



Part 5. Collecting Process

Chapter 16. Currently Not Collectible

Section 1. Currently Not Collectible

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5.16.1.1 (05-05-2009)

Currently Not Collectible Policy and Procedure Overview

1. Policy Statement P-5-71 provides the authority for reporting accounts currently not collectible (CNC). See IRM 1.2.14.1.14 *Policy Statements for Collecting Process*. Accounts can be removed from active inventory after taking the necessary steps in the collection process.
2. Accounts may be reported CNC for a variety of reasons using transaction code (TC) 530. It is a requirement that TC 530 be defined by the appropriate closing code. The most commonly used closing codes are displayed in the table below.

Currently Not Collectible Closing Codes	
Closing Code	Definition
03	inability to locate the taxpayer or assets
04	partial expiration of the assessment prior to issuance
05	complete expiration of the statutory period for collection or suit initiated to reduce tax claim to judgment
06	for International casework, inability to collect a liability from a taxpayer living in a foreign country
07	a corporation, exempt organization, or Limited Liability Company (LLC), where the LLC is identified as the liable taxpayer, liquidated in bankruptcy
08	death of an individual with no collection potential from the decedent estate or no collection potential for estate taxes
09	accounts below tolerance See IRM 5.16.1.2.5(1) and (2) <i>Tolerance</i> , for additional information
10	corporations, certain limited liability partnerships, exempt organizations, or LLCs, where the LLC is identified as the liable taxpayer, which are inactive and defunct with no assets
12	inability to contact a taxpayer although the address is known and there is no means to enforce collection
13	a corporation, exempt organization, limited partnership, or LLC, where the LLC is identified as the liable taxpayer, remains in business and is current but is unable to pay back taxes
14	when suspending collection of BMF balance due accounts when the key individual is deployed to a combat zone; see IRM 5.1.7.9.1 <i>Business Masterfile (BMF) Accounts of Taxpayers Deployed to a Combat Zone</i> , for additional information
15	corporate income tax liabilities owed by a financial institution certified as insolvent by the Office of the Controller of the Currency or the Office of Thrift Supervision
24 - 32	collection of the liability would create a hardship for taxpayers by leaving them unable to meet necessary living expenses
	Reminder: Hardship closing codes can only be used for individual or joint IMF assessments, sole proprietorships, general partnerships, and LLCs, where an individual owner is identified as the liable taxpayer.

Note:

See IRM 5.16.1.1(17) for a list of the Integrated Collection System (ICS) literals used to close CNC cases.

3. The investigation required to establish a CNC condition varies with the dollar amount and type of case.

Note:

Appropriate procedures must be followed when making third party contacts. (See IRM 5.1.17, *Third Party Contacts*)

4. In general, a Notice of Federal Tax Lien (NFTL) should be filed on accounts being reported CNC when the aggregate unpaid balance of assessments equals or exceeds the amount in LEM 5.16.1.1(4). See IRM 5.12.2, *Lien Filing Requirements*. If a taxpayer subsequently requests a Collection Due Process (CDP) hearing based upon the NFTL filing, the Revenue Officer (RO) must follow the procedures in IRM 5.1.9.3, *Collection Due Process*, to forward the case to Appeals.
5. Conduct a compliance check and document the results in the case history in circumstances when the taxpayer is contacted. See IRM 5.1.11.2.3, *Full Compliance Check*. Compliance checks are not required when the taxpayer cannot be contacted.
6. All open filing requirements or Delinquent Return (Del Ret) modules must generally be resolved and closed appropriately when reporting an account CNC.
7. Document all actions to support the CNC determination. The last history entry will be a summarizing statement supporting the CNC decision. Address any assets owned by the taxpayer in the summarizing statement. If a mandatory follow-up is requested, include the reason in the summarizing statement. See IRM 5.16.1.6 for information on mandatory follow-up.
8. Only certain CNC cases can be reactivated systemically. Systemic follow-up is limited to hardship, unable to locate and unable to contact cases. Unable to locate and unable to contact cases will reactivate if a new levy source posts to Integrated Data Retrieval System (IDRS). Unable to locate cases will also reactivate if a new address posts to IDRS. Hardship cases can be reactivated if it appears there is a change in the taxpayer's ability to pay indicating collectibility. See IRM 5.16.1.2.9(10).
9. Revenue Officers, Appeals Officers, and Settlement Officers may report accounts as CNC.
10. Tax examiners in Collection Field function (CF) and Centralized Case Processing (CCP) may report as CNC those accounts that meet existing criteria subject to the limitations in LEM 5.16.1.1(10).

