



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

25.15.17

MAY 11, 2022

EFFECTIVE DATE

(05-11-2022)

PURPOSE

- (1) This transmits revised IRM 25.15.17 Relief from Joint and Several Liability, Reconsiderations.

MATERIAL CHANGES

- (1) IRM 25.15.17.5.1 - Added new letters.
- (2) IRM 25.15.17.5.2 - Added new letters.
- (3) IRM 25.15.17.5.3 - Added new letters.
- (4) IRM 25.15.17.6 - Added to verify the Appeals Closing Code through ACDS.
- (5) Editorial changes to update references and increase clarity were made throughout.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 25.15.17, Reconsiderations, dated March 05, 2019.

AUDIENCE

Employees reconsidering innocent spouse relief requests.

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25.15.17

Reconsiderations

Table of Contents

25.15.17.1 Program Scope and Objectives

25.15.17.1.1 Background

25.15.17.1.2 Authority

25.15.17.1.3 Responsibilities

25.15.17.1.4 Terms

25.15.17.1.5 Acronyms

25.15.17.1.6 Related Resources

25.15.17.2 Introduction

25.15.17.3 First Read Screening

25.15.17.4 Full Scope Evaluation

25.15.17.5 Reconsideration Procedure

25.15.17.5.1 No Change to Prior Determination

25.15.17.5.2 Determination Is the Same But the Reason Is Different

25.15.17.5.3 Determination Changed to Allow Relief in Full or Part

25.15.17.6 Cases Closed in Appeals

25.15.17.7 Issuing Second Preliminary and Final Determinations for the Same Relief Request

25.15.17.7.1 Service Delay or Error

25.15.17.7.2 Taxpayer Fraud

25.15.17.7.3 Basic Requirements

25.15.17.1
(03-05-2019)
Program Scope and Objectives

- (1) Purpose: This IRM provides guidance to IRS employees reconsidering a request for innocent spouse relief.
- (2) Audience: Small Business/Self-Employed (SB/SE) employees in the Cincinnati Centralized Innocent Spouse Operation (CCISO) who are assigned a request for innocent spouse relief on which a previous relief determination for the same Requesting Spouse (RS) and same tax year has been made.
- (3) Policy Owner: The policy owner is the SB/SE Director, Exam - Field and Campus Policy.
- (4) Program Owner: The program owner is SB/SE Campus Exam and Field Support.
- (5) Program Goals: The program goals are to properly consider information submitted by a Requesting Spouse (RS) that was not previously considered in their request for innocent spouse relief.

25.15.17.1.1
(03-05-2019)
Background

- (1) This IRM provides guidance for employees who are reconsidering an innocent spouse determination that denied relief in full or in part after a final determination of relief has been issued.
- (2) A final determination will be reconsidered when a RS submits information not previously considered (new information or information that the IRS failed to previously consider) as long as the collection statute expiration date (CSED) or refund statute expiration date (RSED) is still open. This includes cases on the Innocent Spouse Tracking System (ISTS) in Stages 12 (final determination letter issued), 30 (closed case), or 99 (archived module).
- (3) Although the final determination will be reconsidered, the request for reconsideration is not a qualifying request for relief under IRC 6015(b), (c), or (f). See Proposed Treas. Reg. 1.6015-5(c)(2) at 78 F.R. 49242 (issued August 13, 2013). Therefore, any reconsideration of the final determination, and any notice or letter issued to the RS as a result of the reconsideration, is not a **Final Determination** for purposes of IRC 6015(e) and is not subject to review by the Tax Court under IRC 6015(e).

Caution: If the only basis for not considering or denying the initial request for relief under IRC 6015(c) was that the RS did not meet the marital status requirement, and the RS files a new request for relief based on the marital status subsequently being met, then the new request is not a reconsideration, but a qualifying request under IRC 6015(c). The determination in this case **will** be a Final Determination for purposes of IRC 6015(e), and subject to review by the Tax Court after appeal rights of the preliminary determination are exhausted, and the Final Determination letters are issued to each spouse.

