



Part 5. Collecting Process

Chapter 6. Collateral Agreements

Section 1. Collateral Agreements and Security Type Collateral

5.6.1 Collateral Agreements and Security Type Collateral

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Manual Transmittal

October 31, 2014

Purpose

(1) This transmits a revision to Part 5.6.1, Collateral Agreements, Collateral Agreements and Security Type Collateral.

Material Changes

- (1) Updated IRM 5.6.1.9.4.3(2) to reflect new mailing address.
- (2) Editorial corrections were made throughout document to organizational terms and link to Notice 2009–85.

Effect on Other Documents

This supersedes IRM 5.6.1 dated October 25, 2011.

Audience

Small Business/Self Employed Collection Employees

Effective Date

(10-31-2014)

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5.6.1.1 (10-25-2011) Collateral Agreements

1. A collateral agreement is executed by the taxpayer and "collateral security" ensures that the taxpayer performs the terms of the agreement. A collateral agreement is a pledge, guaranteed by security, for the performance of a certain act, i.e., payment of a delinquency or the filing of a return. A collateral agreement does not compromise the tax liability and should not be confused with collateral agreements in the context of offers in compromise. See IRM 5.8.6.1, *Overview*.
2. Read Internal Revenue Code (IRC) section 7101 and Treas. Reg. section 301.7101–1 for a discussion of situations that involve the use of bonds and by extension other forms of collateral security.
3. Consider the following when contemplating a collateral agreement:
 - A. The risks of not filing a lien since collateral agreements do not offer the same protection to the Service as a Notice of Federal Tax Lien (NFTL).
 - B. The possibility of the taxpayer filing for bankruptcy.
 - C. The possibility of competing lien priorities.
 - D. The possibility of state law ramifications when contemplating taking a deed of trust. Contact Advisory for guidance.
 - E. The lack of standards and concern for security and marketability for "other acceptable collateral." Contact Advisory for guidance.
 - F. For United States Saving Bonds, endorsement or execution of the bond as one of the conditions.

Note:

If Collection is contemplating a collateral agreement for non-assessed taxes, Advisory will consult with Area Counsel.

4. Requests for collateral agreements must be prepared in triplicate by the taxpayer, or the taxpayer's representative, and must include the following information:
 - A. Identification of the parties (taxpayer, IRS, and/or third party, if applicable),
 - B. Aggregate tax liability,

- C. Method by which taxpayer proposes to pay the tax liability,
 - D. Specific dates outlining when required actions will be taken.
5. The taxpayer or the authorized representative must be advised that failure to keep the terms of the collateral agreement will result in the IRS taking the necessary action to liquidate the collateral. A collateral agreement creates an independent remedy, separate from one to collect a tax, which may not be subject to the statute of limitations on collection.
6. In addition to the conditions mentioned above, the following are additional requirements for a valid collateral agreement:
- A. The taxpayer's proposal for payment supported by a properly executed power of attorney or by endorsement of the securities.
 - B. Provisions for the disposition of any coupons maturing while the security is in the possession of the Government.
 - C. A condition that the IRS intends to offset any refunds to the delinquent account covered by the agreement until accounts are paid in full or otherwise satisfied.
 - D. Provision that the taxpayer must remain current on filing and must not incur any further delinquencies during the term of the collateral agreement.
 - E. A term that the Service has a unilateral right to liquidate the collateral upon the failure to keep the terms of the agreement.

5.6.1.2 (10-25-2011) Types of Acceptable Securities

1. The value of the collateral must be sufficient to protect the interest of the Government throughout the life of the agreement. Consideration should be given to possible market fluctuations. Collateral security includes, but is not limited to, the following:
 - Marketable stocks or bonds of recognized stability,
 - Other corporate stocks or bonds supported by statements of financial condition reflecting the actual value of the security,
 - United States Government securities,
 - Letters of Credit,
 - Securities issued by any state, territory, or political subdivision thereof,
 - Other forms of securities acceptable to the Area Director after consultation with Advisory.
2. Since collateral security may be negotiable while in the possession of any person, precautionary measures must be taken to safeguard the collateral. See IRM 10.2.13, *Information Protection*.

5.6.1.2.1 (10-25-2011) Bonds

1. A bond for the purpose of securing payment of internal revenue taxes is collateral security offered by the taxpayer, his/her representative or a third party, which satisfies the provisions of IRC section 7101 and Treas. Reg. section 301-7101-1.
2. Treas. Reg. section 7101-1(b)(1) and (2) specify the kinds of security acceptable for securing payment of internal revenue taxes as provided in Title 6, Section 15 of the United States Code.
3. Treasury Department Circular No. 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds, and as Acceptable Reinsuring Companies, periodically lists the companies certified by the Secretary of the Treasury as acceptable sureties on Federal bonds. This list also shows the areas in which the companies are licensed to transact business and the underwriting limitations applicable to each company.

Note:

Treasury Department Circular No. 570 may be found at <http://fms.treas.gov/c570/index.html>

4. A bond executed by a surety not holding a certificate of authority approved by the Secretary of the Treasury shall be accompanied by financial statements of the surety or sureties. The taxpayer's proposal to pay will be submitted with the bond.
5. A bond is considered executed with satisfactory surety if it is secured by bonds or notes of the United States as provided in Treasury Circular No. 154, 31 CFR Part 225. Collection Field function (CF) should contact Area Counsel, through Advisory, if you have any questions about whether the bonds or notes constitute satisfactory surety
6. Treas. Reg. Sec. 301.7101-1(b)(2) allows the Area Director to consider a bond as being executed with satisfactory security, in lieu of execution by an approved surety company or in lieu of being secured by bonds or notes of the United States, if it is:
 - A. Executed by a corporate surety (other than a surety company), so long as the corporate surety establishes that it is within its powers to act as a surety for another;
 - B. Executed by two or more individual sureties, if each meet the conditions of Treas. Reg. section 301.7101(b)(3). These provisions indicate that each must reside in the state in which the principal place of business or legal residence of the primary obligor lies; that each have property subject to execution of a fair market value equal to at least the penalty of the bond; that all real property offered as security must be located in the state of the primary obligor's principal place of business or legal residence; the surety must agree not to mortgage or otherwise encumber any property offered as security while the bond remains in effect (absent securing the Area Director's permission); and he/she must file an annual affidavit, on a form prescribed by the Secretary, describing the adequacy of his/her security;
 - C. Secured by a mortgage on real estate or personal property;
 - D. Secured by a certified, cashier's or treasurer's check drawn on a bank or trust company incorporated under the laws of the United States, a state, territory or possession of the United States or by the United States postal, bank, express or telegraph money order;
 - E. Secured by corporate bonds, stocks or by State or local Governmental bonds; or
 - F. Secured by any other acceptable collateral.
7. Security must be submitted with a suitable bond agreement executed by the taxpayer and any third party which may be guaranteeing payment.
8. Bond(s) executed with surety should be submitted in a format acceptable to the Area Director. Consult with Advisory for acceptable formats.
9. Ascertain from Area Counsel, through Advisory, whether a time limitation for the validity of the types of checks below are provided by state laws in his/her respective state.

If there is a bond agreement secured by cashier's, treasurer's or certified checks and there are . . .

Then the validity of the check is

. . .

not extended past what is provided by state law.

state statutes relating to the period of limitations

no state statutes relating to the period of limitations

is limited to one year from the date the check is issued.

10. For corporate stocks and/or bonds, especially unlisted securities:

- A. Ascertain to the extent possible that market values will not fluctuate below levels sufficient to guarantee payment of the taxes.
- B. Accept such collateral only when current market values are well above the amount of the outstanding taxes being secured.
- C. Do not accept "Restricted" or "Letter" stock, which cannot be sold without a registration certificate from the Securities and Exchange Commission.

5.6.1.2.2 (10-25-2011)

Fuel Tax Bonds

1. Persons required to be registered for purposes of the federal excise tax on taxable fuel imposed by IRC section 4081 may be required, as a condition of registration, to furnish a bond and agree to the imposition of a lien. See IRC section 4101 for a more detailed discussion of the fuel tax bonds.
2. Application for Registration (for certain excise tax activities) is made on Form 637, *Application for Registration (For Certain Excise Tax Activities)*. Refer to IRM 4.24.2 for procedures and circumstances when the agent may recommend to the Area Director that a bond be required as a condition of registration.
3. Refer to IRC section 4101(b) and Manufacturers and Retailers Excise Tax Regulations 48.4101-1(j) for the form and amount of the bond.
4. See Treas. Reg. Sec. 48.4081-3(c)(2)(iv) for rules relating to posting of customs bonds for entries of taxable fuel.

5.6.1.2.3 (10-25-2011)

Estate Tax Bonds and Other Collateral

1. Advisory shall determine whether to require a bond or, in the alternative, suggest to the Executor, or other Estate representative, that a 6324A lien would be acceptable security for the deferred payment of estate tax. See IRM 5.5.6.2.
2. Advisory must first determine whether any security for extension of time to pay estate taxes is necessary based on the facts and circumstances of each estate. See 5.5.8.5.1, *Advisory Bond/Lien Determinations for Estate Tax Deferred Under IRC § 6166*.
3. Bonds or other types of collateral accepted by Advisory from estates securing extensions of time to pay estate taxes under IRC section 6161, IRC section 6163 and IRC section 6166 will be maintained for safekeeping by the Advisory Estate Tax Group.
4. Bonds and other types of collateral accepted by Estate & Gift from estates securing contingent estate tax liabilities under IRC section 2056A relating to Qualified Domestic Trusts (QDOTs) will also be maintained for safekeeping by the Advisory estate tax group.
5. The Service cannot accept a Letter of Credit (LOC) in lieu of a bond when a decedent's estate elects under IRC section 6166.
6. In the case of any proposed bond, Advisory will consult with Area Counsel for drafting (if needed) and review of the bond agreement.
7. Area Counsel will also be consulted when unusual assets are being considered as security on the lien agreement, such as art or collectibles, to recommend appropriate actions to secure the collateral.
8. Stock offered as collateral may be accepted only when the statutory requirements of IRC section 6324A(b)(1) and (2) are met. The requirements are:
 - A. The stock can be expected to survive the deferral period;
 - B. The collateral must be adequately identified in the agreement and can be submitted via Form 13925, *IRC Section 6324A Lien Agreement Form*; See IRM 5.5.8.5, *Special Lien Under IRC § 6324A for Estate Tax Deferred Under IRC § 6166* ;
 - C. The value of the stock must be sufficient to fully satisfy the estate tax liability plus the required interest amount.

