



Part 5. Collecting Process

Chapter 16. Currently Not Collectible

Section 1. Currently Not Collectible

5.16.1 Currently Not Collectible

- 5.16.1.1 [Currently Not Collectible Overview](#)
- 5.16.1.2 [Currently Not Collectible Procedures](#)
- 5.16.1.3 [Special Conditions](#)
- 5.16.1.4 [Requesting Currently Not Collectible Input for Assessed and Pre-assessed Tax Periods](#)
- 5.16.1.5 [Managerial Approval](#)
- 5.16.1.6 [Mandatory Follow-Up](#)
- 5.16.1.7 [Quality Review of Currently Not Collectible Accounts](#)
- Exhibit 5.16.1-1 [Form 53 Report of Currently Not Collectible Taxes — Part 1 \(Front\)](#)
- Exhibit 5.16.1-2 [Report of Currently Not Collectible Taxes — Part 1 \(Reverse\)](#)
- Exhibit 5.16.1-3 [=====](#)
- Exhibit 5.16.1-4 [=====](#)

Manual Transmittal

December 17, 2015

Purpose

(1) This transmits a topic based revision to IRM 5.16.1, Currently Not Collectible, to incorporate the mirroring process for the Master File Tax (MFT) 65 mirrored assessment based on ACA provision 1501: Requirement to Maintain Minimum Essential Coverage (Individual Shared Responsibility) (IRC §5000A) .

Material Changes

- (1) This IRM has been updated throughout, as appropriate, to provide the mirroring process for MFT 35 to the MFT 65 assessment of the Shared Responsibility Payment (SRP) under the Affordable Care Act (ACA) provision 1501: Requirement to Maintain Minimum Essential Coverage (Individual Shared Responsibility) (IRC §5000A), as identified below. Content unrelated to the ACA provision was not reviewed for currency or accuracy.
- (2) IRM 5.16.1.2 (1) Added MFT 65 to the MFT 35 and definition to the table.
- (3) IRM 5.16.1.2(12) Added new paragraph to reflect that IQAs have authority to close ACA SRP modules.
- (4) IRM 5.16.1.2.5 (1) Added MFT 65 in the note for including MFT 35 SRP modules when closing cases as Tolerance (cc 09).
- (5) IRM 5.16.1.3.2.1(2) Changed information that MFT 35 individual shared responsibility payment modules can be mirrored.
- (6) IRM 5.16.1.3.2.2 Added new paragraph that SRP 35 and mirrored SRP 65 modules are not subject to NFTL filing.
- (7) IRM 5.16.1.3.2.3 Added SRP MFT 65 information as appropriate.
- (8) IRM 5.16.1.3.6 Added SRP MFT 65 mirroring information throughout this subsection.
- (9) Editorial changes were made throughout this IRM to update website addresses, legal references, and IRM references.

Effect on Other Documents

IRM 5.16.1 dated December 8, 2014 is superseded.

Audience

All Operating Divisions and Functions

Effective Date

(01-01-2016)

Kristen E Bailey
Director, Collection Policy
Small Business/Self Employed

**5.16.1.1 (08-25-2014)
Currently Not Collectible Overview**

1. Policy Statement 5-71 (aka P-5-71) provides the authority for reporting accounts currently not collectible (CNC). See IRM 1.2.14.1.14, *Policy Statements for the Collecting Process*. Accounts can be removed from active inventory after taking the necessary steps in the collection process.
2. IRM 5.16.1, *Currently Not Collectible*, provides procedures for determining when an account is collectible. These procedures are used by all functions when reporting an account as uncollectible.

**5.16.1.2 (01-01-2016)
Currently Not Collectible Procedures**

1. Accounts may be reported CNC for a variety of reasons using transaction code (TC) 530. It is a requirement that TC 530 be defined by the appropriate closing code (cc). The most commonly used closing codes are displayed in the table below.

Currently Not Collectible Closing Codes	
Closing Code	Definition
03	inability to locate the taxpayer or assets
04	partial expiration of the assessment prior to issuance
05	complete expiration of the statutory period for collection or suit initiated to reduce tax claim to judgment
06	for use by revenue officers on international casework, where a taxpayer can pay but the service is unable to collect a liability because the taxpayer resides in a foreign country
07	a corporation, exempt organization, or Limited Liability Company (LLC), where the LLC is identified as the liable taxpayer, liquidated in bankruptcy
08	death of an individual with no collection potential from the decedent/decedent estate
09	accounts below tolerance; see IRM 5.16.1.2.5(1) and (2) <i>Tolerance</i> , for additional information
10	corporations, certain limited liability partnerships (LLP), exempt organizations, or LLCs, where the LLC is identified as the liable taxpayer, which are inactive and defunct with no assets
12	inability to contact a taxpayer although the address is known and there is no means to enforce collection
13	a corporation, exempt organization, limited liability partnership (LLP), or LLC, where the LLC is identified as the liable taxpayer, remains in business and is current but is unable to pay back taxes
14	when suspending collection of BMF balance due accounts when the key individual is deployed to a combat zone; see IRM 5.1.7.9.1, <i>Business Masterfile (BMF) Accounts of Taxpayers Deployed to a Combat Zone</i> , for additional information
15	obsolete - this was formerly used for corporate income tax liabilities owed by a financial institution certified as insolvent by the Office of the Controller of the Currency or the Office of Thrift Supervision
17	inability to locate the Single Member Owner (SMO) or assets of the SMO who is liable for taxes assessed under an LLC Employer Identification Number (EIN)
18	inability to contact a Single Member Owner (SMO) who is liable for taxes assessed under an LLC EIN when the SMO address is known, and there are no means to enforce collection
19	accounts below tolerance that are assessed under an LLC EIN, but owed by SMO; see IRM 5.16.1.2.5, <i>Tolerance</i> , for additional information
24 - 32	collection of the liability would create a hardship for taxpayers by leaving them unable to meet necessary living expenses Reminder: Hardship closing codes can only be used for individual or joint IMF assessments, sole proprietorships, partnerships where a general partner is personally liable, and LLCs where an individual owner is identified as the liable taxpayer.
35	for ICS/Entity Quality Analyst (IQA) use only when recessing standalone individual shared responsibility payment (SRP) modules or the mirrored SRP module (MFT 35/65)

Note:

See IRM 5.16.1.2(16) for a list of the Integrated Collection System (ICS) literals used to close CNC cases.

Note:

A single member LLC that is classified as a disregarded entity will, nevertheless, be treated as an entity separate from its owner for employment tax purposes (effective for wages paid on or after January 1, 2009) and for certain excise tax purposes (effective for liabilities imposed and actions first required or permitted in periods beginning on or after January 1, 2008). The regulations are not retroactive.

2. The investigation required to establish a CNC condition varies with the dollar amount and type of case. Generally, a Collection Information Statement (CIS) will be secured prior to reporting an account CNC. The CIS supporting a CNC determination is considered current if it is less than twelve months old. See exception criteria in IRM 5.16.1.2.9(6).

Note:

Appropriate procedures must be followed when making third party contacts. (See IRM 5.1.1.10, *Miscellaneous Collection Procedures Third Party Contacts*.)

- In general, a Notice of Federal Tax Lien (NFTL) should be filed on accounts being reported CNC when the aggregate unpaid balance of assessments equals or exceeds \$10,000.00. See IRM 5.12.2, *Federal Tax Liens, Notice of Lien Determinations* for criteria and exceptions to NFTL filing. If a taxpayer subsequently requests a Collection Due Process (CDP) or Collection Appeal Program (CAP) hearing concerning the NFTL filing, the revenue officer (RO) must follow the procedures in IRM 5.1.9, *Collection Appeal Rights*, to forward the case to Appeals. To avoid potentially prohibited ex parte communications, be particularly familiar with IRM 5.1.9.5, *Communications with Appeals*.
- Conduct a compliance check and document the results in the case history in circumstances when the taxpayer is contacted. See IRM 5.1.11.2.3, *Full Compliance Check*. Compliance checks are not required when the taxpayer cannot be contacted.
- All open filing requirements or Delinquent Return (Del Ret) modules must generally be resolved and closed appropriately when reporting an account CNC. For further instructions regarding cases involving economic hardship, see IRM 5.16.1.2.9.
- Document all actions to support the CNC determination. The last history entry will be a summarizing statement supporting the CNC decision. Address any assets owned by the taxpayer in the summarizing statement. If a mandatory follow-up is requested, include the reason in the summarizing statement. See IRM 5.16.1.6 for information on mandatory follow-up.
- Only certain CNC cases can be reactivated systemically. Systemic follow-up is limited to hardship, unable to locate and unable to contact cases. Unable to locate and unable to contact cases will reactivate if a new levy source posts to Integrated Data Retrieval System (IDRS). Unable to locate cases will also reactivate if a new address posts to IDRS. Hardship cases can be reactivated if it appears there is a change in the taxpayer's ability to pay indicating collectibility. See IRM 5.16.1.2.9.
- Revenue Officers (RO), Appeals Officers (AO), and Settlement Officers (SO) may report accounts as CNC.
- Tax examiners in Field Collection (FC) and Centralized Case Processing (CCP) may report as CNC those accounts that meet existing criteria subject to the limitations shown below:
 - IMF, Non-Masterfile (NMF), or out of business BMF sole proprietors or partners, with less than ≡ ≡ ≡ ≡ ≡ ≡ aggregate unpaid balance of assessments.
 - BMF taxpayers (other than accounts for trust fund taxes owed by corporations, LLCs, or limited partnerships) with less than ≡ ≡ ≡ ≡ ≡ ≡ aggregate unpaid balance of assessments.
- Bankruptcy specialists may report as CNC corporate liabilities where the aggregate unpaid balance of assessments is less than ≡ ≡ ≡ ≡ ≡ ≡ when a corporation has been through a liquidating bankruptcy.

11. Advisory employees may report accounts CNC when a local probate office indicates that a proof of claim will not generate funds. Transferee issues should be considered. See *IRM 5.16.1.2.4* for additional information.
12. The ICS/Entity Quality Analysts (IQAs), have the authority to shelve cases/modules in accordance with *IRM 1.4.50.9.1, Shelving Erroneously Assigned Cases*, and to recess modules in accordance with *IRM 5.16.1.3.6, MFT 35/65 - Individual Shared Responsibility Payment (SRP) and Mirrored SRP*.
13. The Inventory Delivery System (IDS), may shelve IMF accounts where the aggregate unpaid balance, including accruals, is less than ≡≡≡≡≡≡ and BMF accounts where the aggregate unpaid balance, including accruals, is less than ≡≡≡≡≡.
14. CNC recommendations generally require the review and approval of the immediate manager to ensure the investigation meets established standards of thoroughness and integrity. See *IRM 5.16.1.5*. Managerial review criteria of completed work is located in *IRM 1.4.50, Collection Group Manager, Territory Manager, and Area Director Operational Aid*, exhibit 1.4.50-2.
15. Quality control is accomplished through mandatory and sample reviews through Embedded Quality (EQ).
16. Attach the following supporting documents, whenever applicable, to the case file:
 - Collection Information Statements (CIS)
 - Approved Form 4183, *Recommendation re: Trust Fund Recovery Penalty Assessment*
 - Copies of transferee assessment recommendations
 - Copies of suit recommendations to reduce the tax claim to judgment
 - Replies to Courtesy Investigations
 - Copies of tax returns
 - Other documentation to support the CNC determination

Reminder:

If the account is being reported CNC based on a suit recommendation to reduce the tax claim to judgment, forward the entire case file to Advisory for association with the suit file after the group manager approves the CNC.

Note:

Parts 2 and 3 of Form 53 on ICS will be transmitted to CCP via a systemically generated e-mail after GM approval of the CNC. When Form 53 is manually prepared, Parts 2 and 3 of the paper Form 53, which show "For processing as Form 3177" at the bottom, should be sent by secure e-mail or mailed separately from the closed case to CCP for input.