11. Bankruptcy specialists may report as CNC those accounts which meet existing criteria for Insolvency in LEM 5.16.1.1(11).
12. Advisory employees may report accounts CNC when a local probate office indicates that a proof of claim will not generate funds. Transferee issues should be considered. See IRM 5.16.1.2.4(9) and (10) for additional information.
13. The Inventory Delivery System (IDS), may defer accounts pursuant to LEM 5.16.1.1(13) .
14. CNC recommendations generally require the review and approval of the immediate manager to ensure the investigation meets established standards of thoroughness and integrity. See IRM 5.16.1.5. Managerial review criteria can be located in IRM 1.4.50.
15. Quality control is accomplished through mandatory and sample reviews through Embedded Quality (EQ).
16. Attach the following supporting documents, whenever applicable, to the case file:
 - Collection Information Statements (CIS)
 - approved Form 4183 , *Recommendation re: Trust Fund Recovery Penalty Assessment*
 - copies of transferee assessment recommendations
 - copies of suit recommendations to reduce the tax claim to judgment
 - replies to Courtesy Investigations
 - copies of tax returns
 - other documentation to support the CNC determination

Reminder:

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

17. Select the following literals when closing cases as CNC using ICS. The related closing codes (cc) are in parentheses:
 - A. Defunct/Insolvent Corporation (10)
 - B. Unable to Pay/Hardship (24-32)
 - C. Bankruptcy (07)
 - D. Unable to Locate (03)
 - E. Unable to Contact (12)
 - F. In-Business Corporation (13)
 - G. Tolerance (09)
 - H. Decedent/Decedent Estate (08)
 - I. Statute Expiration (04 or 05)
 - J. Resolution Trust Corp. Related (15)
 - K. Surveyed
 - L. International - No Field Visit (06)

Note:

Until ICS literals are updated, the following selections will be used for other entities as shown below:

- A. Defunct/Insolvent corporation (10) also includes defunct exempt organizations, limited partnerships and certain LLCs.
- C. Bankruptcy (07) includes bankrupt corporations, exempt organizations and certain LLCs.
- F. In-Business Corporations also includes in-business exempt organizations, limited partnerships and certain LLCs.

5.16.1.2 (05-05-2009)**Currently Not Collectible Conditions**

1. When the LLC is the liable taxpayer for some tax module(s) and the owner of the LLC is the liable taxpayer for other tax module(s), separate collection determinations must be made for each liable taxpayer. Select the appropriate tax module(s) for each closing code when utilizing TC 530 for both liable taxpayers. If only one liable taxpayer meets conditions for reporting CNC, and a different collection action is required for the other taxpayer, report the appropriate tax module(s) CNC before proceeding with collection action on the remaining tax module(s). See IRM 5.16.1.3.4.(7) LLC tables for additional information.

Caution:

Until programming changes are complete for these situations, requests for TC 530 with certain closing codes may need to be completed manually, by requesting input of TC 530 via Form 53, *Report of Currently Not Collectible Taxes*, and forwarding to CCP. For additional information, please visit the CCP web site at http://sbse.web.irs.gov/CCP/Contacts/CCP_Addresses.htm . See IRM 5.1.21, *Collecting From Limited Liability Companies*.

5.16.1.2.1 (05-05-2009)**Unable to Locate and Unable to Contact**

1. If neither the taxpayer nor assets can be located, use cc 03 to report the account uncollectible.
2. When the taxpayer's ability to pay cannot be determined because they cannot be contacted and income and assets cannot be identified, use cc 12, Unable to Contact.
3. For domestic accounts with an aggregate unpaid balance of assessments below the amount in LEM 5.16.1.2.1(3) research of the following resources is required:
 - telephone directories
 - IRP data, using Corporate Files On-Line (CFOL) command codes SUPOL or IRPTR
 - postal tracers, when a field call to the master file address confirms the taxpayer is unable to locate or contact. See IRM 5.1.18.13 *United States Postal Service* for additional guidance on postal tracers.

For international accounts, the same sources will be checked whenever available for the country in question.

4. For domestic accounts with an aggregate unpaid balance of assessments over the amount in LEM 5.16.1.2.1(4) , attempt to develop leads by researching the following additional sources:
 - motor vehicle records
 - employment commissions
 - real and personal property records, see IRM 5.1.18.7 *Real Property Records*

- local licensing authorities when a taxpayer has a business that requires a license
- online services that help in locating taxpayers, such as Accurint, follow security guidelines when using public internet search engines
- RTVUE/BRTVU/TRDBV if the due date of the last filed return was within the past two years. Use RTVUE/BRTVU to determine if a copy of the return should be secured to further develop leads to locate the taxpayer, assets or levy sources.