Reminder: If the case was not reviewed under Notice 2012–8 or Rev. Proc. 2013–34, CCISO will reconsider the claim under Rev. Proc. 2013–34.

Exception: See IRM 25.15.17.7, Issuing Second Preliminary and Final Determinations for the Same Relief Request, for exceptions to this general rule.

- (4) Reconsideration requests for cases in ISTS Stage 12 must be worked with priority over other replies. The RS still must petition the Tax Court within the

time frame per the final determination letter. Reconsideration requests received with 30 days or less remaining on the time to petition the Tax Court must be evaluated as soon as possible.

25.15.17.1.2
(03-05-2019)

Authority

- (1) IRC 6015, Relief from joint and several liability on joint return.
- (2) 26 CFR sections 1.6015-1 through -9, which provide guidance on requests for relief from joint and several liability and related proposed regulations, including 78 F.R. 49242 (issued on August 13, 2013) and 80 F.R. 72649-01 (issued November 20, 2015).
- (3) Rev. Proc. 2003-19, administrative appeal rights for the non-requesting spouse.
- (4) Rev. Proc. 2013-34, guidelines for taxpayers seeking equitable relief from income tax liability under section 66(c) or section 6015(f).

25.15.17.1.3
(03-05-2019)

Responsibilities

- (1) The Director, Exam - Field and Campus Policy (formerly known as the Director, Examination AUR/Policy), reports to the Director, Headquarters Examination, and is responsible for the delivery of policy and guidance that impacts the field and campus examination process. See IRM 1.1.16.3.5.1, Field and Campus Policy, for additional information.
- (2) Campus Exam and Field Support (formerly known as Campus-Exam Processing and Special Program Policy), which is under the Director, Examination - Field and Campus Policy, is the group responsible for providing Servicewide policy guidance on compliance processes that relate to campus examination operations and support Field Exam and Specialty Programs in SB/SE and Large Business & International (LB&I). See IRM 1.1.16.3.5.1.5, Campus Exam and Field Support, for additional information.
- (3) Management officials in CCISO are responsible for ensuring that procedures established for reconsideration requests are followed by CCISO employees.
- (4) CCISO employees are responsible for ensuring that requests being reconsidered meet the reconsideration criteria. See IRM 25.15.17.1.4, paragraph (2), for more information.
- (5) The IRS adopted the Taxpayer Bill of Rights (TBOR) in June 2014. Employees are responsible for being familiar with and acting in accordance with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see Frequently Asked Questions (FAQs) at *Taxpayer Bill of Rights FAQs*.

25.15.17.1.4
(03-05-2019)

Terms

- (1) **Rework** - A rework is when a taxpayer submits information after a preliminary determination was issued but prior to issuance of a final determination.
- (2) **Reconsideration** - A reconsideration is when a taxpayer submits information not previously considered after the issuance of a final determination. This is applicable whether the case is in ISTS Stage 12, 30, or 99.

Note: The information has to be different or not previously considered.

Example: 1 - ISTS Stage 12 shows a claim was denied for lack of verification and now the taxpayer provides the previously requested information.

Example: 2 - ISTS Stage 12 shows a claim was denied for knowledge and now the taxpayer provides documentation to show he/she did not have knowledge.

Example: 3 - Claim is in ISTS Stage 30 and taxpayer submits additional information, not previously considered.

(3) **No Reconsideration** - A request for relief in ISTS Stage 30 or archived, where the taxpayer sends correspondence but does not send additional information or sends information that was previously considered.

Example: 1 - Claim is in ISTS Stage 30 or archived, and taxpayer writes and asks for a reconsideration but does not submit any new information to be considered.

Example: 2 - Claim is in ISTS Stage 30 or archived and taxpayer states it is not fair that I am held responsible but does not submit any new information to be considered.