Note:

The Service cannot reject closely held stock offered as collateral for the sole reason that it is closely held and hard to value. Consult with Area Counsel, through Advisory, on valuation issues.

9. If stock certificates are pledged as collateral for the lien, the Advisory employee will secure the original stock certificates and store in an approved safe. This will prevent the sale of such certificates to third parties without regard for the 6324A lien.
10. The Service will file a NFTL, Form 668-J, for the special estate tax lien on the stock. Stock, in most instances, will be considered personal property under state law. With respect to personal property, a lien must be filed in the office designated by state law in which the personal property is located.
11. Follow procedures in *IRM 5.6.1.7* for the preparation of Form 2276, *Collateral Deposit Record*. The stock certificates will be shown as "Safekeeping" reflecting a "zero value" for RACS purposes.

5.6.1.2.4 (10-25-2011)

Mortgages

1. When circumstances indicate a need to extend the period for collection of tax, the Service will normally have the Department of Justice reduce the tax claim to judgment. In rare situations, to extend the time period in which the tax may be paid or to obtain a lien on a piece of property to which the federal tax lien never attached, the Service may obtain a consensual lien (mortgage or deed of trust) from the taxpayer.
2. In all situations where Service personnel contemplate obtaining a consensual lien, Area Counsel, through Advisory, should be contacted as soon as possible and their approval secured.
3. The advice and approval of Area Counsel for any anticipated consensual lien are vital. Service personnel must recognize that state law determines if the consensual lien exists and if the lien will be enforceable. Failure to comply with state law may make the consensual lien invalid or unenforceable.
4. These considerations limit the use of the consensual lien to rare circumstances. It may be appropriate when the federal tax lien does not attach to the property in question. For example, an assessment exists against only one spouse and the federal tax lien does not attach to real property held by the non-liable spouse. To avoid collection from property that the lien encumbers, the couple may decide to give the Service a consensual lien on property held by the non-liable spouse.
5. The Service should never obtain a consensual lien in lieu of filing a notice of federal tax lien and reducing the tax claim to judgment or requiring that the taxpayer post a bond.
6. The facts and circumstances of a particular case will determine the duration of the consensual lien. Area Counsel must specifically advise the Service concerning the state law issues regarding the duration of the lien and its refileing.
7. The mortgage or deed of trust must be prepared by the taxpayer's counsel. The advice of private counsel negates later claims that the taxpayer did not know or understand his/her rights. The instrument must be executed in favor of the United States, as mortgagee, and should contain a clause expressly providing that it may be released by the Area Director, Collection, Internal Revenue Service, for the geographic area in which the mortgage is recorded. Do not include the name of the official. All fees in connection with the instrument, including recording and releasing fees, must be paid directly by the mortgagor.

8. Whenever possible, the instrument should provide that the taxpayer make payments over the life of the mortgage, thereby reducing interest and principal.
9. Revenue Officers must ascertain whether there are any senior lienholders on the property being offered as collateral. Specific information obtained on any senior liens should include the current status of the lien interest and the potential for default by the taxpayer, which would then force the Service to either redeem the property or lose its interest in the property held as collateral.
10. The Collection Group Manager receiving the mortgage/deed of trust will immediately contact the Collateral Advisor, for their review of the instrument and all related documents. If the Group Manager approves of the mortgage/deed of trust, these documents will be forwarded to the Advisory Group Manager for review and forwarding to Area Counsel for approval.
11. If the Advisory Group Manager and Area Counsel approve the mortgage/deed of trust, the instrument will be returned to the initiating Collection Group Managers to be filed as provided under local law.

5.6.1.2.5 (10-25-2011) **Escrow Arrangements**

1. Explore escrow arrangements when prompt action is required to safeguard the Government's interests, to obtain cash security on which the tax lien has not attached, and/or allow the taxpayer to remain in business during the time required for:
 - Judicial review of his/her case,
 - Readjustment of his/her affairs,
 - Releasing a levy.
2. Make certain that the:
 - Escrow agent is a disinterested and reliable person,
 - Government's interest will be protected at all times,
 - Costs in connection with the securing of an escrow agent and other related expenses will be paid directly by the taxpayer.
3. Provide the following information to the Advisory Group Manager where an escrow agreement is to be executed:
 - Name, identification number and address of taxpayer,
 - Name and address of escrow agent,
 - Taxpayer's business and location,
 - Account information (type of tax, period, balance, period remaining under the collection statute, etc.),
 - Condition of the arrangement,
 - Terms of the agreement,
 - Other pertinent information.

5.6.1.2.6 (10-25-2011) **Letter of Credit**

1. A Letter of Credit (LOC) allows the taxpayer to remain in business and protects the Government's interest and is acceptable for:
 - Forbearance in filing Notice of Federal Tax Lien,
 - Releasing a levy,
 - Deposit on redemption.
2. Cases arising under IRC section 6165 and IRC section 6166
 - As indicated in *IRM 5.6.1.2.3(5)*, Letters of Credit cannot be furnished in lieu of the bond required by IRC section 6166.
 - Previously, this prohibition did not extend to cases arising under IRC section 6165 where the letter of credit was determined as appropriate substitute for bond.
 - IRC section 7101(1) further states that whenever a bond is required, it shall be in such form with such surety as prescribed by regulation. Letters of credit do not meet the surety criteria set forth in Treas. Reg. section 301.7101-1(b) for any case where a bond is required.
 - In cases where a letter of credit is proposed in lieu of bond, the proponent should be advised that the application is not acceptable.
 - However, in accepted cases where a letter of credit has been substituted for a bond conforming to previous IRM procedures, the acceptance should not be revoked provided the proponent performs in accordance with the agreement.
3. Consult with Area Counsel, through Advisory, regarding the terms, conditions and duration of the instrument.
4. Costs in connection with securing and issuing the instrument and other related expenses must be paid by the taxpayer.
5. To adequately protect the interest of the United States, the letter of credit must:
 - A. Specify the United States, by and through the Area Director of Internal Revenue, as beneficiary of the credit established under the Letter.
 - B. Be irrevocable, meaning that it cannot be revoked prior to its expiration date without the consent of the issuing institution, the taxpayer(s), and the Area Director.
 - C. Be "clean," meaning that no document of title is required to be presented by the Area Director in order to receive payment under the Letter of Credit.
6. When a Letter of Credit is being considered, submit the following data to Advisory:
 - A. Name, identification number and address of taxpayer,
 - B. Name and address of proposed issuer of the Letter of Credit,
 - C. Taxpayer's business and location if different from that given in "a" above,
 - D. Account information (type of tax, period, balance, period remaining under the collection statute, etc.),
 - E. Condition of the arrangement,

- F. Terms of the agreement,
- G. Other pertinent information.

Note:

Note: The date stipulated for payment will not extend beyond six months prior to the expiration of the collection statute.

5.6.1.3 (10-25-2011)
Initial Processing (Overview)

1. The following subsections explain the procedures for the processing of collateral agreements and Form 2276, *Collateral Deposit Record*.

5.6.1.4 (10-25-2011)
Initial Collection Actions

1. When acceptance of collateral security is in the best interest of the Government, the responsible collection employee will negotiate the terms of the collateral agreement and the nature of the collateral with the taxpayer or representative.
 - A. Ensure that the taxpayer or representative completes the collateral agreement in triplicate. Electronic submissions may be accepted and should be signed digitally with a secure signature of the taxpayer and/or representative.

Note:

When specific questions arise concerning preparation of the collateral agreement, obtain assistance from Advisory and Area Counsel.

- B. Prepare a transmittal memorandum in triplicate furnishing pertinent facts and a recommendation as to whether the offered collateral and the terms of the collateral agreement have merit for consideration. Contact local Advisory for questions concerning the transmittal memorandum format. Electronic submissions are acceptable.
- C. The collateral agreement and transmittal memorandum should be submitted to the collection employee's immediate supervisor for review and subsequent approval. Digital signature(s) of approving official(s) are acceptable.
- D. The approved collateral agreement and transmittal memorandum should then be forwarded to Advisory for further review and approval.
- E. Safeguard collateral at all times. Refer to IRM 10.2.15, *Minimum Protection Standards (MPS)* for specific guidance regarding safekeeping requirements.

Note:

SB/SE Delegation Order 5.3 (Rev. 1) contains information regarding approval authority. Collateral agreements should always be reviewed and approved by Advisory.

5.6.1.5 (10-25-2011)
Advisory Actions

1. Advisory will provide assistance to revenue officers and other Service personnel in developing collateral agreements and by reviewing the collateral security for accuracy, form and content.
2. Advisory will open a control on ICS no later than seven (7) calendar days after receipt in the group of the collateral agreement using the appropriate action code (184 - Collateral, 188 - Captive Insurance, and 189 - Other International)
3. If the proposed collateral agreement is acceptable, the Advisory employee will:
 - A. Forward to the Advisory Group Manager for approval. Digital signature(s) of approving official(s) are acceptable.
 - B. Request IDRS input upon approval as described in *IRM 5.6.1.8*.
4. If the proposed collateral agreement is not in conformance, forward to Area Counsel for an opinion.