For international accounts, besides using these sources when and where practical, a Tax Attache could be consulted for further potential sources of value for the country in question.

5. The above list is not all inclusive. Local management may require that additional information sources be checked, for example U.S. Coast Guard and local licensing agencies where boat ownership is common.
6. For accounts with an aggregate unpaid balance of assessments greater than the amount in LEM 5.16.1.2.1(6) , a field call to the taxpayer's last known address is required. For taxpayers residing outside the United States and its territories, any taxpayer contact (including a field call) that requires foreign travel must be coordinated with the U. S. Competent Authority, who may authorize such travel based on treaties or other international arrangements.

Note:

W&I ACS call sites, SB/SE ACS large dollar sites, and tax examiner's in the Collection Field function are **exempt** from the requirement to make field calls.

7. For Individual Master File (IMF) taxpayers, sole proprietor taxpayers, and for LLCs where an individual owner is identified as the liable taxpayer:
 - secure and analyze a full credit report if the aggregate unpaid balance of assessments exceeds the amount in LEM 5.16.1.2.1(7) . This includes cases where recently filed returns will result in liabilities in excess of the amount in LEM 5.16.1.2.1(7) . For additional information on credit reports see IRM 5.1.18.2 , *Credit Reports*.
8. When the aggregate unpaid balance of assessments exceeds the amount in LEM 5.16.1.2.1(8) , research the following additional sources:
 - Check AMDIS to determine if there is a current open examination. If there is an open examination, contact the revenue agent to see if he/she has a new address for the taxpayer or has identified any additional assets.
 - Request a passport check when the taxpayer travels overseas frequently or there is reason to believe the taxpayer travels overseas frequently in accordance with IRM 5.1.18.16, *United States Passport Office*.
9. Consider a mandatory follow-up if there is a definite indication that contact should be made in the future.
10. For Federal Employee/Retiree Delinquent Investigation (FERDI) cases, follow procedures in IRM 5.1.7.7, *Federal Employee/Retiree Initiative (FERDI)*.

5.16.1.2.2 (05-05-2009)

Statute Expiration

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

5.16.1.2.2.1 (05-05-2009)

Imminent Statute Expiration

1. An imminent Collection Statute Expiration Date (CSED) module is any module with twelve months or less remaining on the collection statute. See IRM 5.1.19.8 , *Imminent CSEDs*, for specific procedures used to verify, monitor, work, and document these types of cases.
2. Imminent CSED modules should be worked to an appropriate conclusion prior to the statute expiration whenever circumstances permit. For further guidance, see IRM 5.1.19.8.2 *Working Imminent CSEDs*.
3. The RO must discuss imminent CSED modules with their group manager and document an appropriate plan of action to resolve the module(s) prior to the expiration of the statute. For further guidance, see IRM 5.1.19.8.3 , *Documenting Imminent CSEDs*.
4. If payments are applied to a module with multiple CSEDs they should be applied in order of the date in which the CSED will expire, starting with the one that will expire first. This includes proceeds from seizures, levies, installment agreements and other undesignated voluntary payments. For proceeds from a levy or installment agreement, the CSED module where the payment will be applied must be included on the levy or installment agreement.
5. Do not solicit voluntary payments on accounts barred by statute. If a taxpayer makes a payment on an account barred by statute, inform them that payment is not required and ask if he/she still wishes to make the payment or have it returned. The taxpayer must be advised that the payment is purely voluntary and will be treated as a gift to the United States Treasury. If the taxpayer's intentions cannot be ascertained, return the payment.
6. Proceeds from the sale of assets seized prior to the expiration of the statute can be applied after the date of expiration. The affected modules require that TC 520 cc 80 be input. Any outstanding balance will be closed using TC 530 cc 05 after the application of sale proceeds and after the statute expires. See IRM 5.12.2.20 , *Refilling the NFTL*, to determine if the NFTL needs to be refilled. The RO should request input of TC 520 cc 80 to allow for application of the proceeds from the seizure. Once the proceeds are posted, the RO must request input of TC 521, no closing code required.
7. Proceeds that are received as the result of a levy which was served prior to the CSED may be applied to the expired module(s). See IRM 5.11.2.2.1, *Legal Basis for Releasing Levies*.

