



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

4.25.8

JULY 8, 2021

## EFFECTIVE DATE

(07-08-2021)

## PURPOSE

- (1) This transmits revised IRM 4.25.8, Estate and Gift Tax, Delinquent Returns and Substitute for Return Procedures.

## MATERIAL CHANGES

- (1) Significant changes to this IRM are listed below:

IRM Reference	Description of Change
IRM 4.25.8.1.2	Additional authorities were added to paragraphs (1) and (9).
IRM 4.25.8.1.4	Additional terms and acronyms were added to the table following paragraph (1).
IRM 4.25.8.1.4	Definitions were added for the following terms: non-delinquent return, delinquent return, and substitute for return.
IRM 4.25.8.1.5	Additional IRM and Document citations were added to the list of related resources.
IRM 4.25.8.2.1, paragraph (4), IRM 4.25.8.4.1 paragraph (4), and IRM 4.25.8.5.1 paragraph (2)	The Form 2363 processing contact information was updated with a link to the Estate and Gift Knowledge Management, Contact Listing for Internal E&G Forms page.
IRM 4.25.8.2.1, paragraph (6), IRM 4.25.8.4.1 paragraph (7), and IRM 4.25.8.5.1 paragraph (4), 2nd bullet	The citation to IRM 4.25.14.11.1 was replaced with a citation to Document 6209, Section 12.5.10.
IRM 4.25.8.2.2 paragraph (3), IRM 4.25.8.4.2 paragraph (5), IRM 4.25.8.4.4.1 paragraph (9), IRM 4.25.8.4.4.2 paragraph (9), IRM 4.25.8.4.4.3 paragraph (11), IRM 4.25.8.5.3.1 paragraph (8) and IRM 4.25.8.5.3.2 paragraph (8)	The address citation was replaced with a link to the Estate and Gift Knowledge Management, Contact Listing for Internal E&G Forms page.
IRM 4.25.8.2.3	IRM 4.25.8.2.3, Examination Procedures for Non-Delinquent Pickup Returns was obsoleted. This information is contained in IRM 4.25.6.
IRM 4.25.8.2.4	IRM 4.25.8.2.4, Case Closing Procedures for Non-Delinquent Pickup Returns was obsoleted. This information is contained in IRM 4.25.10.

IRM Reference	Description of Change
IRM 4.25.8.3	IRM 4.25.8.3, Non-filer Project Cases is a new subsection. This subsection contains introductory information that was contained in the obsoleted Estate and Gift Project Case Job Aid. The IRM subsection describes existing procedures and provides citations to existing guidance located in IRM 4.25.3 and IRM 4.4.9.
IRM 4.25.8.4	<ul style="list-style-type: none"> <li>• The title was revised from “Introduction to Delinquent Returns” to “Delinquent Returns”</li> <li>• The definition contained in paragraph (1) was moved to IRM 4.25.8.1.4 paragraph 2.</li> <li>• Paragraph 2 was revised to replace the citation to the obsoleted E&amp;G Project Case Job aid with a citation to IRM 4.4.9. The procedures described in the obsoleted Job Aid are in IRM 4.4.9.</li> </ul>
IRM 4.25.8.4.2	The subsection title was revised by removing the word “pickup”.
IRM 4.25.8.5 paragraph (3)	Paragraph 3 was revised. The citation to the obsoleted E&G Project Case Job Aid was replaced with a citation to IRM 4.4.9. The procedures described in the obsoleted Job Aid are in IRM 4.4.9.
IRM 4.25.8.5 paragraph (7)	Paragraph 7 was obsoleted. This information is contained in IRM 4.4.9.2.3.1.
IRM 4.25.8.5.3	4.25.8.5.3 contains a new paragraph (2). Paragraph 2 provides a citation to existing AIMS case processing and closure procedures located in IRM 4.4.9.
IRM 4.25.8.6 paragraph (1)	The content that was in IRM 4.25.8.6.1 paragraphs (1) and (2) were moved to 4.25.8.6 paragraph (1).
IRM 4.25.8.6.1	The content that was in IRM 4.25.8.6.1 paragraphs (3) and (4) through (6) was moved to IRM 4.25.8.6 paragraph (3).
IRM 4.25.8.6.2	The content that was in IRM 4.25.8.6.2 was moved to IRM 4.25.8.6 paragraph (4).
IRM 4.25.8.6.2 paragraph (7)	The content that was in IRM 4.25.8.6.2 paragraph (7) was moved to IRM 4.25.8.6 paragraph (5).
IRM 4.25.8.6.3	The content in IRM 4.25.8.6.3 was obsoleted.
IRM 4.25.8.6.4	The content in IRM 4.25.8.6.4 was obsoleted.

- (2) Editorial changes have been made throughout this IRM. Website addresses, legal references, and IRM references were reviewed and updated as necessary.

**EFFECT ON OTHER DOCUMENTS**

The July 30, 2019 published IRM 4.25.8 is superseded.

**AUDIENCE**

This section contains instructions and guidelines for Small Business/Self Employed (SBSE) Estate and Gift Tax Specialty Programs employees.

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Small Business/Self-Employed



4.25.8

Delinquent Returns and SFR Procedures

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4.25.8.1  
(07-20-2018)  
**Program Scope and Objectives**

- (1) **General Overview** - This IRM provides general information about basic estate and gift tax examiner responsibilities, estate and gift tax IRM sections, and forms used in the examination of estate, gift and generation-skipping transfer tax returns and claims.
- (2) **Purpose** - This IRM explains Estate and Gift Tax examiner responsibilities so that managers, senior-level officials and estate, gift and generation-skipping transfer tax return examiners will be better equipped to prepare and submit accurate reports.
- (3) **Audience** - This IRM is for Estate and Gift Specialty Tax managers, examiners and personnel at the campus who process estate, gift and generation-skipping transfer tax returns, refunds and claims.
- (4) **Policy Owner** - Director, Examination - Specialty Policy is responsible for the administration, procedures and updates related to the technical guidance and information processing steps and methods specific to Estate and Gift Tax examiner responsibilities, IRM subsections, and forms created for the examination of returns and claims.
- (5) **Program Owner** - Director, Examination - Specialty Examination owns Estate and Gift Tax Examination.
- (6) **Primary Stakeholders** - Advisory Collections, Appeals, Counsel, Estate and Gift Tax Workload Selection and Delivery, Specialty Examination, and SB/SE Exam Quality & Technical Support are the primary stakeholders for this IRM.

4.25.8.1.1  
(07-20-2018)  
**Background**

- (1) IRM text pertains to Estate and Gift Tax procedures for delinquent returns, substitute for returns and project cases. This IRM provides direction which is Estate and Gift Tax specific.