5.6.1.6 (10-25-2011)
Collateral Agreement and Other Acquired Property Serial Numbers

1. Revenue officers will contact Advisory for assignment of a unique serial number.
2. The serial number will be used on Form 2276, *Collateral Deposit Record*.
3. Serial numbers will be used to identify both collateral agreements and "other" acquired property agreements.
 - "Other acquired property" is any property deeded to, surrendered to, or otherwise acquired by the Internal Revenue Service (IRS) by means other than IRS seizure or sale. Typically, this could involve some type of litigation or voluntary surrender of property.
4. This guidance is required in order to comply with the current alignment of Collection Field Area Operations, as it relates to the Interim Revenue Accounting and Control System (IRACS) reports. This will ensure that the serial numbers for collateral agreements and other acquired property are correctly entered and reconciled on the IRACS reports.
5. All collateral agreements and other acquired property serial numbers will be based on the alignment of the Collection Field Area Operations as follows:
 - Area 01 - North Atlantic
 - Area 02 - Central
 - Area 03 - South Atlantic
 - Area 04 - Midwest
 - Area 05 - Gulf States
 - Area 06 - Western
 - Area 07 - California
 - Area 15 - International
6. See *IRM 5.6.1.7* for additional information regarding the serial number format.

5.6.1.7 (10-25-2011)

Preparing Form 2276, Collateral Deposit Record

1. Upon receipt of the collateral or other acquired property, the revenue officer or advisor will:

- Prepare Form 2276, *Collateral Deposit Record*, for identification of the collateral agreement and for adequate control through IRACS.
- Complete all applicable items on the form. Generally, items 1 through 11.
- **Item 2 - Serial Number** - the revenue officer will contact Advisory for assignment of a unique serial number.
- The serial number identifies the fiscal year, Collateral (CDR) or Acquired (ACQ), Collection Field Area Operations location and Office code, three digit sequence number and an alpha number, if applicable.

Example:

Fiscal Year and "ACQ"	"CDR" or "ACQ"	_ Collection Field Area Operations - Area (01 through 07, 15) AND Local Office Group Code	_ Three Digit Serial Sequence Number and Alpha Definer (if applicable)
10CDR		_ 0410	_ 001

2. In the example above, Fiscal Year 10; CDR; Collection Area 04, Group 10; Sequence Number 001 with no "alpha" code. Alpha codes are used to differentiate international collateral situations. Use "F" to designate Federal Excise Tax (FET) collateral, "CI" to designate Captive Insurance collateral and "X" for Expatriate Tax collateral. The alpha codes provide a control mechanism for the South Atlantic Territory to differentiate the collateral agreements listed on the RACS 135 Report. FIRPTA collateral are housed only in the Central Territory and represent a very small inventory.

3. Item 7(b) - include the expiration date of the collateral agreement.

4. Item 7(d) - determine if a value should be given in the column or if the word "safekeeping" is applicable for the type of collateral agreement secured.

If in the agreement there is . . .	Then Classify as . . .	On Form 2276 for financial reporting purposes . . .
No assessed liability, i.e., only a potential future tax liability, such as an International collateral	Safekeeping	Enter "Safekeeping" in item 7(d) and the value in item 7(e).
an Assessed liability but No unilateral right to the property, i.e., Escrow Agreements	Safekeeping	Enter "Safekeeping" in item 7(d) and the value in item 7(e).
An assessed liability And a unilateral right, i.e., cashiers' check, bearer bonds, irrevocable letter of credit, mortgages, surety bonds, etc.	Collateral	Enter the value in items 7(d) and 7(e) for area information purposes.
Seized Assets, Sales, Deposits, etc.	Collateral	"Safekeeping"
Other Acquired Property	Other Acquired Property	Value of Acquired Property or "Safekeeping"

5. After approval Advisory will:

- A. Seal the collateral, with a copy of the agreement, in an envelope and sign the envelope across the seal.
- B. Maintain adequate security of the collateral and agreement in accordance with IRM 10.2.13, 10.2.14 and 10.2.15.
- C. Retain parts 6 and 7.
- D. Open an Advisory control module on ICS using the action code 184.

6. In addition to the above actions, the advisor will:

- A. complete items 12 and 13 of parts 2 through 5 of Form 2276 to acknowledge receipt of the collateral. Notate in the "Remarks" section of part 2, "collateral was received and verified prior to sealing the envelope."
- B. photocopy part 2 of Form 2276.

7. Dispose of the Form 2276 as follows:

- A. retain the photocopy of part 2 to ensure the item appears on the subsequent Area Office Inventory Report.
- B. store part 2 and the collateral in a secure area as described in IRM 10.2.14.3.2.
- C. send part 3 of the Form 2276 to the IRACS unit for necessary action.

8. Seized assets, sales deposits, and other items held are not collateral even though a Form 2276 is prepared; they are held by Advisory for security purposes. When preparing Form 2276:

- A. Enter seizure number on the collateral deposit record.
- B. Enter "Safekeeping" in item 7(d) and the value in item 7(e).
- C. Attach a copy of Form 2433.
- D. **Do not send a copy of Form 2276 to IRACS.** The use of Form 2276 is for internal control and accountability.

5.6.1.7.1 (07-01-2006)

Rejection of Collateral Security

1. Advisory will:

- A. Check the appropriate block on the reverse of parts 4 and 5 of Form 2276.
- B. Forward the collateral item together with part 5 to the initiator for return to the taxpayer.
- C. Retain remaining parts of Form 2276.
- D. Close out the open Advisory control module on ICS.

5.6.1.7.2 (07-01-2006)

Interim Revenue Accounting and Control System (IRACS)

1. Collateral inventory is controlled through IRACS. The inventory is maintained in the IRACS database. Refer to IRM 3.17.63.23.3 for additional information regarding IRACS collateral.
2. This information is maintained by the IRACS Unit at the Ogden Campus and is reported to each Advisory Area monthly.

5.6.1.8 (07-01-2006)

IDRS Input

1. IDRS Transaction Code (TC) 524 is used to identify the kind of collateral security, maintain a control and provide monitoring of the suspended accounts.
2. Advisory will prepare Form 4844, *Request for Terminal Action*, for input of TC 524 with the proper closing code, and the number of cycles of suspension.

TYPE OF COLLATERAL	CC
Surety bond	40
Cashier's, treasurer's, or certified check	41
All other collateral, i.e., bonds, notes, stocks, mortgages, etc.	42

3. Input of TC 524 updates the balance due status to 40 or 41, removing it from active inventory.

5.6.1.9 (10-25-2011)

International Collateral Agreements

1. There are four types of international collateral agreements. The first three are "non-equity" collateral agreements involving international companies that do not have taxable income, but are involved in business activities with United States owned companies. The fourth is when a taxpayer decides to expatriate from the United States but wishes to defer payment of tax.
 - A. Foreign Investment Real Property Tax Act (FIRPTA) - This type of collateral agreement is controlled in Advisory Mid-Central Territory.
 - B. Federal Insurance Excise Tax - These agreements, as well as (c) and (d) are controlled in the South Atlantic Territory.
 - C. Captive Insurance (CI)
 - D. Expatriate Tax
2. For additional information on obtaining collateral serial numbers on "international" collateral agreements, see *IRM 5.6.1.6* and *IRM 5.6.1.7*.
 - Alpha characters are used to differentiate different International collateral agreements within the South Atlantic Advisory Territory. The letter "E" is used to designate Federal Insurance Excise Tax collateral. The letters "CI" designate Captive Insurance collateral. The letter "X" designates Expatriate Tax collateral.

5.6.1.9.1 (10-25-2011)

Foreign Investment Real Property Tax Act (FIRPTA)

1. The Tax Reform Act of 1984, section 129, 1984-83 (Vol. 1) C.B. 163, added section 1445 to the Internal Revenue Code (IRC) as a means of enforcing the tax imposed by IRC section 897 on the disposition of investments in U.S. real property by foreign persons. The disposition of a U.S. real property interest by a foreign person (the transferee) is subject to the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) income tax withholding.
2. See Rev. Proc. 2000-35, IRM 4.61.12 and IRM 21.8.5 for more detailed discussions of FIRPTA determination procedures.
3. Advisory involvement consists in establishing a collateral agreement control when security is pledged as a condition for a large foreign corporation receiving a withholding certificate.
4. The acceptable types of security are:
 - Bond with surety or guarantor,
 - Bond with collateral,
 - Letter of Credit,
 - Guarantee, or
 - Any other security acceptable to Advisory Territory Managers under SBSE Del. Order 4.23.

5.6.1.9.1.1 (10-25-2011)

Processing of Security Agreements

1. All requests for withholding certificates are received by the Philadelphia Campus for review by the Examination FIRPTA Coordinator. The withholding certificate requests will consist of:
 - Application for Withholding Certificate,
 - Agreement for Payment of Tax (Security Agreement),
 - Collateral Security.
2. Those requests involving large foreign corporations are forwarded to the Mid-Central Territory Advisory FIRPTA Coordinator in Pittsburgh, PA to evaluate the collateral security agreement to ensure:
 - that it conforms to Rev. Proc. 2000-35,
 - that the security pledged is adequate to protect the government's interest.
3. The Advisory FIRPTA Coordinator will establish an NFOI on ICS, documenting the receipt date, within 7 calendar days of receipt from the Examination FIRPTA Unit.
4. If the agreement and/or collateral is not acceptable, the Advisory FIRPTA Coordinator will document any deficiencies in ICS, annotate corrections on a copy of the Agreement, send 14 day letter (Exhibit 5.6.1-1) and establish follow-up on ICS.
 - A. If no response is received by the follow-up date, send the 7 day follow-up letter (Exhibit 5.6.1-2).
 - B. If no response is received by the second follow-up date, reject the agreement back to the Examination FIRPTA Unit via memorandum stating the reason(s) for rejection, and
 - C. Close ICS NFOI within 10 calendar days.