Note:

Unlike Interest which may be assessed and collected as long as the underlying tax can be collected (see IRC 6601(g)), penalties may have a different CSED apart from any other assessment on the module(s). See IRM 5.1.19.3 , *Transaction Codes That Carry Their Own CSED*. The Service, however, is not required to make a separate assessment of the accruals on FTP penalties (i.e., the IRC 6651(a)(2) and IRC 6651(a)(3) additions to tax) in order to collect the accruals.

5.16.1.2.2.2 (09-19-2005)

Non-Master File Expired Statute

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

5.16.1.2.2.3 (05-05-2009)

Master File Partial Statute Expiration

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

Caution:

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

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

5.16.1.2.2.4 (05-05-2009)**Master File Complete Statute Expiration**

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

Note:

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

- If a suit is being recommended based on anticipated improvement in the taxpayer's financial condition - such as discharge of a debt, inheritance or other significant property acquisition - report the account CNC based on the taxpayer's current circumstances (e.g. hardship, unable to locate, etc.).
- The suit must be filed prior to the statute's expiration. The recommendation should be initiated in sufficient time so that it can be forwarded to Area Counsel at least nine months before the expiration of the statute. A copy of the recommendation will be kept with the case file. For further information on suits, see IRM 5.17.4 , *Legal Reference Guide for Revenue Officers - Suits by the United States* .
- Guidelines for determining the feasibility of recommending a suit are found in LEM 25.3.2 , *Suits by the United States*.

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

- The employee assigned the case at the time of the statute expiration will be required to report the expiration in accordance with the procedures in IRM 5.1.19.8 *Imminent CSEDs* . This requirement applies to situations where a statute expires on any party to a joint assessment where the balance is collectible from the other party(s). These procedures apply to cases where a module has been reported CNC with closing codes 04 and 05 or in cases where it is permissible to let the collection statute expire in inventory with group manager's prior concurrence.
- To report an expired collection statute on a case where the RO has taken all appropriate actions without resolving the module(s) prior to the expiration of the statute, use the procedure in IRM 5.1.19.8.4 *Expiration of a Collection Statute*.
- To report an expired collection statute on a case where the RO has **not** taken all appropriate actions to resolve the module(s) prior to the expiration of the statute, use the procedure in IRM 5.1.19.8.5 *Collection Statutes That Expire Without Prior Approval* .

5.16.1.2.3 (05-05-2009)**Bankrupt Corporations, Exempt Organizations and Limited Liability Companies**

- If a corporation has been in bankruptcy and no further proceeds will be received from the bankruptcy and anticipated collection from abandoned or after-acquired property is insufficient to warrant further collection efforts, use cc 07.
- Closing code 07 may also be used for exempt organizations that have been through liquidating bankruptcy and LLC accounts. (where the LLC is identified as the liable taxpayer), that have been through liquidating bankruptcy.

Note:

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

- A NFTL should not be filed regardless of the dollar amount, if the taxpayer is a corporation, exempt organization or LLC. (where the LLC is identified as the liable taxpayer), and the entity has gone through a liquidating bankruptcy or receivership. Document the proceeding number in the case history.
- The trust fund recovery penalty assessment must be considered and Form 4183 must be approved prior to reporting the trust fund liabilities CNC using criteria in LEM 5.7.2 , *Trust Fund Recovery Penalty (TFRP)* .
- If the aggregate unpaid balance of assessments exceeds the amount in LEM 5.16.1.2.3(5) request information on the latest filed income tax return by using BRTVU/TRDBV to help identify additional assets. If assets are indicated, secure a copy of the return to pursue any leads. Requests for returns should be limited to returns filed within the prior two years.
- If the aggregate unpaid balance of assessments exceeds the amount in LEM 5.16.1.2.3(6) and any portion of the assessment results from an examination and/or fraud penalty, request a copy of the revenue or special agent's report. Review the report for additional assets, inconsistencies in the taxpayer's financial disclosure and potential for transferee assessment.
- If the aggregate unpaid balance of assessments exceeds the amount in LEM 5.16.1.2.3(7) , check AMDIS. If there is an open examination, contact the agent to determine if there are additional assets or to provide information which may limit the scope of the examination based on lack of collectibility.
- Corporations and liquidating LLCs, (where the LLC is the liable taxpayer), that have filed a Chapter 7 bankruptcy petition and have been designated a "No Asset" case, being closed as TC 530 cc 07 by the Centralized Insolvency Operation (CIO) do not require managerial approval.