4.25.8.1.2  
(07-08-2021)  
**Authority**

- (1) The IRS has the authority to conduct examinations under Title 26, Internal Revenue Code, Subtitle F - Procedure and Administration, Chapter 78, Discovery of Liability and Enforcement of Title, Subchapter A, Examination and Inspection. Additional Authority or conducting an examination is contained in the 26 CFR 601.105, Examination of returns and claims for refund, credit or abatement, determination of the correct tax liability.
- (2) Estate and gift tax examiners and managers assigned to examine and oversee the examination of estate and gift tax returns and issues are responsible for complying with servicewide policies and authorities set forth in IRM 1.2.1.5, Servicewide Policies and Authorities, Policy Statements for the Examining Process.
- (3) Examination of estate and gift tax returns should be conducted in a manner that will promote public confidence as stated in the Mission of the Service. See IRM 1.2.1.2.1, Policy Statement 1-1.
- (4) Policy Statement 4-52 established a general guideline that examination and processing of returns should be completed within 18 months of the filing date. See IRM 1.2.1.5.18, Policy Statement 4-52.
- (5) Estate and Gift Tax examiners and managers assigned to examine and oversee the examination of international estate and gift tax returns and issues are responsible for complying with all applicable servicewide examination delegation orders and SB/SE delegation orders. A table summarizing estate and

gift delegation orders is available at IRM 4.25.14.10, Estate and Gift Tax, Miscellaneous Procedures, Signature Authority.

- (6) Section 3504 of RRA 98, Public Law 105-206 requires the Service to include an explanation of the examination and collection process, as well as information about assistance from the Taxpayer Advocate with any first report/notice of proposed deficiency. Pub 3498, The Examination Process, must be used for this purpose.
- (7) Statement of Procedural Rules 601.506 requires that examiners forward to the taxpayer any correspondence (or copy), discussions, reports and/or other material that are sent to the representative. Examiners should forward such materials at the same time they are sent to the representative.
- (8) The Form 706 return instructions and CFR 20.6018-4, CFR 25.6019-3, and CFR 25.6019-4 list required filing documents.
- (9) The following additional authorities provide the basis for examining and establishing substitute for returns:
  - IRC 6020, Returns prepared for or executed by Secretary
  - IRC 6511, Limits on Credit or Refund
  - Privacy Act of 1974
  - Freedom of Information Act
  - Taxpayer Bill of Rights
  - Fair Tax Collection Processes Act

4.25.8.1.3  
(07-08-2021)

#### **Program Review and Objectives**

- (1) The National Quality Review System (NQRS) is a web-based review system used by Estate and Gift Tax Policy, Field and Specialty Exam Quality(FSEQ) to generate and review reports analyzing national quality performance based upon standardized quality attributes set forth in Document 12499, Estate and Gift Tax Examination Embedded Quality Job Aid. NQRS report data is compiled by QMA on a quarterly basis, but **ad hoc** reports may be obtained monthly. The use of NQRS is explained in additional detail in IRM 4.25.1.11, Manager Embedded Quality Review and Specialty Exam National Embedded Quality Review Programs and IRM 4.2.8, Guidelines for SB/SE National Quality Review.
- (2) Operational Reviews and related NQRS reports are conducted by Territory Managers and the Chief of Estate and Gift to measure national adherence to quality standards and managerial performance and/or oversight.
- (3) Customer (i.e. taxpayer) satisfaction reports are generated by SB/SE Operation Support Research on a quarterly basis. These reports provide masked taxpayer narratives that are responsive to a pre-defined set of survey questions. The quarterly survey reports are to be used to identify areas for examination quality improvement.
- (4) Frequent Front-line manager reviews are conducted under the Examination Quality Review System (EQRS), with the frequency based on annual personnel requirements.



4.25.8.1.4  
(07-08-2021)

**Terms/Acronyms/  
Definitions**

(1) The following table explains terms and acronyms used in this IRM:

<b>Term</b>	<b>Acronym</b>
Action Code	AC
Automated Information Management System	AIMS
Business Master File	BMF
Command Code	CC
Centralized Case Processing	CCP
Computer Files Online	CFOL
Disposal Code	DC
Estate and Gift Tax Embedded Quality Review System	EQRS or EQ
Estate and Gift Tax Exam Process and Documentation	EPD
Examination Return Control System	ERCS
Failure to File	FTF
Failure to Pay	FTP
Federal Records Center	FRC
Generation-Skipping Transfer Tax	GSTT
Individual Master File	IMF
Integrated Data Retrieval System	IDRS
Issue Management System	IMS
Master File Tax Code (return type)	MFT
National Quality Review System (NQRS)	NQRS or NQ
Non-Master File	NFM
Notebook Job Aid (Estate and Gift)	Notebook
Project Code	PC
Sample command codes for CFOL and IDRS	INOLE, BRTVU, TXMODA
Social Security Number	SSN
Statutory Notice of Deficiency	SNOD
Substitute for a Return	SFR

Term	Acronym
Tax Identification Number	TIN
Technical Services	TS
Transaction Code	TC
Workload Selection and Delivery	WSD

(2) The following table defines various terms used in this IRM:

Term	Definition
Non-delinquent Return	A non-delinquent return is a related return which is required to be filed, has not yet been filed, and the filing date has not yet passed.
Delinquent Return	A delinquent return is a return that is a return that is required to be filed and is filed after the return due date and extended due date(s) have passed.
Substitute for Return	A substitute for return is prepared when the return due date and extended due date have passed and all efforts have been exhausted to secure a return from the taxpayer.

4.25.8.1.5  
(07-08-2021)

#### Related Resources

(1) The Estate and Gift Tax program is required to follow all servicewide examination procedures and those set forth in SB/SE examining process IRM. The following IRM subsections provide additional information relating to the processing, classification and examination of Estate and Gift Tax program delinquent returns and substitute for returns:

- IRM 1.2.2.6.2, Delegation Order 5-2 ,Prepare or Execute Returns
- IRM 4.4.9, Examining Process, AIMS Procedures and Processing Instructions, Delinquent and Substitute for Return Processing
- IRM 4.10.1, Overview of Examiner Responsibilities
- IRM 4.10.8, Examining Process, Examination of Returns, Report Writing
- IRM 4.10.5, Examination of Returns, Required Filing Checks
- IRM 4.11.57, Examining Officers Guide (EOG), Third-Party Contacts
- IRM 4.25.1, Estate and Gift Tax, Estate and Gift Tax Examinations
- IRM 4.25.2, Campus Procedures for Estate and Gift Tax
- IRM 4.25.3, Planning, Classification and Selection
- IRM 4.25.4, International Estate and Gift Tax Examinations
- IRM 4.25.5, Technical Guidelines for Estate and Gift Tax Issues
- IRM 4.25.6, Report Writing Guide for Estate and Gift Tax Examinations
- IRM 4.25.7, Estate and Gift Tax Penalty and Fraud Procedures
- IRM 4.25.9, Requests for Abatement, Claims for Refund, and Doubt as to Liability Offer in Compromise in Estate and Gift Tax Cases
- IRM 4.25.10, Case Closing Procedures
- IRM 4.25.11, Special Examination Procedures
- IRM 4.25.12, Valuation Assistance
- IRM 4.25.13, Appeals, Mediation and Settlement Procedures

- IRM 4.25.14, Miscellaneous Procedures
- IRM 20.1, Penalty Handbook
- IRM 25.1.7, Failure to File
- *Document 6209*, IRS Processing Codes and Information

4.25.8.2  
(07-08-2021)  
**Non-Delinquent Returns**

- (1) Follow the procedures set forth in this section when a related return is being picked up during an examination which is required to be filed, has not yet been filed, and **the filing date has not yet passed**.