17. Select the following literals when closing cases as CNC using ICS. The related closing codes (cc) are in parentheses:

- A. Defunct Corp., Exempt Org., Ltd. Ptr., or LLC (10)
- B. Unable to Pay/Hardship (24-32)
- C. Bankrupt Corp., Exempt Org., or LLC (07)
- D. Unable to Locate (03)
- E. UTL for LLC-SMO Liable (17)
- F. Unable to Contact (12)
- G. UTC for LLC-SMO Liable (18)
- H. In-Business Corp., Exempt Org., Ltd.Ptr., or LLC (13)
- I. Tolerance (09)
- J. Tolerance for LLC-SMO Liable (19)
- K. Decedent/Decedent Estate (08)
- L. Statute Expired Prior to Issuance (04)
- M. Statute Expired After Issuance or Suit Initiated (05)
- N.. Resolution Trust Corp. Related (15)
- O. Surveyed (39)
- P. International - No Field Visit (06)
- Q. Combat Zone (14)
- R. SRP Recessed (35) - restricted to IQA use

18. When the LLC is the liable taxpayer for some tax module(s) and the owner of the LLC is the liable taxpayer for other tax module(s), separate collection determinations must be made for each liable taxpayer. Select the appropriate tax module(s) for each closing code when utilizing TC 530 for both liable taxpayers. If only one liable taxpayer meets conditions for reporting CNC, and a different collection action is required for the other taxpayer, report the appropriate tax module(s) CNC before proceeding with collection action on the remaining tax module(s). See *IRM 5.16.1.3.4(8) LLC tables* for additional information. See *IRM 5.1.21, Collecting From Limited Liability Companies*.

5.16.1.2.1 (12-17-2015)

Unable to Locate and Unable to Contact

1. If neither the taxpayer nor assets can be located, use cc 03 to report the account uncollectible. For Single Member Owners (SMO), where the SMO is liable for taxes assessed under an LLC EIN, and the SMO, and assets of the SMO are unable to locate, use cc 17 to report the SMO modules uncollectible. If all asset locators show the taxpayer is still at that address, but attempted contact confirmed the house is vacant or someone else lives there, the case would be closed UTL.
2. When the taxpayer's ability to pay cannot be determined because they cannot be contacted and income and assets cannot be identified, use cc 12, Unable to Contact. For SMOs, where the SMO is liable for taxes assessed under an LLC EIN, use cc 18 if the SMO is unable to contact, although the SMO address is known, and there is no means to enforce collection.

3. Revenue officers should not close accounts as UTL or UTC if the taxpayer is known to have a current address outside the United States, and the revenue officer can confirm an address or a country of residence for the taxpayer. For accounts having a current address outside the United States, follow procedures in IRM 5.1.8.1.4, *Account Transfers to International*, to transfer the account to SB/SE International. For taxpayers known to be living outside the country, but with an unconfirmed address, request a Courtesy Investigation in accordance with IRM 5.1.8.2, *Originating Office Procedure*. Taxpayers residing in U.S. possessions and territories (aka insular areas), are treated the same as those residing in the United States.
4. Asset checks for UTL/UTC should generally be completed within one year of closing the case as CNC. Prior to reporting domestic accounts as UTL or UTC, when the aggregate unpaid balance of assessments is less than $\equiv \equiv \equiv \equiv$ employees will:
 - Attempt to contact the taxpayer by phone at the ICS and other known telephone number(s). See IRM 5.1.10, *Taxpayer Contacts* for guidance on fair tax collection and taxpayer rights.
 - Address all ICS levy sources. Issue levies or confirm the taxpayer is not owed any funds from the levy sources. When applicable, follow procedures in IRM 5.11.6.15.4, *Issuing a Merchant Card Levy*.
 - Check Accurant for a new phone number or new address.

For international accounts, the same sources will be checked whenever available for the country in question. See IRM 5.1.8.4, *Status Reporting by Originator*.

5. For domestic accounts where the aggregate unpaid balance of assessments is $\equiv \equiv \equiv \equiv$, or more, attempt to develop leads by researching the following additional sources:
 - Motor vehicle records or Accurant (if motor vehicle records are available through Accurant in the state where the taxpayer is located)
 - Employment commissions
 - On-line courthouse records for real and personal property if you have access to the appropriate on-line tools, see IRM 5.1.18.4, *Real Property Records*
 - In-person courthouse records for real and personal property if you do not have access to the appropriate online tools. An in-person courthouse records check is not required for personal property only.
 - Local licensing authorities when a taxpayer has a business that requires a license or Accurant (if licensing records are available through Accurant in the state where the taxpayer is located)
 - On-line services that help in locating taxpayers, such as Accurant; follow security guidelines when using public internet search engines
 - If the last filed income tax return was due within the last two years and was filed by the taxpayer, review the return or the return information by using CC RTVUE/BRTVU/TRDBV. If using RTVUE/BRTVU, determine if a copy of the return should be secured to further develop leads to locate the taxpayer assets or levy sources.
 - CC IRPTR to determine if a levy source reported a new address for a taxpayer
 - Conduct Financial Crimes Enforcement Network (FinCEN) research using FinCEN Query (FCQ) when IRPTR reflects that a taxpayer has filed a Foreign Bank Account Reporting (FBAR) form to obtain the name of the bank where the account is located, the amount in the account, co-owners, and other useful information. See IRM 5.1.18.16, *Foreign Bank and Financial Account Report*.

Note:

The on-line tools referenced in bullets three and four above do not mean Accurant. The key to searching on-line courthouse records is whether the actual real property documents are available electronically from the courthouse without going through a third-party vendor. Accurant does not have the actual documents on-line. Accurant is referenced in bullet six above as a tool to help in locating taxpayers, not for researching real property records.

6. The above list is not all inclusive. Local management may require that additional information sources be checked, for example U.S. Coast Guard and local licensing agencies where boat ownership is common.
7. In addition to the requirements above, for accounts with an aggregate unpaid balance of assessments over $\equiv \equiv \equiv \equiv$, the following is required:
 - A field call to the taxpayer's last known address
 - Postal tracers, when a field call to the master file address confirms the taxpayer is unable to locate or contact. See IRM 5.1.18.12, *United States Postal Service*, for additional guidance on postal tracers.
 - If it appears the taxpayer is still living at the address or operating a business at the address, but is unable to be contacted, check utility companies, to see who is paying the bills at the taxpayer's address and how the bills are paid, for a possible levy source.

Note:

For taxpayers residing outside the United States, and territories other than Puerto Rico and the U.S. Virgin Islands, a field call may not be practical. Any taxpayer contact (including a field call) that requires foreign travel must be coordinated by an international revenue officer with the U. S. Competent Authority (delegated to the Deputy Commissioner (International), Large Business and International), who may authorize such travel based on treaties or other international arrangements.

Reminder:

W&I and SB/SE ACS call sites and tax examiners in Field Collection are **exempt** from the requirement to make field calls.

8. For Individual Master File (IMF) taxpayers, sole proprietor taxpayers, and for LLCs where an individual owner is identified as the liable taxpayer, secure and analyze a full credit report if the aggregate unpaid balance of assessments exceeds $\equiv \equiv \equiv \equiv$. This includes balance due cases where recently filed returns will result in additional assessments causing the liability to be in excess of $\equiv \equiv \equiv \equiv$. For additional information on credit reports see IRM 5.1.18.18, *Consumer Credit Reports*.
9. When the aggregate unpaid balance of assessments exceeds $\equiv \equiv \equiv \equiv$, research the following additional sources:
 - Check CC AMDIS when there is a -L freeze on the account indicating open examination activity. If there is an open examination, contact the revenue agent to see if he/she has a new address for the taxpayer or has identified any additional assets.
 - Request a **passport check** when the taxpayer travels outside the United States frequently or there is reason to believe the taxpayer travels outside the United States frequently in accordance with IRM 5.1.18.13, *United States Passport Office*.
 - Consider requesting that a taxpayer be placed on the Department of Homeland Security lookout list if you have been unable to locate or contact the taxpayer and if they live outside the U.S. or travel outside the U.S. See IRM 5.1.18.14, *Treasury Enforcement Communications System*.
10. Consider a mandatory follow-up if there is a definite indication that contact should be made in the future.

11. Federal Employee/Retiree Delinquent Investigation (FERDI) cases cannot be reported as UTL. Follow procedures in IRM 5.1.7.7, *Federal Employee/Retiree Initiative (FERDI)*. A FERDI case may be closed CNC as Unable to Contact (cc 12), when the taxpayer's ability to pay cannot be determined because they cannot be contacted and all required asset checks per IRM 5.16.1.2.1 reveal no income or assets to collect from. In addition, all levies, including levies on the taxpayer's federal salary or retirement benefit, must result in no proceeds available to pay the tax liability.

Note:

This is not applicable for LLC-SMO liable cases.

12. Restitution modules cannot be closed unable to contact or unable to locate if there is an open probation NF OI in Advisory. If the taxpayer cannot be located or contacted, the RO should follow guidance in IRM 5.1.5, *Balancing Civil and Criminal Cases*, for reporting noncompliance with conditions of probation. If the taxpayer has fulfilled all conditions of probation and release, and cannot be located or contacted, the RO can request through the group manager that the "restitution" program name be removed on ICS to allow the closure.
13. When a business taxpayer is being closed UTL or UTC, address the trust fund recovery penalty (TFRP) when the liability meets the criteria in IRM 5.7.4, *Investigation and Recommendation of the TFRP*. If a potentially responsible person cannot be located, follow guidance in IRM 5.7.5, *Collectibility Determination*, to address the TFRP. Nonassertion of the penalty should be recommended if a responsible person cannot be located, nor can any assets or income sources be located. Assertion of the penalty should be recommended if the responsible person cannot be located, but assets or income sources for the responsible person can be located.
14. For BMF accounts on sole proprietorships and partnerships where a general partner is personally liable for partnership liabilities, UTL and UTC accounts are systemically reversed by new address or new levy source information reported for the individual or general partner. The Social Security Number (SSN) of the individual or general partner must be cross-referenced on IDRS. Evaluate BMF entities to determine if a TC 130 should be input on the SSN of an individual or general partner. If the account is being reported as CNC, and Form 53 is manually prepared, forward Part 3 of Form 53 to CCP for input. After the Group Manager approves the CNC, ICS will systemically generate an e-mail to CCP to transmit Part 3 of Form 53 to CCP.

Note:

This is a separate input from the cross-reference EIN/SSN input or the TC 130 input for refund offsets. The TC 130 for refund offsets and the TC 130 for systemic reactivation are both required for UTL and UTC closures on sole proprietorships and partnerships where a general partner is personally liable for partnership liabilities.

5.16.1.2.2 (05-05-2009)

Statute Expiration

1. Ensuring that the proper action is taken on an account before the collection statute expires is a priority. The actions required to resolve short statute issues will depend on the circumstances. See IRM 5.1.19, *Collection Statute Expiration and/or IRM 25.6.1.9, Statute of Limitations Processes and Procedures - Assessments*.

5.16.1.2.2.1 (05-22-2012)

Imminent Statute Expiration

1. An imminent Collection Statute Expiration Date (CSED) module is any module with twelve months or less remaining on the collection statute. See IRM 5.1.19.5, *Imminent CSEDs*, for specific procedures used to verify, monitor, work, and document these types of cases.
2. Imminent CSED modules should be worked to an appropriate conclusion prior to the statute expiration whenever circumstances permit. These modules do not qualify for the MFT 31 mirroring process. For further guidance, see IRM 5.1.19.5.2, *Working Imminent CSEDs*.
3. The RO must discuss imminent CSED modules with their group manager and document an appropriate plan of action to resolve the module(s) prior to the expiration of the statute. For further guidance, see IRM 5.1.19.5.3, *Documenting Imminent CSEDs*.
4. If payments are applied to a module with multiple CSEDs they should be applied in order of the date in which the CSED will expire, starting with the one that will expire first. This includes proceeds from seizures, levies, installment agreements and other undesignated voluntary payments. For proceeds from a levy or installment agreement, the CSED module where the payment will be applied must be included on the levy or installment agreement.