5.16.1.2.4 (05-05-2009)**Decedent and Decedent Estates**

- Use closing code 08 to report an account CNC on a decedent or estate taxes.
- Closing code 08 is appropriate for IMF joint liabilities only when both taxpayers are deceased and a determination has been made that there is no collection potential from assets owned at death.
- Closing code 08 may be used when the primary taxpayer is deceased and a determination has been made that there is no collection potential from the decedent's individual or business assets or persons in possession of such assets. Collection may also be pursued from the surviving spouse on joint liabilities. Request a mandatory follow-up for the surviving spouse if appropriate. See IRM 5.16.1.6(5).
- Do not use cc 08 when only the secondary taxpayer is deceased. A TC 540 should be input on the secondary taxpayer's SSN. Collection may be pursued from the decedent's individual or business assets or persons in possession of such assets. Collection may also be pursued from the primary taxpayer on joint liabilities. If the primary taxpayer is determined to be uncollectible, the account should be closed using a hardship closing code. A Collection Information Statement must be secured from the primary taxpayer.
- Closing code 08 also applies to BMF sole proprietorships and partnerships only if all of the partners are deceased and taxes were due at the time of death.
- In situations where the owner of an LLC is identified as the liable taxpayer and is deceased, closing code 08 is appropriate.
- In all decedent and decedent estate cases attempt to secure the following:

- date of death
- county/city in which the taxpayer died
- the taxpayer's place of residence at the time of death
- the name, address and telephone number of the fiduciary
- probate records that list an inventory and appraisal of decedent assets.

Caution:

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

8. Additional sources may be used to determine the date of death including:

- on-line locator services (follow security guidelines when using public internet search engines)
- obituaries
- family members
- death certificates

9. Field employees will consult with Advisory for the purpose of filing a proof of claim when there is an estate proceeding.

Note:

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

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

Note:

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

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

5.16.1.2.5 (05-05-2009)**Tolerance**

1. Accounts with balances below the amount specified in LEM 5.16.1.2.5(1) and LEM 5.16.1.2.5(2) may be reported CNC without further action. Use closing code 09. This does not apply to cases coded as N, 914, or TRSF. This does not apply to bankrupt corporations, which should be closed using cc 07.
2. When there are multiple periods where any one period exceeds the tolerance level, do not use cc 09. Close all periods using the appropriate CNC closing code such as unable to locate, hardship, etc. See IRM 5.16.1.3.4.(7) LLC tables.
3. Accounts with balances below the amount specified in LEM 5.16.1.2.5(1) and LEM 5.16.1.2.5(2) being closed with TC 530 cc 09 do **not** require managerial approval.

5.16.1.2.6 (05-05-2009)**Defunct Corporations, Exempt Organizations, Limited Partnerships, and Limited Liability Companies**

1. Closing code 10 applies to any corporation or exempt organization that is no longer operating and from which all assets have been dispersed.
2. Closing code 10 may also be used for limited partnership cases when the partnership agreement limits the liability of the partners under local law, when the business is no longer operating and from which all assets have been dispersed.
3. Closing code 10 may also be used for LLC cases (where the LLC is identified as the liable taxpayer), when the business is no longer operating and from which all assets have been dispersed.
4. When a corporation has been dissolved under state receivership proceedings or other state dissolution actions, use closing code 10. See IRM 5.5.2, *Working Non-Bankruptcy Insolvency Cases*.

Note:

Seek Counsel's input in cases of state receivership. Revenue Officers should consider consulting with Insolvency prior to contacting Counsel. See IRM 5.17.13.1, *Legal Reference Guide for Revenue Officers, Insolvencies and Decedents' Estates* for further information in circumstances involving assignments for the benefit of creditors, corporate dissolutions, etc.

Reminder:

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

5. Form 4183, *Recommendation re: Trust Fund Recovery Penalty Assessment*, must be approved before reporting the employment and/or excise taxes CNC when the liability meets the criteria in LEM 5.7.2. Form 4183 will also include the additional TFRP liabilities from any unfiled returns. See IRM 5.7.4.3(3), *Calculating the TFRP*.

Note:

If the corporate Bal Dues are being reported CNC prior to assessment of the TFRP, an Other Investigation (OI) will be created on ICS to control completion of the TFRP assessment.

