1  
(10-07-2020)  
**Background**

- (1) Unscrupulous return preparers may alter taxpayer tax data without the taxpayer's knowledge or consent (for example, by falsifying dependent information, expenses, deductions, credits, income, refund amount, etc.) and/or misdirect a portion or all of the refund for their personal benefit. Taxpayers may become aware of misconduct through taxpayer initiated contact (Toll-Free, Field Assistance (FA), Taxpayer Advocate Service (TAS), etc.) or through IRS enforcement investigative processes (Revenue Agent (RA) or Tax Compliance Officer (TCO) contact, Automated Underreporter (AUR) correspondence, campus examination correspondence, Revenue Officer (RO) contact, Criminal Investigation (CI) inquiries, etc.).

25.24.4.1.2  
(10-07-2020)  
**Authority**

- (1) The policy statement relating to return preparer misconduct can be found in IRM 1.2.1.16.1, Policy Statement 25-2, Return Preparer Misconduct.
- (2) Per the Taxpayer Bill of Rights (IRC §7803(a)(3)), taxpayers have the right to expect a fair and just tax system which provides taxpayers with the opportunity to have their facts and circumstances considered when it might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from TAS if they are experiencing financial hardship or if the IRS has not resolved their tax issues properly and timely through normal channels. IRS employees must be informed about taxpayer rights and be conscientious in the performance of their duties to honor, respect and effectively communicate those rights. Refer to <https://www.irs.gov/Taxpayer-Bill-of-Rights>, for additional information.

25.24.4.1.3  
(10-07-2020)  
**Responsibilities**

- (1) The Director, Headquarters Collection, is the executive responsible for providing policy and guidance for field employees and ensuring consistent application of policy, procedures and tax law to effect tax administration while protecting taxpayers' rights. See IRM 1.1.16.2.3, Headquarters Collection, for additional information.
- (2) The Director of Headquarters Collection, reports to the Director, Collection, and is responsible for the delivery of policy and guidance that impacts the collection process. See IRM 1.1.16.2.3.1, Collection Policy, for additional information.
- (3) The Return Preparer Coordinators plan and coordinate compliance activities related to return preparers with other functions, areas, and campuses.

25.24.4.1.4  
(10-07-2020)  
**Program Management and Review**

- (1) Periodic program and manager reviews are conducted to:
  - Assess the effectiveness of specific programs within Collection or across the organization,
  - Ensure that case actions are in accordance with the procedures in this IRM,
  - Validate policies and procedures, and
  - Identify and share best/proven practices.

25.24.4.1.5  
(10-07-2020)  
**Terms/Acronyms**

- (1) The following table lists commonly used terms, acronyms and their definitions.

Term/Acronym	Definition
AG	Attorney General
ASED	Assessment Statute Expiration Date
AUR	Automated Underreporter
CI	Criminal Investigation
DITA	Designated Identity Theft Adjustment
ERSED	Erroneous Refund Statute Expiration Date
IDRS	Integrated Data Retrieval System
IDTVA-C	Identity Theft Victim Assistance - Complaints
Non-RAC	Non-Refund Anticipation Check
PTIN	Preparer Tax Identification Number
RA	Revenue Agent
RAC	Refund Anticipation Check
RPM	Return Preparer Misconduct
RO	Revenue Officer
RSED	Refund Statute Expiration Date
TAO	Taxpayer Assistance Order

Term/Acronym	Definition
TAS	Taxpayer Advocate Service
TBOR	Taxpayer Bill of Rights
TCO	Tax Compliance Officer
TIGTA	Treasury Inspector General for Tax Administration

25.24.4.1.6  
(10-07-2020)

(1) The following table contains related IRM sections referenced in this IRM:

#### Related Resources

IRM	Title
IRM 1.2.1	Servicewide Policies and Authorities, Servicewide Policy Statements
IRM 1.2.1.16.1	Policy Statement 25-2, Return Preparer Misconduct
IRM 4.1.10	Return Preparer Program Coordinator
IRM 4.4.5.10	Claims for Refund or Abatement
IRM 4.4.9	AIMS Procedures and Processing Instructions, Delinquent and Substitute for Return Processing
IRM 4.4.9.2.3.1	Criminal Investigation (CI) Freeze
IRM 4.8.9.28	Rescinding Notices of Deficiency
IRM 4.10.6.8.2	Return Preparer Penalties
IRM 4.10.27	Examination of Returns, Identity Theft Case Processing for Field Examiners
IRM 4.13	Audit Reconsideration
IRM 20.1.1	Penalty Handbook, Introduction and Penalty Relief
IRM 20.1.2	Failure to File/Failure to Pay Penalties
IRM 20.2.5	Interest on Underpayments
IRM 21.3.1.5.56	Status of Individual Master File (IMF) Underreporter Cases
IRM 21.4.1.4.4	Refund Issued but Lost, Stolen, Destroyed or not Received
IRM 21.4.5	Refund Inquiries, Erroneous Refunds
IRM 21.4.5.15.1.1	Statutes of Limitations Category D Erroneous Refunds IRS 6532(b) ERSED
IRM 25.6.1.10.2.6.3	Informal Claims
IRM 25.23.2.18	Closing Identity Theft Issues

25.24.4.2  
(10-07-2020)  
**Return Preparer  
Misconduct**

- (1) A taxpayer is a victim of return preparer misconduct (RPM) when a tax return preparer completes a return for a taxpayer and without the taxpayer's knowledge makes changes to the return, which results in an improper refund to the preparer or a third party. Taxpayers may not know there is an issue until the IRS contacts them about the return well after refunds have been issued.
- (2) Refer to IRM 25.24.1, Return Preparer Misconduct Program, for general information and direction for the program and IRM 1.2.1.16.1, Policy Statement 25-2, Return Preparer Misconduct.
- (3) Taxpayers who claim to be a victim of return preparer misconduct must submit a complaint and the required documentation. Refer to IRM 25.24.4.5.1, Return Preparer Misconduct Documentation.
- (4) If a taxpayer claims he or she has no knowledge of the improper return entries and did not complete the return, then treat the taxpayer as a potential victim of return preparer misconduct. Collection activity must cease on liabilities assessed against the taxpayer in connection with a refund or portion of a refund that the taxpayer never received.

25.24.4.2.1  
(10-07-2020)  
**Return Preparer  
Definitions**

- (1) The following table provides definitions of return preparer types.

Preparer type	Definition
Tax Return Preparer	Any person who prepares for compensation, or who employs one or more persons to prepare for compensation, all or a substantial portion of any return of tax or any claim for refund of tax under the Internal Revenue Code.
Signing Preparer	Is the individual tax return preparer who has the primary responsibility for the overall substantive accuracy of the preparation of such return or claim for refund. An individual who prepares a federal tax return for compensation is required to have a Preparer Tax Identification Number (PTIN) issued by IRS and must enter it on every tax return prepared for compensation along with the preparer name and signature. Any preparer with a PTIN is in the business of preparing tax returns or has held him/herself out as in the business of preparing tax returns.
Ghost/Non-Signing Preparer	Is any tax return preparer who is not a signing tax return preparer but who prepares, for compensation, all or a substantial portion of a return or claim for refund. An individual who prepares a tax return for compensation but does not sign the return as a preparer is a ghost preparer/non-signing preparer. These returns may also be reflected as <b>self-prepared</b> .

- (2) These return preparer definitions are relevant only for purposes of RPM guidance.



25.24.4.2.2  
(10-07-2020)  
**Return Preparer  
Misconduct Categories**

- (1) There are four basic fact patterns to return preparer misconduct.
- a. **Category 1:** Unauthorized Filing - The taxpayer was in contact with a  
The preparer submits a return using the taxpayer's identifying information and directs all or part of the refund to an account not belonging to the taxpayer.
  - b. **Category 2:** Altered return with no additional refund due the taxpayer - The taxpayer authorized a preparer to file a return, but the preparer later alters the return to increase the expected refund, if any. The taxpayer received at least the amount of the expected refund from the IRS or the preparer and the preparer or other person received all or part of the increased refund amount.
  - c. **Category 3:** Altered return information with an additional refund due to the taxpayer - The same facts as Category 2 except the taxpayer receives only a portion or none of the expected refund.
  - d. **Category 4:** Misdirected direct deposit - The taxpayer was in contact with the preparer and authorized the filing of a return. The preparer changed either the mailing address for the refund check or the deposit information, such as the bank routing and/or account numbers. The return filed is otherwise as intended to be filed by the taxpayer.
- (2) Review all documentation in the RPM complaint to determine the correct category. The category determines the action to be taken and the relief that can be provided and may change as research is completed.

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25.24.4.3  
(10-07-2020)  
**Suspension of  
Collection Action**

- (1) When a taxpayer alleges return preparer misconduct and the allegation has not already been investigated in another function, temporarily suspend all collection actions on the affected tax modules. Specifically, this includes:
- a. Issuing any new levies, including systemic Federal Payment Levy Program (FPLP) levies (IRM 5.11.7.2.6, Blocking or Releasing FPLP Levy) and other Automated Levy Programs (SITLP, AKPFD).
  - b. Filing any new Notices of Federal Tax Lien.
  - c. Issuing Letter 1058, Notice of Intent to Levy and Notice of Your Right to a Hearing, or Letter 3174, New Warning of Enforcement.
  - d. Initiating seizure action.
- (2) Be sensitive to the adverse impact that being a victim of return preparer misconduct may have upon the taxpayer and his or her ability to pay.