Reminder:

The Designated Payment Code (DPC) must be entered on all payment documents.

5. Do not solicit voluntary payments on accounts barred by statute. If a taxpayer makes a payment on an account barred by statute, inform them that payment is not required and ask if he/she still wishes to make the payment or have it returned. The taxpayer must be advised that the payment is purely voluntary and will be treated as a gift to the United States Treasury. If the taxpayer's intentions cannot be ascertained, return the payment.
6. Proceeds from the sale of assets seized prior to the expiration of the statute can be applied after the date of expiration. The affected modules require that TC 520 cc 80 be input. The RO should request input of TC 520 cc 80 to allow for application of the proceeds from the seizure. Once the proceeds are posted, the RO must request input of TC 521, no closing code required. Any outstanding balance will be closed using TC 530 cc 05 after the application of sale proceeds and after the statute expires. See IRM 5.1.19.4, *CSED Payment Application*. Follow procedures in IRM 5.17.2.3.3, *Refiling of Notice*, to determine if the NFTL needs to be refiled.
7. Proceeds that are received as the result of a levy which was served prior to the CSED may be applied to the expired module(s). See IRM 5.11.2.3.1, *Legal Basis for Releasing Levies*.

Note:

Unlike interest which may be assessed and collected as long as the underlying tax can be collected (see IRC 6601(g)), penalties may have a different CSED apart from any other assessment on the module(s). See IRM 5.1.19.2.1, *Transaction Codes That Carry Their Own CSED*. The Service, however, is not required to make a separate assessment of the accruals on Failure to Pay (FTP) penalties (i.e., the IRC 6651(a)(2) and IRC 6651(a)(3) additions to tax) in order to collect the accruals.

5.16.1.2.2.2 (09-19-2005)

Non-Master File Expired Statute

1. For non-master file accounts, if only a portion of the liability expired prior to issuance, report the expired portion on Form 53, using TC 530 cc 04 and annotate 'Statutory Period for Collection Expired'.
2. If the statute expired on a portion of the liability prior to issuance and the balance expires after issuance, use TC 530 cc 05 for the entire amount. It is not necessary to use cc 04 for a portion of the liability and cc 05 for the balance when the entire balance can be closed using cc 05.
3. Complete all actions such as payment tracers and adjustments prior to input of either cc 04 or 05.

5.16.1.2.2.3 (05-05-2009)

Master File Partial Statute Expiration

1. The majority of master file accounts on which the collection statute has expired, either on part of the liability or on the entire liability prior to issuance, will be identified by Taxpayer Delinquent Account (TDA) issuance code 534.
2. If only a portion of the module has expired, adjust the balance by reporting the expired portion on Form 3870, *Request for Adjustment*, using TC 534.

Caution:

Do **not** use cc 04 for master file accounts as this will cause the entire account to go to status 53.

- If the remaining balance is determined to be uncollectible, use the appropriate closing code such as hardship, unable to contact, etc.

5.16.1.2.2.4 (05-22-2012)**Master File Complete Statute Expiration**

- Use closing code 05 when the entire module balance expires after issuance.
- Closing code 05 is also used in circumstances where a suit has been filed to reduce a tax claim to judgment. The filing of the suit in court extends the collection statute so that if a judgment is obtained, the tax may be collected by levy until the tax is paid. If a suit recommendation has been submitted, but the collection statute expires prior to the filing of the suit in court, report the account CNC using cc 05. A report of the circumstances of the statute expiration is not required under these circumstances.

Note:

Closing code 05 can only be input after the statute has expired.

- If a suit is being recommended based on anticipated improvement in the taxpayer's financial condition - such as discharge of a debt, inheritance or other significant property acquisition - report the account CNC based on the taxpayer's current circumstances (e.g. hardship, unable to locate, etc.).
- The suit must be filed with the court prior to the statute's expiration. The recommendation should be initiated in sufficient time so that it can be forwarded to Area Counsel at least nine months before the expiration of the statute. A copy of the recommendation will be kept with the case file. For further information on suits, see IRM 5.17.4, *Legal Reference Guide for Revenue Officers - Suits by the United States*.
- Guidelines for determining the feasibility of recommending a suit are found in IRM 25.3.2, *Suits by the United States*. If there is a question whether the suit has been filed or not, please check with Collection Advisory.

5.16.1.2.2.5 (05-05-2009)**Report of Statute Expiration**

- The employee assigned the case at the time of the statute expiration will be required to report the expiration in accordance with the procedures in IRM 5.1.19.5, *Imminent CSEDs*. This requirement applies to situations where a statute expires on any party to a joint assessment where the balance is collectible from the other party(s). These procedures apply to cases where a module has been reported CNC with closing codes 04 and 05 or in cases where it is permissible to let the collection statute expire in inventory with group manager's prior concurrence.
- To report an expired collection statute on a case where the RO has taken all appropriate actions without resolving the module(s) prior to the expiration of the statute, use the procedure in IRM 5.1.19.5.4, *Expiration of a Collection Statute*.
- To report an expired collection statute on a case where the RO has **not** taken all appropriate actions to resolve the module(s) prior to the expiration of the statute, use the procedure in IRM 5.1.19.5.5, *Collection Statutes That Expire Without Prior Approval*.

5.16.1.2.3 (08-25-2014)**Bankrupt Corporations, Exempt Organizations and Limited Liability Companies**

- If a corporation has been in a Chapter 7 or a liquidating Chapter 11 bankruptcy and no further proceeds will be received from the bankruptcy and anticipated collection from abandoned or after-acquired property is insufficient to warrant further collection efforts, use cc 07.

Reminder:

Collection employees should always contact Insolvency prior to using cc 07.

- Closing code 07 may also be used for exempt organizations that have been through liquidating bankruptcy and LLC accounts (where the LLC is identified as the liable taxpayer) that have been through liquidating bankruptcy.

Note:

See IRM 5.1.21, *Collecting from Limited Liability Companies*, for sources that may be used to identify the liable taxpayer.

- A NFTL should not be filed regardless of the dollar amount, if the taxpayer is a corporation, exempt organization or LLC (where the LLC is identified as the liable taxpayer), and the entity has gone through a liquidating bankruptcy or receivership. Document the proceeding number in the case history.
- The trust fund recovery penalty (TFRP) assessment must be considered and Form 4183, *Recommendation Re: Trust Fund Recovery Penalty Assessment*, must be approved prior to reporting the trust fund liabilities CNC using criteria in IRM 5.7.4.5, *Form 4183 Penalty Assessment Recommendation*.
- If the aggregate unpaid balance of assessments exceeds ≡≡≡≡≡≡≡ and the last filed income tax return was due within the last two years and was filed by the taxpayer, review the return or the return information by using CC BRTVU/TRDBV. If using BRTVU and assets are indicated, secure a copy of the return to pursue any leads.
- If the aggregate unpaid balance of assessments exceeds ≡≡≡≡≡≡≡, and any portion of the assessment results from an examination and/or fraud penalty, request a copy of the revenue or special agents file formerly known as RAR. Review the file for additional assets, inconsistencies in the taxpayer's financial disclosure and potential for transferee assessment.

Note:

A Revenue Agent File is required only if the Examination assessment is for one of the immediate two preceding years.

- If the aggregate unpaid balance of assessments exceeds ≡≡≡≡≡≡≡, check CC AMDIS when there is a -L freeze on the account indicating open examination activity. If there is an open examination, contact the agent to determine if there are additional assets or to provide information which may limit the scope of the examination based on lack of collectibility.
- Corporations and liquidating LLCs (where the LLC is the liable taxpayer) that have filed a Chapter 7 bankruptcy petition and have been designated a "No Asset" case, being closed as TC 530 cc 07 by the Centralized Insolvency Operation (CIO) do not require managerial approval.

5.16.1.2.4 (08-25-2014)**Decedent and Decedent Estates**

- Use closing code 08 to report an account CNC on a decedent or decedent estate.
- Closing code 08 is appropriate for IMF joint liabilities only when **both** taxpayers are deceased and a determination has been made that there is no collection potential from assets owned at death.

3. Closing code 08 may be used when the primary taxpayer is deceased and a determination has been made that there is no collection potential from the decedent's individual or business assets or persons in possession of such assets. Collection may also be pursued from the surviving spouse on joint liabilities using MFT 31 mirrored accounts. See IRM 5.16.1.3.2.1 for additional information.
4. Do not use cc 08 when only the secondary taxpayer is deceased. A TC 540 should be input on the secondary taxpayer's SSN, if it has not already posted to the account. Collection may be pursued from the decedent's individual or business assets or persons in possession of such assets. Collection may also be pursued from the primary taxpayer on joint liabilities. If the primary taxpayer is determined to be uncollectible, the account should be closed using a hardship closing code. A CIS must be secured from the primary taxpayer.
5. Closing code 08 also applies to BMF sole proprietorships and partnerships only if **all** of the partners are deceased and taxes were due at the time of death.
6. In situations where the owner of an LLC is identified as the liable taxpayer and is deceased, cc 08 is appropriate.
7. In all decedent and decedent estate cases attempt to secure the following:
 - Date of death
 - County/city in which the taxpayer died
 - The taxpayer's place of residence at the time of death
 - The name, address and telephone number of the fiduciary
 - Probate records that list an inventory and appraisal of decedent assets

Caution:

Closing code 08 does not apply to corporations even though one or more of the officers may be deceased or to LLCs (where the LLC is identified as the liable taxpayer) and one or more of the members is deceased.

8. Additional sources may be used to determine the date of death including:
 - On-line locator services (follow security guidelines when using public internet search engines)
 - Obituaries
 - Family members
 - Death certificates

9. Field employees will consult with Advisory for assistance in determining if a proof of claim is needed when there is an estate proceeding.

Note:

See IRM 5.5, *Decedent Estates and Estate Taxes*, and IRM 5.17.13, *Legal Reference Guide for Revenue Officers, Insolvencies and Decedents' Estates*, regarding proof of claim.

10. Consider a transferee assessment if circumstances warrant and document the ICS history.

Note:

See IRM 5.17.14, *Legal Reference Guide for Revenue Officers, Fraudulent Transfers and Transferee and Other Third Party Liability*.

11. When reporting accounts CNC using cc 08, do not request separate input of TC 540 to delete the master file filing requirements. TC 530 cc 08 generates a TC 540.

**5.16.1.2.5 (01-01-2016)
Tolerance**

1. The following accounts may be closed as CNC, tolerance without further action, where the aggregate unpaid balance, including accruals, is less than ≡ ≡ ≡ ≡ ≡ :
 - IMF (other than MFT 55)
 - BMF (other than MFT 13)
 - NMF
 - IRAF

Use cc 09. These accounts do not require managerial approval. This does not apply to cases with TDA issuance codes of N (False Refund Claim Case), 914 (active CI case), or TRSF (transferred from another area office). This does not apply to bankrupt corporations, which should be closed using cc 07.

Note:

MFT 35 individual shared responsibility payment modules and MFT 65 mirrored shared responsibility payment modules must be included in the calculation of the tolerance amount. TC 530 cc 09 will be input on all balance due modules including the MFT 35/65 modules.

2. The following accounts may be closed as CNC, tolerance, where the aggregate unpaid balance, including accruals, is less than ≡ ≡ ≡ ≡ ≡ :
 - IMF MFT 55
 - BMF MFT 13

Use cc 09. These accounts do not require managerial approval.

3. When there are multiple periods where any one period exceeds the tolerance level, do not use cc 09. Close all periods using the appropriate CNC closing code such as unable to locate, hardship, etc.

Exception:

A new LLC closing code 19 has been established for LLCs where the SMO is liable. If the SMO liable periods meet the tolerance criteria, they can be closed using cc 19, and the LLC liable periods can be closed using a different closing code or different type of closure. See IRM 5.16.1.3.4(8) LLC tables. Modules closed using cc 19 do not require managerial approval.