Example: 3 - Claim is in ISTS Stage 30 or archived and taxpayer sends information which was previously considered.

(4) **Refundable Payments for Reconsiderations** - Use the IRS received date of the reconsideration request when determining if a payment is eligible for refund.

Example: Reconsideration for tax year 2005 is received 10-20-10. Original claim was received on 6-1-08. There was a refund offset on 4-15-07. Per IRC 6511, the refund offset on 04-15-07 would not be refundable because the reconsideration request was received more than two years after the payment.

Exception: If the Reconsideration is due to IRS error (this includes IRC 6015(f) claims previously denied for timeliness), then consider the date of the original request for relief as the “claim for refund” date per IRC 6511.

25.15.17.1.5
(03-05-2019)
Acronyms

(1) The table lists commonly used acronyms specific to this IRM and their definitions:

| Acronyms | Definition |
|----------|--|
| ACDS | Appeals Centralized Database System |
| CCISO | Cincinnati Centralized Innocent Spouse Operation |
| CSED | Collection Statute Expiration Date |
| ESTAB | Command code used to order documents related to the prior relief request |

| Acronyms | Definition |
|----------|--|
| ISTS | Innocent Spouse Tracking System |
| ISO-AR | Innocent Spouse Operation Adjustment Request |
| NRS | Non-Requesting Spouse - the spouse that did not request relief |
| RECON | Activity Code used in ISTS to indicate a reconsideration request |
| RS | Requesting Spouse - the spouse who is requesting relief from liability |
| RSED | Refund Statute Expiration Date |

25.15.17.1.6
(03-05-2019)

Related Resources

- (1) IRM 25.15.3, Technical Provisions of IRC 6015.
- (2) IRM 25.15.14, Innocent Spouse Tracking System.
- (3) IRM 25.15.18, Innocent Spouse Relief Processing Procedures.

25.15.17.2
(03-05-2019)

Introduction

- (1) The Service has developed the procedures in this IRM to reconsider a final administrative determination under certain conditions. Reconsideration of a determination on a request for relief is described in Proposed Treas. Reg. 1.6015-5(c)(2). The Service can reconsider determinations if new, or previously unconsidered, information is presented by the RS, and the statute of limitations on collection or refund is still open. The result of the reconsideration is not the Service's final determination for purposes of section 6015(e) and is not subject to review by the Tax Court.

Caution: If the only basis for not considering or denying the initial request for relief under IRC 6015 was that the RS did not meet the marital status requirement of IRC 6015(c), and the RS files a new request for relief based on the marital status requirement subsequently being met, then the new request is not a reconsideration, but a qualifying request entitled to a determination under IRC 6015(c), with all appeal and petition rights reserved.

- (2) Sometimes reconsideration requests are filed by the RS with a new Form 8857, Request for Innocent Spouse Relief. First Read has procedures at IRM 25.15.18.5.1.3(2) to research ISTS for previously determined requests with the same RS.

25.15.17.3
(03-05-2019)

First Read Screening

- (1) When the RS submits information and the case is in ISTS **Stage 12**:
 - a. Place in appropriate folder.
 - b. Update the Integrated Data Retrieval System (IDRS) control base with activity code "RECON" and the received date of the additional information.