4.25.8.2.1  
(07-08-2021)  
**Establishing Entity and Controls for Non-Delinquent Related Returns**

- (1) Upon receipt of a non-delinquent return, verify the following items are completed:
  - Verify the correct name, address, and SSN are reflected on the tax return with no strikeouts.
  - Date stamp the original return with the date received using an official date received stamp. Save the envelope showing the post marked date.
- (2) Verify the presence of the taxpayer's signature and date the return was signed.
- (3) Verify all required forms and schedules are present and the computations are correct.
- (4) Using IDRS command code INOLES, determine whether an entity has been established for the taxpayer on Master File for a BMF account using an SSN with a "V" definer (MFT 51 or MFT 52). To create an account using Form 2363, enter an "X" in the box to the right of the Trans Code 000 and enter the earliest tax year that is being worked. The completed Form 2363 must be faxed to CCP. For contact information see *Estate and Gift Knowledge Management, Contact Listing for Internal E&G Forms*. See IRM 3.13.5.36, Form 2363, Master File Entity Change, for a sample completed Form 2363.
- (5) If Form 2363 is necessary, the new account can be verified using IDRS command code INOLES the Monday after the second weekend from the input date.

**Note:** ERCS controls may be requested even though an account does not exist; AIMS controls may not exist.

- (6) Do not send the tax return to Submission Processing until the account is created. Check for the creation of the entity using command code INOLES and/or BMFOLI.
- (7) Complete Form 5345-D, Examination Request-ERCS (Examination Returns Control System) Users. The following fields are specific to non-delinquent pickups:
  - Tax Period: Use YYYYMM format
  - Activity Code: Determine based on criteria using *Document 6209*, see Section 12 Examination, 5 - Audit Information Management System (AIMS), 10 - Activity Codes
  - Source Code: Use 40 if same SSN and MFT as key case or 50 if same SSN and different MFT than key case
  - Status Code: Use 10
  - Statute Date: Determine correct Statute Date using IRM 4.25.5.4, Estate and Gift Tax Process and Documentation (EPD)

- Tracking Code: Enter the same tracking code as the key case. If none, leave blank
- Project Code: Enter the same project code as the key case. If none, leave blank
- TS Code: Leave Blank
- Claim Amount: Leave Blank
- Push Code: Use 041
- Related Return Indicator: Enter Y
- Aging Reason: Enter the same aging reason as the key case. If none, leave blank.

- (8) Submit Form 5345-D Examination Request-ERCS (Examination Returns Control System) Users, to the group secretary for input.

4.25.8.2.2  
(07-08-2021)

**Processing  
Non-Delinquent Returns**

- (1) The examiner must retain a copy of the secured tax return to use as a working copy until the original return is processed at the Campus and sent back to the examiner.
- (2) Notate in red at the top of the return copy "Copy of Return" and include in case file. Do not make any marks on the original tax return.
- (3) The original return secured must be processed at the Campus. Send the original return using Form 3210, Document Transmittal, to Submission Processing. See *Estate and Gift Knowledge Management, Contact Listing for Internal E&G Forms* for the current mailing address.
- (4) If payment is made with the original return, the payment should be sent with the original return for processing. Notate Form 3210, Document Transmittal, with payment information.

4.25.8.3  
(07-08-2021)

**Non-filer Project Cases**

- (1) Non-filer project cases are developed by WSD with case building done prior to sending the case to the field. A Transaction Code (TC) 150SFR is established on AIMS prior to the case being sent to Field Examination. The case file may or may not include an original tax return at the time of assignment.
- (2) When a case has a TC 150SFR posted at the time of assignment, the following case processing characteristics also apply:
  - No TC 150SFR assessment amounts have been entered on the Master File or Non-Master File account.
  - A TC 420 is present on the account indicating an open record.
  - In general, the closing procedures for project cases will be determined based on whether there is "further examination potential" after a delinquent return is secured
- (3) IRM 4.4.9, Examining Process, AIMS Procedures and Processing Instructions, Delinquent and Substitute for Return Processing, provides processing, examining and closing procedures for cases with a TC 150SFR present on the open module.

4.25.8.4  
(07-30-2019)

**Delinquent Returns**

- (1) If TC 150SFR is present on the open module for the same tax period, consult IRM 4.4.9, Examining Process, AIMS Procedures and Processing Instructions, Delinquent and Substitute for Return Processing, for processing, examining and closing procedures. This section applies to delinquent returns where no tax module or controls have been established for the tax period.

- (2) If a return or returns are determined to be required, the examiner will ascertain the reasons why the taxpayer failed to file the required returns and determine whether any indications of fraud exist.
- (3) When information is developed during an examination that indicates the taxpayer's failure to file a required return or returns is willful, or if there is any other indication of fraud, the case will be referred pursuant to the direction of a Fraud Technical Advisor (FTA). In such cases the examiner will not solicit delinquent returns, payment of tax, or any agreement from the taxpayer. If the taxpayer furnishes delinquent returns to the examiner or indicates he/she intends to file delinquent returns, the examiner will notify Criminal Investigation through proper channels. See IRM 25.1.7, Fraud Handbook - Failure to File.
- (4) If it is determined that indications of fraud are not present, the taxpayer will be advised that he/she is required to file all delinquent returns without regard to the number of years or taxable periods involved. The taxpayer will be asked to deliver the returns promptly to the examiner. The examiner should also solicit payment of the liabilities, if any.
- (5) The examiner will set a specific date for receiving the return(s). The date should be reasonable in light of the facts and circumstances in the case.

## 4.25.8.4.1

(07-08-2021)

**Establishing Entity and Controls for Delinquent Returns**

- (1) Upon receipt of a delinquent return, ensure the following items are completed:
  - Verify the correct name, address, and SSN are reflected on the tax return with no strikeouts. If errors are found, consult IRM 4.4.9.5.1.1, Incorrect Name, IRM 4.4.9.5.2, Address, and IRM 4.4.9.5.3, SSN/EIN.
  - Date stamp the original return with the date received using an official date received stamp. Save the envelope showing the post marked date.
- (2) Verify the presence of the taxpayer's signature and date the return was signed.
- (3) Verify all required forms and schedules are present and the computations are correct.
- (4) Using IDRS command code INOLES, determine whether an entity has been established for the taxpayer on Master File for a BMF account using an SSN with a "V" definer (MFT 51 or 52). If not, complete Form 2363, Master File Entity Change, to add an entity to the Master File. To create an account using Form 2363, enter an "X" in the box to the right of the Trans Code 000 and enter the earliest tax year that is being worked. The completed Form 2363 must be faxed to CCP for input. See Estate and Gift Knowledge Management, *Contact Listing for Internal E&G Forms*.
- (5) If Form 2363 is necessary, the new account can be verified using IDRS command code INOLES the Monday after the second weekend from the input date.