**5.16.1.2.6 (08-25-2014)
Defunct Corporations, Exempt Organizations, Limited Liability Partnerships, and Limited Liability Companies**

1. Closing code 10 applies to any corporation or exempt organization that is no longer operating and from which all assets have been dispersed. Closing code 10 may be used to close Form 1041, *U.S. Income Tax Return for Estates and Trusts*, assessments on trusts or estates, if there are no assets to collect from and transferee issues have been considered for all transfers of assets or distributions to beneficiaries or grantors.
2. Closing code 10 may also be used for limited liability partnership cases when the partnership agreement limits the liability of the partners under local law, when the business is no longer operating and from which all assets have been dispersed.
3. Closing code 10 may also be used for LLC cases (where the LLC is identified as the liable taxpayer) when the business is no longer operating and from which all assets have been dispersed.
4. When there is limited collection potential from a corporation with corporate income tax liability, investigate and consider the following collection actions against shareholders, successor entities or others receiving corporate property:
 - A. Foreclosure of any Federal Tax Liens against property in the hands of other entities if they were in place before distribution
 - B. Assertion of transferee liability against recipients of corporate property
 - C. Enforcement of liens attaching to corporate property before the distribution (levy, suit)
 - D. Assertion of fiduciary liability against any parties acting in a fiduciary capacity
 - E. Suit to set aside the fraudulent transfer of specific property
 - F. Establishing the recipient as a nominee, alter ego, or successor in interest of the taxpayer and proceeding appropriately

The above options, particularly assertion of transferee liability, should be considered when collecting unpaid deficiency income tax assessments against insolvent corporations that utilized an Intermediary Transaction or other type of tax shelter to shelter income.

5. When a corporation has been dissolved under state receivership proceedings or other dissolution actions, and there are no other assets, use closing code 10. A CIS is generally not required in these situations. See IRM 5.9.20, *Non-Bankruptcy Insolvencies*.

Note:

Seek Counsel's input in cases of state receivership. Revenue officers should consider consulting with Insolvency prior to contacting Counsel. See IRM 5.17.13, *Legal Reference Guide for Revenue Officers, Insolvencies and Decedents' Estates*, for further information in circumstances involving assignments for the benefit of creditors, corporate dissolutions, etc.

Reminder:

In situations where transferee liability exists, action may be needed to protect the statute of limitations of the transferee as well as the transferor. See IRM 25.6.22.6.2.4, *Extension of Assessment Statute of Limitations by Consent, Dissolved Corporations*.

6. Form 4183, *Recommendation re: Trust Fund Recovery Penalty Assessment*, must be approved before reporting the employment and/or excise taxes CNC when the liability meets the criteria in IRM 5.7.4, *Investigation and Recommendation of TFRP*. Form 4183 will also include the additional TFRP liabilities from any unassessed returns. See IRM 5.7.4.3, *Calculating the TFRP*.

Note:

If the corporate Bal Due modules are being reported CNC prior to sending Form 2749, *Request for Trust Fund Recovery Penalty Assessment(s)* to Control Point Monitoring (CPM) on the Automated Trust Fund Recovery (ATFR) system, an Other Investigation (OI) will be created on ICS to control the TFRP case until the Form 2749 has been submitted to CPM.

7. Secure a complete CIS, if possible. The CIS must support the CNC recommendation to report the accounts defunct. If the taxpayer has equity in assets, the reason collection is not being pursued must be documented in the history.
8. Address all known levy sources prior to reporting accounts defunct.
9. If the aggregate unpaid balance of assessments exceeds ≡ ≡ ≡ ≡ ≡ ≡ ≡ :
 - And the last filed income tax return (Form 1120, 1065 or 990) was due within the last two years and was filed by the taxpayer, review the return or the return information by using CC BRTVU/TRDBV to verify the CIS and identify additional assets. If using BRTVU and assets are indicated, secure a copy of the return to pursue any leads.
 - Review Accurint to verify no assets, including vehicles and other personal property
 - Review courthouse records on-line or in-person to verify no real or personal property ownership. An in-person courthouse records check is not required for personal property only.
 - Check local licensing authorities when the taxpayer operates a business that requires a license. Accurint may be used if licensing records are available through Accurint in the state where the taxpayer is located.
 - Verify that state employment records show no wages paid
10. If the aggregate unpaid balance of assessments exceeds ≡ ≡ ≡ ≡ ≡ ≡ ≡ , secure bank records from the taxpayer to confirm there is no current business activity and check CC AMDIS when there is a -L freeze on the account indicating open examination activity. If there is an open examination, contact the agent for evidence of assets.
11. If the aggregate unpaid balance of assessments exceeds ≡ ≡ ≡ ≡ ≡ ≡ ≡ and any portion of the assessment results from an examination and/or fraud penalty, request a copy of the revenue agents file (formerly known as RAR) by requesting the Document Locator Number (DLN) of the TC 29X/30X. Review the file for additional assets, inconsistencies in the taxpayer's financial disclosure and potential for transferee assessment.

Note:

A Revenue Agent File is required only if the Examination assessment is for one of the immediate two preceding years.

12. If the corporation or LLC is chartered in a state that permits corporate or LLC reactivation or reinstatement, and it appears likely that the same entity will resume business, consider a mandatory follow-up.
13. In cases where neither a corporation/LLC, nor the officers/members can be located, and third party sources (i.e., neighbor/landlord/current resident) indicate that the business is no longer operating, confirm that the business is defunct and there are no assets to collect from by checking the following:
 - State employment records
 - Postal tracers
 - Accurint

- Call all known telephone numbers
- DMV, or Accurant (if motor vehicle records are available through Accurant in the state where the taxpayer is located)
- Courthouse records check, on-line or in-person, to verify no real or personal property ownership. An in-person courthouse records check is not required for personal property only.
- All known levy sources

Note:

The research conducted on accounts with an aggregate unpaid balance of assessments less than $\equiv \equiv \equiv \equiv \equiv \equiv$ should be commensurate with the balance due, and the history documented as to why the research was not conducted (i.e., cost to obtain records)

If there are no trust fund liabilities due, the accounts can be closed as defunct using cc 10. If trust fund taxes are due, or the revenue officer cannot confirm the business is no longer operating, the accounts should be closed as unable to locate. Prior to reporting the accounts unable to locate, see IRM 5.7.5.3.1, *Nonassertion Based on Collectibility*, for TFRP recommendations when the potentially responsible person cannot be located.

14. Any amended returns or necessary adjustments to the tax assessments must be submitted prior to reporting the account CNC.

5.16.1.2.7 (08-25-2014)

In-Business Corporations, Exempt Organizations, Limited Liability Partnerships, or Limited Liability Companies

1. Accounts may be reported CNC using cc 13 when an operating corporation, exempt organization, or limited liability partnership can pay current taxes but cannot pay its back taxes and enforcement cannot be taken because the business has no distrainable accounts receivable or other receipts or equity in assets.
2. Closing code 13 may also be used for LLC cases (where the LLC is identified as the liable taxpayer) when an operating business can pay current taxes but cannot pay its back taxes and enforcement cannot be taken because the LLC has no distrainable income or equity in assets.

Note:

LLC modules where the SMO is liable cannot be reported CNC using cc 13. Liabilities of a sole proprietor or partnership where a general partner is personally responsible for the partnership taxes also cannot be reported CNC using cc 13. In these cases, the sole proprietor and general partner are personally liable for the entire amount of business taxes due, and if they are determined to be uncollectible, the accounts must be reported CNC using a hardship closing code (24 - 32).

3. Secure a complete CIS. The CIS must support the CNC recommendation. If the taxpayer has equity in assets, the reason collection is not being pursued must be documented in the history. Assets that should be viewed and verified include:

- A field call
- Accurant
- Courthouse records check, on-line or in-person, for real or personal property ownership. An in-person courthouse records check is not required for personal property only.
- DMV check or Accurant (if motor vehicle records are available through Accurant in the state where the taxpayer is located)
- The last filed income tax return if it was due within the last two years and was filed by the taxpayer. Review the return or the return information by using CC BRTVU/TRDBV. If using BRTVU and assets are indicated, secure a copy of the return to pursue any leads.
- Other checks, if appropriate

Equity in assets should be verified against current loan balances provided by the taxpayer or secured via summons.

4. The income and expense analysis must show that the taxpayer can make current tax deposits, but cannot make payments on the back taxes. The income and expenses should be verified against:

- The last filed income tax return if it was due within the last two years and was filed by the taxpayer. Review the return or the return information by using CC BRTVU/TRDBV. If using BRTVU and assets are indicated, secure a copy of the return to pursue any leads.
- Bank statements or
- Other financial statements provided by the taxpayer.

See IRM 5.15.1.17, *Business Expenses*, and IRM 5.15.1.18, *Determining Business Income*, for detailed information on financial analysis of business entities.

5. The taxpayer must be current with all filing and paying requirements and must demonstrate an ability to remain current prior to closing as cc 13. The case will be monitored for filing and paying compliance and if the taxpayer does not remain current, the case will be reactivated. The officers' full compliance with filing and paying requirements must also be verified and documented, including estimated tax payments if applicable. The officer of a corporation or LLC (where the LLC is identified as the liable taxpayer) is often an employee of the corporation or LLC, and therefore should be reporting a wage from the corporation or LLC and filing employment tax returns. An officer is not considered to be an employee of the corporation if the officer does not perform any services or performs only minor services; and the officer is not entitled to receive, directly or indirectly, any remuneration. Therefore, the only time a corporation or LLC closed as in-business CNC would not be filing employment tax returns is when it is inactive with no business activity, but not yet defunct.

Note:

An individual owner of a single-member LLC, classified as a disregarded entity, is not an employee of the LLC. Instead, the owner is subject to self employment tax on the net earnings of the LLC which is treated in the same manner as a sole-proprietorship.

6. A TFRP investigation must be completed and a recommendation on Form 4183 must be approved prior to disposition of the account. See IRM 5.7.4, *Investigation and Recommendation of TFRP*, for further information.
7. Consider issuance of Letter 903(DO) to prevent accrual of additional liabilities and document the decision. For additional information, see IRM 5.7.2.2, *Issuance of Letter 903*.
8. There is no systemic follow-up on cc 13. Initiate a mandatory follow-up 18 to 24 months after the date of the Form 53. Requests that exceed 24 months must include an explanation in the history or CCP will limit the time to 24 months. The mandatory follow-up will include securing a new CIS, conducting a full compliance check, and reviewing the latest income tax return for the business. This review will determine whether the account will be reactivated or scheduled for additional mandatory follow-up. CCP will reactivate and reassign the CNC accounts to the field if the mandatory follow-up is not worked timely.
9. If the taxpayer has incurred subsequent liabilities while collection on a prior liability was suspended, the taxpayer must be investigated to verify the taxpayer's financial condition, a NFLT determination made, and a TFRP recommendation made on applicable taxes. The additional liabilities should not be closed as in-business CNC, unless the liability was incurred prior to the date of the original CNC and inadvertently did not get reported CNC. If additional liabilities incurred after the date of the original CNC

are not resolved, the CNC accounts will be reactivated for collection action. See IRM 5.7.4, *Investigation and Recommendation of TFRP*.

5.16.1.2.8 (08-25-2014) Insolvent Financial Institutions

1. TC 530 cc 15 was formerly used for corporate income tax liabilities owed by a financial institution certified as insolvent by the Office of the Controller of the Currency or the Office of Thrift Supervision and is now obsolete.