25.24.4.4  
(10-07-2020)  
**Return Preparer  
Misconduct Guidelines  
for Relief Not Met**

- (1) The taxpayer's RPM complaint may not meet IRS guidelines for relief. The table below includes some of the situations that do not meet IRS guidelines for RPM relief.
- Note:** Even if the complaint doesn't meet RPM guidelines, there are nonetheless procedures to deal with certain situations that could result in some assistance or relief for the taxpayer.

If...	Then...
The taxpayer's only issue is a lost, stolen or unintentional misdirected refund	<ul style="list-style-type: none"> <li>• See IRM 21.4.1.4.4, Refund Issued but Lost, Stolen, Destroyed or Not Received</li> <li>• Advise the taxpayer that a review of the account and the information provided indicates an issue other than RPM</li> <li>• Explain to the taxpayer the account status</li> </ul>
The taxpayer submits preparer misconduct documentation, but the reduced refund is due to a math error, frozen refund, or usual Exam or AUR inquiries	<ul style="list-style-type: none"> <li>• Inform the taxpayer that a review of the account and information provided does not support RPM</li> <li>• Explain to the taxpayer the reason for the reduced refund</li> </ul>
<p>The taxpayer <b>did not</b> visit a preparer for the current year; however, a preparer filed a return without authorization using information obtained from a prior year visit resulting in an identity theft scenario</p> <p><b>OR</b></p> <p>The taxpayer provides the return preparer and company name and</p> <p>theft scenario</p> <p><b>AND</b></p> <p>there is <b>no</b> evidence the taxpayer's actual return has been processed (no duplicate filing transactions, TC 976 or 977, on the module)</p>	<ul style="list-style-type: none"> <li>• Advise the taxpayer they are a victim of identity theft.</li> <li>• See IRM 5.1.28, Identity Theft Procedures for Collection Employees.</li> <li>• If a signed unprocessed return is received with the RPM complaint, process the return per IRM 5.1.11.6, Secured Returns.</li> </ul>

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If...	Then...
<p>The taxpayer <b>did not</b> visit a preparer for the current year; however, a preparer filed a return without authorization using information obtained from a prior year visit resulting in an identity theft scenario</p> <p><b>OR</b></p> <p>The taxpayer provides preparer</p> <p>theft scenario</p> <p><b>AND</b> there is evidence the taxpayer's actual return has been processed (TC 976/977)</p>	<ul style="list-style-type: none"> <li>Advise the taxpayer they are a victim of identity theft.</li> <li>See IRM 5.1.28, Identity Theft Procedures for Collection Employees.</li> </ul>
The taxpayer's account does not show a posted return	Advise the taxpayer that no tax return has been filed using his/her TIN. Secure a signed return and process it per IRM 5.1.11.6, Secured Returns.
The taxpayer submits RPM documentation due to a credit offset for a balance due on a prior year or Treasury Offset Program (TOP) offset for other liabilities, e.g., child support	<ul style="list-style-type: none"> <li>Inform the taxpayer that a review of the account and information provided does not support RPM.</li> <li>Explain to the taxpayer the reason for the reduced refund.</li> </ul>

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If...	Then...
The taxpayer's complaint does not fit into any of the four RPM fact patterns, but involves PTIN misuse, misrepresentation of credentials, extreme fees, etc.	<ul style="list-style-type: none"> <li>Advise the taxpayer why the complaint does not meet IRS guidelines for relief.</li> <li>Route the original Form 14157, Return Preparer Complaint, and documents to:  Return Preparer Office, 401 W. Peachtree Street NW, Mail Stop 421-D, Atlanta, GA 30308</li> <li>Recommend the taxpayer contact the Federal Trade Commission, Better Business Bureau, State Consumer Agencies, etc. See IRM 1.2.1.16.1, Policy Statement 25-2, Return Preparer Misconduct.</li> <li>Continue with collection procedures.</li> </ul>

25.24.4.5  
(10-07-2020)

**Return Preparer  
Misconduct Complaints**

- (1) Upon receipt of an RPM complaint, first determine whether RPM criteria is met.
  - a. Review any taxpayer correspondence
  - b. Ensure the required documentation was submitted per IRM 25.24.4.5.1, Return Preparer Misconduct Documentation
  - c. Research IDRS to confirm a tax return was filed or is required to be filed
  - d. Request a refund trace in specific circumstances
  - e. Verify the preparer exists
  - f. Identify the correct RPM category
- (2) If RPM criteria is met, then take the appropriate action as outlined in this IRM resulting in adjustment of the account and, in certain circumstances, issuance of a full or partial refund.
- (3) If RPM criteria is not met, see IRM 25.24.4.4, Return Preparer Misconduct Guidelines for Relief Not Met, above.

25.24.4.5.1  
(10-07-2020)

**Return Preparer  
Misconduct  
Documentation**

- (1) If the taxpayer alleges a preparer altered tax data on a return or misdirected all or a portion of a refund, then the taxpayer must submit sufficient documentation to support the allegation.
- (2) Documentation for complaint consideration includes the following:
  - a. Form 14157, Return Preparer Complaint, completed by the taxpayer.
  - b. Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, completed and signed by the taxpayer (at least one taxpayer if married filing joint).

- c. Signed, valid tax return as intended to be filed unless the taxpayer does not have a filing requirement
- d. Signature of the preparer on the return filed by the preparer or preparer information on an electronic return

**Note:** If there is no signing preparer see (3)

- e. Name and address of the preparer on the Form 14157, Return Preparer Complaint, or Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, or within taxpayer's written correspondence
  - f. Report from a law enforcement agency (only for Categories 3 and 4): This could include a report made to the police department, State Attorney General (AG), Criminal Investigation (CI), and/or Treasury Inspector General for Tax Administration (TIGTA). The law enforcement agency report must be signed by a police officer or equivalent, depending on the report received (or otherwise demonstrably shown it was accepted by that law enforcement agency). It must contain the following:
    - Tax year(s) involved, and
    - Preparer's first and last name and address, and
    - Statement describing the preparer misconduct and theft of the refund
- (3) In a case involving a "ghost" or non-signing preparer, in addition to the documentation in (2) above, at least one additional piece of corroborating evidence that the preparer was in the business or held him/herself out as being in the business of preparing tax returns is required.
- (4) Examples of evidence the preparer held him/herself out as being in the business of preparing tax returns include the following (this list is not all inclusive):
- Copy of the tax return(s) provided by the preparer if signed by the preparer as the paid preparer (for purposes of establishing the preparer held him/herself out as a preparer)
  - Preparer's PTIN or EIN
  - Preparer's business card
  - Flyer or advertisement with the name of the return preparation service or the preparer
  - Professional or business letterhead with the name of the preparer
  - Business name on check from preparer
  - A letter addressed to the taxpayer from TIGTA, civil preparer investigation (IRC § 6700, Promoting Abusive Tax Shelters, or IRC § 6701, Penalties for Aiding and Abetting Understatement of Tax Liability), or IRS Criminal Investigation (CI) regarding an ongoing investigation of the preparer (for purposes of establishing the preparer held him/herself out as a preparer).
  - Affidavit of the person who hosted or sponsored the preparer
- Example:** If the preparer's services were provided at a church hall, then the minister could provide an affidavit with details about when the tax return preparation services were offered.
- Documentation of state or local law enforcement investigation of the preparer
- (5) In addition, one piece of corroborating evidence that the person named on the Form 14157, Return Preparer Complaint, interacted with the taxpayer and submitted the return filed is required.

## 25.24 Return Preparer Misconduct Program

**Exception:** If CI indicates there was interaction between the taxpayer and the preparer, then this requirement is met.

- a. The evidence must show the following:

Required Information
Preparer name
Tax year(s) in question, with
Applicable corresponding dates indicating an exchange between the taxpayer and the preparer about the filing of a tax return

- b. Evidence the taxpayer interacted with the person named on the Form 14157, Return Preparer Complaint, may include the following:

Examples of Acceptable Evidence
Cover letter, including the tax return, received from the preparer when the return was prepared
Copy of Form 8879, IRS e-file Signature Authorization, with signature or evidence it was received from the preparer
Copy of negotiated check the taxpayer gave to the preparer for payment of services
Credit card statement with the charge in the preparer's name (or the preparer's business name) for payment of services
Copy of "refund" check the taxpayer received from the preparer
Receipt from the preparer reflecting a fee for the preparation of a tax return for the tax year in question
Email, text message or other written communication between the taxpayer and preparer about tax return preparation
<p><b>Exception:</b> If internal research, e.g., CC NAMEI, MeF information through EUP, etc., shows that the taxpayer's return and the individual tax return for the preparer named by the taxpayer were filed from the same IP address or other information is present indicating an association, use this information as one piece of evidence showing interaction. Request additional information if needed.</p>

- (6) Additional relevant documentation may include the following:

Additional Supporting Documentation
Copy of bank statement with the refund amount received by direct deposit, if applicable
Copy of taxpayer's bank statement showing the refund was not deposited in the taxpayer's account
Copies of any other documentation to support the complaint

25.24.4.5.2  
(10-07-2020)  
**Refund Trace**

- (1) In addition to the required documentation to support the RPM complaint, a  
Tracing the refund will validate the taxpayer's statement about whether a  
refund was issued or deposited into an account in the taxpayer's name.
- (2) Use the table below to determine if a refund trace is required.