- c. Update ISTS to Stage 24 on the original claim with the received date of the additional information.
 - d. Forward the case to the appropriate team.
- (2) When the RS submits additional information and the case was previously in ISTS **Stage 30**:
- a. Place in appropriate folder with an ISTSR Input Record and activity sheet.
 - b. Open an IDRS control base for First Read with activity code "RECON" and the received date of the additional information.
 - c. Update ISTS to Stage 24 on the original claim with the received date of the additional information, and a purge date of 45 days.
- Reminder:** Do not input transaction code (TC) 971 action code (AC) 065.
- d. Send Letter 3659-C or Letter 3659.
 - e. Use Command Code (CC) ESTAB to order the original case file for evaluation of the new information by Full Scope.
 - f. Once the ESTAB documents are received and associated with the additional information, update the IDRS control and forward the case to the appropriate team.
- (3) When the RS submits information and **ISTS is archived**, update ISTS as a new claim.
- a. Place in appropriate folder with an ISTSR Input Record and activity sheet.
 - b. Open an IDRS control base for First Read with activity code "RECON" and the received date of the information.
 - c. Update ISTS to Stage 01 with activity "ARC" and the received date of the information.
 - d. Update ISTS to Stage 02 if applicable, Stage 03 and Stage 24 with comment item "RECON" and a purge date of 45 days.
- Reminder:** Do not input transaction code (TC) 971 action code (AC) 065.
- e. Send Letter 3659-C or Letter 3659.
 - f. Use CC ESTAB to order the original case file for evaluation of the new information by Full Scope.
 - g. Once the ESTAB documents are received and associated with the additional information, update the IDRS control and forward the case to the appropriate team.
- (4) When the RS submits information on an innocent spouse claim that was previously worked but not built on ISTS, or the previous ISTS record has been removed from Archive, request the document from files using CC ESTAB and follow instructions per paragraph (3) above.

25.15.17.4
(03-05-2019)
Full Scope Evaluation

- (1) Carefully review the ESTAB documents received, the reconsideration request, and any correspondence submitted.
- (2) If there is no new information to consider, then the new request does not qualify for reconsideration procedures. If there is new information to consider, follow the procedures in IRM 25.15.17.5, Reconsideration Procedure.

- (3) Notate activity record with the following, or similar language: “Received information, however the information was previously considered; therefore, request does not qualify for reconsideration.”
- (4) Issue Letter 3657-C, or Letter 3657, No Consideration Innocent Spouse. Use an open paragraph with the following (or similar) language:

“Thank you for your correspondence received MM/DD/YYYY. Since you did not submit any information that was not previously considered, we cannot reconsider your request for innocent spouse relief.”

Note: Do not issue any letter to the non-requesting spouse (NRS).

- (5) Update ISTS and IDRS controls as follows:

| IF | THEN |
|--------------------------------------|--|
| Previous request is in ISTS Stage 30 | <ol style="list-style-type: none"> 1. Update ISTS to Stage 31 with history comment to indicate L3657-C or L3657 issued, and reconsideration request is not valid. 2. Close the IDRS control “NO CHANGE”. 3. Close the original case with the additional information or correspondence to files. |
| Previous request is in ISTS Archive | <ol style="list-style-type: none"> 1. Update ISTS to Stage 29 with “SREQ”, Stage 30 “NOACCTP”, and Stage 31 to indicate L3657-C or L3657 issued. 2. Close IDRS control “NOACCTP”. 3. Close the original case with the additional information or correspondence to files. |

25.15.17.5
(03-05-2019)

**Reconsideration
Procedure**

- (1) If there is information submitted that was not previously considered, then treat the request as a reconsideration.
- (2) Consider the new information, and update case activity record and work papers accordingly.
- (3) Continue processing according to the result of the reconsideration.

Caution: Do not issue Final Determination letters to either spouse; instead use the letters referred to in the sections below, which grant appeal rights, but not petition rights.

25.15.17.5.1
(05-11-2022)
No Change to Prior Determination

- (1) If the claim was previously disallowed for more than one reason and you are still disallowing it for one of the original reasons, treat as no change to prior determination.

Example: The claim was previously disallowed because it was equitable to hold the RS liable. There was no economic hardship, taxpayer had actual knowledge, and is non-compliant. Now the RS proves there is a hardship but did not prove no actual knowledge or compliance, treat the claim as no change from the prior determination.