5.16.1.2.9 (08-25-2014) Hardship

1. Follow the procedures in IRM 5.15.1, *Financial Analysis Handbook*, to determine the correct resolution of the case based on the taxpayer's assets and equity, income and expenses:
 - A hardship exists if a taxpayer is unable to pay reasonable basic living expenses.
 - The basis for a hardship determination is from information about the taxpayer's financial condition provided on Form 433-A, *Collection Information Statement for Wage Earners and Self-Employed Individuals* or Form 433-B, *Collection Information Statement for Businesses*.
 - Generally, these cases involve no income or assets, no equity in assets or insufficient income to make any payment without causing hardship.
 - An account should not be reported as CNC if the taxpayer has income or equity in assets, and enforced collection of the income or assets would not cause hardship.
 - Hardship accounts are closed using cc 24 through 32. See Exhibit 5.16.1-2.
 - Mandatory follow-up may be appropriate for certain hardship cases. See IRM 5.16.1.2, *Mandatory Follow-Up*

Reminder:

Hardship closing codes can **only** be used for individual or joint IMF assessments, sole proprietorships, partnerships where a general partner is personally liable for the partnership taxes, and LLCs, where an individual owner is identified as the liable taxpayer. See IRM 5.16.1.2.4 for decedent cases.

2. Restitution based assessments may be closed CNC due to hardship. Restitution based assessments will appear on MFT 31 with a TC 290 and/or 298. The module will contain a TC 971 AC 102 and a TC 971 AC 180-189. If a taxpayer is making restitution payments in accordance with a court order, the restitution payments are an allowable expense. Court ordered restitution payments are allowable expenses.
3. When a court orders restitution paid to federal as well as nonfederal victims, the Service will not pursue enforced collection actions until the nonfederal victims are paid in full. In those instances, the account may be closed as a CNC hardship using a closing code calculated in accordance with IRM 5.16.1.2.9(13), with a mandatory follow-up date based on information contained in the court order. The government may take steps to protect its interest, such as filing a NFTL.
4. There may be cases where the taxpayer cannot full pay a Restitution Based Assessment (RBA) and an MMIA or PPIA will be established for related civil assessments, exclusive of the RBA (that is, the RBA is not included as part of the IA). In these cases, the RBA modules may be closed as a CNC hardship using closing code 32. Refer to IRM 5.14.4, *Installment Agreements - Financial Reviews, Below Deferral Level Accounts, Joint and Several Liability Relief Under IRC Section 6015, Withdrawals and Multiple Entities*, for guidance on establishing an MMIA or PPIA for these accounts.
5. Verification of a CIS is not required if the aggregate unpaid balance of assessments is less than $\equiv \equiv \equiv \equiv \equiv$ and the information on the CIS appears reasonable.
6. Under certain conditions, a CIS is not required before reporting an account CNC. The aggregate unpaid balance of assessments, including any prior CNCs, must be less than $\equiv \equiv \equiv \equiv \equiv$ and at least one of the following conditions must exist:
 - The taxpayer has a terminal illness or excessive medical bills.
 - The taxpayer is incarcerated.
 - The taxpayer's only source of income is Social Security, welfare, or unemployment.
 - The taxpayer is unemployed with no source of income. Consider a mandatory follow-up or Manually Monitored Installment Agreement (MMIA) for seasonal workers.

Note:

Employees are required to secure documentation from the taxpayer prior to declaring the account uncollectible if internal documents such as IRPTR and RTVUE do not confirm the taxpayers' circumstance.

7. The following verification is required for accounts when the aggregate unpaid balance of assessments is between $\equiv \equiv \equiv \equiv \equiv \equiv \equiv \equiv \equiv \equiv \equiv$:
 - CC IRPTR/IRPTRJ
 - If the last filed income tax return was due within the last two years and was filed by the taxpayer, review the return or the return information by using CC RTVUE/TRDBV. If using RTVUE and assets are indicated, secure a copy of the return to pursue any leads.
 - Conduct FinCEN research when IRPTR reflects that a taxpayer has filed a Foreign Bank Account Reporting (FBAR) form to obtain the name of the bank where the account is located, the amount in the account, co-owners, and other useful information. See IRM 5.1.18.16, *Foreign Bank and Financial Account Report*.
8. For accounts where the aggregate unpaid balance of assessments is above $\equiv \equiv \equiv \equiv \equiv \equiv$ the following additional verification is required:
 - **Full credit report** on IMF and sole proprietor taxpayers and LLCs (where an individual owner is identified as the liable taxpayer). Credit reports are optional for accounts with an aggregate unpaid balance of assessments below $\equiv \equiv \equiv \equiv \equiv \equiv$.
 - Motor vehicle records or Accurant (if motor vehicle records are available through Accurant in the state where the taxpayer is located)
 - Courthouse records check, on-line or in-person, for real or personal property ownership. An in-person courthouse records check is not required for personal property only. See IRM 5.1.18.4, *Real Property Records*.
 - On-line locator services, such as Accurant, follow security guidelines when using public internet search engines.
 - CC AMDIS, if there is a -L freeze on the account indicating open Examination activity. If there is an open examination, contact the revenue agent to determine any additional sources of collection or the need to limit the scope of the examination based upon collectibility.
 - Audit File or Special Agents Report if the assessment originated in Examination or Criminal Investigation (CI). The file can be secured by requesting the DLN of the TC 29X/30X.

Note:

An Audit file is required only if the Examination assessment is for one of the immediate two preceding years. If unable to obtain any information from the special agent, consider consulting with Advisory. If there is a TC 910 on the module, the taxpayer may have filed a financial statement with the probation office.

9. IMF accounts and BMF accounts of sole proprietorships, partnership and LLCs (where an individual owner is identified as the liable taxpayer) that cannot be collected due to bankruptcy will be closed using hardship closing codes.
10. IRC 6343(e) requires the release, as soon as practicable, of a levy on salary or wages due a taxpayer upon agreement with the taxpayer that the tax is not collectible. See IRM 5.11.2, *Serving Levies, Releasing Levies and Returning Property*. Steps should be taken to accomplish the release immediately. Case histories must be reviewed to ensure that wage levies are released prior to declaring an account uncollectible under hardship closing codes. The case history must be documented.

Reminder:

If TC 670 with designated payment code (DPC) 05 (levy) is present on any module or a regular series of payments is noted, ensure that the disposition of the levy is known.

11. A compliance check will be made and the results documented in the case history for all hardship determinations per IRM 5.16.1.2(4). All open filing requirements or Del Ret modules must generally be resolved and closed appropriately when reporting an account CNC.
12. Open Del Ret modules may be resolved by closing as little or no tax due, or income below filing requirement (P-5-133), if warranted by the facts of the case. See IRM 5.1.11, *Delinquent Return Investigations*, for options to resolve delinquent return accounts. If the taxpayer is required to file and refuses, a referral or summons may be appropriate. See IRM 25.5, *Summons Handbook* for summons procedures.

Caution:

If a hardship determination is verified, a levy cannot be issued or left in place to persuade a taxpayer to file.

Note:

Accounts may be reported CNC hardship if a CIS can be verified, even if there are unfiled returns. If the unfiled return is needed to confirm the hardship determination (i.e., income, expenses and/or assets reported on the CIS), the Bal Dues should be held until the return is secured and the CIS can be verified, but levies cannot be issued to collect the Bal Dues if all other income/asset checks appear to confirm hardship.

13. Use the hardship closing code that most closely corresponds to the taxpayer's total living expenses allowed. See Form 433A, *Collection Information Statement for Wage Earners and Self-Employed Individuals*; Section 4, Monthly Income and Expense Analysis; Line 45, Total Living Expenses. If the closing code chosen does not correspond to the taxpayer's allowed expenses, document the reason for the deviation in the summarizing statement for the CNC decision. Generally, do not select a code *below* the taxpayer's total living expenses allowed. Do not use a higher code simply to prevent re-issuance of the account.

Example:

Monthly living expenses allowed x 12 (months) = Annual living expense amount. Select the hardship closing code with the closest dollar amount above the annual living expense amount.

Note:

If the closest closing code amount is only \$300.00 more than the annual living expense amount, the next higher closing code would be selected. The history would be documented that an increase in Total Positive Income (TPI) of only \$300.00 above total living expenses allowed annually would not enable the taxpayer to make monthly payments.

14. The systemic process for reactivating hardship CNC accounts relies on an increase in TPI above a predetermined amount based on the hardship closing code when the case is closed as CNC:
 - The TPI is reviewed annually when a taxpayer files an income tax return.
 - For BMF accounts on sole proprietorships, partnerships (where a general partner is personally liable for the partnership taxes) and LLCs (where the owner is identified as the liable taxpayer), TPI is determined by the annual income of the individual, general partner or member of the LLC.
 - The Social Security Number (SSN) of the individual, general partner or member of an LLC (where the owner is identified as the liable taxpayer) must be cross-referenced on IDRS.
 - When a BMF account is closed as hardship on ICS, the "Input on IMF to reactivate BMF CNC" will automatically be selected and a TC 130 with the EIN, BMF name control and CNC closing code will be input on the IMF entity, under the SSN of the individual, general partner or sole member of an LLC (where the owner is identified as the liable taxpayer).
 - The TC 130 input on IMF to reactivate BMF CNC is a separate input from the cross-reference EIN/SSN input. This is also a separate input from the TC 130 input for refund offsets, which is input on the BMF entity. Employees must still determine if the TC 130 for refund offset is required and select either "TC 130 requested before" or "TC 130 input required". The input document for the TC 130 is Part 3 of Form 53 (Form 3177). Part 3 of Form 53 on ICS will be transmitted to CCP via a systemically generated e-mail after GM approval of the CNC.

Reminder:

When Form 53 is prepared manually, employees will need to check the appropriate TC 130 box for "Refund Offset" and check the box for "Input on IMF to reactivate BMF CNC". Part 3 of a manually prepared Form 53 must be mailed to CCP.

15. Taxpayers must be advised that interest and penalties will continue to accrue on the account even though the collection action is suspended. In addition, before reporting an account CNC, other collection options such as Offer in Compromise should be discussed with the taxpayer.
16. Case Closing Letter 4223, *Case Closed - Currently Not Collectible*, will be issued to the taxpayer and/or Power of Attorney (POA) when a case is closed as CNC - hardship. The case closing letter will only be used when the collection investigation on the taxpayer entity is concluded. Letter 4223 is systemically generated on ICS after GM approval of the CNC. Follow procedures in IRM 5.1.1.4, *Case Closing Letters*. For cases not on ICS, Letter 4223 is available on the publishing web site located at <http://publish.no.irs.gov/catlg.html>.

Exception:

A case closing letter should not be sent when a suit recommendation is the final Collection action, and the case has been placed into CNC status as suggested in IRM 25.3.2.6(4), *Litigation and Judgments - Suits by the United States Revenue Officer Referral and Account Disposition*.

**5.16.1.2.10 (08-25-2014)
International**

1. Collection investigation and distraint actions by the Service in cases involving taxpayers residing in foreign countries are not treated the same as those involving taxpayers residing in the United States. For taxpayers residing outside the United States, with no collection potential from assets in the United States, but there are indications of assets outside of the United States, and a field call is not practical, international revenue officers use TC 530 cc 06. International revenue officers should not close accounts as UTL (03) or UTC (12) if the taxpayer:
 - is known to have a current address outside the United States,

- has the ability to pay in part or in full but has not done so, and
 - has no collection potential from United States assets but there are indications of assets outside the United States
2. International revenue officers also use TC 530 cc 06 in instances where they have initiated an Outgoing Mutual Collection Assistance Request (MCAR) request and have no other collection avenues to pursue. The TC 530 cc 06 closure can occur prior to the resolution of the Outgoing MCAR request by the foreign country. Currently, there are only five countries with which the United States has treaties that provide for mutual collection assistance. These countries are Canada, Denmark, France, The Netherlands and Sweden. Taxpayers residing in U.S. possessions and territories (a.k.a. insular areas) are treated the same as those residing in the United States and are not appropriate for closing as TC 530 cc 06. See IRM 5.1.12.25, *Outgoing Mutual Collection Assistance Requests*.
3. When the taxpayer travels outside the United States frequently or there is reason to believe the taxpayer travels outside the United States frequently in accordance with IRM 5.1.18.13, *United States Passport Office*, request a passport check if the aggregate unpaid balance of assessments is:
- ≡≡≡≡≡≡≡ or more for international taxpayers.
 - ≡≡≡≡≡≡≡ or more for domestic taxpayers.