5. If Advisory has other concerns that the request does not conform to the provisions and requirements of Rev. Proc. 2000-35, the Advisory FIRPTA Coordinator will contact Area Counsel via memorandum to ensure all legal requirements will be satisfied.
6. If the agreement is acceptable upon receipt, or worked to an acceptable level, and the collateral security verified, the agreement will be approved in accordance with SBSE Delegation Order 4.23.
7. Once the agreement is signed by the Advisory Territory Manager, a collateral deposit record is created on the Revenue Accounting Control System (RACS) Report 135. See *IRM 5.6.1.7* for instructions on preparation for Form 2276, *Collateral Deposit Record*, and establishing a collateral property account on RACS.
 - A. Enter the FIRPTA case number provided by the Examination FIRPTA Unit in the top right hand of Form 2276.
 - B. All collateral will be secured for safekeeping.
 - C. A copy of the executed agreement and a copy of Part 4 of Form 2276 will be sent via memorandum to the Philadelphia Campus Examination FIRPTA Unit.
 - D. The Philadelphia Campus Examination FIRPTA Unit is responsible for issuing the appropriate withholding certificate to the applicant.

5.6.1.9.2 (10-25-2011)

Federal Insurance Excise Tax

1. Internal Revenue Code (IRC) section 4371 imposes a tax (the "insurance excise tax") on certain insurance or reinsurance policies. See Rev. Proc. 2003-78 for the procedures for entering into a closing agreement to obtain a waiver of the insurance excise tax under certain income tax treaties.
2. In addition to a number of other requirements outlined in Rev. Proc. 2003-78 for obtaining a closing agreement, the foreign insurer must provide an irrevocable letter of credit (LOC) to be issued by a bank approved by the Service in the amount of \$75,000.
3. The Large Business and International (LB&I) business unit has responsibility for the implementation and execution of insurance excise tax provisions.
4. Advisory has responsibility for the collateral agreement portion of the program with respect to the maintenance and disposition of the LOC. Program management is under the South Atlantic Territory in the Plantation Advisory office.

5.6.1.9.2.1 (10-25-2011)

Advisory Actions

1. After execution of the appropriate closing agreement, LB&I sends the LOC to Advisory.
2. Advisory will date stamp the envelope the same day it is received in the office. Within 7 calendar days for receipt, Advisory will prepare and process Form 2276, *Collateral Deposit Record*, in accordance with *IRM 5.1.6.7*.
3. Federal Excise Insurance collateral agreements are identified on the Area RACS 135 Collateral Report with the definer "E" at the end of the CDR.
4. The Advisory file will consist of:
 - Form 2276,
 - Original LOC,
 - Original Amendments, as appropriate, and
 - A copy of the Closing Agreement,
 - Power of Attorney, if applicable.

5.6.1.9.3 (10-25-2011)

Captive Insurance (CI)

1. An IRC 953(d) election allows a foreign controlled corporation (as defined in section 953(d)(1)(A)) that is engaged in an insurance business to elect to be treated as a U.S. corporation for income tax purposes, and, thus, to be subject to U.S. tax on its worldwide income.
 - A. Taxpayers that make the elections are corporations that are formed outside the U.S. The majority of income earned by such taxpayers is income that is effectively connected with a U.S. trade or business. Taxpayers make an IRC 953(d) election to avoid the branch profits tax or the branch level interest tax imposed by IRC section 884.
 - B. A foreign corporation that makes the election granted under IRC section 953(d) waives all benefits granted to it by the U.S. under any treaty between the U.S. and any foreign country. Section 953(d) was added to the IRC section by the Technical and Miscellaneous Revenue Act of 1988.
2. Revenue Procedure 2003-47; 2003-28 I.R.B. 55 provides the procedural rules for foreign insurance companies to make an election under IRC section 953(d).
 - A. This revenue procedure replaces the procedural rules for making an IRC 953(d) election contained in Section II of Notice 89-79, 1989-2 C.B. 392. The substantive rules contained in Notice 89-79 continue to be effective. The election has been available for tax years beginning after December 31, 1987.
 - B. The taxpayer initiates the election process by filing a completed election statement with Advisory, South Atlantic Area, Plantation office.

5.6.1.9.3.1 (10-25-2011)

Taxpayer Election Procedures

1. The taxpayer must file its election statement with the Plantation office not later than the due date prescribed in Section 6072(b) (with extensions) for the first return due if the election becomes effective.
 - A. a. The taxpayer also must timely file (as prescribed by Section 6072(b) with the Service Center a copy of the election statement with its annual income tax return for the first year for which the election is made. The due date for Form 1120 filed on the calendar basis is March 15th (excluding a valid extension of time to file (Form 7004). The postmark of the envelope will be used as the controlling date. A grace period of seven (7) calendar days should be allowed. The Service will also consider a timely faxed submission of an election statement as long as it is followed with an original. Examples of situations where elections can be considered timely filed:

- An election statement was submitted to the Service Center attached to a timely filed tax return, but was not filed separately with the designated office. The original return will have to be ordered from the Service Center. The election is subsequently filed with the designated office after the due date. As long as the intent was to timely file the election, it should be processed as timely.
- A separate election statement was not submitted or the statement was not attached to a timely filed return, but the first page of a timely filed return shows that the block next to *IRC 953(d)* is checked (the block can be found at the top of the form near the name and address). Again the original return should be ordered. The election is subsequently filed with the designated office after the due date.
- The taxpayer claims that an election statement was submitted to the designated office but there is no record of having received it. The taxpayer should resubmit the election and provide documentation (i.e. certified receipt acknowledging the Service's receipt) to show that the original election was timely filed.

B. With respect to election requests submitted under IRC section 501(c)(15), Advisory will determine that the exempt status (See IRM 7.14.1) or that Form 1024, *Application for Recognition of Exemption under Section 501(a)*, is on file with the Service.

5.6.1.9.3.2 (10-25-2011) Advisory Procedures

1. Upon receipt of the election, an NFOI Action Code 188 (Captive Insurance) will be loaded onto ICS within 7 calendar days of receipt of the election.
2. Advisory will date stamp the envelope and retain with the election statement. Do not date stamp or make any other notations on the election statement itself. The elections should be batched monthly to coincide with the monthly reporting period. Less than a dozen taxpayer representatives submit the majority of elections, the elections should be further batched by representative within each month's receipts. This will facilitate initial review and preparation of necessary correspondence.
3. Elections are reviewed on a first-in, first-out (FIFO) basis. Requests for expedited reviews should not be entertained. Review elections in monthly batches.

- A. Review the postmark to determine timeliness of filing.
- B. If the election statement was not timely filed a letter should be mailed to the taxpayer along with a copy of the election statement and envelope advising them of the late filing.
- C. The letter provides the taxpayer the opportunity to present any extenuating circumstances and supporting documents.
- D. The letter should provide a specific date for response and advise the taxpayer of the consequences i.e., case will be closed without further notice.
- E. While the response date will generally be 30 calendar days from the date of the letter, a 60 day response date is allowed if the contact address discussed in *IRM 5.6.1.9.3.2(4)* is overseas where mail service is sometimes erratic.
- F. Any taxpayer response to the determination of an untimely election should be carefully reviewed and considered. A written response should be mailed to the taxpayer within 10 calendar days of receipt of the response.

4. The contact address should be the U.S. address identified in paragraph 6 of the election statement. If a U.S. address is not identified then the foreign address identified in paragraph 1 of the election statement should be used.

- A. If the U.S. address is used, then the foreign address should be added as an "other address" in the Name/Address option of the Entity Detail Menu.
- B. Enter the Power of Attorney data in the Name/Address field.

5. A foreign address or country of foreign incorporation should always be identified in the election statement. If not, the election should be returned.
6. Review the election statement for errors. Use Appendix A of Rev. Proc. 2003-47 as a guide for the required content. Virtually all of the statements filed will be filed using this suggested format. The following are examples of common errors:

- A. Not timely filed;
- B. Asset Calculation Sheet not included, out dated figures used, 105 test not met, and/or the entity is not actively involved in insurance business and not for investment purposes (zero gross premiums);
- C. U.S. shareholders list not attached and or EINs/SSNs missing or incorrect;
- D. Forms 2848 and or 8821 not attached or properly executed (unsigned, incomplete, etc.);
- E. EIN not provided or incorrect;
- F. Unsigned election statement;
- G. Compliance (unpaid balance, unfiled return(s));
- H. Foreign place of incorporation not identified;
- I. Effective date missing;
- J. Penalty of Perjury statement missing.

7. If corrections are needed, send the appropriate letter to the taxpayer with a copy to the POA. All Service requests for additional information should be in writing and will state the corrections needed, include a specific date for response and advise the taxpayer of the consequences for non-response.
8. Determine whether the taxpayer will be providing security (letter of credit) or whether an affiliate will meet the Office/Assets Test for the taxpayer. A closing agreement is required in either situation.
9. When an election statement is complete and it conforms to the guidelines prescribed in Rev. Proc. 2003-47, it can be approved by rubber stamping the election statement **APPROVED**. The original stamped election statement is maintained by Advisory with copies sent to the taxpayer and or POA using an original dated cover letter. Keep a copy of the cover letter with the file.
10. Annotate ICS history of all actions taken. Once the election is either approved or rejected it should be closed out on ICS. A print of the case history should be maintained with the closed file.

11. Those elections where the taxpayer will be providing a letter of credit should initially be opened under Action Code 188. When the election is finally approved, the 188 should be closed and an NFOI reopened under Action Code 184 (Collateral) for further monitoring.