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For RPM...	A refund trace is required...
Categories 1 and 2	<p>When the RPM complaint is denied and the taxpayer's return as intended to be filed is included in the complaint. The refund trace will determine the appropriate processing of the return submitted with the complaint.</p> <p><b>Exception:</b> If the taxpayer states a refund was received that matches the TC 846, then a refund trace is not required because the taxpayer received the entire refund.</p> <p><b>Exception:</b> If the taxpayer states a portion of the refund was received and the remainder of the refund equals the stated preparer fees, then a refund trace is not required.</p> <p><b>Note:</b> If refund trace information is available, then the information must be used when determining the correct relief.</p>
Categories 3 and 4	On all cases

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- (3) Research refund information via CC IMFOLI, TXMOD, TRDBV, and MeF Return Request Display (RRD) through EUP.
- Indicator DD:0 (paper check)
  - Indicator DD:9 (direct deposit)
  - Refund Anticipation Loan (RAL) indicator of "1"
  - Refund Anticipation Check (RAC) indicator of "2"
- (4) Complete Form 4844, Request for Terminal Action, and forward to the Designated Identity Theft Adjustment (DITA) team to request a refund trace. See Exhibit 25.24.4-1, for an example of a completed form. Upon completion of the refund trace, DITA will return the results.
- Note:** Refund trace can take 4-6 weeks to complete. Continue with the investigation while waiting for the refund trace results.
- (5) Depending on the RPM category, the refund trace information will be used in conjunction with other requirements to determine the correct adjustment

amount. Review all available refund trace information for all cases, if applicable, regardless of category for information on the amount of the refund, if any, received by the taxpayer.

- (6) Refund trace information will reflect a negotiated check or completed FMS Form 150.1 or Form 150.2, which provide information as to the individual's name and where the refund was deposited.

**Note:** Be cognizant of split refunds. It is possible that the taxpayer received a portion of the refund or multiple refunds were issued to the preparer. A bank may have returned money to the IRS. Consider any returned monies when determining relief and any additional refund due the taxpayer. Treasury Offset Program offsets must be considered as well because, although it was used to offset other liabilities, the taxpayer received the benefit of the refund.

25.24.4.5.3  
(10-07-2020)

**Preparer Verification**

- (1) Verification of the preparer is required on all complaints alleging RPM. Research the account to determine whether the original return was signed by a preparer or there was a "ghost" preparer.
- If the return was filed electronically, research CC TRDBV and/or access EUP to review MeF original tax return information.
  - If a paper return was filed, the original return may need to be requested from Files to determine if there is a signing or "ghost" preparer scenario.
  - If there is preparer information per CC TRDBV and the name of the preparer matches the name of the preparer on the complaint, then there is no need to request the document from Files. If the name does not match or there is no preparer information, then request the document from Files.
- (2) The two levels of verification required are the following:
- Documentation and/or IDRS research must show the preparer named on Form 14157, Return Preparer Complaint, is in the business of preparing tax returns or held him/herself out as being in the business of preparing tax returns, AND
  - Evidence the person named on the Form 14157, Return Preparer Complaint, interacted with the taxpayer and submitted the return filed with the IRS.
- (3) Verify the identity of the preparer from the following IRS records:
- CC INOLE to verify the TIN or EIN provided
  - CC RPVUE to verify PTIN
  - CC NAMEI or CC NAMEB to locate TIN or EIN
- (4) Use this table for verifying the preparer.



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If...	And...	Then...
Non-signing preparer and no preparer information on tax return, "self-prepared" and documentation is provided showing that the third party held him/herself out to be a return preparer and third party interaction	located for the preparer	Consider not verified.

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#25.24.4.5.4  
(10-07-2020)**Law Enforcement  
Agency Report  
Verification**

- (1) An official report from a law enforcement agency (e.g., police department, State Attorney General (AG), CI, TIGTA) is required in RPM Category 3 and 4 cases for the taxpayer to be eligible for an additional refund.

**Exception:** If the original refund is frozen for the full amount in question, then the law enforcement agency report is not required.

- (2) The official law enforcement agency report must be signed by a law enforcement agency officer or equivalent, depending on the report received (or otherwise demonstrably accepted by the law enforcement agency) and contain the following:
- Tax year(s) involved,
  - Return preparer's first and last name and address, and
  - A statement describing the preparer misconduct and theft of refund.
- (3) If signing preparer information is present, the individual named on the law enforcement agency report must match the name of the preparer named in the complaint and on the original return. If it is a non-signing preparer situation, then the preparer name on the law enforcement agency report must match the preparer named in the complaint.
- (4) If the preparer name does not match, then the taxpayer is not entitled to an additional refund. The taxpayer may still be eligible for an account adjustment and removal of the preparer portion of the refund depending on the refund verification results.

25.24.4.6  
(03-17-2017)**Return Preparer  
Misconduct Categories  
1-4**

- (1) Each RPM category has unique fact patterns, required documentation and treatment.

25.24.4.6.1  
(03-17-2017)**Category 1 -  
Unauthorized Filing**

- (1) Category 1 is defined as a taxpayer who was in contact with a preparer and was filed with his/her name and TIN.

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- (2) The IRS will resolve these cases using RPM procedures and result in the taxpayer receiving a refund.

**Example:** The taxpayer visited or was in contact with a preparer and provided personal information including income documentation for a quote, rapid refund eligibility, etc. and subsequently a return is filed without the taxpayer's knowledge.

Information that may assist with the determination may include:

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**Note:** If the taxpayer provided personal information, including income documentation to a third party for other, non-tax purposes, such as a loan, and subsequently a return is filed without the taxpayer's knowledge, then it is considered identity theft, not RPM.

- (3) Category 1 complaints will result in treating the original return filed as a nullity. The complaint will be treated with procedures similar to those for identity theft. Do not input identity theft indicators for the first year RPM is verified. Any subsequent years in which the preparer filed a return without the taxpayer's knowledge will be considered identity theft and the account will be adjusted to match the taxpayer's return and a subsequent refund may be issued barring no other issues.

**Note:** When it is possible that the taxpayer is not a victim of RPM but a victim of identity theft, use judgment to distinguish between the two. Based on the documentation submitted and research conducted a determination may be made that the taxpayer did have knowledge of the return filing. If this determination is made, follow the treatment stream that fits the appropriate category.

25.24.4.6.1.1  
(10-07-2020)  
**Category 1 Required  
Documentation**

- (1) Category 1 requires specific documentation to qualify for relief. The required documentation is outlined in the table below.

If the posted return reflects a...	
Signing Preparer	<ul style="list-style-type: none"> <li>Tax return as intended to be filed signed by the taxpayer(s)</li> <li>Form 14157 , Return Preparer Complaint -</li> <li>Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit - Signed under penalties of perjury (by at least one taxpayer if married filing joint)</li> </ul>

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If the posted return reflects a...	
Ghost/Non-Signing Preparer	<ul style="list-style-type: none"> <li>• Tax return as intended to be filed signed by the taxpayer(s)</li> <li>• Form 14157, Return Preparer Complaint -</li> <li>• Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit - Signed under penalties of perjury (by at least one taxpayer if married filing joint)</li> <li>• Documentation showing the third party presented him/herself as a preparer</li> <li>• Documentation showing interaction</li> </ul>

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**Note:** A refund trace is not required for Category 1 cases during the initial processing of the complaint; however, if refund trace information is available, use it to help verify the taxpayer's statement regarding whether a refund was received in the taxpayer's name. If a refund was received by the taxpayer, consider the amount received when adjusting the account.

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documents above are included.

(3) In some circumstances all the required documentation is not required.

**Example:** Tax return is not included because the taxpayer states they are not required to file a return and research (CC IRPTR) supports that.

**Example:** Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, is not included; however, other documentation that is included contains the required information and the taxpayer provides a statement or explanation signed under penalties of perjury.

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included on other documentation, then Form 14157, Return Preparer Complaint, is not required.

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above are not included, or are included, but the information provided in the documentation is incomplete.

**Example:** The taxpayer indicates that a refund was received and does not include the amount of the refund received on Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, or other documentation.

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- a. See IRM 25.24.4.8, Incomplete or Missing Documentation, below.
- b. Verify the preparer information, see IRM 25.24.4.5.3, Preparer Verification, above.

Refund Trace) when the claim is disallowed. This is necessary to determine the appropriate handling of the actual return provided with the claim. If a refund trace was previously performed and the result is

or non-receipt of a refund and to determine if any additional refund may be issued.

- d. Verify whether a refund was issued or deposited into an account in the taxpayer's name.

**Example:** Taxpayer states no refund was received and available refund trace information shows that the refund was NOT deposited

**Example:** Taxpayer states that no refund or portion of a refund was received; however, available refund trace shows that the entire refund was deposited into an account in the taxpayer's name. Use the refund amount from the refund trace information to determine the additional refund amount, if any, due to the taxpayer.

- (5) If refund trace information is not available or available refund trace information

- (6) The complaint is accepted once it is complete and all third party documentation, if applicable, is present and the preparer information is verified.
- (7) For an accepted claim, the original return will be considered a nullity and the actual return presented by the taxpayer (unaltered by the preparer) as the taxpayer's return of record.

25.24.4.6.1.2  
(10-07-2020)  
**Category 1 Accepted  
Complaint**

- (1) See the table below for the relief to which the taxpayer is entitled for accepted Category 1 complaints, where the taxpayer states they have received no refund.