Note:

A passport check will not provide you with any travel information. If you are searching for historical travel information, see IRM 5.1.18.14.8, *TECS Historical Travel Information*.

**5.16.1.3 (04-29-2011)
Special Conditions**

1. In certain circumstances employees will be required to take additional actions to ensure that CNC accounts are properly closed.
2. When recommending an account be reported CNC with MFT 74 or MFT 76 Bal Due modules showing on IDRS SUMRY or BMFOLI, follow the procedures below:
 - A. Determine the correct type of CNC based on IRM 5.16.1 criteria, excluding the MFT 74 or 76 modules.

Exception:

If the total balance due including the MFT 74 and 76 modules exceeds the tolerance amount, you will not be able to close the case as tolerance.

- B. Input the CNC request on ICS excluding the MFT 74 and 76 modules.
- C. Follow the same processing procedures for a CNC case.
- D. Document the closing ICS history that the MFT 74 and 76 modules should be excluded from the CNC.
- E. The MFT 74 and 76 modules can be ignored for purposes of reporting an account CNC.

Note:

If an ICS Bal Due was created for an MFT 74/76 module, and all other Bal Due modules on the case are being closed as CNC, the ICS created Bal Due modules for the MFT 74/76 modules must be closed as "Erroneously Created ". Since these modules are not on IDRS, they will not systemically close on ICS.

**5.16.1.3.1 (05-05-2009)
Transferee Cases**

1. If a transferee assessment has been recommended and the liability is not collectible from other sources, report the transferor account CNC under the appropriate closing code. See IRM 5.1.14.2, *Transferee Liability and Fraudulent Conveyances*, for further guidance.
2. Document the consideration of transferee liability prior to case disposition.

**5.16.1.3.2 (04-29-2011)
Assessments Against Two or More Taxpayers**

1. Assessments against more than one taxpayer can only be reflected as CNC on IDRS and ICS if all of the liable taxpayers are determined to be uncollectible. In order to request a CNC hardship closing code on a joint IMF liability, where the taxpayers are now divorced or separated, both taxpayers would need to be uncollectible.
2. If one taxpayer qualifies for CNC hardship on a joint liability, or one taxpayer on the joint assessment requests separate treatment from their spouse, proceed with the CNC mirroring process. See IRM 5.16.1.3.2.1 for additional information.

Reminder:

Employees should review joint accounts of divorced taxpayers to ensure that collection is not being pursued on a taxpayer that has already been determined to be uncollectible.

3. An accepted offer in compromise will release the taxpayer who made the offer from the entire liability if the taxpayer complies with all terms of the offer. Offer credits are applied to the original liability reducing the overall debt. If the liability against the remaining taxpayer is determined to be uncollectible, the amount to be reported as CNC is the balance of assessments after credits.

Note:

For specific procedures concerning partnership liabilities see IRM 5.8.4.22.2, *Partnership Liabilities* and IRM 5.15.1.13, *Business Entity Types*.

**5.16.1.3.2.1 (01-01-2016)
Joint Liability Separate CNC Requests - MFT 31/65 Mirrored Assessments**

1. When a taxpayer files a joint income tax return with a balance due, both taxpayers are equally responsible for payment of the tax liability. One or both taxpayers on the jointly filed return may request and qualify for separate treatment and meet CNC criteria. Revenue officers are to follow procedures in IRM 5.15.1, *Financial Analysis Handbook*, to determine the correct resolution based on the taxpayers' assets and equity, income and expenses.
2. If it is determined that one of the taxpayers on the joint return may not be collectible then the MFT 30 joint account must be mirrored into two separate MFT 31 accounts to allow the RO to report one of the liable taxpayers CNC and to pursue collection on the other liable taxpayer. MFT 35 individual shared responsibility payment modules **can** be mirrored. See IRM 5.16.1.3.6, *MFT 35/65 - Individual Shared Responsibility Payment (SRP) and Mirrored SRP*.
3. A mirrored assessment is identical to the MFT 30 assessment. The MFT 30 joint assessment will be replaced with two separate accounts using the MFT 31 account code. The purpose in creating the MFT 31 accounts is to pursue collection or withhold collection on each spouse separately, when needed. A mirrored account is identified on IDRS by MFT 31. The CNC mirroring process will be identified by TC 971 AC 109 on each account.

4. The MFT 30 account must be "mirrored" into two separate MFT 31 accounts when one taxpayer on a jointly filed return needs to be treated separately from the other taxpayer based upon the following triggering event(s):

- Joint MFT 30 liability
- Either taxpayer is determined to be CNC
- Taxpayer requests separate treatment from their spouse or former spouse

5. The RO will conduct the following analysis:

- Verify joint liability
- Analyze taxpayer's ability to pay (using financial information)
- Determine if one of the taxpayers meets CNC criteria
- Conduct full compliance check
- Consider appropriate enforcement actions such as levy or NFTL
- Document the taxpayer's request for separate treatment from their spouse or former spouse

6. A separate CNC on a joint liability **cannot** be referred for mirroring if any of the following conditions exist:

- Invalid SSN or TIN
- Name control is not the same as on CC INOLE (The IMF name control must match SSA's name control.)
- A credit balance exists on the module to be mirrored
- If either TIN begins with a "9"
- Bankruptcy
- International Entities
- CSED Imminent modules (CSED has 12 months or less remaining on the statute)

Note:

A compliance check should be made and documented when considering a CNC hardship case. Follow procedures in IRM 5.16.1.2.9(12) if there are any unfiled returns.

5.16.1.3.2.2 (01-01-2016)

NFTL on Mirrored Tax Period(s)

1. If a NFTL is already filed on the MFT 30 tax period(s), (check for TC 582 and/or TC 360), then no additional NFTL filing is necessary when the account is mirrored. The NFTL transaction codes will transfer over to the mirrored accounts.
2. If there is no indication that a NFTL is already filed on the MFT 30 tax period(s) involved and the NFTL should be filed to protect the government's interest against both taxpayers, the RO will request filing of the NFTL prior to sending the account forward for mirroring. The MFT 30 case must be held until the NFTL filing requirements are met, the NFTL is requested and the TC 582 lien indicator is pending. See IRM 5.12.1.3, *Lien Filing Requirements - Creation and Duration*; IRM 5.12.2.2, *Lien Filing Requirements - Taxpayer Contact*; and IRM 5.12.7.3.1, *Creating the Notice of Federal Tax Lien, Form 668(Y)(c)*, using ALS.
3. If a NFTL is only required on the mirrored tax period(s) against one spouse, the case may be packaged with a completed NFTL request via Form 12636, *Request for Filing or Refiling Notice of Federal Tax Lien*, and forwarded with Form 3210, *Document Transmittal*, to SB/SE CSCO PSC for processing.
4. If a determination is made that no NFTL is to be filed on the mirrored account, a statement must be documented on Form 3210.
5. The SRP (MFT 35/65) amount owed is not subject to a NFTL filing.

5.16.1.3.2.3 (01-01-2016)

Processing Actions for Mirroring Assessment

1. Perform and document complete research prior to making a referral for the mirroring process. A manual Form 53 can be selected from the ICS template listing in preparing a referral for mirroring.
2. Document the following information on Form 3210:
 - A. "MFT 31/65 Mirror" in the remarks section
 - B. Taxpayer name line and MFT 30/35 TIN
 - C. Name and TIN of taxpayer account to be mirrored
 - D. Current address of the taxpayer to be mirrored
 - E. All telephone numbers of taxpayer
 - F. Tax years to be included
 - G. Indicate appropriate TC 530 cc (24 - 32)
 - H. RO name, T-sign and phone number
 - I. "Taxpayer Requested Mirrored Account" and has been advised that once the account is mirrored for specified period(s) it will not be reversed.

Note:

If a NFTL is not required, annotate on Form 3210 that lien notice determination decision was made and no NFTL is to be filed.

Caution:

The SRP amount owed is not subject to a NFTL filing.

3. If a NFTL is required on the mirrored assessment, attach Form 12636 to Form 3210. Annotate "MFT 31 Mirror" on Form 12636. Complete Form 12636 with date, RO name, T-sign, and phone number.
4. Attach Form 53 package and Form 12636 to Form 3210 for routing to SB/SE CSCO PSC for input of TC 530 on the mirrored tax periods. Form 53 must be annotated with "MFT 31/65 Mirror Assessment" in red or bold. Group assessed and mirrored tax periods together in Item 16 of Form 53, beginning with assessed liabilities; write "mirrored" at the beginning of the mirrored periods header. The address for SB/SE CSCO in PSC can be found on SERP under the Who/Where tab Mirrored Assessments or by clicking on this link http://serp.enterprise.irs.gov/databases/who-where.dr/addresses.dr/mirrored_assessments.htm.
5. SB/SE CSCO PSC will create the MFT 31/65 modules identified by TC 971 AC 109, process the NFTL request and input the appropriate CNC closing action(s).
6. Send case closing Letter 4223, *Case Closed Currently Not Collectible*, on the MFT 31/65 mirrored assessment when the account is reported as CNC hardship.

Exception:

A case closing letter should not be sent when a suit recommendation is the final Collection action, and the case has been placed into CNC status as suggested in IRM 25.3.2.6(4), *Revenue Officer Referral and Account Disposition*.

5.16.1.3.3 (08-25-2014)

Cases Reported Currently Not Collectible Based Upon a Prior Form 53

1. If another delinquent module becomes due and owing after the initial CNC, the new account may be reported CNC without further investigation if the prior CNC determination is no more than twelve months old. A NFTL determination is required per IRM 5.12.2.3.2, *Notice of Lien Determinations - Determination Requirements*.
2. Exceptions are:
 - Trust fund taxes which require a TFRP determination or which accrued after the date of the prior CNC determination
 - Cases closed as in-business CNC where the taxpayer has incurred subsequent liabilities, see *IRM 5.16.1.2.7*.
 - Prior bankruptcy (07) dispositions; contact Insolvency to determine other collection sources
 - The taxpayer has a new address and the case was reported as CNC unable to locate or unable to contact
 - When a case was closed TC 530 cc 39, shelved
3. Combined Annual Wage Reporting (CAWR) assessments may be reported CNC without investigation if they meet the criteria in IRM 5.7.4, *Investigation and Recommendation of the TFRP*, and if the prior CNC cc is 10. If the prior cc is 07, contact Insolvency to determine collection potential.
4. Federal Unemployment Tax Act (FUTA) state matching assessments may be reported as CNC without further investigation if the prior CNC cc is 10. If the prior CNC cc is 07, contact Insolvency to determine collection potential.

5.16.1.3.4 (08-25-2014)

Limited Liability Companies

1. Limited Liability Companies (LLCs) are business entities that are organized and established under state law which specifically limits the liability of the owners for debts of the LLC. The identity of the party liable for taxes is either the LLC or the owner of the LLC.

Note:

See IRM 5.1.21, *Collecting from Limited Liability Companies*, for guidance in identifying the liable taxpayer. This includes information on the classification for federal tax purposes of a single member LLC (as a disregarded entity or an association taxable as a corporation) and a multi-member LLC (as a partnership or an association taxable as a corporation).

2. A single member LLC that is classified as a disregarded entity will, nevertheless, be treated as an entity separate from its owner for employment tax purposes (effective for wages paid on or after January 1, 2009) and for certain excise tax purposes (effective for liabilities imposed and actions first required or permitted in periods beginning on or after January 1, 2008). The regulations are not retroactive.

Note:

An individual owner of a single-member LLC membership, classified as a disregarded entity, is not an employee of the LLC. Instead, the owner is subject to self employment tax on the net earnings of the LLC which is treated in the same manner as a sole-proprietorship.

3. Prior to reporting any modules as CNC, ensure the appropriate TC 971 Action Codes 364/365/366 have been input to identify the liable taxpayer for each tax module.
4. Where the LLC is identified as the liable taxpayer, consider the following:

- Collectibility is based on the income and assets of the LLC.
- The NFTL is filed in the name of the LLC.
- The assets of the members of the LLC are not subject to collection action.
- The TFRP must be considered with respect to the members or employees of the LLC who meet the definition of responsibility under IRC 6672.