5.6.1.9.3.3 (10-25-2011) Collateral Security

1. If paragraph 6 indicates that the taxpayer will be providing security, mail the taxpayer Chief Counsel's data sheet titled "For Closing Agreements Where a Letter of Credit is Required" with an appropriate cover letter.
 - A. The data sheet is to be completed by the taxpayer and sent directly to Associate Chief Counsel for International.
 - B. Counsel will prepare the closing agreement (in triplicate, marked Original, Duplicate & Triplicate) and return them to the taxpayer to be signed.
 - C. The taxpayer will return the signed closing agreements back to Counsel to be signed by Deputy Chief Counsel (International-Technical).
 - D. Once signed, the closing agreements will be mailed to Advisory for signature by the delegated official, the Advisory Territory Manager, South Atlantic Area.
2. The agreements are forwarded for signature along with a copy of the election statement and copies of two Counsel memoranda designating the Authority to Enter into Closing Agreements as background material.
3. At the same time that the closing agreements are sent to the delegated official, notify the taxpayer and POA by fax to submit the letter of credit in the amount designated in the closing agreement. The closing agreement also spells out the proper language and terms and conditions for the letter of credit.
4. Upon receipt of the letter of credit, Advisory will review it to ensure it conforms to the requirements as stated in the closing agreement.

- A. The primary requirements that are reviewed are the correct dollar amount as required by the closing agreement and that the letter of credit contains an "evergreen clause." stating the expiry notification period must be at least six (6) months (180 days) prior to the expiration date.

Note:

An evergreen letter of credit is one that has an expiry (expiration) date but contains a provision, referred to as an evergreen clause, that the letter of credit will be automatically extended (rolls over) for indefinite periods until the issuing party informs the Service and the taxpayer of its final expiration.

- B. Other conditions required of the letter of credit:

- A. It must be conspicuously captioned as a clean irrevocable letter of credit;
- B. It must be issued by a U.S. Bank that is a member of the Federal Reserve;
- C. The amount of the letter of credit must be written out and stated in numerical form;
- D. It must conspicuously state the expiration date;
- E. It must state that the letter of credit may be drawn on by a draft of the Internal Revenue Service drawn at sight with no accompanying documentation necessary and duly honored if presented for payment on or before expiration of the letter of credit.

- C. If the letter of credit does not conform to the aforementioned standards, a letter should be drafted and sent to the taxpayer explaining the required corrections. Do not return the letter of credit. The taxpayer will secure an amendment to the letter of credit from the issuing financial institution.

5. After the closing agreement is executed by the delegated official and the letter of credit is received, use the appropriate cover letter to send the taxpayer and POA the triplicate copy of the closing agreement, a copy of the election statement stamped **APPROVED** and Part 1 of Form 2276, *Collateral Deposit Record*.
 - A. Form 2276 must first be assigned a serial number. See *IRM 5.6.1.6* and *IRM 5.6.1.7*.
6. There will be instances where a taxpayer, who has a letter of credit on file, will be able to meet the Office/Assets Test themselves or have an affiliate meet the test for them. These cases will require an amended election statement/closing agreement and the ICS Action Code 184 should be closed once the letter of credit is returned. In cases where an affiliate will meet the Office Assets Test for the taxpayer and a closing agreement is required, an OI should be opened under 188 and closed out once the election is approved.

5.6.1.9.3.4 (10-25-2011) Compliance Review

1. On an annual basis a compliance check should be conducted on all IRC section 953(d) entities who are the subject of closing agreements involving letters of credit. The check should ensure that all returns have been filed and paid.
2. If there are compliance issues, the appropriate letter should be mailed to the taxpayer addressing the compliance issue(s), providing the entity with a deadline to correct and advising them of the risk of termination of the election.
3. The latest filed return should be reviewed (BRTVUE) to determine if there could have been an increase in gross income by more than 20% of the amount of gross income for the base year.

- A. The closing agreement requires the taxpayer to monitor and calculate this amount on an annual basis. Experience has shown that this is not always done and therefore the reminder letter is required. Failure to maintain a letter of credit at the proper level is grounds for termination of the election.
- B. Such an increase would require the taxpayer to submit an amended, or new, letter of credit reflecting the new base year assets requirement (10%). Because the gross income as defined in IRC sections 803 or 832(b)(1) cannot be determined from BRTVUE, the appropriate letter and Assets Calculation Worksheet should be mailed to the taxpayer to be completed and returned.

5.6.1.9.4 (10-31-2014) IRC section 877A - Tax Responsibilities of Expatriation

1. Section 301 of the Heroes Earnings Assistance and Relief Act of 2008 (the "Act") added new section 877A to the Internal Revenue Code which applies to individuals who on or after June 17, 2008, relinquish U.S. citizenship or cease to be lawful permanent residents of the United States.
2. See [Notice 2009-85](#) and IRM 21.8.1.11.23, *IRC section 877A - Mark-To-Market Exit Tax*, for complete guidance for expatriation and taxable consequences.

3. See Form 8854, *Expatriation Information Statement* and Form W-8C, *Notice of Expatriation and Waiver of Treaty Benefits* for reporting responsibilities for former U.S. citizens or long-term residents who are subject to the provisions of IRC section 877A.

5.6.1.9.4.1 (10-25-2011) **Expatriate Tax Provisions**

1. IRC section 877A generally imposes a "mark-to-market" regime on expatriates who are covered by IRC section 877A, providing that all property of a covered expatriate is treated as sold on the day before the expatriation date for its fair market value. Section 877A further provides that any gain or loss arising from the deemed sale is taken into account for the taxable year of the deemed sale notwithstanding any other provisions of the Code.
2. IRC section 877A(g)(2) provides that the term "expatriate" means:
 - any U.S. citizen who relinquishes his or her citizenship and,
 - any long-term resident of the United States who ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6), as amended).
3. A "covered expatriate" as defined in IRC section 877A(g)(1)(A) and (B) is any expatriate that meets the criteria outlined in IRM 21.8.1.11.23.1(1) and (2).
4. The determination as to whether an individual is a covered expatriate is made as of the expatriation date.
5. IRC section 877A(g)(3) defines the term "expatriation date" as the date an individual relinquishes U.S. citizenship or, in the case of a long-term resident of the United States, the date on which the individual ceases to be a lawful permanent resident of the United States within the meaning of IRC section 7701(b)(6). See IRM 21.8.1.11.23.1(5) and (6) for expatriation date determinations for citizens and long-term residents.
6. Pursuant to IRC section 877A(b), a covered expatriate may elect to defer payment of the tax attributable to property deemed sold.

5.6.1.9.4.2 (10-25-2011) **Deferral of Mark-To-Market Tax**

1. IRC section 877A(b) provides that a covered expatriate may make an irrevocable election with respect to any property deemed sold by reason of section 877A(a) to defer the payment of the tax attributable to any such property. The deferral election is made on an asset-by-asset basis. In order to make the election with respect to any asset, the covered expatriate must provide adequate security as defined in *IRM 5.6.1.9.4.3(1)* and must irrevocably waive any right under any U.S. treaty that would preclude assessment or collection of any tax imposed by reason of section 877A. The covered expatriate must make the waiver on Form 8854, *Expatriation Information Statement*. If the IRS subsequently determines that the security provided for the deferred tax no longer qualifies as adequate security, the deferred tax and interest will become due immediately, unless the covered expatriate corrects such failure within 60 days after the IRS mails notification of such failure to the last known addresses of the covered expatriate and the covered expatriate's U.S. agent. See *IRM 5.6.2.8.4*.
2. Subject to the preceding sentence, the time for payment of the tax attributable to a particular deferral asset under the mark-to-market regime is extended until the earlier of the due date (without extensions) of the covered expatriate's income tax return for:
 - A. the taxable year in which the asset is disposed of by sale, non-recognition transaction, gift, or other means, or
 - B. the taxable year that includes the date of death of the covered expatriate.

However, a covered expatriate may, and should be encouraged to, pay any tax deferred under IRC section 877A(b), together with accrued interest, at any time.

3. IRC section 877A(b)(7) provides that for purposes of IRC section 6601, the last date for the payment of tax will be determined without regard to the deferral election. Interest will be computed at the underpayment rate established under IRC section 6621 from the due date of the return (without extensions) for the taxable year that includes the day before the expatriation date and will compound daily under IRC section 6622 until the date the tax is paid.
4. IRC section 877A(b)(5) provides that a covered expatriate may not make a deferral election with respect to a particular asset unless the covered expatriate makes an irrevocable waiver of any right under any U.S. treaty that would preclude the assessment or collection of any tax imposed by reason of section 877A. The covered expatriate must make the waiver on Form 8854, which must be filed with the covered expatriate's Federal income tax return for the taxable year that includes the day before the expatriation date. See section 8.C of this notice. Additionally, acknowledgment of such waiver must be noted in the agreement to defer tax with respect to a particular property ("tax deferral agreement") as described below.

5.6.1.9.4.3 (10-31-2014) **Collateral Procedures**

1. Section 877A(b)(4)(A) provides that, in order to make a deferral election with respect to any asset, the covered expatriate must provide adequate security with respect to such asset. IRC section 877A(b)(4)(B) defines the term "adequate security" as:
 - A. a bond that is furnished to, and accepted by, the Secretary, that is conditioned on the payment of the tax (and interest thereon), and that meets the requirements of section 6325, or
 - B. another form of security for such payment (including letters of credit) that meets such requirements as the Secretary may prescribe.
2. Each covered expatriate who makes a deferral election must enter into a tax deferral agreement with the IRS. Execution of the agreement by the IRS will constitute acceptance by the Secretary of the security as adequate security. A template of a tax deferral agreement is provided in Appendix A of [Notice 2009-85](#). Any covered expatriate who wishes to enter into a tax deferral agreement under this notice must submit to the following address a request to enter into a tax deferral agreement ("deferral request") by the due date of his or her return for the taxable year that includes the day before the expatriation date:

Internal Revenue Service
4-E08.142
2970 Market Street
Philadelphia, PA 19104

3. The deferral request must include:
 - A. two signed copies of the template agreement provided in Appendix A of [Notice 2009-85](#),
 - B. a description of the asset(s) with respect to which the covered expatriate is electing to defer tax,
 - C. an attachment showing the calculation of the tax attributable to such asset(s) under the method set forth below,
 - D. documentation of the proposed security offered to secure the deferral of tax,
 - E. a copy of an agreement with a U.S. agent, as described below, and
 - F. a copy of the covered expatriate's return for the taxable year that includes the day before the expatriation date.
4. Provided that the security offered by the covered expatriate is determined to be adequate to secure the tax being deferred, the IRS will sign the tax deferral agreement and provide one copy to the covered expatriate.