And the return as intended to be filed reflects...	And the original refund was...	Then the taxpayer is eligible for...
Refund due	available refund trace information shows NO refund was deposited into an account in the name of the taxpayer	<ul style="list-style-type: none"> <li>Account adjustment to remove the unauthorized return</li> <li>Account adjustment to reflect return as intended to be filed</li> <li>Removal of the preparer portion of the refund</li> <li>Applicable additional refund, plus interest</li> </ul>

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- (2) See the table below for the relief to which the taxpayer is entitled for accepted Category 1 complaints, where the taxpayer states they have either received no refund or portion of a refund.

And the return as intended to be filed reflects...	And the original refund was...	Then the taxpayer is eligible for...
Balance due	refund trace information shows NO refund was deposited into an account in the name of the taxpayer	<ul style="list-style-type: none"> <li>Account adjustment to remove the unauthorized return</li> <li>Account adjustment to reflect return as intended to be filed</li> <li>Removal of the preparer portion of the refund.</li> </ul>
Balance due	trace information shows all or a portion of the refund WAS deposited into an account in the name of the taxpayer	<ul style="list-style-type: none"> <li>Account adjustment to remove the unauthorized return</li> <li>Account adjustment to reflect return as intended to be filed</li> <li>Removal of the preparer portion of the refund</li> </ul> <p>Ask the taxpayer to repay the erroneous portion of the refund using Category D erroneous refund procedures.</p>

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And the return as intended to be filed reflects...	And the original refund was...	Then the taxpayer is eligible for...	
Correct refund is greater than the amount that the taxpayer received	refund trace information shows all or a portion of the refund was deposited into an account in the name of the taxpayer	<ul style="list-style-type: none"> <li>Account adjustment to remove the unauthorized return</li> <li>Account adjustment to reflect return as intended to be filed</li> <li>Removal of the preparer portion of the refund.</li> <li>Remaining balance of refund due per actual return</li> </ul> <p><b>Exception:</b> Partial Disallowance: If available refund trace confirms that the portion of refund received is greater than what the taxpayer states, then only the remaining balance of the refund will be refunded.</p>	#
Correct refund is less than the amount that the taxpayer received	refund trace information shows all or a portion of the refund was deposited into an account in the name of the taxpayer	<ul style="list-style-type: none"> <li>Account adjustment to remove the unauthorized return</li> <li>Account adjustment to reflect return as intended to be filed</li> <li>Removal of the preparer portion of the refund.</li> </ul> <p>Ask the taxpayer to repay the erroneous portion of the refund using Category D erroneous refund procedures.</p>	#

25.24.4.6.2  
(10-07-2020)

**Category 2 - Authorized Filing, Altered Return. Altered Return Information and No Additional Refund Due to the Taxpayer**

- (1) Category 2 complaints involve a taxpayer who was in contact with a preparer and authorized a return be filed, but states tax data, e.g., exemptions, income, expenses, deductions, credits, etc., on the return was altered before the return was filed or the return otherwise includes items that they did not authorize.
- (2) The IRS will administratively adjust the taxpayer's account to reflect the correct information and remove the portion of the refund attributable to preparer misconduct. If the refund trace shows the taxpayer received more than they were entitled to then the taxpayer may be liable for the erroneous refund amount. See IRM 25.24.4.7, Erroneous Refund, below.

**Example:** The copy of the tax return provided by the taxpayer reflects only wages and withholding with a refund of \$2,000. The taxpayer states they

## 25.24 Return Preparer Misconduct Program

received \$2,000. The posted return reflects wages, withholding, and a Schedule C loss with a refund of \$5,000. Internal research supports a

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- (3) Category 2 complaints will result in treating the original return filed as a nullity.

25.24.4.6.2.1  
(10-07-2020)

### Category 2 Required Documentation

- (1) The required documentation for Category 2 is outlined in the table below.

If the posted return reflects a...	
Signing preparer	<ul style="list-style-type: none"> <li>Tax return as intended to be filed signed by the taxpayer(s)</li> <li>Form 14157, Return Preparer Complaint - First and last name of preparer</li> <li>Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit - signed under penalties of perjury (by at least one taxpayer if married filing joint)</li> </ul>
Ghost/Non-signing preparer	<ul style="list-style-type: none"> <li>Tax return as intended to be filed signed by the taxpayer</li> <li>Form 14157, Return Preparer Complaint - First and last name of preparer</li> <li>Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit - signed under penalties of perjury (by at least one taxpayer if married filing joint)</li> <li>Documentation showing the third party presented him/herself as a preparer</li> <li>Documentation showing interaction between the taxpayer and the preparer</li> </ul>

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**Note:** A refund trace is not required during the initial processing of a complaint for Category 2 cases unless the complaint is incomplete. If refund trace information is available, then use it to assist verifying the taxpayer's statement about whether a refund was received in the taxpayer's name.

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above are included.

- (3) In some cases all the required documentation is not required.

**Example:** The tax return is not included because the taxpayer states they are not required to file and IRP research supports that assertion.



**Example:** Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, is not included, but other documentation contains the required information and the taxpayer provides a statement or explanation signed under penalties of perjury.

**Example:** If the preparer's first and last name and address are included on other documentation, then Form 14157, Return Preparer Complaint, is not required.

above are not included or are included but the information provided is incomplete.

- a. See IRM 25.24.4.8, Incomplete/Missing Documentation, below.
- b. Verify the preparer information; see IRM 25.24.4.5.3, Preparer Verification, above.

Refund Trace) when the claim is incomplete or disallowed. This is necessary to determine the appropriate handling of the actual return provided with the claim. If a refund trace was previously performed and the result is available

of a refund and to determine the amount, if any, of an erroneous refund received by the taxpayer.

- c. Verify whether a refund was issued or deposited into an account in the taxpayer's name.

**Example:** Taxpayer states that no refund or portion of a refund was received; however, available refund trace shows that the entire refund was deposited into an account in the taxpayer's name. Use the refund amount from the refund trace information to determine any additional refund amount.

- (5) If trace information is not available or available trace information cannot verify

- (6) The complaint is accepted once it is complete and all third party documentation, if applicable, is present and the preparer information is verified.
- (7) For an allowed claim, the original return will be considered a nullity and the actual return presented by the taxpayer (unaltered by the preparer) as the taxpayer's return of record.

25.24.4.6.2.2  
(10-07-2020)  
**Category 2 Accepted  
Complaint**

- (1) See the table below for the relief to which the taxpayer is entitled for accepted Category 2 complaints.

If the taxpayer states they received...	The return as intended to be filed reflects...	And the original refund was...	Then the taxpayer is eligible for...	#
Refund	Refund amount that matches the amount received		<ul style="list-style-type: none"> <li>Account adjustment to remove the nullified return</li> <li>Account adjustment to reflect return as intended to be filed</li> <li>Removal of the preparer portion of the refund</li> </ul>	#
No refund	Balance due	available refund trace information shows NO refund was deposited into an account in the name of the taxpayer	<ul style="list-style-type: none"> <li>Account adjustment to remove the nullified return</li> <li>Account adjustment to reflect return as intended to be filed</li> <li>Removal of the preparer portion of the refund</li> </ul>	#
No refund	Balance due	refund trace information shows all or a portion of the refund was deposited into an account in the name of the taxpayer	<ul style="list-style-type: none"> <li>Account adjustment to remove the nullified return</li> <li>Account adjustment to reflect return as intended to be filed</li> <li>Removal of the preparer portion of the refund, if applicable</li> </ul> <p>Ask the taxpayer to repay the erroneous portion of the refund using Category D erroneous refund procedures.</p>	#

If the taxpayer states they received...	The return as intended to be filed reflects...	And the original refund was...	Then the taxpayer is eligible for...
Refund amount that exceeds the amount on the return as intended to be filed	Refund/Balance due	<p>states received more than entitled to</p> <p><b>OR</b></p> <p>refund trace information shows all or a portion of the refund WAS deposited into an account in the name of the taxpayer</p> <p><b>OR</b></p> <p>Determination can be made from account information and taxpayer's statement that all or a portion of the refund was received by the taxpayer</p>	<ul style="list-style-type: none"> <li>Account adjustment to remove the nullified return</li> <li>Account adjustment to reflect return as intended to be filed</li> <li>Removal of the preparer portion of the refund, if applicable</li> </ul> <p><b>Note:</b> Ask the taxpayer to repay the erroneous portion of the refund using Category D erroneous refund procedures.</p>

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deducted from the original refund, take that into account when determining the preparer portion of the refund and any additional refund amounts. Do not take it into account when the fee is paid by other methods, e.g., cash or personal check.

25.24.4.6.3  
(10-07-2020)

**Category 3 - Authorized Filing - Altered Return Information and Taxpayer Requesting an Additional Refund**

(1) Category 3 is defined as a taxpayer who was in contact with a preparer and authorized a return filing, but alleges tax data (exemptions, income, expenses, deductions, credits, etc.) on his/her return was altered after they signed it or the return otherwise includes items that they did not authorize and the taxpayer states either they did not receive a refund or received only a portion of the refund expected.

(2) The IRS will administratively adjust the taxpayer's account to reflect the correct information and remove the portion of the refund attributable to preparer misconduct. The taxpayer may receive a refund plus interest for the amount not received.

**Example:** The copy of the tax return provided by the taxpayer reflects only wages and withholding with a refund amount of \$2,000. The taxpayer states they received no refund. The posted return reflects wages and withholding and a Schedule C loss with a refund of \$5,000. Internal research

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- (3) Allowed Category 3 complaints result in the original return filed being treated as a nullity.