**Note:** ERCS controls may be requested even though an account does not exist (AIMS controls may not).

- (6) Do not send the tax return to Submission Processing until the account is created. Check for the creation of the entity using command code INOLES and/or BMFOLI.

- (7) Complete Form 5345-D, Examination Request-ERCS (Examination Returns Control System) Users. The following fields are specific to delinquent pick-ups:
- Tax Period: Use YYYYMM format
  - Activity Code: Determine based on criteria using *Document 6209*, see Section 12 Examination, 5 - Audit Information Management System (AIMS), 10 - Activity Codes
  - Source Code: Use 44
  - Status Code: Use 10
  - Statute Date: Three years from the date received
  - Tracking Code: Enter the same tracking code as the key case. If none, leave blank
  - Project Code: Enter the same project code as the key case. If none, leave blank
  - TS Code: Leave blank
  - Claim Amount: Leave blank
  - Push Code: Use 020
  - Related Return Indicator: Enter Y
  - Aging Reason: Enter the same aging reason code as the key case. If none, leave blank
- (8) Submit Form 5345-D to the group secretary for input on ERCS .

4.25.8.4.2  
(07-08-2021)

**Processing Delinquent Returns**

- (1) Delinquent returns must be processed in order to establish an account module on master file. The amounts reported on the delinquent return are input into master file. The starting point for an examination report are the amounts reported from the delinquent return. Complete the steps outlined in paragraphs (2) through (6) to process the delinquent return pick up.
- (2) Make a copy of the delinquent tax return to maintain in the case file. On the copy, write in red on the top margin, "COPY OF RETURN".
- (3) On the original return, write in red on the top margin, "DELINQUENT RETURN SECURED BY EXAMINATION". The original return **will not** be returned to the group.
- (4) Attach a completed Form 13133, Expedite Processing Cycle, to the front of EACH return, paying special attention to the following:
- Check the box for "DELINQUENT RETURN".
  - If there are multiple tax periods for the same taxpayer, indicate on the first Form 13133, "Block Together-Related Tax Periods-Do Not Separate".
  - If penalties are to be assessed, make NO notations in the penalty area of the Form 13133. Failure to pay (FTP), failure to deposit (FTD), failure to file (FTF), and estimated tax penalty (ETP), are all automatically computer generated and assessed if applicable.
  - If no penalties are to be assessed, check the appropriate box(es) under the BMF column.
  - Contact information may be the examiner or group secretary.
- (5) Mail the original delinquent return and Form 13133 with a Form 3210 to Submission Processing. See *Estate and Gift Knowledge Management, Contact Listing for Internal E&G Forms* for the current mailing address.

- (6) Submission of the package will post the Transaction Code (TC) 150. The examiner will monitor the account using BMFOLT to ensure a TC 150 posts on the account. When the TC 150 posts, AIMS and ERCS will become full records. If AIMS and ERCS do not become full records within 6 weeks, the steps outlined below must be followed.
- Review TXMOD.
  - If pending (PN) TC 150, wait 1-2 weeks for the TC 150 to post.
  - If rejected (RJ) TC 150, the return may not post for some time. Contact your AIMS/ERCS coordinator for assistance.
  - If after 8 weeks there is no record of a posted TC 150, pending TC 150, rejected TC 150 or unposted TC 150, resubmit the return to submission processing. Notate on the copy of the return "Original return was lost, process as original".

4.25.8.4.3  
(07-08-2021)  
**Examination Procedures  
for Delinquent Returns**

- (1) Upon receipt of a delinquent return, the examiner and group manager will determine whether a further examination of the delinquent return is necessary.
- (2) In all cases, the examiner should prepare a Report of Examination Changes (Report) using the Estate and Gift Notebook starting with the amounts from the delinquent return to reflect tax, credits, etc. per return.
- (3) The examiner will need to wait until the TC 150 posts before proceeding with an examination or commencing closing procedures found at IRM 4.25.8.4.4, Case Closing Procedures for Delinquent Returns.

4.25.8.4.4  
(07-08-2021)  
**Case Closing  
Procedures for  
Delinquent Returns**

- (1) One of the specific closing procedures below should be followed to ensure proper closing of a delinquent return:
- No Further Examination. Use these procedures when no further examination is required. See IRM 4.25.8.4.4.1, No Further Examination Case Closing Procedures for Delinquent Returns.
  - Agreed with Adjustments and No Change to Tax. Use these procedures when the delinquent return requires a further examination and the additional adjustments are agreed but there is no change to tax. This includes a change to the unified credit reported on the delinquent return. See IRM 4.25.8.4.4.2, Agreed with Adjustments, No Change to Tax Case Closing Procedures for Delinquent Returns.
  - Agreed with Adjustments and Change to Tax. Use these procedures when the delinquent return requires a further examination and the result of the continued examination is an agreement with adjustments and changes to tax. See IRM 4.25.8.4.4.3, Agreed with Adjustments and Change to Tax Case Closing Procedures for Delinquent Pickup Returns.
  - Unagreed cases. See IRM 4.25.8.4.4.4, Unagreed Case Closing Procedures for Delinquent Returns.
  - For amended returns filed to correct delinquent returns refer to IRM 4.25.8.4.4.5, Amended Delinquent Returns.

4.25.8.4.4.1  
(07-08-2021)  
**No Further Examination  
Case Closing  
Procedures for  
Delinquent Returns**

- (1) In addition to the standard closing documents and procedures, special procedures referenced in this section are required for closing delinquent pickups where there is no change to the tax due and/or to the unified credit as originally filed. The return is being accepted as filed.



- (2) Prepare a Report of Examination Changes (Report) using the Estate and Gift Notebook showing no change to tax and no change to unified credit. Use the amounts from the delinquent return as the starting figures on the Report.
- (3) Complete Form 5344, Examination Closing Record, paying close attention to the following:
  - Enter TC 300 with 0 at Item 12.
  - Enter TC 160 with 0 or the amount of penalties that apply at Item 12. There must be a TC 160 entry.
  - Enter disposal code 01 at Item 13.
  - Enter a "T" at Item 37 for the first delinquent return secured and "R" for all others.
  - Enter an amount at Item 414 to reflect the balance due or the refund amount excluding penalty per the delinquent return, if any.
- (4) Include a copy of the delinquent return. Notate in red at the top of the copy "Copy of Return".
- (5) Include all workpapers using Document 12555, Estate and Gift Examination Workpaper Index Tabs.
- (6) Include a copy of Form 5345-D, Examination Request - ERCS (Examination Returns Control System Users).
- (7) Form 3198, Special Handling Notice for Examination Case Processing, should reflect:
  - "Secured Delinquent Return, No Change" in the Special Features section and instructions to forward the case to Centralized Case Processing (CCP).
  - Notate whether penalties apply. Include the code section if penalties are being assessed. If no penalties are to be assessed, write "DO NOT ASSESS PENALTIES" in the special features section.
- (8) The group secretary will update the case to status 51 in ERCS.
- (9) Cases will be forwarded with Form 3210, Document Transmittal, to Centralized Case Processing. See *Estate and Gift Knowledge Management, Contact Listing for Internal E&G Forms* for the current mailing address.