5. Additionally, the covered expatriate must attach a copy of the deferral request to his or her return for the taxable year that includes the day before the expatriation date. The covered expatriate may file the deferral request simultaneously with his or her tax return.
6. In order to make a deferral election, a covered expatriate must appoint a U.S. person to act as the covered expatriate's limited agent for the purposes of:
 - accepting communication related to the tax deferral agreement from the IRS on behalf of the covered expatriate,
 - the timely enforcement of the terms of the tax deferral agreement between the covered expatriate and the IRS,
 - applying section 7602 and all related procedural provisions of the Code with respect to a request by the IRS to examine records, for the production of testimony, or for a summons by the IRS for such records or testimony related to the enforcement of the tax deferral agreement.
7. If the U.S. agent resigns, liquidates, or terminates its responsibility as an agent of the covered expatriate, the covered expatriate must, within 90 days, notify IRS-Advisory in writing at the following address:

Internal Revenue Service - Advisory
7850 SW 6th Court
Mail Stop 5780
Plantation, FL 33324-3202
Telephone: 954-423-7344, Fax: 954-423-7809
8. This notification must contain the name, address, and TIN of the new U.S. agent (if any). If no new agent is appointed, then the tax deferral agreement will be in default and the collateral will be applied to the deferred tax and interest attributable to all of the deferral assets.
9. In the event that the security provided with respect to a particular property subsequently fails to meet the requirements of the deferral agreement and the individual fails to correct such failure, the deferred tax and the interest with respect to such property will become due immediately.
10. The covered expatriate will have 60 days to correct such failure after the Service mails Letter 4536, Insufficient Initial Collateral, providing notification of such failure to the last known addresses of the covered expatriate and the covered expatriate's agent.
11. The tax deferral agreement shall be effective for a period of three years from the date of execution and may be renewed.

[More Internal Revenue Manual](#)



Part 5. Collecting Process

Chapter 6. Collateral Agreements

Section 2. Maintenance

5.6.2 Maintenance

- 5.6.2.1 [Advisory Confirmation of New Collateral to IRACS](#)
- 5.6.2.2 [Advisory Semi-Annual Verification](#)
- 5.6.2.3 [Advisory Annual Reconciliation of Collateral Holdings](#)
- 5.6.2.4 [Transfer to Another Area](#)
- 5.6.2.5 [Disposition of Collaterals \(Overview\)](#)
- 5.6.2.6 [Advisory Action for Account Satisfied](#)
- 5.6.2.7 [Advisory Actions for Agreement in Default](#)
- 5.6.2.8 [International Collateral Maintenance and Disposition](#)
- Exhibit 5.6.2-1 [Area Listing —Collateral Property](#)
- Exhibit 5.6.2-2 [Pattern Letter P-299](#)
- Exhibit 5.6.2-3 [Pattern Letter P-300](#)
- Exhibit 5.6.2-4 [Pattern Letter P-301](#)

Manual Transmittal

September 27, 2011

Purpose

(1) This transmits a complete revision with Table of Contents and text for IRM Part 5, Collecting Process, Chapter 6, Collaterals, Section 2 "Maintenance".

Material Changes

- (1) This transmittal reissues existing and revised procedures. The text has been updated as necessary to reflect changes to organizational names, implement process improvements, inclusion of 508 compliance requirements and update references to the revised Form 2276, Collateral Deposit Record.
- (2) Various sub-sections were revised to eliminate references to the teller function.
- (3) New 5.6.2.7.1.1 discusses Estate Tax Installment Case maintenance procedures.
- (4) New 5.6.2.8 discusses maintenance and disposition of International collateral cases.

Effect on Other Documents

This supersedes IRM 5.6.2, dated August 1, 2001.

Audience

SBSE Compliance Employees

Effective Date

(09-27-2011)

Signed by
Scott D. Reisher
Director, Collection Policy

5.6.2.1 (09-27-2011)

Advisory Confirmation of New Collateral to IRACS

1. Ogden Service Center Accounting Operation records collateral transactions into the Interim Revenue Accounting Control System (IRACS) from the Form 2276, Collateral Deposit Record, Part 3, which is submitted to IRACS from Advisory. Refer to IRM 3.17.63.23.3 for additional information regarding IRACS collateral.
2. At any time that the value or status of collateral changes during a given month, Advisory will:
 1. Prepare an amended Form 2276 and write "Amended" in red,
 2. Send Part 3 of the amended Form 2276 to the Service Center Accounting Operation,
 3. Resolve missing and incorrect items with the Service Center Accounting Operation.

5.6.2.2 (09-27-2011)

Advisory Semi-Annual Verification

1. Semi-annual verification of the Revenue Accounting Control System Area Office Inventory Detail Report (RACS 135) is required. The reports issued by the service center Revenue Accounting Control System (RACS) for March 31 and September 30 will be used for the semi-annual verification.
2. Advisory will:
 - A. Conduct a semi-annual reconciliation value sufficiency review and verification of all collateral;

B. Prepare a memorandum of confirmation with responses, either agreeing to the Area Office Inventory Detail Report or reconciling any discrepancy(s) to the Service Center Accounting Operation within 30 calendar days after receiving the listing;

C. Retain a copy of the confirmation memorandum and the Inventory Detail Report (collateral account portion).

5.6.2.2.1 (09-27-2011)

Advisory Sufficiency Review

1. Advisory will examine each case file to determine whether collateral is to be:

- Retained and amount remains sufficient to protect the government's interest, or
- Disposed of due to default or resolution of the contested issues. Refer to IRM 5.6.2.5 for disposal instructions.

5.6.2.2.2 (09-27-2011)

Advisory Physical Verification

1. Advisory must physically examine each item of collateral listed on the collateral account portion of the RACS 135 Detail Report to ensure complete agreement. Form 2276 6(d) will show the value of the collateral or will be noted "Safekeeping" .

2. List each item, amount and identifying information of collateral on a verification worksheet.

If the envelope is . . .

Then . . .

not opened it is not necessary to open it. Notate the face of the envelope with the date and names of the persons conducting the review.

- opened
1. Examine the contents to ensure they agree with Form 2276.
 2. Reseal the envelope and sign and date across the seal.

3. When a difference between the contents and what is shown on Form 2276 is discovered then:

1. Determine the reason,
2. Amend the Form 2276 when the difference is accounted for,
3. Reseal the envelope and sign, date across the seal,
4. Record the reason for the difference on the verification worksheet,
5. Report the discrepancies to the Service Center Accounting Operation by photocopy of the amended Form 2276 and write "Amended" in red.

5.6.2.3 (09-27-2011)

Advisory Annual Reconciliation of Collateral Holdings

1. The Chief Financial Office (CFO) requires that Collection provide a year-end balance of seized assets, acquired property, collateral property, and other property for inclusion in IRS' fiscal year end financial statements.

2. Since all balances must be validated, the reconciliation serves to:

- verify and correct asset information,
- ensure that Advisory's recorded asset amounts are current and supportable (property and documentation exist),
- resolve discrepancies between Advisory records and RACS during this process.

3. If all discrepancies are resolved, then adjusted Advisory recorded asset information will match adjusted RACS. The reconciliation process ensures that the most current and supportable information is provided to the CFO.

4. The annual reconciliation of collateral holdings will coincide with the semi-annual reconciliation of September 30th.

5. Each Area will provide to the Headquarters Office—National RACS Reconciliation Team, that Area's reconciliation documents as requested in the annual call memorandum issued by the National RACS Reconciliation Team for response by a date specified by the Reconciliation Team and the Chief Financial Officer. The RACS Reconciliation will include:

- Revenue Accounting Control System (RACS) Area Office Inventory Detail Report for Collateral Property (RACS 135) - Exhibit 5.6.2-1,
- Copies of Forms 2276 that were forwarded to the Service Center Accounting Operation during reconciliation to resolve any discrepancies with the current RACS 135,
- Collateral Property Reconciliation Excel Worksheet,
- Collateral Summary Excel Worksheet.

6. Exhibit 5.6.2-1, Area Listing—Collateral Property, will coincide with the columns on Form 2276.

7. Enter a value for Area Listing—Collateral Property

If . . .

the property is Collateral,
the property is Safekeeping,

If . . .

a value for safekeeping appears on RACS 135,

Then . . .

report the value in columns D and E of Exhibit 5.6.1-1.

a zero value will be placed in column D and **Safekeeping** entered in column E.

Then . . .

an amended Form 2276 is needed to correct discrepancies on RACS 135.

Advisory will:

1. Prepare an amended Form 2276 and write "Amended" in red.
2. Reflect the same data as shown on the original Form 2276 except in column 6(d), reflect "Safekeeping" .
3. Maintain the amended Parts 2, 4, and 5 with the existing file copies of Parts 2, 4, and 5. If there is an open Bal Due case, send the amended Part 4 to the Revenue Officer
4. Indicate on Part 3 item 23, "Amended Form 2276, value incorrectly stated" .
5. Forward amended Part 3 and the old Part 5 to RACS.

Note: RACS will assign an alpha "R" at the end of the amended CDR number. The CDR number with the alpha R will be shown on future RACS 135 reports.