25.24.4.6.3.1  
(10-07-2020)

**Category 3 Required  
Documentation**

- (1) Category 3 required documentation is outlined in the table below.

If the posted return reflects a...	documentation is...
Signing preparer	<ul style="list-style-type: none"> <li>• Tax return as intended to be filed signed by the taxpayer(s)</li> <li>• Form 14157, Return Preparer Complaint - First and last name of preparer and address</li> <li>• Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit - Signed under penalties of perjury (by at least one taxpayer for married filing joint)</li> <li>• Law enforcement agency (e.g., police department, AG, CI, TIGTA) report with these required elements:               <ul style="list-style-type: none"> <li>• Signature of an officer or equivalent or otherwise demonstrably shown to be accepted by the law enforcement agency</li> <li>• Tax year(s) involved</li> <li>• Preparer's first and last name</li> <li>• Statement describing the preparer misconduct and theft of refund.</li> </ul> </li> </ul>

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If the posted return reflects a...	documentation is...
Ghost/Non-signing preparer	<ul style="list-style-type: none"> <li>• Tax return as intended to be filed signed by the taxpayer(s)</li> <li>• Form 14157, Return Preparer Complaint - First and last name of preparer and address</li> <li>• Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit - Signed under penalties of perjury (by at least one taxpayer for married filing joint)</li> <li>• Documentation showing third party presented him/herself as a preparer</li> <li>• Documentation showing interaction between taxpayer and preparer</li> <li>• Law enforcement agency (e.g., police department, AG, CI, TIGTA) report with these required elements: <ul style="list-style-type: none"> <li>• Signature of an officer or equivalent or otherwise demonstrably shown to be accepted by the law enforcement agency</li> <li>• Tax year(s) involved</li> <li>• Preparer's first and last name</li> <li>• Statement describing the preparer misconduct and theft of refund.</li> </ul> </li> </ul>

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mentation requirement complete.

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(3) In some cases all the required documentation is not required.

**Example:** Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, is not included; however, other documentation included contains the required information and the taxpayer provides a statement or explanation signed under penalties of perjury.

**Example:** If the preparer's first and last name and address are included on other documentation, then Form 14157, Return Preparer Complaint, is not required.

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above are not included or are included but the information provided is incomplete.

**Example:** The taxpayer indicates that a refund was received but does not include the amount of the refund received on Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, or other documentation.

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## 25.24 Return Preparer Misconduct Program

- a. See IRM 25.24.4.8, Incomplete or Missing Documentation, below.
- b. Verify the preparer information; see IRM 25.24.4.5.3, Preparer Verification, above.

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Trace) is required. Use it to verify whether a refund was issued in the taxpayer's name and to determine the amount, if any, of an additional refund that may be issued.

- d. Verify whether a refund was issued or deposited into an account in the taxpayer's name.

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trace information is available, request a refund trace.

- Use the refund trace information to verify the taxpayer's statement about whether a refund was issued or deposited into an account in the taxpayer's name.

**Example:** The taxpayer states no refund was received and available refund trace information shows that the refund was NOT

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**Example:** The taxpayer states that no refund or portion of refund was received; however, available refund trace information shows that the entire refund was deposited into an account in the tax-

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the refund trace information to determine the refund amount, if applicable.

- (5) If refund trace information is not available or the trace information cannot verify

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**Example:** The taxpayer states a portion of the refund was received and available refund trace information shows that the refund was NOT deposited into an account in the taxpayer's name. The portion that the taxpayer

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- (6) If the complaint is complete with all required documentation, including third party documentation, if applicable, is present and the preparer information is verified, then accept the complaint.
- (7) The IRS will determine the type of relief that the taxpayer is entitled to, and for an accepted claim, will consider the original return a nullity and the actual return presented by the taxpayer (unaltered by the preparer) as the taxpayer's return of record.

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deducted from the original refund, take that into account when determining the preparer portion of the refund and any additional refund amount. The fee amount must be considered when determining any additional refund amounts. Do not consider fees paid by other payment methods, e.g., cash or personal check.

- (8) Category 3 involves both an RPM complaint and a claim for refund. If the complaint is disallowed, the claim for refund must be disallowed using claim disallowance procedures.

25.24.4.6.3.2  
(10-07-2020)

**Category 3 Accepted Complaint**

- (1) See the table below for the taxpayer relief in accepted Category 3 complaints, where the taxpayer states they received no refund.

And the original refund was...	And the individual named on the law enforcement agency report...	Then the taxpayer is eligible for...	
trace information shows the refund was NOT deposited into an account in the name of the taxpayer	Signing preparer: Matches the name on the complaint and on the processed tax return. Non-signing preparer: Matches the name on the complaint	<ul style="list-style-type: none"> <li>Account adjustment to remove the nullified return</li> <li>Account adjustment to reflect return as intended to be filed</li> <li>Removal of preparer portion of the refund</li> <li>Applicable additional refund</li> </ul>	#
trace information shows the refund was NOT deposited into an account in the name of the taxpayer	Signing preparer: Does not match name on complaint and processed tax return Non-signing preparer: Does not match name on complaint Or No law enforcement agency report is submitted with the complaint	Partial disallowance <ul style="list-style-type: none"> <li>Account adjustment to remove the nullified return</li> <li>Account adjustment to reflect return as intended to be filed</li> <li>Removal of the preparer portion of the refund</li> <li>NO additional refund because law enforcement agency report requirement not met</li> </ul>	#

**Note:** In order for the taxpayer to be eligible for an additional refund, the individual preparer name on the law enforcement agency (e.g., police department, AG, CI, TIGTA) report must match the name on the complaint and the documentation submitted to verify the preparer was in the business of preparing returns. For a signing preparer, the name must also match the name on the processed return.

- (2) See the table below for the taxpayer relief in accepted Category 3 complaints, where the taxpayer states they have received either no refund or a portion of a refund.

And the original refund was...	And the individual named on the law enforcement agency report...	Then the taxpayer is eligible for...
the refund was deposited into the account of the taxpayer AND the refund is equal to the refund on the actual return	Matches/Does Not Match regardless of whether it is a signing preparer or non-signing preparer	Partial disallowance <ul style="list-style-type: none"> <li>• Account adjustment to remove the nullified return</li> <li>• Account adjustment to reflect return as intended to be filed</li> <li>• NO additional refund is due because our records show the taxpayer previously received the applicable refund</li> </ul> <b>Note:</b> If the law enforcement agency report information does not match the information on Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, include that in the claim disallowance letter.
the refund was deposited into the account of the taxpayer AND the refund is less than what the taxpayer is entitled to on the actual return	Signing preparer: Matches name on complaint and processed tax return. Non-signing preparer: Matches name on complaint	<ul style="list-style-type: none"> <li>• Account adjustment to remove the nullified return</li> <li>• Account adjustment to reflect return as intended to be filed</li> <li>• Removal of the preparer portion of the refund</li> <li>• Applicable additional refund</li> </ul> Exception: Partial Disallowance: <ul style="list-style-type: none"> <li>• If the refund amount the taxpayer states they did not receive matches the fee paid to the preparer then no additional refund or</li> <li>• If the refund trace confirms that the portion received is greater than what the taxpayer states, then issue only the remaining balance of refund.</li> </ul>

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And the original refund was...	And the individual named on the law enforcement agency report...	Then the taxpayer is eligible for...	
the refund was deposited into the account of the taxpayer AND the refund is less than what the taxpayer is entitled to on the actual return	Signing preparer: Does not match name on complaint and processed tax return. Non-signing preparer: Does not match name on complaint Or No law enforcement report is submitted with the complaint	Partial Disallowance <ul style="list-style-type: none"> <li>• Account adjustment to remove the nullified return</li> <li>• Account adjustment to reflect return as intended to be filed</li> <li>• Removal of the preparer portion of the refund</li> <li>• NO additional refund because law enforcement agency report requirement not met.</li> </ul>	#
the refund was deposited into taxpayer's account AND The refund is greater than what taxpayer is entitled to on actual return	Matches/Does Not Match regardless of whether it is a signing preparer or non-signing preparer	Partial Disallowance <ul style="list-style-type: none"> <li>• Account adjustment to remove the nullified return</li> <li>• Account adjustment to reflect return as intended to be filed</li> <li>• Removal of the preparer portion of the refund</li> </ul> Ask the taxpayer to repay the erroneous portion of the refund using Category D erroneous refund procedures. <b>Note:</b> If the taxpayer claims no refund was received, but the refund trace shows a portion was issued in the taxpayer's name, then issue a partial claim disallowance.	#

**Note:** In order for the taxpayer to be eligible for an additional refund, the individual preparer name on the law enforcement agency (e.g., police department, AG, CI, TIGTA) report must match the name on the complaint and the documentation submitted to verify the preparer was in the business of preparing returns. For a signing preparer, the name must also match the name on the processed return.

25.24.4.6.4  
(03-17-2017)

**Category 4 - Misdirected Refund Only and Taxpayer Requesting Additional Refund**

- (1) Category 4 is defined as a taxpayer who was in contact with a preparer and authorized a return be filed, but states only the direct deposit information or address was altered, diverting the refund to the preparer and no refund or only a portion of the refund was received.
- (2) The IRS may administratively remove the portion of the refund attributable to preparer misconduct and the taxpayer may receive a refund if the required documentation is provided.

- (3) Category 4 complaints will not result in treating the original tax return as a nullity.