6. If the aggregate unpaid balance of assessments exceeds the amount in LEM 5.16.1.2.6(6), request information on the latest filed income tax return (Form 1120, 1065 or 990) by using BRTVU/TRDBV to verify the CIS and identify additional assets. If assets are indicated, secure a copy of the return to pursue any leads. Requests for returns should be limited to returns filed within the prior two years.
7. If the aggregate unpaid balance of assessments exceeds the amount in LEM 5.16.1.2.6(7) check AMDIS. If there is an open examination, contact the agent for evidence of assets.
8. If the aggregate unpaid balance of assessments exceeds the amount in LEM 5.16.1.2.6(8) and any portion of the assessment results from an examination and/or fraud penalty, request a copy of the revenue agent's report (RAR). Review the report for additional assets, inconsistencies in the taxpayer's financial disclosure and potential for transferee assessment.
9. If the corporation or LLC is chartered in a state that permits corporate or LLC reactivation or reinstatement, and it appears likely that the same entity will resume business, consider a mandatory follow-up.

5.16.1.2.7 (05-05-2009)**In-Business Corporations, Exempt Organizations, Limited Partnerships, or Limited Liability Companies**

1. Accounts may be reported CNC using cc 13 when an operating corporation, exempt organization, or limited partnership cannot pay its back taxes and enforcement cannot be taken because the business has no distrainable accounts receivable or other receipts or equity in assets. Secure CIS and verify information provided on CIS.

2. Closing code 13 may also be used for LLC cases (where the LLC is identified as the liable taxpayer), when an operating business cannot pay its back taxes and enforcement cannot be taken because the LLC has no distainable income or equity in assets. Secure CIS and verify information provided on CIS.
3. A trust fund recovery penalty investigation must be completed and a recommendation on Form 4183 must be approved prior to disposition of the account. See IRM 5.7.4 , *Investigation and Recommendation of TFRP*, and LEM 5.7.2 for further information.
4. Consider issuance of Letter 903(DO) to prevent accrual of additional liabilities and document the decision.

Note:

If L903 is issued, request input of TC 148-9. For additional information, see IRM 5.7.2.1 , *Letter 903 (DO)*

5. There is no systemic follow-up on cc 13. Initiate a mandatory follow-up 18 to 24 months after the date of the Form 53. The mandatory follow-up will include securing a new CIS, conducting a full compliance check, and reviewing the corporation's or LLC's latest income tax return. This review will determine whether the account will be reactivated or scheduled for additional mandatory follow-up.
6. If the taxpayer has incurred subsequent liabilities while collection on prior liability was suspended, the taxpayer must be investigated to verify the taxpayer's financial condition, a NFTL determination made, and a TFRP recommendation made on applicable taxes. See IRM 5.7.4.1.1 , *Factors to Consider when applying LEM 5.7.2 criteria*.

5.16.1.2.8 (05-05-2009)**Insolvent Financial Institutions**

1. Income tax liabilities of certain institutions formerly under control of the Resolution Trust Corporation (RTC) are subject to the InterAgency Agreement (Dec. 10, 1992) between the IRS and the RTC. The Federal Deposit Insurance Corporation (FDIC), as the successor to the RTC, is subject to this agreement but only for the RTC's remaining inventory. Upon receipt of a copy of the FDIC Certification of Treasury Funds Usage in connection with a Thrift subject to this Agreement, annotate the case history, request TC 530 cc 15, and submit for managerial approval. Consult with SB/SE Area Counsel on statute expiration issues to determine whether or not a collection suit should be initiated and/or is required and document the case history. Revenue officers should consider consulting with Advisory prior to contacting Counsel. See IRM 5.1.12.13 , *Insolvent Financial Institutions - Provisions of the IRS-RTC/FDIC Agreement*, for additional information.
2. This procedure applies only to corporate income tax liabilities. Liabilities other than corporate income tax must be resolved by Insolvency.

5.16.1.2.9 (05-05-2009)**Hardship**

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

Reminder:

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

2. Verification of a Collection Information Statement (CIS) is not required if the aggregate unpaid balance of assessments is less than the amount in LEM 5.16.1.2.9(2) and the information on the CIS appears reasonable.
3. Under certain conditions, a CIS is not required before reporting an account CNC. The aggregate unpaid balance of assessments, including any prior CNC's, must be less than the amount in LEM 5.16.1.2.9(3) and at least one of the following conditions must exist:
 - The taxpayer has a terminal illness or excessive medical bills.
 - The taxpayer is incarcerated.
 - The taxpayer's only source of income is social security, welfare, or unemployment.
 - The taxpayer is unemployed with no source of income. Consider a mandatory follow-up or Manually Monitored Installment Agreement (MMIA) for seasonal workers.