- (2) Notate activity record with the following (or similar) language: "Received additional information, no change to the original determination".
- (3) Issue Letter 4277-C or Letter 4277 to the RS, but do not provide appeal rights. Remind the RS that their Tax Court rights will expire 90 days from the date the final determination is issued, if the prior request is in Stage 12 and there are less than 90 days from date of the final determination letter remaining.

Note: Do not issue any letter to the NRS.

- (4) Use the chart below for ISTS and IDRS updates needed:

| IF | THEN |
|---------------------------------|---|
| ISTS was previously in Stage 12 | <ol style="list-style-type: none"> 1. Update ISTS to Stage 12. 2. Update IDRS to original 90-day purge date. 3. Refile on the 90-day wall. <p>Exception: If the time to petition Tax Court is expired, close case, do not update to 90-day purge date or refile on the 90-day wall.</p> |
| ISTS was previously in Stage 30 | <ol style="list-style-type: none"> 1. Update ISTS to Stage 30 with applicable activity code. 2. Close IDRS control "NOCHANGE". 3. Close the original case with the additional information to files. |

| IF | THEN |
|------------------------------|--|
| ISTS was previously archived | <ol style="list-style-type: none"> 1. Update ISTS to Stage 29 "SREQ" and Stage 30 "NOACCTP". 2. Close IDRS control "NOCHANGE". 3. Close the original case with the additional information to files. |

25.15.17.5.2
(05-11-2022)

Determination Is the Same But the Reason Is Different

- (1) If the claim was previously disallowed for more than one reason and you are still disallowing it, but for a new reason, there is no change to prior determination, but the RS will have appeal rights.

Example: The claim was previously disallowed because the RS had actual knowledge of the item causing the deficiency/understatement, now they prove they had no actual knowledge, but you determine it is equitable to hold the RS liable.

- (2) Notate the activity record that the additional information received did not change the determination but the request is denied for a different reason.
- (3) Issue Letter 4277-C or Letter 4277 to the RS, and provide appeal rights. Advise the RS that their Tax Court rights will expire 90 days from the date the final determination is issued, if the prior request is in Stage 12 and there are less than 90 days from date of the final determination letter remaining.

Note: Do not issue any letter to the NRS.

- (4) Prepare amended work papers.
- (5) Use the chart below for ISTS and IDRS updates needed:

| IF | THEN |
|--|--|
| <p>ISTS was previously in Stage 12</p> | <ol style="list-style-type: none"> <li data-bbox="1024 289 1435 520">1. Update ISTS to Stage 25 with activity "ADD1" and Stage 12 with the new reason code for denial. Note: Stage 25 date must be one day earlier than Stage 12 date. <li data-bbox="1024 527 1435 905">2. Input 90-day purge date. To calculate the purge date: <ul style="list-style-type: none"> <li data-bbox="1089 590 1435 716">• If 45 days or more remains on the purge date, keep the same purge date. <li data-bbox="1089 722 1435 905">• If less than 45 days remains on the purge date, add 45 days to the date Letter 4277-C or Letter 4277 is sent. <li data-bbox="1024 911 1435 1402">3. Update the IDRS controls with code section of new disallowance, D6015(b, c, fd, or fo) or P6015(b, c, fd, or fo), purge date and control to 02XXX00090. Note: <i>D</i> means disallowance and <i>P</i> means partial disallowance. For IRC 6015(f) use <i>fd</i> for an understatement and <i>fo</i> for an underpayment. XXX is for the team number <li data-bbox="1024 1409 1435 1444">4. Refile on the 90-day wall. |

| IF | THEN |
|--|---|
| ISTS was previously in Stage 30 OR ISTS was previously archived | <ol style="list-style-type: none"> 1. Update ISTS to Stage 25 with activity "ADD1" and Stage 12X with the new reason code for disallowing. Note: Stage 25 date must be one day earlier than Stage 12 date. 2. Input purge date. This is computed by adding 45 days to the date Letter 4277-C or Letter 4277 is sent. 3. Update IDRS controls with code section of new disallowance, D6015(b, c, fd, or fo) or P6015(b, c, fd, or fo), purge date and control to 02XXX00090. Note: <i>D</i> means disallowance and <i>P</i> means partial disallowance. For IRC 6015(f) use <i>fd</i> for an understatement and <i>fo</i> for an underpayment. XXX is for the team number. 4. File on the 90-day wall. |