8. Do not include in the Collateral 135 Report any Form 2276 that was prepared for a seized item that is being held for safekeeping.

- A Form 2433 should be attached identifying it as a seized item.
- Areas must maintain their own control of the seized asset.

5.6.2.4 (07-15-1998)

Transfer to Another Area

1. If the balance due, or other underlying assignment, is to be transferred to another area, the collateral must also be transferred.

5.6.2.4.1 (09-27-2011)

Transferring Employee Procedures

1. The collection employee initiating the transfer will:
 - A. Prepare a memorandum in triplicate to Advisory explaining the transfer;
 - B. Leave Part 4 of Form 2276 attached to the balance due;
 - C. Attach copy of memorandum to the balance due;
 - D. Forward original memorandum and one copy to Advisory.

5.6.2.4.2 (09-27-2011)

Transferring Advisory Procedures

1. Upon receipt of the memorandum, Advisory will:
 - A. Complete item 20 on all parts of Form 2276 and notate in the "Other block" Balance due and Collateral transferred to— "Area" and include the Area number;
 - B. Notate in item 11 "Remarks" of Parts 2 and 5 the date and area office to which collateral was transferred;
 - C. Retain a copy of the memorandum in the case file pending confirmation of the transfer;
 - D. Send the collateral, a copy of the collection employee memorandum and all parts of Form 2276 via Form 3210 addressed to Advisory in the receiving area by registered mail no later than 10 calendar days of receipt of the transferring employee memorandum;
 - E. Immediately notate ICS of action taken and establish a reasonable follow-up date.
2. Enter a value for Area Listing—Collateral Property [see 5.6.2.3 (4)]
3. Upon receipt of photocopied Parts 2 and 5 from the receiving Advisory office:
 - A. Attach a copy of the transferring employee memorandum to Part 2 of Form 2276 and maintain in the closed file;
 - B. Send Part 5 of Form 2276 to Service Center Accounting Operation;
 - C. Close ICS OI control.

5.6.2.4.3 (09-27-2011)

Receiving Advisory Procedures

1. Upon receipt the receiving Advisory office will:
 - A. Assign a CDR serial number,
 - B. Prepare a new Form 2276 for control purposes,
 - C. Send Part 3 of the new Form 2276 to the Service Center Accounting Operation,
 - D. Retain Part 2,
 - E. Send Part 4 to the collection employee,
 - F. Open a control on ICS using action code 184 no later than 7 calendar days of receipt of the transferred collateral,
 - G. Send photocopies of Parts 2 and 5 to the transferring Advisory office,
 - H. Monitor the RACS 135 Area Office Inventory listing to ensure that the item is included in the RACS inventory.

5.6.2.5 (07-15-1998)

Disposition of Collaterals (Overview)

1. This section covers procedures for disposition of the collateral upon satisfaction of the liability or default.

5.6.2.6 (09-27-2011)

Advisory Action for Account Satisfied

1. IDRS issues a transcript (IMF and BMF) 4 cycles before expiration of the stay to Advisory when the module balance changes and a collateral stay is in effect.

If advised by Area Counsel that the . . . Then . . .

liability has not been sustained in litigation, release the collateral.

account will be abated,

do not wait for the abatement to post before releasing the collateral.

2. When the conditions for releasing the collateral security have been complied with or account shows a zero balance and after consulting with Area Counsel, Advisory will:

- A. Input TC 525,

Note:

If an abatement is to be made monitor the account and input TC 525 when the account has been adjusted.

- B. Complete items 12–15 on Form 2276, Parts 2 and 5,
- C. Enter name in item 16 as the person releasing the collateral,
- D. Note in item 11 "Remarks" of Parts 2 and 5 of Form 2276, to whom collateral was released and the date released,
- E. File Part 2 of Form 2276 in the closed file,
- F. Document ICS with actions taken and follow-up date.
- G. Send Part 5 to Service Center Accounting Operation.
- H. Above actions will be completed within 10 calendar days of Area Counsel concurrence that the conditions for releasing the collateral security have been complied with or account shows a zero balance.

5.6.2.6.1 (09-27-2011)
Surety Bond

- 1. No later than 10 calendar days of Area Counsel concurrence, Advisory will:
 - A. Prepare Pattern Letter P–299 in quadruplicate (see Exhibit 5.6.2–2) to notify the surety company that it is relieved of liability under the bond;
 - B. Associate copy of letter with case file and mail:
 - original with the surety bond to the surety company,
 - copy to the taxpayer;
 - C. Check appropriate blocks for item 20 of Parts 2 and 5 of Form 2276;
 - D. Return Part 5 to the Service Center Accounting Operation.

5.6.2.6.2 (09-27-2011)
Mortgages

- 1. No later than 10 calendar days of Area Counsel concurrence, Advisory will:
 - A. Mail original and copy of release of the mortgage to the taxpayer with the mortgage and advice to record the release;
 - B. Check appropriate blocks for item 20 of Parts 2 and 5 of Form 2276;
 - C. Return Part 5 to the Service Center Accounting Operation.

5.6.2.6.3 (09-27-2011)
Other Collateral

- 1. No later than 10 calendar days of Area Counsel concurrence, Advisory will:
 - A. Return the collateral to the taxpayer, securing a receipt in items 17–19 on Form 2276 Parts 2 and 5.
 - B. Return Part 5 of Form 2276 to the Service Center Accounting Operation.

5.6.2.7 (09-27-2011)
Advisory Actions for Agreement in Default

- 1. IDRS issues a Notice of Disposition to Advisory and a balance due four cycles after the stay expires.
- 2. For all collaterals, except surety bond (see Section 5.6.2.7.1), send Pattern Letter P–301 (Exhibit 5.6.2–4) default letter to the taxpayer within 10 calendar days of receipt of the IDRS Notice of Disposition. Establish a reasonable follow-up date to monitor for taxpayer response.

If in response to the letter... Then...

payment received, follow procedures in IRM 5.6.2.6 for Accounts Satisfied.

If no response to the letter, or...

Then no later than 10 calendar days of follow-up date...

- Payment not received
 - a. Complete items 12–15 on Form 2276 Parts 2 and 5.
 - b. Request input of TC 525.
 - c. Apply the collateral to the liability in accordance with the terms of the agreement.
 - d. Seek assistance from Area Counsel as needed.
 - e. Check "Other." in item 20 of Form 2276 after disposition and notate item 20 "Taxpayer failed to comply with the conditions of the agreement—Collateral deposited for application to taxpayer's account."
 - f. Return Part 5 of Form 2276 to the Service Center Accounting Operation.

5.6.2.7.1 (09-27-2011)
Surety Bond

- 1. Send Pattern Letter P–300 (Exhibit 5.6.2–3) to the surety, with a copy to the taxpayer within 10 calendar days of receipt of the IDRS Notice of Disposition. Establish a reasonable follow-up date to monitor for the surety or taxpayer response.

If... the surety full pays the account process per Section 5.6.2.6
Then... the account is not fully satisfied seek assistance from Area Counsel to enforce against the bond no later than 10 calendar days of follow-up date.

- 2. After disposition, complete items 20 and 21 of Form 2276.
- 3. Retain Part 2 of Form 2276 pending verification of the next monthly RACS 135 Area Office Inventory Summary Report then associate with closed file.
- 4. Send Part 5 to the Service Center Accounting Operation in the Accounting Control Package within 10 calendar days of disposition.
- 5. Resolve any discrepancies with the Service Center Accounting Operation.

5.6.2.7.1.1 (09-27-2011)

Estate Tax Installment Cases

1. In those instances when an estate defaults on the installment election, Advisory will be notified as described in IRM 5.5.8.5.2, *Miscellaneous from Campus or Appeals*.
2. Annually, Advisory must validate that the value of collateral securing the lien is equal to the outstanding IRC 6166 balance on the account. Procedures concerning evaluation of collateral are outlined in IRM 5.5.8.5.3, *Monitoring Accounts During the Deferral Period*.

5.6.2.8 (09-27-2011)

International Collateral Maintenance and Disposition

1. The Advisory responsibilities for the maintenance and disposition of collateral pledged in international situations varies by the type of international taxation event. See IRM 5.6.1.9 for a discussion of the different international collateral agreements.

5.6.2.8.1 (09-27-2011)

Foreign Investment Real Property Tax Act (FIRPTA)

1. The Advisory FIRPTA Coordinator will establish an ICS control to follow-up for compliance with the agreement and to monitor the purchaser(s) filing its annual U.S. income tax return. The Advisory FIRPTA Coordinator will secure a signed copy from the applicant and forward it to Examination FIRPTA at the Philadelphia Campus for review of the FIRPTA transaction(s).
 - A. The Examination FIRPTA Unit will notify Advisory with the results of the review of the FIRPTA transaction(s).
 - B. If there is an outstanding liability, Advisory will issue an NFOI to Field Collection to pursue appropriate collection actions.
2. Once all of the FIRPTA transactions are properly reported and all tax paid, the Advisory FIRPTA Coordinator will return the collateral to the applicant via memorandum. Close out the ICS NFOI.

5.6.2.8.2 (09-27-2011)

Federal Insurance Excise Tax

1. There are maintenance situations which will require some form of administrative Advisory action:
 - Proper termination of closing agreement,
 - Change in the issuing bank guaranteeing the LOC,
2. There are two situations in which Advisory will be required to enforce against the LOC:
 - IRS receives notice from bank that the LOC will not be renewed at the expiration date,
 - Foreign insurer failure to honor the closing agreement.
3. When it becomes necessary to take enforcement action against the LOC, Chief Counsel will contact Advisory with a request for enforcement action and a detailed justification for such action.
4. Upon notification by Chief Counsel, Advisory will advise the QMS Unit of Technical Services in Baltimore, MD of the pending enforcement action providing the name, address, and EIN of the foreign insurance company along with the amount of the LOC.
5. The local Advisory will transmit the original LOC via overnight mail to the Advisory Territory Manager (TM).
6. The Advisory TM will contact the Collection Field function TM in the location where the bank is located and request a revenue officer (RO) collect the LOC.
 - A. The Advisory TM will prepare and sign a pro forma letter and Sight Draft for the RO to present to the bank. The pro forma letter, Sight Draft and original LOC will be mailed to the RO via overnight mail.
7. The RO will collect the LOC, apply the proceeds and mail copies of the check and posting voucher(s) to the original advisor.