25.24.4.6.4.1  
(10-07-2020)

**Category 4 Required  
Documentation**

- (1) Category 4 complaints require specific documentation to qualify for relief as outlined in the table below.

If the posted return reflects a...	documentation is:
Signing preparer	<ul style="list-style-type: none"> <li>• Tax return as intended to be filed signed by the taxpayer(s) (should match the posted return with the exception of the refund information)</li> <li>• Form 14157, Return Preparer Complaint - First and last name and address of preparer</li> <li>• Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit - Signed under penalties of perjury (by at least one taxpayer for married filing joint)</li> <li>• Law enforcement agency (e.g., police department, AG, CI, TIGTA) report with these required elements: <ul style="list-style-type: none"> <li>• Signature of an officer or equivalent or otherwise demonstrably shown to be accepted by the law enforcement agency</li> <li>• Tax year(s) involved</li> <li>• Preparer's first and last name</li> <li>• Statement describing preparer misconduct and theft of refund</li> </ul> </li> </ul>

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If the posted return reflects a...	documentation is:
Ghost/Non-signing preparer	<ul style="list-style-type: none"> <li>• Tax return as intended to be filed signed by the taxpayer(s) (should match the posted return with the exception of the refund information)</li> <li>• Form 14157, Return Preparer Complaint - First and last name and address of preparer</li> <li>• Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit - Signed under penalties of perjury (by at least one taxpayer for married filing joint)</li> <li>• Documentation showing third party presented him/herself as preparer</li> <li>• Documentation showing interaction between taxpayer and preparer</li> <li>• Law enforcement agency (e.g., police department, AG, CI, TIGTA) report with these required elements: <ul style="list-style-type: none"> <li>• Signature of an officer or equivalent or otherwise demonstrably shown to be accepted by the law enforcement agency</li> <li>• Tax year(s) involved</li> <li>• Preparer's first and last name</li> <li>• Statement describing preparer misconduct and theft of refund</li> </ul> </li> </ul>

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**Note:** In Category 4 cases where the original refund is frozen for the full amount in question, the law enforcement agency report is not required.

**Note:** A refund trace is required for all Category 4 cases. Use it to assist with verifying the taxpayer's statement about receipt of no or only a portion of the refund.

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above are included.

(3) In some circumstances all the required documentation is not required.

## 25.24 Return Preparer Misconduct Program

**Example:** Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, is not included; however, other documentation included contains the required information and the taxpayer provides a statement or explanation signed under penalties of perjury.

**Example:** If the preparer's first and last name and address are included on other documentation, then Form 14157, Return Preparer Complaint, is not required.

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not included or are included, but the information provided within the documentation is incomplete.

**Example:** The taxpayer indicates that a refund was received and does not include the amount of the refund received on Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, or other documentation.

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preparer, it must be taken into account when determining refund eligibility.

- a. See IRM 25.24.4.8, Incomplete or Missing Documentation, below.
- b. Verify the preparer information, see IRM 25.24.4.5.3, Preparer Verification, above.

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Trace) is required. Use it to verify whether a refund was issued in the taxpayer's name and determine the amount, if any, of an additional refund.

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refund trace information is available, then initiate a refund trace. A refund trace is required to verify whether a refund was issued in the taxpayer's name.

**Example:** The taxpayer states no refund was received and refund trace information shows that the refund was NOT deposited into an account in the taxpayer's

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**Example:** The taxpayer states that no refund or portion of refund was received; however, the refund trace shows that the entire refund was deposited

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- (5) If refund trace information cannot verify the receipt or non-receipt of the refund,

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**Example:** The taxpayer states a portion of the refund was received and available refund trace information shows that the refund was NOT deposited into an account in the taxpayer's name. The portion that the taxpayer

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- (6) If the complaint is considered complete and all required documentation, including third party documentation, if applicable, is present and the preparer information is considered verified, then the complaint is accepted.

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deducted from the original refund, take that into account when determining the preparer portion of the refund and any additional refund amount. Do not take into account fees paid by other methods, e.g., cash, personal check.

- (7) For Category 4 accepted complaints the original return is considered valid and is not considered a nullity.

25.24.4.6.4.2  
(10-07-2020)

**Category 4 Accepted  
Complaint**

- (1) See the table below for the relief to which the taxpayer is entitled for accepted Category 4 complaints, where the taxpayer states they received either no refund or a portion of a refund.

And the original refund was...	And the individual named on the law enforcement agency report...	Then the taxpayer is eligible for:
trace information shows the refund was NOT deposited into an account in the name of the taxpayer	Signing preparer: Matches name on complaint and processed tax return Non-signing preparer: Matches the name on the complaint	<ul style="list-style-type: none"> <li>Removal of the preparer portion of the refund</li> <li>Applicable additional refund</li> </ul>
trace information shows the refund was NOT deposited into an account in the name of the taxpayer	Signing preparer: Does not match name on complaint and processed tax return Non-signing preparer: Does not match name on complaint or no law enforcement agency report submitted with the complaint	See IRM 25.24.4.9, Claim Disallowance
was deposited into account of the taxpayer	Match/Does Not Match regardless of whether it is a signing preparer or non-signing preparer	See IRM 25.24.4.9, Claim Disallowance

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And the original refund was...	And the individual named on the law enforcement agency report...	Then the taxpayer is eligible for:
the refund was deposited into an account of the taxpayer	Signing preparer: Matches name on complaint and processed tax return Non-signing preparer: Matches name on complaint	<ul style="list-style-type: none"> <li>Removal of the preparer portion of the refund</li> <li>Applicable additional refund</li> </ul> <b>Exception:</b> Partial Disallowance: <ul style="list-style-type: none"> <li>If the refund amount the taxpayer states they did not receive matches the fee paid to the preparer then no additional refund will be issued, or</li> <li>If the refund trace confirms that the portion received is greater than what the taxpayer states, then issue only the remaining balance of the refund</li> </ul>
the refund was deposited into an account of the taxpayer	Signing preparer: Does not match name on complaint and processed tax return Non-signing preparer: Does not match name on complaint	See IRM 25.24.4.9, Claim Disallowance

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25.24.4.7  
(10-07-2020)  
**Erroneous Refund**

- (1) If the taxpayer received a refund for an amount to which they are not entitled and does not repay it, erroneous refund procedures are followed to recoup the refund.
- (2) The erroneous refund will fall into Category D only. A Category D erroneous refund is subject to the right of offset. Address Category D erroneous refunds on the Form 3870 , Request for Adjustment, sent to DITA to correct the account. See IRM 21.4.5, Refund Inquiries, Erroneous Refund, for more information on erroneous refunds.

25.24.4.8  
(10-07-2020)  
**Incomplete or Missing Documentation**

- (1) In reviewing the documentation submitted, there may be missing or incomplete required documentation as stipulated for each RPM category or additional information is needed,
  - a. If the taxpayer's return as intended to be filed is unsigned, have the taxpayer sign the return and process it per IRM 5.1.11.6, Secured Returns.
  - b. If the taxpayer does not provide sufficient information to support the complaint (e.g., a law enforcement agency report for Category 4 is missing) then use Form 9297, Summary of Taxpayer Contact, to request the specific additional information needed and establish a deadline. Warn the taxpayer if the additional information is not provided, the claim will be denied and collection action will proceed.

- (2) If the Taxpayer Advocate Service (TAS) is involved and an Operations Assistance Request is received and there is documentation missing, return the case back to TAS requesting the taxpayer be contacted for the required information.
- (3) If a Taxpayer Assistance Order (TAO) is received and documentation is missing, contact TAS to request the missing information.
- (4) For all categories, if the case is incomplete, initiate a refund trace (IRM 25.24.4.5.2, Refund Trace) if one was not already performed.
- (5) If the ASED is imminent (90 days) and the taxpayer's actual return is included with the complaint, but there are other missing elements, ensure the ASED is protected.
- (6) If the taxpayer's actual return shows a tax increase or credit decrease see the table below.

If the original refund is...	And...	Then...	
determined that only a portion or no refund was deposited into an account in the taxpayer's name		There is no statute implication	# #
determined that only a portion or no refund was deposited into an account in the taxpayer's name		Process the return	# #
mined that the entire refund was deposited into an account in the taxpayer's name OR refund receipt or non-receipt cannot be determined	ASED is more than 60 days	<ul style="list-style-type: none"> <li>Request the specific additional information needed and establish a deadline</li> <li>Take no action on the actual return while waiting for the taxpayer to respond</li> </ul> <p><b>Note:</b> If the claim is ultimately disallowed, quick assess the return. See IRM 5.1.4.4, Quick Assessment</p>	#
mined that the entire refund was deposited into an account in the taxpayer's name OR refund receipt or non-receipt cannot be determined	ASED is less than 60 days	Quick assess the return, see IRM 5.1.4.4, Quick Assessment	#

25.24.4.8.1  
(10-07-2020)

**Taxpayer Response to Missing Documentation Request**

- (1) When the taxpayer responds to a request for missing information, reevaluate the complaint and determine if the additional information is sufficient to provide relief.
- (2) Follow the If/And/Then table below as appropriate.