25.15.17.5.3
(05-11-2022)

Determination Changed to Allow Relief in Full or Part

- (1) Notate Activity Record for additional information received that changed the determination to allow (A) or partially allow (P) relief, indicating which code section is applicable. For instance, A6015(b, c, fd, or fo) or P6015 (b, c, fd, or fo). See IRM 25.15.14.4.1.11, Stage 11 - Preliminary Determination Issued, for additional information.
- (2) Issue Letter 4277-C or Letter 4277 to the RS when relief is fully or partially allowed. Provide appeal rights if allowing relief in part. Remind the RS that their Tax Court rights will expire 90 days from the date the final determination is issued, if the prior request is in Stage 12 and there are less than 90 days from date of the final determination letter remaining.
- (3) Issue Letter 4284-C or Letter 4284 to NRS when relief is fully or partially allowed. This letter gives the NRS 30 days to appeal.
- (4) Prepare amended work papers and Innocent Spouse Operation Adjustment Request (ISO-AR), if applicable.
- (5) Update ISTS and IDRS controls according to the chart below:

| IF | THEN |
|--|--|
| <p>ISTS was previously in Stage 12</p> | <ol style="list-style-type: none"> 1. Update ISTS to Stage 25 with activity "ADD1" and Stage 12. When updating, the stage 25 date entered must be one day earlier than the Stage 12 date. 2. Input purge date. To calculate the purge date: <ul style="list-style-type: none"> • If 45 days remains on the purge date, keep the same purge date. • If less than 45 days remains on the purge date, add 45 days to the date the reconsideration letter (Letter 4277-C), was sent. The RS still must petition the Tax Court within the time frame per the final determination. 3. Update IDRS control base with new determination, A6015(b, c, fd, or fo) or P6015(b, c, fd, or fo), purge date and control to 02XXX00090. <p>Note: "A" means allowed and "P" means partial allowance. For IRC 6015(f) use "fd" for an understatement and "fo" for an underpayment. XXX is the team number.</p> 4. If refund is due, put case in appropriate folder. 5. Refile on 90-day wall. |

| IF | THEN |
|--|--|
| ISTS was previously in Stage 30 OR ISTS was previously archived | <ol style="list-style-type: none"> 1. Update ISTS to Stage 25 with activity "ADD1" and Stage 12. When updating, the stage 25 date entered must be one day earlier than the Stage 12 date. 2. Input purge date. This is computed by adding 45 days to the date the reconsideration letter (Letter 4277-C), was sent. 3. Update IDRS control base with new determination, A6015(b, c, fd, or fo) or P6015(b, c, fd, or fo), purge date, and control to 02XXX00090. Note: "A" means allowed and "P" means partial allowance. For IRC 6015(f) use "fd" for an understatement and "fo" for an underpayment. XXX is the team number. 4. Mirror module, if applicable. See IRM 25.15.18.5.2.11, Account Management Services (AMS), for more information. 5. If refund is due, put in appropriate folder. 6. Input TC 971 AC 065, using the received date of the reconsideration on accounts with a balance due. 7. File on the 90 day-wall. |

25.15.17.6
(03-05-2019)
Cases Closed in Appeals

- (1) A claim can't be reconsidered if res judicata applies. See IRM 25.15.3.6(1), Special Considerations, for information about res judicata. Res judicata generally applies to cases closed with Appeals closing codes 10, 12, or 17. Res judicata might also apply to cases closed with Appeals closing code 08. If applicable, advise the RS that the claim can't be reconsidered because res judicata applies. See IRM 25.15.17.4, Full Scope Evaluation, for procedures.