Note:

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

4. For accounts between the amounts in LEM 5.16.1.2.9(4) the following verification is required:
 - IRPTR or SUPOL
 - RTVUE/TRDBV

Note:

RTVUE/TRDBV is required only if the last filed return was for one of the immediate two preceding years. If RTVUE reveals new income or asset information secure a copy of the return(s) for the purpose of identifying income or assets.

5. For accounts above the amount in LEM 5.16.1.2.9(5) the following additional verification is required:
 - **full credit report** on IMF and sole proprietor taxpayers and LLCs (where an individual owner is identified as the liable taxpayer)
 - motor vehicle records
 - real and personal property courthouse records, see IRM 5.1.18.7 *Real Property Records*
 - on-line locator services, such as Accurant, follow security guidelines when using public internet search engines
 - AMDIS. If there is open Examination activity, contact the revenue agent to determine any additional sources of collection or the need to limit the scope of the examination based upon collectibility.
 - RAR or SAR if the assessment originated in Examination or Criminal Investigation (CI).

Note:

If unable to obtain any information from the special agent, consider consulting with Advisory. If there is a TC 910 on the module, the taxpayer may have filed a financial statement with the probation office.

Note:

Credit reports are optional for accounts with an aggregate balance below the amount in LEM 5.16.1.2.9(5) .

6. IMF accounts and BMF accounts of sole proprietorships, partnership and LLCs, (where an individual owner is identified as the liable taxpayer) that cannot be collected due to bankruptcy, will be closed using hardship closing codes.
7. IRC 6343(e) requires the immediate release of a levy on salary or wages due a taxpayer upon agreement with the taxpayer that the tax is not collectible. See IRM 5.11.2.2 , *Serving Levies, Releasing Levies and Returning Property*. Case histories must be reviewed to ensure that wage levies are released prior to declaring an account uncollectible under hardship closing codes. The case history must be documented.

Reminder:

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

8. A compliance check will be made and the results documented in the case history for all hardship determinations per IRM 5.16.1.1(5). All open filing requirements or Del Ret modules must generally be resolved and closed appropriately when reporting an account CNC.
9. Use the hardship closing code that most closely corresponds to the taxpayer's total living expenses allowed. See Form 433A, *Collection Information Statement for Wage Earners and Self-Employed Individuals*; Section 4, Monthly Income and Expense Analysis; Line 45, Total Living Expenses. If the closing code chosen does not correspond to the taxpayer's allowed expenses, document the reason for the deviation in the summarizing statement for the CNC decision. Generally, do not select a code *below* the taxpayer's total living expenses allowed. Do not use a higher code simply to prevent re-issuance of the account.

Example:

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

Note:

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

10. The systemic process for reactivating hardship CNC accounts relies on an increase in TPI above a predetermined amount based on the hardship closing code when the case is closed as CNC:
 - The TPI is reviewed annually when a taxpayer files an income tax return.
 - For BMF accounts on sole proprietorships, partnerships and LLCs (where the owner is identified as the liable taxpayer), TPI is determined by the annual income of the individual, general partner or member of the LLC.
 - The Social Security Number (SSN) of the individual, general partner or member of an LLC (where the owner is identified as the liable taxpayer) must be cross-referenced on IDRS.
 - Evaluate BMF entities to determine if a TC 130 should be input on the SSN of an individual, general partner or member of an LLC (where the owner is identified as the liable taxpayer).
11. Taxpayers must be advised that interest and penalties will continue to accrue on the account even though the collection action is suspended. In addition, before reporting an account CNC, other collection options such as Offer in Compromise should be discussed with the taxpayer.
12. Case Closing Letter 4223 , *Case Closed - Currently Not Collectible*, will be issued to the taxpayer and/or Power of Attorney (POA) when a case is closed as CNC - hardship. The case closing letter will only be used when the collection investigation on the taxpayer entity is concluded. Letter 4223 is available on the publishing web site located at <http://publish.no.irs.gov/>.