4.25.8.4.4.2  
(07-08-2021)  
**Agreed with  
Adjustments, No Change  
to Tax Case Closing  
Procedures for  
Delinquent Returns**

- (1) In addition to the standard closing documents and procedures, the special procedures in this section are required for closing delinquent pickups where there have been adjustments made to the delinquent return but the tax due does not change. The adjustments include any adjustments to the unified credit as originally filed.
- (2) Prepare a Report of Examination Changes (Report) using the Estate and Gift Notebook. Use the amounts from the delinquent return as the starting figures.
- (3) Complete Form 5344, Examination Closing Record, paying close attention to the following:
  - Enter TC 300 at Item 12 using **only** the increase or decrease of the amount processed on the delinquent return.
  - Enter TC 160 with 0 or the amount of penalties that apply at Item 12. There must be a TC 160 entry.



- Enter disposal code 01 at Item 13.
  - Enter a “T” at Item 37 for the first delinquent return secured and “R” for all others.
  - Enter an amount at Item 414 to reflect the balance due or the refund amount excluding penalty **per the delinquent return**. **Do not** include the audit adjustment amount at Item 414.
  - Enter an amount at Item 422 if the unified credit amount used on the delinquent gift tax return has changed and no tax is reflected on Form 709.
- (4) Include a copy of the delinquent return. Notate in red at the top of the copy “Copy of Return”.
  - (5) Include workpapers using Document 12555, Estate and Gift Examination Workpaper Index Tabs.
  - (6) Include a copy of Form 5345-D, Examination Request — ERCS (Examination Returns Control System) Users.
  - (7) Form 3198, Special Handling Notice for Examination Case Processing, should reflect:
    - “Secured Delinquent Return, Additional Adjustments” in the Special Features section and instructions to forward the case to Centralized Case Processing (CCP).
    - Notate whether penalties apply. Include the code section if penalties are being assessed. If no penalties are to be assessed, write “DO NOT ASSESS PENALTIES” in the special features section.
  - (8) The group secretary will update the case to status 51 in ERCS.
  - (9) Cases will be forwarded with Form 3210, Document Transmittal, to Centralized Case Processing. See *Estate and Gift Knowledge Management, Contact Listing for Internal E&G Forms* for the current mailing address.

#### 4.25.8.4.4.3 (07-08-2021)

##### **Agreed with Adjustments and Change to Tax Case Closing Procedures for Delinquent Returns**

- (1) In addition to the standard closing documents and procedures, the special procedures in this section are required for closing delinquent pickups where there is a change to the tax due and/or to the unified credit as shown on the original delinquent return and the taxpayer agrees.
- (2) Prepare a Report of Examination Changes (Report) using the Estate and Gift Notebook. Use the amounts from the delinquent return as the starting figures on the Report.
- (3) Complete Form 5344, Examination Closing Report, paying close attention to the following:
  - Enter TC 300 at Item 12 using **only** the increase or decrease of the amount processed on the delinquent return.
  - Enter TC 160 with 0 or the amount of penalties that apply at Item 12. There must be a TC 160 entry.
  - Enter disposal code 03 at Item 13. Enter a “T” at Item 37 for the first delinquent return secured and “R” for all others.
  - Enter an amount at Item 414 to reflect the balance due or the refund amount excluding penalty per the delinquent return. **DO NOT** include the audit adjustment amount at Item 414.

- Enter an amount at Item 422 if the unified credit amount used on the delinquent gift tax return has changed and no tax is reflected on Form 709.
- (4) Include a copy of the delinquent return. Notate in red at the top of the copy "Copy of Return".
  - (5) Include workpapers using Document 12555, Estate and Gift Examination Workpaper Index Tabs.
  - (6) Include a copy of Form 5345-D, Examination Request -- ERCS (Examination Returns Control System) Users.
  - (7) Form 3198, Special Handling Notice for Examination Case Processing, should reflect:
    - "Secured Delinquent Return, Additional Adjustments" in the Special Features section and instructions to forward the case to Centralized Case Processing (CCP).
    - Notate whether penalties apply. Include the code section if penalties are being assessed. If no penalties are to be assessed, write "DO NOT ASSESS PENALTIES" in the special features section.
  - (8) Form 890, Waiver of Restrictions on Assessments and Collection of Deficiency and Acceptance of Overassessments, signed by the taxpayer.
  - (9) The group secretary will update the case to status 51 in ERCS.
  - (10) The group secretary will enter additional assessment under "Deficiency" on ERCS.
  - (11) Cases will be forwarded with Form 3210, Document Transmittal, to Centralized Case Processing. See *Estate and Gift Knowledge Management, Contact Listing for Internal E&G Forms* for the current mailing address.

4.25.8.4.4.4  
(07-08-2021)  
**Unagreed Case Closing  
Procedures for  
Delinquent Returns**

- (1) The special procedures in this section are required for closing delinquent pickups where there is a change to the tax due and/or where a change has been made to the unified credit that was shown on the original delinquent return and the taxpayer does not agree.
- (2) Follow regular procedures for issuance of a 30 day or 90 day Letter to the taxpayer. Based on the type of Letter issued and the response from the taxpayer, use the procedures below to close the case from the group. See IRM 4.25.10.7.3, 30-Day Letter Procedures, IRM 4.25.10.7.4, Statutory Notice of Deficiency Procedures and IRM 4.25.10.7.2, IRC 7477 Procedures for Unagreed No Change with Adjustment Gift Tax Return Cases.
- (3) Prepare a Report of Examination Changes (Report) using the Estate and Gift Notebook. Use the amounts from the delinquent return as the starting figures on the Report.
- (4) Complete Form 5344, Examination Closing Record, paying close attention to the following:
  - Enter TC 300 at Item 12 using **only** the increase or decrease of the amount processed on the delinquent return.