If...	And...	Then...
The taxpayer responds to a request for missing information	Does not provide all the requested required information <b>Exception:</b> For a Category 3 case with a law enforcement report the only missing document, follow partial disallowance procedures.	Disallow the RPM complaint based upon the RPM category and missing information
The taxpayer responds to a request for missing information	Provides all the requested required information	Determine if relief should be given
The taxpayer does not respond	<b>Intentionally left blank</b>	Disallow the RPM complaint based upon the RPM category and missing information

25.24.4.9  
(10-07-2020)

**Claim Disallowance**

- (1) If the claim is to be disallowed in full or part and the taxpayer requests to have their case reviewed by a supervisor, give the taxpayer your group manager's name, address and telephone number.
- (2) For RPM claims for refund, Category 1, 3, and 4, advise the taxpayer they have the right to appeal the full or partial disallowance. The appeal process is the right to file suit with the U.S. District Court that has jurisdiction or the U.S. Court of Federal Claims, and is included in the Claim Disallowance letter issued by DITA.

25.24.4.9.1  
(10-07-2020)

**Full Disallowance**

- (1) Disallow complaints in full in any category if:
  - a. The taxpayer does not adequately respond to the request for specific additional information.  
**Exception:** Category 2 is not a claim for refund.  
  
**Exception:** If the only missing element of a Category 3 complaint is a law enforcement agency (e.g., police department, AG, CI, TIGTA) report, then see IRM 25.24.4.9.2, Partial Disallowance, below.
  - b. The preparer and/or the documentation cannot be verified.
- (2) If the taxpayer's actual return is included in the documentation and the complaint is disallowed, a refund trace is required.

**Exception:** If the amount of refund the taxpayer states they received matches the TC 846 amount, then no refund trace is required.



- (3) If the RPM claim is disallowed and taxpayer's actual return is present, see the table below when disallowing the complaint:

If the refund trace shows...	And...	Then...
The entire refund was deposited into an account in the taxpayer's name	<b>Intentionally left blank</b>	<ul style="list-style-type: none"> <li>• Prepare Form 3870, Request for Adjustment</li> <li>• Attach any documentation</li> <li>• Request TC 290 for zero</li> <li>• Request DITA issue Letter 105C, Claim Disallowance Letter, paragraph "d"</li> <li>• Process the taxpayer's actual return as an amended return</li> </ul>
Only a portion or no refund was deposited into an account in the taxpayer's name		<ul style="list-style-type: none"> <li>• Disallow claim</li> <li>• Do not process actual return</li> </ul>
Only a portion or no refund was deposited into an account in the taxpayer's name		Refer the taxpayer to Examination on Form 3449, Referral Report, see IRM 5.1.11.6.3.1, Audit Referral Preparation and Processing.

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**Exception:** For Category 2 disallowed claims, request DITA issue Letter 916C, No Consideration.

25.24.4.9.2  
(10-07-2020)  
**Partial Disallowance**

- (1) Partial disallowance procedures can apply in RPM Categories 1, 3, and 4 and may apply if there are Refund Statute Expiration Date implications.
- (2) Depending on the facts and circumstances including the refund trace results, the taxpayer may have received more than they stated in the RPM complaint and the complaint is partially disallowed.
- a. If the taxpayer received more of a refund than they stated in the RPM complaint, it would impact the amount of the additional refund issued.

**Example:** For a Category 3 complaint the taxpayer states they received a portion of the refund in the amount of \$500. The actual return shows a refund of \$1,500. The complaint is reviewed and considered complete. The refund trace shows the taxpayer received a refund but in the amount of \$1,000. Per IRM 25.24.4.6.3.2, Category 3 Accepted Complaint, the taxpayer is eligible for account adjustment, removal of the preparer portion of the refund and the remaining balance of the refund. Because the refund amount of \$500 is less than the \$1,000 the taxpayer expects, this is considered a partial disallowance.

- b. If the law enforcement agency report contains materially inconsistent information, but the complaint was otherwise complete, then the taxpayer is eligible for an account adjustment, but not for a refund.

- (3) Prepare Form 3870, Request for Adjustment, to request DITA adjust the account and issue a Letter 106C, Claim Disallowance, paragraph "Q".

25.24.4.10  
(10-07-2020)

**Referrals to the Return  
Preparer Office**

- (1) Notify the Return Preparer Office (RPO) of all RPM complaints.
- (2) Forward copies of Form 14157, Return Preparer Complaint, and Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit, and all applicable documentation to:  
Return Preparer Office  
401 W. Peachtree Street NW  
Mail Stop 421-D  
Atlanta, GA 30308

25.24.4.11  
(10-07-2020)

**Return Preparer  
Misconduct Confirmed**

- (1) If return preparer misconduct has occurred, take the following actions:
  - a. If a Notice of Federal Tax Lien has been filed and the entire balance due covered by the NFTL is due to return preparer misconduct or fraud, request a certificate of release under IRC § 6326 erroneous NFTL provisions pursuant to IRM 5.12.3.9, Erroneously Filed Notice of Federal Tax Lien. These releases contain a statement that the filing was erroneous and are requested through Field Collection Civil Enforcement Advice & Support Operations (CEASO). CEASO also issues the Letter 544, Letter of Apology - Erroneous Filing of Notice of Federal Tax Lien. At the taxpayer's written request, a copy of the release and letter of apology may be furnished to creditors or credit bureaus. Instruct the taxpayer to provide names, mailing addresses, and permission to disclose the information.
  - b. Release levies on the affected tax modules.
  - c. Complete Form 3870, Request for Adjustment, with specific instructions on actions needed to correct the taxpayer's account. Do not attach IDRS prints to Form 3870.

25.24.4.11.1  
(10-07-2020)

**Form 3870 Preparation  
and Routing**

- (1) Prepare Form 3870, Request for Adjustment, to correct the account. The Form 3870 instructions must include the following:
  - a. "Return Preparer Misconduct" on Form 3870, Request for Adjustment, as the reason for adjustment
  - b. The category number that fits the individual taxpayer scenario, i.e., Category 1, 2, 3, or 4
  - c. Whether the taxpayer received the correct refund, no refund, or an amount greater than expected
  - d. Name and address of the preparer
  - e. Amount of refund to be issued, if applicable
  - f. Applicable penalty and interest assertion
  - g. Erroneous Refund category D, if applicable
  - h. The received date of the signed return as intended to be filed to ensure the correct received date is used for interest and statute of limitations calculations.
- (2) Attach to Form 3870:
  - a. Copy of the taxpayer's original return or TRDBV print
  - b. Copy of the signed return intended to be filed annotated "TP Intended Return"

**Exception:** Note on the Form 3870, Request for Adjustment, if the taxpayer does not have a filing requirement.

- c. Copy of Form 14157, Return Preparer Complaint, and/or copy of Form 14157-A, Tax Return Preparer Fraud or Misconduct Affidavit.
- d. Taxpayer documentation supporting the RPM claim
- e. If a Claim Disallowance Letter (105C, Claim Disallowance Letter, or 106C, Partial Claim Disallowance Letter) is required:

Include ...
Whether the claim is denied in part or in full
The appropriate paragraph(s) (see appropriate letter in Correspondex for the available paragraph(s)), including a paragraph explaining why the claim was disallowed
Your contact information (name and telephone number)

- (3) Forward Form 3870, Request for Adjustment, to the appropriate function based on the type of assessment:

- a. For adjustments other than those involving Examination or AUR assessments, forward Form 3870, Request for Adjustment, by mail, fax or electronic submission to the SB/SE Designated Identity Theft Adjustment Group (DITA) at the Philadelphia Campus:  
Internal Revenue Service  
DITA Mail Stop 4-G20.500  
2970 Market St.  
Philadelphia, PA 19104  
E-Fax # 1-855-786-6575  
The outlook mailbox for electronic submission is *\*SBSE CCS DITA*

**Note:** Form 3870, Request for Adjustment, must be mailed if an original return is attached.

- b. To adjust an assessment made by Examination or Automated Underreporter (AUR) assessment, follow reconsideration procedures at IRM 5.1.15.4, Audit, Automated Underreporter (IMF/BMF AUR), Substitute For Return (SFR) and Automated Substitute For Return (ASFR) Reconsideration.
- c. For audit reconsideration, forward Form 3870, Request for Adjustment, per IRM Exhibit 4.13.7-3, Routing of Area Office Reconsideration Requests (as of 10/01/2013) and IRM Exhibit 4.13.7-4, Central Reconsideration Unit (CRU) Addresses. This includes a return filed under the taxpayer's social security number by the return preparer and a subsequent assessment by Examination.
- d. For AUR reconsideration, forward Form 3870, Request for Adjustment, per IRM Exhibit 4.13.7-6, Addresses for AUR Reconsideration Requests. This includes a return filed under the taxpayer's social security number by the return preparer and a subsequent AUR assessment.

25.24.4.12  
(10-07-2020)  
**Criminal Investigation  
Involvement**

- (1) If the taxpayer indicates Criminal Investigation (CI) involvement, e.g., the taxpayer states that a CI agent called or interviewed them or a special agent's card is included in the taxpayer's documentation, then contact CI to determine:

- a. If the preparer is under investigation for the preparation of tax returns.
- b. If there is evidence that the taxpayer's return was prepared by the named preparer.

(2) Continue working the RPM complaint, unless CI explicitly requests otherwise.

25.24.4.13  
(10-07-2020)

#### Statute of Limitations

- (1) If the assessment statute expiration date (ASED) or refund statute expiration date (RSED) is imminent or expired, the complaint must still be evaluated.
- (2) When a Category 1-3 claim is allowed, the original return will be treated as a nullity and the taxpayer's signed return as intended to be filed received with the complaint will be considered the return of record. For Category 4 cases, the original return is considered valid and the taxpayer's return of record.
- (3) For Category D erroneous refunds, consider the Erroneous Refund Statute Expiration Date (ERSED). See IRM 21.4.5.14.1.1, Statue of Limitations Category D Erroneous Refunds IRC 6532(b) ERSED.