5.6.2.8.3 (09-27-2011)

Captive Insurance

1. Historically, it has been rare that a LOC has been liquidated. Nevertheless, there are a number of maintenance procedures that will require Advisory action. These actions include:
 - Examination requests for verification of IRC 953(d) elections,
 - Taxpayer requests for release of LOC,
 - Taxpayer request for a reduction on the LOC,
 - Financial institution notification that LOC will not be renewed and will expire.

5.6.2.8.3.1 (09-27-2011)

Examination Verification Requests

1. On occasions, Examination will request verification of IRC 953(d) elections as part of an ongoing examination. These requests should be handled via electronic mail and will be limited to:
 - A. The effective date of approved elections,
 - B. The determination and date of rejected elections or LOCs,
 - C. No record of election request.

5.6.2.8.3.2 (09-27-2011)

Release of Letter of Credit

1. Taxpayers can request a release of the LOC if they:
 - are in liquidation,
 - are merging with another company,
 - claim that they now meet the "Office/Assets Test,"

- claim an affiliate can meet the "Office/Assets Test" for them. *IRM 5.6.2.8.3.3*
2. For taxpayers that are facing liquidation or merger, a detailed written statement requesting the release must be submitted by the taxpayer including a copy of the most recently filed income tax return.
 - A. Upon receipt of the request, Advisory will, within 10 calendar days, send a copy of the file (taxpayer's written request, closing agreement, election statement and income tax return) to Examination QMS in Jacksonville for review and concurrence. No LOCs will be released without Examination concurrence.
 3. After Examination concurrence, return the LOC to the financial institution via certified mail. Include part 4 of Form 2276 for the financial institution to sign Item 17 and return to the Service.
 4. Prepare and send the appropriate letter to the taxpayer notifying them of the release of collateral.

5.6.2.8.3.3 (09-27-2011)

Meeting "Office/Assets Test"

1. The closing agreement sets forth procedures for the release of the LOC when a taxpayer can meet the "Office/Assets Test" or when an affiliate can meet the test for the taxpayer.
 - A. The LOC must remain in effect until a stamped copy of the amended election statement is returned to the taxpayer.
 - B. Process Form 2276 according to *IRM 5.6.2.8.3.1*.

5.6.2.8.3.4 (09-27-2011)

Reduction of Letter of Credit

1. On occasion a taxpayer will request a reduction in their letter of credit because of a decrease in gross income.
2. Requests should be referred to Examination for concurrence.
3. Upon Examination concurrence, notify the taxpayer to submit an amended LOC in the new amount.
4. Process Form 2276 accordingly.

5.6.2.8.3.5 (09-27-2011)

Expiration of Letter of Credit

1. On occasion an issuing financial institution will notify the Service that a LOC will not be renewed and will expire on a specific date.
 - A. The financial institution is required to notify the Service at least 180 days prior to the state expiration date.
 - B. If the notification is timely, mail the appropriate letter to the taxpayer requiring a replacement LOC or risk termination of the election. The closing agreement requires the taxpayer to submit a replacement LOC 60 days prior to the lapse or termination of the existing LOC.

Note:

The only time a new CDR number is to be issued is in those instances where the issuing financial institution has changed. All other changes in LOCs (dollar amount, address change, numbering, etc.) can be treated as amendments to the original LOC and a new CDR number is not required.

- C. If the replacement LOC is not submitted, forward a referral to Examination to address any examination potential that would allow the Service to draw on the LOC to satisfy any tax liability established by Examination.
2. If the LOC is not renewed or replaced, and Advisory is advised that there is no examination potential, Advisory will, within 10 calendar days:
 - A. Retrieve the LOC from the safe'
 - B. Return it to the issuing financial institution including part 4 of Form 2276,
 - C. Mail the appropriate letter to the taxpayer notifying them of the termination of the election

5.6.2.8.3.6 (09-27-2011)

Advisory Monitoring

1. On an annual basis a compliance check should be conducted on all IRC 953(d) entities who are subjects of closing agreements involving letters of credit. The check should ensure that all returns have been filed and paid. The compliance review should closely follow the due date(s) for all filing requirements.
2. If there are compliance issues, the appropriate letter should be mailed to the taxpayer addressing the compliance issue and advising them of the risk of termination of the election.
3. The latest filed return should be reviewed (BRTVUE) to determine if there could have been an increase in gross income by more than 20% of the amount of gross income for the base year.
 - A. Such an increase would require the taxpayer to submit an amended or new letter of credit reflecting the new base year assets requirement (10%). Because the gross income, as defined in IRC 803 or 832(b)(1), cannot be determined from BRTVUE, the appropriate letter and Assets Calculation Worksheet should be mailed to the taxpayer to be completed and returned.
 - B. The closing agreement requires the taxpayer to monitor and calculate this amount on an annual basis however experience has shown that this is not always done and therefore the reminder letter is required. Failure to maintain a letter of credit at the proper level is grounds for termination of the election.
4. If the taxpayer does not resolve any issues with the terms and conditions of the closing agreement, a letter will be sent to the taxpayer detailing the corrections that need to be made, providing a specific date for response and explaining that the consequence will be termination of the election and potential Examination action.
 - A. If the corrections are not made, make a referral to Examination to review for examination potential and concurrence in the termination of the election.
5. If Examination concurs with the termination, send a memorandum to Chief Counsel, International for final concurrence.
 - A. Include a draft copy of the termination letter for Counsel review.
6. Once Chief Counsel concurrence is received:
 - A. Send termination letter to taxpayer,
 - B. Process LOC and Form 2276 accordingly.

5.6.2.8.3.7 (09-27-2011)

Liquidation of Letters of Credit

1. It is historically rare that LOCs associated with IRC 953(d) elections are liquidated.
2. If liquidation becomes necessary, the procedures outlined in *IRM 5.6.2.7*, will be followed.

5.6.2.8.4 (09-27-2011)

Expatriate Tax

1. At any time that it appears that the value of the collateral will not remain sufficient to secure the deferral of tax, accruing interest and any penalty additions, the covered expatriate will have 60 days to increase the amount of collateral security. Notification will be made via Letter 4537, Collateral Becomes Insufficient.
2. At the expiration of three years, or upon the death of the taxpayer executing the tax deferral agreement, and after notification via Letter 4538, Termination of Deferral Agreement, this tax deferral agreement will be terminated and the deferred tax and interest will be immediately due, unless:
 - A. The covered expatriate, or their U.S. Agent, certifies in writing, prior to the expiration of the current agreement, that none of the property or properties that are the subject of the tax deferral agreement have been disposed of by sale, gift, disposal in a transaction in which gain is not recognized in whole or in part, or by the death of the covered expatriate.
 - B. If the covered expatriate so certifies, this Tax deferral Agreement will be renewed and remain in effect for another three years from the date of certification. The covered expatriate may continue to renew the tax deferral agreement every three years. Renewal is contingent upon the covered expatriate increasing the value of the collateral security as described above in (1).
3. If the tax deferral agreement is not renewed within the time frame specified in the tax deferral agreement, the collateral will be applied to the tax liability and interest.

Exhibit 5.6.2-1

Area Listing —Collateral Property

This image is too large to be displayed in the current screen. [Please click the link to view the image.](#)

Exhibit 5.6.2-2

Pattern Letter P-299

[AREA DIRECTOR LETTERHEAD]

Name and Address of Principal:

Name of IRS Contact:

Contact Telephone Number:

[Name and address of surety]

[Salutation]

Our records show the principal named above has complied with the conditions under which a surety bond in the amount of \$[amount] was executed by you, as surety, and by the principal under Internal Revenue Code section [number]. You are therefore released from liability under this bond.

We are sending the principal a copy of this letter.

If you have any questions, please contact the Internal Revenue Service representative whose name and telephone number are shown above.

Sincerely yours,

Area Director

cc: [Name of Taxpayer]

Exhibit 5.6.2-3

Pattern Letter P-300

[AREA DIRECTOR LETTERHEAD]

Name and Address of Principal:

Name of IRS Contact:

Contact Telephone Number:

[Name and address of surety]

[Salutation]

Our records show the principal named above has not paid the tax liability for which the surety bond in the amount of \$[amount] was executed by you, as surety, and by the principal under Internal Revenue Code section [number]. The liability should have been paid in full not later than [date]. Consequently, we must ask you to make payment as provided by the terms of the bond agreement.

We will appreciate your early response. If you have any questions, please contact the Internal Revenue Service representative whose name and telephone number are shown above.

Thank you for your cooperation.

Sincerely yours,

Area Director

cc: [Name of Taxpayer]

**Exhibit 5.6.2-4
Pattern Letter P-301**

[AREA DIRECTOR LETTERHEAD]

Taxpayer Identifying Number:

Name of IRS Contact:

Contact Telephone Number:

[Name and address of taxpayer]

[Space for Salutation]

Our records show you have not complied with the conditions of the agreement you executed for payment of Federal taxes. The following items were pledged as security.

Description:

We must now ask you to pay the amount due within 10 days from the date of this letter. Otherwise, the above items will be disposed of under the terms of the agreement.

If you have any questions, please contact the Internal Revenue Service representative whose name and telephone number are shown above.

Sincerely yours,

[Space for signature]

Area Director

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