- Enter TC 160 with 0 or the amount of penalties that apply at Item 12. There must be a TC 160 entry.
  - Enter the appropriate disposal code based on 30 day or 90 day Letter procedures for regular examinations.
  - Enter a "T" at Item 37 for the first delinquent return secured and "R" for all others.
  - Enter an amount at Item 414 to reflect the balance due or the refund amount excluding penalty per the delinquent return. DO NOT include the audit adjustment amount at Item 414.
  - Enter an amount at Item 422 if the unified credit amount used on the delinquent gift tax return has changed and no tax is reflected on Form 709.
- (5) Include a copy of the delinquent return. Notate in red at the top of the copy "Copy of Return".
  - (6) Include all workpapers using Document 12555, Estate and Gift Examination Workpaper Index Tabs.
  - (7) Include a copy of Form 5345-D, Examination Request -- ERCS (Examination Returns Control System) Users.
  - (8) Form 3198, Special Handling Notice for Examination Case Processing, should reflect:
    - "Secured Delinquent Return, Additional Adjustments" in the Special Features section and instructions to forward the case to *Technical Services*.
    - "Unagreed Case" in the Forward to Technical Services section.
    - Notate whether penalties apply. Include the code section if penalties are being assessed. If no penalties are to be assessed, write "DO NOT ASSESS PENALTIES" in the special features section.
  - (9) The group secretary will update the case to status 21 in ERCS.
  - (10) The group secretary will enter any additional assessment under "Deficiency" on ERCS.
  - (11) Cases will be forwarded with Form 3210, Document Transmittal, to *Technical Services*.

4.25.8.4.4.5  
(08-06-2015)  
**Amended Delinquent Returns**

- (1) In certain situations, the filing of an amended return to correct a delinquent return requires special attention. When possible, the taxpayer should be instructed to file directly with the examiner.
- (2) If a taxpayer filed a delinquent return with an examiner, then wants to file an amended return for the same tax period, the examiner should hold the amended return until the TC 150 posts on the delinquent return. After the TC 150 posts, the examiner may consider any changes reflected in the amended return and make the necessary adjustments.
- (3) If a taxpayer files an amended return with the campus, then TC 97X will be posted. This reflects the receipt of the return and generates an "-A" freeze on the account.

**Note:** If the "-A" is on the account, it cannot be closed as a non-examined closure. The "-A" freeze has to be resolved.

## 4.25.8.5

(07-08-2021)

**Introduction to  
Substitute for Return  
(SFR)**

- (1) When a taxpayer refuses to file a required tax return, the Service has the option of preparing the tax return for the taxpayer which is categorized as a Substitute for Return (SFR). This is often accomplished by preparing an Examination Report or completing a tax return for the taxpayer's signature. If the taxpayer signs a Report prepared by an examiner, it is not considered a tax return and SFR procedures are followed. If the taxpayer signs an actual tax return prepared by the examiner, the return is considered a delinquent return and delinquent return procedures should be followed. See IRM 4.25.8.4, Introduction to Delinquent Pickup Returns.
- (2) Follow the procedures set forth in this section when the tax return due date and extended due date have passed and all efforts have been exhausted to secure a required tax return from a taxpayer that is not part of a project and does not have a TC 150 or TC 150SFR posting on AIMS.
- (3) If Transaction Code (TC) 150SFR is present on the open module for the same tax period, consult IRM 4.4.9, Examining Process, AIMS Procedures and Processing Instructions, Delinquent and Substitute for Return Processing, for processing, examining and closing procedures. This section applies to substitute returns where no controls have been established for the tax period.
- (4) Substitute for Return (SFR) procedures in this section are valid when the examiner prepares a Report of Examination Changes (Report) for presentation to the taxpayer in lieu of a tax return. The examiner will present the Report to the taxpayer for signature. If the taxpayer signs the Report, the Report serves as an agreement. If no signature is secured on the Report, unagreed closing procedures in this section should be followed.
- (5) SFR procedures should not be used when the due date for filing (including any valid extensions) has not yet passed.
- (6) Since the filing of a tax return starts the assessment statute expiration date, do not change the statute date. It remains as "EE".

**Note:** If a statute date for a substitute for return is inadvertently changed to a numerical date, it can be reversed by changing the date back to "EE" and adding Aging Reason Code 26. However, do not use Aging Reason Code 26 until a report is issued showing that the "EE" has been overlaid with a numerical date. Continue to monitor the record until the statute date is valid with an "EE."

## 4.25.8.5.1

(07-08-2021)

**Establishing Entity and  
Controls for SFRs**

- (1) Check Master File to ensure no TC 150 is posted for the same tax period and MFT. An SFR cannot be requested if a TC 150 is posted.
- (2) Using IDRS command code INOLES, determine whether an entity has been established on Master File for a BMF account using an SSN with a "V" definer (MFT 51 or 52). If not, complete Form 2363, Master File Entity Change, to add an entity to the Master File. To create an account using Form 2363, enter an "X" in the box to the right of the Trans Code 000 and enter the earliest tax year that is being worked. The completed Form 2363 should be faxed to the Estate and Gift Tax CCP for input. See *Estate and Gift Knowledge Management, Contact Listing for Internal E&G Forms*.

- (3) If Form 2363 is necessary, the new account can be verified using IDRS command code INOLES the Monday after the second weekend from the input date.

**Note:** ERCS controls may be requested even though an account does not exist on AIMS (AIMS controls may not). Do not send the SFR (or Report in lieu of a tax return) to Submission Processing until the account has been created.

- (4) Complete Form 5345-D, Examination Request-ERCS (Examination Returns Control System) Users. The following fields are specific to substitute for returns when no TC 150 is posted on AIMS:

- Tax Period: Use YYYYMM format
- Activity Code: Determine based on criteria using *Document 6209*, see Section 12 - Examination, 5 - Audit Information Management System (AIMS), 10 - Activity Codes
- Source Code: Use 44
- Status Code: Use 10
- Statute Date: MM "EE" YY (Do not change)
- Tracking Code: Enter the same tracking code as the key case. If none, leave blank
- Project Code: Enter the same project code as the key case. If none, leave blank
- TS Code: Leave blank
- Claim Amount: Leave blank
- Push Code: Use 036
- Related Return Indicator: Enter Y
- Aging Reason: Enter the same aging reason code as the key case. If none, leave blank

- (5) Submit Form 5345-D to the group secretary for input on ERCS.
- (6) The request will go through validity checks on AIMS before it is completed.
- (7) It is the examiner's responsibility to monitor AIMS using BMFOLT for the TC 150 posting. If the return does not post, contact an AIMS/ERCS Coordinator.
- (8) As soon as the TC 150SFR posts, the examination and/or closing may proceed.
- (9) If the taxpayer files a tax return with the campus after a TC 150SFR posts, refer to IRM 4.4.9.6.3.2, SFR Posted - Taxpayer Filed Return at Campus for procedures.

4.25.8.5.2  
(07-30-2019)  
**Examination Procedures  
for SFRs**

- (1) Prepare a Report of Examination Changes (Report) using the Estate and Gift Notebook starting with zero in the "As Filed" column.
- (2) Present the Report to the taxpayer for signature. The examiner may need to add a signature line to the Report for the taxpayer's signature.
- (3) A Report signed by the taxpayer does not constitute a tax return. See IRM 4.12.1.10.4, No Return Secured - Agreed closure IRC 6020(a). Since only the filing of a tax return starts the assessment statute expiration date, do not update the statute date. It should remain "EE".