Exception: If the only basis for not considering or initially denying a claim under IRC 6015(c) was that the RS was still married when the original claim was made, and the RS files a new claim, then res judicata does not apply to bar the new IRC 6015(c) claim. CCISO will consider the new claim under IRC 6015(c) only.

- (2) Appeals closing code 08 is also used for cases that were dismissed for lack of jurisdiction. CCISO can reconsider if the Tax Court case was dismissed for lack of jurisdiction.
- (3) Reconsideration requests on cases previously closed in Appeals that meet the guidelines for reconsideration should be routed to the appropriate Appeals office.

Note: Verify the Appeals Closing Code through ACDS.

25.15.17.7
(03-05-2019)
**Issuing Second
Preliminary and Final
Determinations for the
Same Relief Request**

- (1) Situations occur due to Service delay or error, where it is an unfair burden to require a RS to file a petition. Situations also occur where the Service grants relief, but later discovers the RS and/or NRS provided fraudulent information.

Note: When a taxpayer timely requested an appeals hearing, but it was not associated, follow IRM 25.15.18.5.6, Stage 10 - Rework.

- (2) The RS may petition the Tax Court by filing a petition not later than the 90th day after the Service mails a final determination letter under IRC 6015(e)(1)(A). The Service cannot extend the time for filing a petition nor rescind a final determination letter issued under IRC 6015.
- (3) In very limited circumstances, the Service may issue a second final determination letter for the same claim; for instance, in cases of Service delay or error, or taxpayer fraud.

Caution: A second final determination issued under the limited circumstances described in IRM 25.15.17.7.1, Service Delay or Error, and IRM 25.15.17.7.2, Taxpayer Fraud, do grant RS petition rights.

25.15.17.7.1
(03-05-2019)
Service Delay or Error

- (1) Service delays that may justify issuance of a second final determination letter generally involve a failure to associate taxpayer correspondence in a timely manner, and such information would change the outcome. Examples include the following:
 - a. The RS timely requests an Appeals conference in response to the preliminary determination letter. The request is not associated with the case file prior to issuance of the final determination letter.
 - b. The RS timely responds to the preliminary determination letter and includes additional information that would change the initial determination. The correspondence is not associated with the case file prior to issuance of the final determination letter.
 - c. The NRS timely responds to the Service's questionnaire and offers to participate by submitting information that would clearly change the examiner's determination. The correspondence is not associated before issuance of the final determination letter.

25.15.17.7.2
(03-05-2019)
Taxpayer Fraud

- (1) Taxpayer fraud that may justify issuance of a second final determination letter may occur where the RS or NRS fraudulently represented or omitted significant facts that led the examiner to conclude the RS was entitled to relief. This could occur when significant assets were transferred to the RS to avoid collection or the RS's involvement in the activity associated with the deficiency/underpayment was misrepresented.

25.15.17.7.3
(03-05-2019)

Basic Requirements

- (2) The taxpayer's actions should be documented with reliable evidence, not allegations and conjecture alone, before approval is given to issue a second final determination letter.
- (1) When it is determined that a second final determination letter may be issued, new preliminary determination letters must be issued to each spouse to protect their appeal rights. The letters must explain the reason for the second letter.
- (2) A second final determination letter may be issued if the RS has not yet petitioned Tax Court and the original determination was based on Service delay or error, or taxpayer fraud.
- (3) The decision to issue a second final determination letter is made at a higher review level than the first final determination letter and is documented **in writing**.
 - a. In the Area Offices, Technical Services Managers (second level) must review and sign the second letter. Reviewers are not authorized to sign a second final determination letter.
 - b. In the campus, CCISO Team Managers must review and approve the issuance of the second final determination letter.
- (4) The NRS must be notified of the second final determination by mail. Issue Letter 3323C or Letter 3323, Non-Requesting Spouse Notice of Final Determination.