5. Where the SMO is identified as the liable taxpayer, consider the following:

- Collectibility is determined based on the income and assets of the owner.
- The NFTL is filed in the name of the SMO.

Note:

See IRM 5.12.7.5.3, *Preparing the NFTL - Limited Liability Company (LLC)*, for further instructions concerning NFTLs against single member disregarded LLCs.

6. Because state law specifies that the owner of an LLC has no direct ownership in LLC assets, the property of the LLC is not available for collection action when the owner is identified as the liable taxpayer. Consider the following:
 - In situations where an individual owner of an LLC is identified as the liable taxpayer, that individual is directly responsible for the entire liability and the TFRP is not required as to the owner.
 - When the owner of an LLC is a partnership, the liable taxpayer is the partnership and the partnership is responsible for the liability. Counsel should be consulted to determine if individual partners are directly responsible for the liability or if a TFRP should be considered with respect to anyone who meets the definition of responsibility and willfulness under IRC 6672. Revenue officers should consider consulting with Advisory prior to contacting Counsel.

- When the owner of an LLC is a corporation, the liable taxpayer is the corporation and the corporation is responsible for the liability. Consider the TFRP with respect to employees of the LLC or of the corporation who meet the definition of responsibility and willfulness under IRC 6672.

7. If assessments in the name and EIN of an LLC include some tax periods where the LLC is identified as the liable taxpayer and other tax periods where the owner of the LLC is identified as the liable taxpayer, separate collection determinations must be made for each identified taxpayer.

Caution:

Administrative collection action should never include both the name of the LLC and the name of the SMO. Only the name of the liable taxpayer should be included.

8. There will be situations where one case resolution is appropriate for the single member owner and a separate case resolution is appropriate for the LLC, and special case processing is required. When modules, where the single member owner is liable, will be closed as UTL, UTC or tolerance, use cc 17, 18 or 19. Case resolution actions must be taken in a specific order as shown in the table below:

If CNC is the appropriate case resolution for . . .	And. . .	Then request CNC. . .
all modules for both liable taxpayers	different closing codes are appropriate for each liable taxpayer	for one liable taxpayer using appropriate closing code and submit for approval on ICS. Following approval of the CNC on the first liable taxpayer, request CNC for remaining modules for the other liable taxpayer using appropriate closing code and submit for approval on ICS to close case.
one liable taxpayer	modules for the other liable taxpayer will remain open or require a separate case resolution	for that liable taxpayer, using appropriate closing code and submit for approval on ICS. Then take necessary action on remaining modules for other liable taxpayer.

9. Counsel should be consulted whenever legal issues are encountered. Consider consulting Advisory prior to contacting Counsel.

5.16.1.3.5 (08-25-2014)

Preparer, Promoter, Appraiser, Material Advisor and Aiding & Abetting Penalties

1. Prior to reporting preparer, promoter, appraiser, material advisor and aiding & abetting penalties as uncollectible, additional research may be needed. Revenue officers can identify these civil penalties by reviewing IDRS CC TXMODA or IMFOLT/BMFOLT for the penalty reference numbers associated with each penalty.

Field Collection defines return preparer penalties as civil penalties with MFT 13 or MFT 55 that have the following penalty reference numbers (PRN): 606, 581, 624, 714, 715, 716, 717, 718, 626, 627, 628, 631, 633, 634, 636, 645, 648 or 650.

2. Return Preparer Coordinators (RPCs) and Earned Income Tax Credit (EITC) coordinators play a critical role in the assessment process of return preparer penalties and can be a very valuable resource for revenue officers. For example:

- Revenue officers may contact the RPC or EITC coordinator to determine if the Return Preparer Penalty case file is available.
- Revenue officers may contact the RPC or EITC coordinator to 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 he/she has ceased doing business as a return preparer. For example, by contacting the former clients of a return preparer who claims he/she has ceased doing business, the RO 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.

Note:

RPCs handle all return preparer penalties except for the earned income credit due diligence return preparer penalties. For earned income credit due diligence return preparer penalties (i.e., penalty reference number 627), the revenue officer should contact the EITC Coordinator.

Revenue officers should contact the designated coordinator in the RO's area using the following links: Link for Return Preparer Coordinator: <http://mysbse.web.irs.gov/exam/tip/rp/contacts/12293.aspx>. Link for Earned Income Tax Credit Coordinator (EITC) <http://mysbse.web.irs.gov/exam/tip/rp/contacts/12536.aspx>.

3. The IRC 6700 civil penalty is assessed against the promoters of abusive tax shelters. The IRC 6701 civil penalty is assessed against any person who aids and abets the understatement of a tax liability. See IRM 20.1.6.13, *Penalty for Promoting Abusive Tax Shelters - IRC 6700*, and IRM 20.1.6.14, *Penalties for Aiding and Abetting - IRC 6701*, for detailed descriptions of the IRC 6700 and IRC 6701 civil penalties. Persons against whom these penalties have been assessed often conceal assets and distort their financial picture through a wide variety of sophisticated means, making it difficult to immediately determine the true collection potential of promoter penalty assessment accounts with a high degree of confidence. Assets currently concealed or placed beyond the government's reach may be discovered or become available during subsequent investigations.

4. IRC 6700 and 6701 can be identified by penalty reference number 628 and 631. IRC 6700 and IRC 6701 balance due accounts should be assigned to an Abusive Tax Avoidance Transaction (ATAT) trained RO. Contact the Area ATAT Coordinator for reassignment of a promoter penalty assessment account. See IRM 5.20.8.4, *Coordination with the Examination Function*, for a web link to the Small Business/Self-Employed (SB/SE) Collection ATAT web site for a list of Area ATAT coordinators for collection. In addition to the requirements of IRM 5.16, the procedures in IRM 5.20.8, *Abusive Tax Avoidance Transactions (ATAT) - Promoter/Preparer Investigations*, should be followed prior to closing a promoter penalty assessment account as CNC.

5.16.1.3.6 (01-01-2016)

MFT 35 Shared Responsibility Payment (SRP) and MFT 65 Mirrored Shared Responsibility Payment

1. Beginning in 2014, individuals must have health care coverage, have a health coverage exemption or make a shared responsibility payment with their tax return. The individual shared responsibility payment (SRP) is assessed because one or more members of a household didn't have minimum essential health coverage, per Internal Revenue Code 5000A.

Caution:

The SRP amount owed is not subject to a NFTL filing, a levy on property, or the failure-to-pay penalty. However, we charge interest on unpaid SRP balances. We may also apply future federal tax refunds to the SRP balance until it is paid in full.

2. The individual shared responsibility payment (SRP) module will be established separate from its federal income tax return filing MFT 30 and identified as follows:

- Individual Master File (IMF) - MFT 35 carrying a TC 240 with a penalty reference number (PRN) 692.

3. An MFT 35 SRP module can be mirrored using MFT 65 due to the SRP being assessed on the joint return. The mirroring process will be the same as the MFT 30/31 mirroring. See IRM 5.16.1.3.2.3, *Processing Actions for Mirroring Assessment*. The mirrored SRP MFT 35 module will be identified as follows:

- Mirrored Individual Master File (IMF) - MFT 65 carrying a TC 240 with a penalty reference number (PRN) 692.

4. Mirroring is required when one taxpayer on a jointly filed return needs to be treated separately from the other taxpayer based upon the following triggering event(s):

- Joint MFT 35 liability
- Taxpayer requests separate treatment from their spouse or former spouse
- Either taxpayer is determined to be CNC

Note:

Additional triggering events may be found in the OIC or litigation/bankruptcy IRMs.

5. A standalone SRP occurs when a balance due is created on a module with MFT 35/65 and there is no other balance due module(s) with a different MFT in Status 22, 24, or 26, nor a TDI module in status 03. If an additional SRP balance due occurs in a subsequent year, and there are still no other modules with a different MFT, it is (they are) still considered a standalone SRP.
6. If a standalone SRP module is not resolved in notice status, the module will be closed systemically (recessed) as CNC with a closing code 35.
7. In most cases, standalone SRP modules will be recessed systemically and will not be assigned to revenue officers. However, there may be cases where MFT 35/65 is assigned along with other IMF balance due modules (MFT 30, 31, 55, etc.) or join previously assigned modules.

Note:

If all other modules are resolved (full paid or abated) and the revenue officer is left with a standalone MFT 35/65 module, a request will be sent to an ICS/Entity Quality Analyst (QA) through the Group Manager, requesting that the MFT 35/65 SRP module be recessed using TC 530 cc 35. Only IQAs will be able to recess the MFT 35/65 SRP modules.

8. **Standalone** SRP modules with no related balance due or TDI modules will usually be recessed. However, revenue officers may have a situation where a taxpayer contacts IRS regarding a notice before the SRP modules is recessed. If the taxpayer indicates that he/she is experiencing a hardship situation, secure the information to confirm the hardship, and close the standalone SRP modules CNC using a hardship closing code (cc 24-32).

Note:

Exception criteria for securing a CIS will apply to SRP modules. See IRM 5.16.1.2.9(6), *Hardship*.

Reminder:

Send case closing Letter 4223, *Case Closed Currently Not Collectible*, on the SRP MFT 35 or the mirrored SRP MFT 65 assessment when the account is reported as CNC hardship.

9. A **standalone** SRP module can also be reported CNC if there are other balance due modules in CNC status. Use the same CNC closing codes for the SRP that was used to report the other modules as CNC.
10. If revenue officers are reporting IMF balance due modules (MFT 30, 31, 55, etc.) CNC and also have an SRP module, the SRP module will be closed with the same closing code as the other modules. SRP MFT 35 or mirrored SRP MFT 65 modules may be closed using the following closing codes:
- Unable to locate (cc 03),
 - Partial expiration of the assessment prior to issuance (cc 04)
 - Complete expiration of the statutory period for collection or suit initiated to reduce tax claim to judgment (cc 05) and
 - For use by revenue officers on international casework, where a taxpayer can pay but the service is unable to collect a liability because the taxpayer resides in a foreign country (cc 06).
 - Decedent (cc 08),
 - Tolerance (cc 09)
 - Unable to contact (cc 12)
 - Hardship (cc 24-32)
11. It is important to remember that the MFT 65 is treated exactly the same as the MFT 35.

Caution:

Employees should not assume that assessments made against both a husband and wife for the same period are duplicates simply because they are for the same tax period. Before assessments are treated as duplicates, caseworkers should verify that the SRP assessments are for the same underlying liability (jointly filed Form 1040), and are not for separately filed Forms 1040.

**5.16.1.4 (12-08-2014)
Requesting Currently Not Collectible Input for Assessed and Pre-assessed Tax Periods**

1. Input of a TC 530 may be requested on Form 53, *Report of Currently Not Collectible Taxes*, Form 3177, *Notice of Action for Entry on Master File*, and Form 4844, *Request for Terminal Action*. The information required includes the SSN/EIN, name control, tax period(s), MFT and the closing code.

Note:

Parts 2 and 3 of Form 53 (Form 3177) on ICS will be transmitted to CCP via a systemically generated e-mail after GM approval of the CNC. When Form 53 is manually prepared, Parts 2 and 3 of the paper Form 53, which show "For processing as Form 3177", at the bottom, should be sent by secure e-mail or mailed separately from the closed case to CCP for input.

2. For ICS cases, the group manager's approval of the CNC allows the TC 530 and closing code to upload to IDRS. At least one of the tax periods must be in status 26 on IDRS for the upload to be successful.
3. ICS will not send a TC 530 to IDRS on pre-assessed/unassessed tax periods. Consider the following:
- If a NFTL will be required after pre-assessed tax periods are assessed, the ICS case with a combination of assessed and unassessed tax periods must be held until all tax periods for CNC have been assessed. Once assessed on IDRS, create the "ICS Only Bal Due Notice" tax periods on ICS. Generally, wait ten days after assessment to request the NFTL on ICS (see IRM 5.12.7.3.1(8), *Notice of Lien Preparation and Filing - Creating the Notice of Federal Tax Lien, Form 668(Y)(c)*, and IRM 5.12.2.2, *Notice of Lien Determinations - Taxpayer Contact*. After the NFTL indicator (TC 582) is pending, the case can be closed as CNC on ICS. It is not necessary to wait until all tax periods are in Status 26, as long as at least one tax period is in Status 26.