- (4) Upon receipt of a signed Report, prepare a Form 13496, IRC Section 6020(b) Certification.
- (5) If payment is received, process using regular procedures. Attach the duplicate copy of Form 3244A, Payment Posting Voucher, to the front of the signed Report.

4.25.8.5.3  
(07-08-2021)

**Case Closing  
Procedures for SFRs**

- (1) One of the specific closing procedures below should be followed to ensure proper closing of a substitute for return prepared by an examiner.
  - SFR Secured with no tax due refer to IRM 4.25.8.5.3.1, SFR Secured with No Tax Case Closing Procedures
  - SFR Secured with tax due refer to IRM 4.25.8.5.3.2, SFR Secured with Tax Case Closing Procedures
  - Unagreed Cases refer to IRM 4.25.8.5.3.3, Unagreed Case Closing Procedures for SFRs
- (2) AIMS case closure processing instructions are located in IRM 4.4.9.

4.25.8.5.3.1  
(07-30-2019)

**SFR Secured with No  
Tax Case Closing  
Procedures**

- (1) In addition to the standard closing documents and procedures, the special procedures in this section should be followed for closing substitute for returns where there is a Report with adjustments shown that is prepared by an examiner and signed by the taxpayer, but no tax is due. This includes cases where an adjustment to unified credit is the only change.
- (2) Complete Form 5344, Examination Closing Record, as follows:
  - Write in the top margin using red ink, "Original Return – SFR"
  - Enter TC 160 with 0 or the amount of penalties that apply at Item 12. There must be a TC 160 entry.
  - Enter disposal code 01 at Item 13
  - Do not complete Item 34
  - Do not complete Item 414
  - Enter an amount at Item 422 if the unified credit amount used on the delinquent gift tax return has changed and no tax is reflected on Form 709
- (3) Include a transcript in the case file showing a posted TC 150SFR.
- (4) Include workpapers using Document 12555, Estate and Gift Examination Workpaper Index Tabs.
- (5) Include a copy of Form 5345-D, Examination Request – ERCS (Examination Returns Control System) Users.
- (6) Complete Form 3198, Special Handling Notice for Examination Case Processing, to reflect the following:
  - Check the appropriate box for "SFR case" in the Special Features section.
  - Identify the Report signed by the taxpayer as the original return.
  - Notate whether penalties apply. Include the code section if penalties are being assessed. If no penalties are to be assessed, write "DO NOT ASSESS PENALTIES" in the special features section.
- (7) The group secretary will update the case to status 51 in ERCS.



4.25.8.5.3.2  
(07-08-2021)  
**SFR Secured with Tax  
Case Closing  
Procedures**

(8) Cases will be forwarded with Form 3210, Document Transmittal, to Centralized Case Processing. See *Estate and Gift Knowledge Management, Contact Listing for Internal E&G Forms* for the current mailing address.

(1) In addition to the standard closing documents and procedures, the special procedures in this section should be followed for closing substitute for returns where there is a Report with adjustments showing tax due that is prepared by an examiner and signed by the taxpayer.

(2) Complete Form 5344, Examination Closing Record, as follows, paying close attention to the following:

- Write in the top margin using red ink, "Original Return – SFR"
- Enter TC 160 with 0 or the amount of penalties that apply at Item 12. There must be a TC 160 entry.
- Enter disposal code 03 at Item 13
- Do not complete Item 34
- Do not complete Item 414

(3) Include a transcript in the case file showing a posted TC 150SFR.

(4) Include a copy of Form 5345-D, Examination Request – ERCS (Examination Returns Control System) Users.

(5) On Form 3198, Special Handling Notice for Examination Case Processing, reflect the following in the comments section:

- Check the appropriate box for "SFR case" in the Special Features section.
- Write "Report signed by the taxpayer is the agreement" in the Special Features section.
- Notate whether penalties apply. Include the code section if penalties are being assessed. If no penalties are to be assessed, write "DO NOT ASSESS PENALTIES" in the special features section. See IRM 20.1.2.3.10, Substitute for Return - IRC 6651(g).

(6) All SFRs having tax adjustments that follow deficiency procedures with the failure to pay (FTP) penalty applied under IRC 6651(g) must have a Form 13496, IRC Section 6020(b) Certification, completed. See IRM 20.1.2, Penalty - Failure to File/Failure to Pay Penalties, and IRM subsection 20.1.2.3 for more information.

(7) The group secretary will update the case to status 51 in ERCS.

(8) Cases will be forwarded with Form 3210, Document Transmittal, to Centralized Case Processing. See *Estate and Gift Knowledge Management, Contact Listing for Internal E&G Forms* for the current mailing address

4.25.8.5.3.3  
(07-08-2021)  
**Unagreed Case Closing  
Procedures for SFRs**

(1) The special procedures in this section should be followed when closing substitute for returns where a Report was prepared by an examiner but NOT signed by the taxpayer. This section applies whether or not the Report shows tax due.

(2) Follow regular procedures for issuance of a 30 day or 90 day Letter to the taxpayer. Based on the type of letter issued and the response from the taxpayer, use the procedures below to close the case from the group. See IRM 4.25.10.7.2, IRC 7477 Procedures for No Change with Adjustment Gift Tax

Cases, IRM 4.25.10.7.3, 30-Day Letter Procedures, and IRM 4.25.10.7.4, Statutory Notice of Deficiency Procedures.

- (3) Include a Report using zero as the starting figures.
- (4) All SFRs having tax adjustments that follow deficiency procedures with the failure to pay (FTP) penalty applied under IRC 6651(g) must have a Form 13496, IRC Section 6020(b) Certification, completed. See IRM 20.1.2, Penalty - Failure to File/Failure to Pay Penalties, for more information.
- (5) Form 5344, Examination Closing Record:
  - In the top margin, write in red ink "Original Return – SFR".
  - Enter the applicable disposal code at Item 12.
  - Enter TC 160 with 0 or the amount of penalties that apply at Item 12. There must be a TC 160 entry.
  - Do not complete Items 34 or 414.
  - Enter an amount at Item 422 if any unified credit amount is used on the Report and no tax is reflected on Form 709.
- (6) Include a transcript in the case file showing a posted TC 150SFR.
- (7) Include a copy of Form 5345-D, Examination Request – ERCS (Examination Returns Control System Users), as described at IRM 4.25.8.5.1, Establishing Entity and Controls for SFRs.
- (8) On Form 3198, Special Handling Notice for Examination Case Processing, reflect the following:
  - Check the appropriate box for "SFR case" in the Special Features section.
  - Check the appropriate box for Unagreed Case in the Forward to Technical Services section.
  - Notate whether penalties apply. Include the code section if penalties are being assessed. If no penalties are to be assessed, write "DO NOT ASSESS PENALTIES" in the special features section.
- (9) The group secretary will update the case to status 21 in ERCS.
- (10) The group secretary will input the appropriate disposal code.
- (11) Cases will be forwarded with Form 3210, Document Transmittal, to Technical Services. The addresses for local Technical Services Offices may be found on the *Technical Services website*.