25.24.4.13.1  
(10-07-2020)

#### Assessment Statute Expiration Date

- (1) In RPM cases the filing of an altered return by a preparer may not meet the definition of a valid return. When a complaint is accepted, the posted return is considered a nullity. The statute of limitations does not start until a signed return is received from the taxpayer regardless of whether the taxpayer authorized the filing or the initial return. The return filed in a Category 4 case is not considered a nullity and the ASED stands.
- (2) If a complaint is received after the ASED, evaluate the complaint to determine if the posted return is a valid return.
- (3) For returns submitted with accepted Category 1-3 complaints, request on Form 3870, Request for Adjustment, that DITA update the ASED based on the received date of the signed, intended to be filed return.
- (4) If an unsigned return is submitted with the complaint and a signed return is not secured, disallow the claim and do not update the ASED.

25.24.4.13.2  
(10-07-2020)

#### Refund Statute Expiration Date

- (1) The RSED is generally the later of three years from the date the return is filed or two years from the date the tax was paid.
- (2) Generally prepaid credits must be claimed within three years of the due date of the return including extensions to file. If a return is received more than three years from the return due date with extensions, a refund of prepaid credits will not be made.
- (3) If the RSED is expired, credits will be moved to excess collection and a claim disallowance letter issued.

**Note:** The requirement that an RPM complaint must be complete before it is accepted has no bearing on whether or not a claim for refund is timely for RSED purposes. Claims for refund (including informal claims) received prior to the RSED will be considered timely regardless of whether or not the RPM complaint is complete. Claims for refund in RPM cases received prior to the RSED will be considered timely whether or not the complaint is complete. See IRM 25.6.1.10.2.6.3, Informal Claims.

25.24.4.13.3  
(03-17-2017)

**Erroneous Refund  
Statute Expiration Date**

- (1) The RPM ERSED is two years from the date of the erroneous refund or direct deposit.

25.24.4.14  
(10-07-2020)

**Penalties and Interest**

- (1) Penalties and interest may apply when the taxpayer's actual return reflects a tax liability and the tax return is late or the tax is not paid on or before the due date of the return.
- (2) For accepted Category 1-3 complaints, the original return is considered a nullity and failure to file penalty may apply.
- (3) If the taxpayer's actual return reflects tax due and it is received with the RPM complaint after the due date of the return, failure to file (FTF) penalty may apply.
- (4) Compute the failure to file penalty manually and include it on the Form 3870, Request for Adjustment.
- (5) Failure to file and failure to pay penalties may not apply if the non-filing was due to reasonable cause and not willful neglect. Refer to IRM 20.1.2, Introduction to Penalty Relief. See table below.

If...	And...	Then...
The taxpayer did not authorize the filing of the original return	Research indicates the taxpayer made efforts to file a return (electronic filing indicator or TC 97X on account)	Failure to file penalty may not apply due to reasonable cause.
The taxpayer authorized the filing of the original return	Per research and documentation submitted, the taxpayer received the expected refund amount and was unaware of issues with the original return	Failure to file penalty may not apply due to reasonable cause.

**Example:** Taxpayer X heard from a friend that Preparer Y was able to obtain huge tax refunds for truck drivers based on their diesel fuel purchases. Taxpayer X sought out the services of Preparer Y for tax year 2013. Taxpayer X believed he would be getting a refund of \$4,000 based on the return Preparer Y prepared. Unbeknownst to Taxpayer X, after Taxpayer X signed the return, Preparer Y altered the return to claim an additional \$1,000 refund and had the entire \$5,000 deposited into an account under Preparer Y's control. In reality, Taxpayer should have owed \$200 on his return. Although Taxpayer thought the return he intended to file had been filed, the preparer altered that return without Taxpayer's knowledge. Therefore, the submitted return was a nullity. Consequently, Taxpayer never filed a return. However, Taxpayer will

## 25.24 Return Preparer Misconduct Program

likely have reasonable cause for failing to file his return under these facts, and, if so, would avoid the imposition of the FTF penalty.

- (6) Consider the failure to pay (FTP) penalty when,
  - a. The taxpayer's actual return reflects and tax liability owed, and
  - b. The tax has not been paid by the due date of the original return
- (7) Interest will generate systemically.
- (8) If accuracy-related penalties were assessed based upon items inflated by a preparer and the items are removed from the account, abate the associated penalties.
- (9) If a taxpayer is unable to demonstrate reasonable cause and avoid FTP or FTP penalties, consider relief from the penalties using First-Time Abatement procedures. See IRM 20.1.1.3.6.1, First Time Abate (FTA).

### 25.24.4.15 (03-17-2017) **Preparer, Promoter, Appraiser, Material Advisor, and Aiding and Abetting Penalties**

- (1) These civil penalties are assessed by the Examination function and are intended to increase voluntary compliance. Collection of the assessed penalties is essential to preserving their compliance impact. It is important to be able to identify these assessments.

### 25.24.4.15.1 (03-17-2017) **Penalty Identification**

- (1) Identify these civil penalties during the initial analysis by reviewing IDRS TXMODA, BMFOLT, and IMFOLT for the penalty reference numbers and for the respective Master File Tax codes associated with each penalty.
- (2) These civil penalty modules are identified by MFT 13 for Business Master File (BMF) or MFT 55 for Individual Master File (IMF), with the following penalty reference numbers:
  - 606 or 581 - IRC 6695A
  - 624 or 714 - IRC 6695(a)
  - 624 or 715 - IRC 6695(b)
  - 624 or 716 - IRC 6695(c)
  - 624 or 717 - IRC 6695(d)
  - 624 or 718 - IRC 6695(e)
  - 626 - IRC 6695(f)
  - 627 - IRC 6695(g)
  - 628 - IRC 6700
  - 631 - IRC 6701
  - 633 - IRC 6713
  - 634 - IRC 6707
  - 636 - IRC 6708
  - 645 - IRC 6694(a)
  - 648 - IRC 6707A
  - 650 - IRC 6694(b)

### 25.24.4.15.2 (10-07-2020) **Return Preparer Contacts**

- (1) Return Preparer Coordinators (RPC) can be a valuable resource. RPC are responsible for most return preparer penalties. You may contact the RPC to:

- a. Determine if a Return Preparer Penalty case file is available.
- b. Perform additional research on preparers and their activity using the Return Preparer Database, IDRS Command Code RPVUE, PTIN Database, Electronic Services Authorization Management (ESAM) Database for Electronic Filing Identification Numbers (EFIN), etc.
- c. Obtain a client list. This list may help provide leads for the collection investigation and can be used to corroborate a return preparer's claim that they have ceased doing business as a return preparer.

**Example:** By contacting the former clients of a return preparer who claims they have ceased doing business, the revenue officer may find out that the return preparer is still preparing returns, but has changed the name of the business and is not signing the returns and/or is having others sign as the preparer (e.g., spouse, employee, etc.). Former clients may also prove valuable for obtaining asset information and levy sources.

- (2) To locate the RPC for your area use the following link <http://mysbse.web.irs.gov/examination/tip/rp/contacts/12293.aspx>

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## Exhibit 25.24.4-1 (03-17-2017)

## Form 4844 Example for Refund Trace Request

<b>Request for Terminal Action</b>		EIN or SSN 000-00-0000	Name control XXXX	MFT code 30	Periods 20XX12	
		Plan No/Report No (MFT 74, 76 & 46)				
		Name of taxpayer XXXX XXXXX		Address of taxpayer (if necessary) 123 Main St. Anytown, St. 00000		
Taxpayer Account Changes	Transaction code	Amount (if applicable)	<b>Control Base Data Request</b>		Remarks	
<b>Type of Research Requested</b>			<input type="checkbox"/> ACTON Activity code: _____ Status code: _____ A - Assigned M - Monitor/Other B - Background S - Suspense C - Closed Category code: _____ Employee no.: _____ <input type="checkbox"/> TC 148 Entity indicator: _____		RPM case, Refund Trace needed	
<input type="checkbox"/> Assessed balance \$ _____ <input type="checkbox"/> Accruals to (Date: mmddyyyy) _____ Interest ..... \$ _____ Penalty ..... \$ _____ Total due ..... \$ _____						
<input type="checkbox"/> Module printout <input type="checkbox"/> Transactions after (Date: mmddyyyy) <input type="checkbox"/> Complete printout <input type="checkbox"/> Other (Specify) _____			Identity Theft Action Code      Miscellaneous Field Input      Secondary Date Field Employee IDRS number      Name of requester      Badge number AOTO-XXXX      R. O.Wiley      xx-xxxxx Telephone no. ( 999 ) 555-3177			
<input type="checkbox"/> Return DLN _____ <input type="checkbox"/> DLN not available <input type="checkbox"/> Photocopy <input type="checkbox"/> Original <input type="checkbox"/> Form W-2 <input type="checkbox"/> Other (Specify) _____			Signature of requester      Date (mmddyyyy) Request Approved      Signature of supervisor (if necessary)      Date (mmddyyyy) <input type="checkbox"/> Yes Request done      Name of Terminal Operator      Badge number <input type="checkbox"/> Yes      Telephone no. (      ) <input type="checkbox"/> No Signature of Terminal Operator      Date (mmddyyyy)			

Form 4844 (Rev. 11-2011)

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