- If a NFTL will **not** be required on the pre-assessed tax periods, create the pre-assessed tax periods on ICS as "ICS Only Bal Due Pre-assessed Modules". This will generate "pre-assessed" to print on the Form 53 for each pre-assessed tax period. Complete the CNC process on ICS. If there are both assessed and pre-assessed tax periods, the assessed tax periods will upload the TC 530 to IDRS. The pre-assessed tax periods will not upload and therefore must be processed to CCP for input of TC 530 after assessment. Attach a copy of the signed tax return for each pre-assessed tax period to the CNC file. See the Who/Where tab on SERP or click on this link for the CCP mailing addresses: <http://mysbse.web.irs.gov/AboutSBSE/aboutccs/ccsprog/casepro/ccpcoll/maillingprocedures/21073.aspx>.

4. For cases not processed on ICS, prepare Form 53 and complete the following actions:

- If a NFTL is required after pre-assessed tax periods are assessed, the case must be held until the assessments are made. After NFTL filing requirements are met in accordance with IRM 5.12.1.3, *Lien Program Overview - Creation and Duration*, and IRM 5.12.2.2, *Notice of Lien Determinations - Taxpayer Contact*, complete Form 12636, *Request for Filing or Refiling Notice of Federal Tax Lien*, available through the template process. Complete all applicable fields and forward Form 12636 to the Centralized Lien Operation (CLO) for processing. For additional information, please click on the Who/Where tab on SERP, scroll down to Lien - Centralized Lien Processing, or click on this link <http://serp.enterprise.irs.gov/databases/who-where.dr/als.dr/case-processing-lien-units.htm>. Forward the CNC file to CCP for input of TC 530 on the assessed tax periods after the NFTL indicator (TC 582) is pending. Click on this link for the CCP addresses. <http://mysbse.web.irs.gov/collection/ccpcoll/maillingprocedures/21073.aspx>.
- If a NFTL is **not** required annotate Form 53 "Assessed/Unassessed" in red or bold. Group assessed and unassessed tax periods together in Item 16 of Form 53, beginning with assessed liabilities; write "Unassessed" at the beginning of the unassessed periods header. Attach a copy of the signed tax return for each pre-assessed tax period to the file. Forward the file to CCP for input of TC 530 on the assessed tax periods and monitoring of the unassessed tax periods. Click on this link for the CCP addresses <http://mysbse.web.irs.gov/collection/ccpcoll/maillingprocedures/21073.aspx>.

5. Completion of Item 15 on Form 53 will depend on the nature of the closure and the procedures needed to close the account. Only certain records need to be checked depending on the dollar level and type of account. See *IRM 5.16.1.2* for further guidance.

6. Form 53 requires managerial approval prior to input of a CNC request. See *IRM 5.16.1.5* for additional information. Unapproved requests will be returned to the initiator.

5.16.1.5 (08-25-2014) Managerial Approval

1. The decision to place an account in CNC status requires the approval of a manager. The approval should normally be that of the recommending employee's immediate manager. Acting managers may be given authority to approve CNCs.

Exception:

1 - IMF cases closed as UTL, UTC or Decedent with an aggregate unpaid balance of assessment less than ≡ ≡ ≡ ≡ do not require managerial approval. This does not apply for LLC-SMO liable closures. This exception is for managerial approval only. Revenue officers must still take all actions required in IRM 5.16.1.2.1 prior to closing IMF cases under ≡ ≡ ≡ ≡ as Currently Not Collectible UTL, UTC or Decedent.

Exception:

2 - As noted in IRM 5.16.1.2.3(8), corporations and liquidating LLCs (where the LLC is the liable taxpayer), that have filed a Chapter 7 bankruptcy petition and have been designated a "No Asset" case that are being closed as TC 530 cc 07 by the Centralized Insolvency Operation do **not** require managerial approval. See *IRM 5.16.1.2.5*, for tolerance accounts being closed with TC 530 cc 09 and cc 19 that do **not** require managerial approval.

2. The manager's review must address the thoroughness of the investigation to ensure that a hardship condition exists before approving a recommendation to declare an account uncollectible. If a mandatory follow-up is required, the manager must verify it meets the criteria in IRM 5.16.1.6. See IRM 1.4.50 Exhibit 1.4.50 - 2, *Criteria for Review of Completed Work*, for additional information.

3. If additional actions are needed to CNC an account, the manager should indicate what additional steps need to be taken before the CNC can be approved such as partial collection from available assets, consideration of an installment agreement or an offer in compromise.

5.16.1.6 (12-08-2014) Mandatory Follow-Up

1. Systemic follow-up is limited to hardship, unable to locate, and unable to contact cases. The systemic process for reactivating hardship CNC cases relies on an increase in Total Positive Income (TPI) above a predetermined amount based on the hardship closing code when the case is closed as CNC. The TPI is reviewed annually when a taxpayer files an income tax return. For BMF cases on sole proprietorships, partnerships (where a general partner is personally liable for partnership liabilities), and LLCs (where the owner is identified as the liable taxpayer) the TPI is determined by the annual income of the individual, general partner or member. The Social Security Number (SSN) of the individual, general partner or member of an LLC (where the owner is identified as the liable taxpayer) must be cross-referenced on IDRS. These cases do not require a mandatory follow-up.

2. In some circumstances a mandatory follow-up action is requested to ensure protection of the revenue potential on a CNC case including specific assets such as investment funds or full payment of an encumbrance of real property.

3. Request mandatory follow-up only when required or when there is a likelihood that revenue will be collected by taking the requested action.

4. **Do not request a mandatory follow-up** in the following instances:

- To update and review a CIS on the chance that a taxpayer's financial condition will change.
- If follow-up will occur in less than 90 days; these cases should be held in the RO inventory.
- To check on future compliance with filing requirements.
- To verify that payments are being made on an installment agreement.
- To verify that estimated tax payments are being made.
- To determine offset of a potential refund.
- To attempt to locate a taxpayer whose accounts were reported CNC with closing code 03, 06 or 19.
- If the aggregate account balance, including accruals, is less than the following Bal Due deferral levels:
IMF - ≡ ≡ ≡ ≡ (except MFT 55 - ≡ ≡ ≡ ≡)
BMF - ≡ ≡ ≡ ≡ ≡ ≡ ≡ ≡ (except MFT 13 - ≡ ≡ ≡ ≡)
NMF - ≡ ≡ ≡ ≡ ≡ ≡ ≡ ≡ (except ≡ ≡ ≡ ≡ for NMF accounts on telephone excise tax when the SSN is determined)
IRAF - ≡ ≡ ≡ ≡ ≡ ≡ ≡ ≡

Example:

Financial information shows the taxpayer's allowable expenses exceed income and there is **no equity** in assets. The taxpayer has fallen on hard times but expects to be back to work in a year and able to pay the tax debt. Allowable expenses are \$22,000.00 Report the account CNC using cc 25. Do not request a mandatory follow-up. The account will be reissued systemically when the taxpayer files a return with income of \$28,000.00 or more.

Example:

Financial information shows the taxpayer's allowable expenses exceed income and no equity in assets. The taxpayer is incarcerated and his/her release date is two years from today's date. Report the account CNC using cc 24.

5. Request mandatory follow-up when there is evidence that the taxpayer's ability to pay will improve and either computer-generated reactivation is not available or the improvement will happen significantly sooner than systemic reactivation can occur. Generally, the expectation is that revenue will be collected as a result of the follow-up request. Circumstances include:

A. IMF accounts where the taxpayer will pay off a debt which creates positive cash flow for payment of the tax.

Example:

Financial information shows the taxpayer's allowable expenses equal income. The taxpayers have **equity** in their home but already have a second mortgage and **cannot qualify** at this time for a third. The second mortgage will be paid in ten months. Allowable expenses are \$42,000.00. Report the account CNC using cc 27 with a mandatory follow-up in twelve months to see whether, based on the current equity in assets, the IRS may be able to secure payment from the taxpayer through either a new second mortgage and/or an installment agreement.

B. In-business corporation cases and other employment tax cases (proprietorship, partnership, or LLC) where the taxpayer is still in business in accordance with IRM 5.16.1.2.7(8).

C. BMF or IMF accounts for which the primary taxpayer files as the secondary SSN on a joint income tax return.

Example:

If a couple files jointly under the wife's SSN, and the husband owes on a sole proprietorship that is reported uncollectible, the BMF case would have the husband's SSN as the cross reference. Since reactivation is determined by an annual review of TPI on the cross reference SSN and the husband is filing under the wife's SSN, this case would not reactivate.

D. The account is reported CNC using cc 12 or cc 18 and there is a definite indication contact should be made in the future.

Example:

The taxpayer is out of the country or temporarily cannot be reached.

E. The taxpayer is reported CNC as a defunct business (other than a sole proprietorship) but requires a follow-up because there is an indication that the business will be due funds in the future.

F. The taxpayer is a seasonal worker, and the tax would be collectible if the taxpayer is contacted when working.

G. Non-master file accounts, where appropriate.

H. Cases in which the 65 cycle suppression of reactivation built into the systemic follow-up program would prevent timely action.

I. Cases where a notice of levy was issued to attach retirement income and assets or income from a law suit which the taxpayer is not yet eligible to receive.

J. Cases that require a NFTL refile.

K. Cases where a court orders restitution paid to federal as well as nonfederal victims, and the Service cannot pursue enforced collection actions until the nonfederal victims are paid in full. In those instances, the account may be closed as a CNC hardship using a closing code calculated in accordance with IRM 5.16.1.2.9(13), with a mandatory follow-up date based on information contained in the court order.

6. For cases not processed on ICS, document the specific follow-up actions and the date required in the Mandatory Follow-up Action section of Form 53, (or equivalent) in sufficient detail to ensure appropriate follow-up. Also document the case history to permit review of the follow-up action after part 4 of Form 53 is detached. As each follow-up action is completed, update part 4 to show the date of the next follow-up.

7. When a CNC case is closed through ICS with a mandatory follow-up request, after managerial approval, ICS systemically creates a Non-Field OI and assigns it to CCP. The RO then sends the paper file to CCP to monitor the follow-up action. Form 3210, *Document Transmittal*, and the CNC case file should be annotated in bold or red "Mandatory Follow-up 53". See the Who/Where tab on SERP for the CCP addresses or click on this link <http://mysbse.web.irs.gov/collection/ccpcoll/maillingprocedures/21073.aspx>.

8. CCP will maintain a file for mandatory follow-up requests. These files will *not* be retired to the federal records center. CCP will:

- File the cases by month and year of the requested action as determined by the originator.
- File the cases alphabetically if a systemic monitoring program is used.
- Generate and control subsequent actions with an ICS OI.

Note:

CCP will monitor in-business CNC cases for compliance. If the taxpayer incurs additional liabilities, an OI will be issued to resolve the liabilities. If the additional liabilities are not resolved, the CNC accounts will be reactivated for collection action.

9. If the account remains in CNC after a follow-up, update the closing code to reflect current conditions. If a new closing code is needed request input of TC 530 with the new closing code on the CNC modules. Indicate on the request document, Form 4844, that the modules are not on IDRS. Forward Form 4844 to CCP after securing the required managerial approval.

Example:

If a case was closed as Unable to Contact using cc 12, and the taxpayer is subsequently contacted and determined to be a hardship, the closing code for the CNC periods should be updated to a hardship closing code.

Example:

If the case was closed as an in-business corporation using cc 13, and the follow-up determines the taxpayer is now defunct, the closing code for the CNC periods should be updated to cc 10 for a defunct corporation.

=====

=====

[More Internal Revenue Manual](#)