4.25.8.5.3.4  
(07-08-2021)  
**Agreed Tax with  
Unagreed Penalties**

- (1) The special procedures in this section should be followed when closing substitute for returns where the taxpayer signs the waiver agreeing with the recommended Substitute for Return (SFR) tax adjustment, but does not agree with the proposed penalty or addition to tax assessment.
- (2) IRC 6651(g) provides that a "return" that the Secretary prepares under IRC 6020(b) functions as a return filed by the taxpayer for purposes of determining the failure-to-pay addition to tax under IRC 6651(a)(2) (i.e., Failure to Pay penalty). All SFRs with tax adjustments must provide a sufficient basis on which the FTP penalty is based. The SFR and FTP penalty must also be subscribed in accordance with IRC 6020(b) in order to fulfill the burden of production requirements of IRC 7491(c). To satisfy these requirements, at the



conclusion of an SFR examination the examiner must prepare and sign Form 13496, IRC Section 6020(b) Certification. Prepare and date the certification (Form 13496) after the 30-day letter (or revised 30-day letter), report summarizing exam changes, or equivalent report of adjustments so that the date of the certification is identical to, or later than, the 30-day letter, report of exam changes or equivalent report of adjustments.

- (3) The Form 13496 certifies that the SFR report and signed waiver agreeing to the tax assessment shall be treated as the return filed by the taxpayer for purposes of determining the amount of the additions to tax under paragraphs (2) and (3) of section 6651(a).
- (4) Failure to provide sufficient basis for the penalty, or prepare Form 13496 may result in the Services' inability to impose the failure to pay penalty. See *Cabirac v. Commissioner*, 120 T.C. 163 (2003), aff'd in an unpublished opinion, No. 03-3157 (3d Cir. Feb 10, 2004); *Rhodes v. Commissioner*, T.C. Memo 2003-133; *Spurlock v. Commissioner*, T.C. Memo 2003-124. See IRM 20.1.2.3.10.1, Processing When Deficiency Procedures Apply.
- (5) The receipt of the taxpayer's signed waiver, agreeing to the entire tax adjustment results in the resolution of the tax at issue. Since the United States Tax Court is a court of limited jurisdiction, the court may exercise jurisdiction only to the extent expressly provided by Congress. See IRC 7442. IRC 6213 confers jurisdiction on the Tax Court to redetermine deficiencies in income, estate, gift, and certain excise taxes. The provision which confers jurisdiction on the court to review an addition to tax for late filing is IRC 6665. If no part of the determined addition-to-tax or penalty is attributable to a tax deficiency, the Tax Court no longer has jurisdiction to decide the merits of the addition-to-tax or penalty. See *Forgey v. Commissioner*, 115 TC 142 (2000). A statutory notice of deficiency cannot be issued for the addition-to-tax or penalty. The case will be closed as an agreed case, with all penalty assessment information recorded on the Form 3198 and Form 5344. See IRM 4.25.10, Case Closing Procedures. The taxpayer may appeal the penalty after assessment.
- (6) After determining that the taxpayer agrees with the tax assessment, but does not agree with the penalty determination, the examiner should prepare three copies of the Letter 950-S, 30-day Letter for SFR with Agreed Tax and Unagreed Penalty, letter package to provide notice to the taxpayer that they have post assessment appeal rights. Each of the completed documents in the Letter 950-S package, items (a) through (d), should be uploaded to IMS prior to closure. The Letter 950-S package must contain the following documents:
  - a. Letter 950-S, 30-day Letter for SFR with Agreed Tax and Unagreed Penalty
  - b. Examination Report using zero as the starting figures. The Report should fully explain the factual and legal justification for the recommended penalty assessment.
  - c. Signed Agreement Forms (Form 890)
  - d. Form 13496, IRC Section 6020(b) Certification, (Form 13496 should not be provided to the taxpayer or the taxpayer's representative).
  - e. Pub 4576, Orientation to Penalty Appeals Process
  - f. Envelope with taxpayer's address
  - g. Self-addressed envelope
- (7) After issuing the Letter 950-S package to the taxpayer the examiner may close the tax assessment case to CCP using standard partially agreed case closing

procedures. See IRM 4.25.10.8, Estate and Gift Tax Examination, Case Closing Procedures, Partially Agreed, Partially Unagreed Case.

- (8) The examiner should wait to close the electronic IMS penalty case file until the expiration of the unagreed penalty protest period established in the Letter 950-S. The examiner should document the protest period deadline, and any extensions in the IMS penalty case Activity Record, Form 9984.
  - a. If the taxpayer does not submit a protest by the response deadline the examiner should synchronize and close the electronic case on IMS.
  - b. If the Taxpayer submits a protest within the required response timeframe the examiner should close the unagreed penalty case issues to appeals for determination. See IRM 4.25.10.8.1.2, Closure of the Unagreed Portion.

4.25.8.6  
(07-08-2021)  
**Project Cases**

- (1) Project cases are cases developed by WSD. Project cases may also be the result of referrals. Case building is started prior to sending the case to the field. A module is open on IDRS with a Transaction Code (TC) 150SFR posted. The remainder of the record is blank. Only cases with a TC 150SFR at the time of assignment are considered project cases for purposes of determining which guidance to follow for processing and closing the cases. Once Substitute for Return (SFR) procedures are started, they cannot be changed. The return controlled as an SFR must be processed as such through final closure whether or not a return is secured. This is the fundamental difference between project cases and regular examinations.
- (2) In addition to this IRM, information on project cases may also be found on the Estate and Gift SharePoint or by contacting the WSD Project Coordinator. See IRM 4.25.3.8, Classification of Non-Filer and Under-reporter Project Cases, which provides WSD Coordinator procedures for project cases.
- (3) At the time a project case is assigned, specific background and procedures may be provided on a Case Insert distributed with the case file. Some project cases have specific lead sheets, letters and forms developed for use by the examiner during the project. For most projects, Notebook includes letters and forms related to the specific project. Use of the approved letters and forms is mandatory. They can be found in the Notebook Forms Library in the Project and Delinquent Return Workpapers folder.
- (4) Project, research and tracked issue cases are identified with both project and tracking codes. A Project Code is a four digit number indicating that a case belongs to a special program which allows monitoring of the program by project code. AIMS reports can be generated for a given project to measure the total number of returns, examination time, results, etc. See IRM 4.25.14.11.4, Project Codes used in Estate and Gift Tax Examinations. A Tracking Code is a four digit code used to identify specific categories of returns. Once a Tracking Code has been added, it should not be removed. See IRM 4.25.14.11.7, Tracking Codes used in Estate and Gift Tax Examinations.
- (5) A Project Feedback Form is available in IMS. The purpose of the form is to gather information to improve the quality of project cases sent to the field for examination. All responses are confidential and will not be used to evaluate performance.