5.16.1.2.10 (05-05-2009)

International

1. Collection investigation and distraint actions by the Service in cases involving taxpayers residing in foreign countries are not treated the same as those involving taxpayers residing in the United States. The Service is only able to collect from taxpayers residing in foreign countries to the extent provided for in tax treaties. Currently, there are only five countries with which the United States has treaties that provide for mutual collection assistance. These countries are Canada, Denmark, France, the Netherlands, and Sweden. See IRM 5.1.12.25 , *Outgoing Mutual Collection Assistance Requests*. International revenue officers use TC 530 cc 06 in instances where a taxpayer can pay the liability but the Service is unable to collect because the taxpayer resides in a country other than the five mentioned and has no assets in the United States from which to collect. International revenue officers also use TC 530 cc 06 in instances where they have initiated an Outgoing Mutual Collection Assistance Request (MCAR) request and have no other collection avenues to pursue. The TC 530 cc 06 closure can occur prior to the resolution of the Outgoing MCAR request by the foreign country. Taxpayers residing in U.S. possessions and territories (a.k.a. insular areas) are treated the same as those residing in the United States.
2. When the aggregate unpaid balance of assessments exceeds the amount in LEM 5.1.18.16.1, request a passport check when the taxpayer travels overseas frequently or there is reason to believe the taxpayer travels overseas frequently in accordance with IRM 5.1.18.16 , *United States Passport Office*.

5.16.1.3 (09-19-2005)

Special Conditions

1. In certain circumstances employees will be required to take additional actions to ensure that CNC accounts are properly closed.

5.16.1.3.1 (05-05-2009)

Transferee Cases

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

5.16.1.3.2 (05-05-2009)

Assessments Against Two or More Taxpayers

1. Assessments against more than one taxpayer can only be reflected as CNC on IDRS and ICS if all of the liable taxpayers are determined to be uncollectible. In order to request a CNC hardship closing code on a joint IMF liability, where the taxpayers are now divorced, both taxpayers would need to be uncollectible. If one spouse is uncollectible and the other spouse is collectible, follow the procedures in IRM 5.14.8.3, *Non IDRS Monitoring - MMIA*, until future systemic changes allow for separate inputs. Collection action must be suspended on the uncollectible spouse and the case history should clearly identify that the spouse is uncollectible.

Reminder:

Employees should review joint accounts of divorced taxpayers to ensure that collection is not being pursued on a

taxpayer that has already been determined to be uncollectible.

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

Note:

For specific procedures concerning partnership liabilities see IRM 5.8.4.13.3, *Partnership Liabilities* and IRM 5.15.1.36.1(3), *Entity Types*.

5.16.1.3.3 (05-05-2009)

Cases Reported Currently Not Collectible Based Upon a Prior Form 53

- If another delinquent module becomes due and owing after the initial CNC, the new account may be reported CNC without further investigation if the prior CNC determination is no more than twelve months old. A NFTL determination is required per IRM 5.12.2.4, *Notice of Federal Tax Lien Determination*.
- Exceptions are:
 - trust fund taxes which require a TFRP determination or which accrued after the date of the prior CNC determination
 - prior bankruptcy (07) dispositions; contact Insolvency to determine other collection sources
 - the taxpayer has a new address and the case was reported as CNC unable to locate or unable to contact
 - when a case was closed TC 530 cc 39, shelved
- Combined Annual Wage Reporting (CAWR) assessments may be reported CNC without investigation if they meet the criteria in LEM 5.7.2 and if the prior CNC closing code is 10. If the prior closing code is 07, contact Insolvency to determine collection potential.
- Federal Unemployment Tax Act (FUTA) state matching assessments may be reported as CNC without further investigation if the prior CNC closing code is 10. If the prior CNC closing code is 07, contact Insolvency to determine collection potential.

5.16.1.3.4 (05-05-2009)

Limited Liability Companies

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

Note:

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

Note:

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

- Prior to reporting any modules as CNC, ensure the appropriate TC 971 Action Codes 364/365/366 have been input to identify the liable taxpayer for each tax module.
- Where the LLC is identified as the liable taxpayer, consider the following:
 - Collectibility is based on the income and assets of the LLC.
 - The NFTL is filed in the name of the LLC.
 - The assets of the members of the LLC are not subject to collection action.
 - The TFRP must be considered with respect to the members or employees of the LLC who meet the definition of responsibility under IRC 6672.
- Where the single-member owner is identified as the liable taxpayer, consider the following:
 - Collectibility is determined based on the income and assets of the owner.
 - The NFTL is filed in the name of the single member/owner.

Note:

See IRM 5.12.2.6.3, *Preparing the NFTL - Limited Liability Company (LLC)*, for further instructions concerning NFTLs against single-member disregarded LLCs.

- Because state law specifies that the owner of an LLC has no direct ownership in LLC assets, the property of the LLC is not available for collection action when the owner is identified as the liable taxpayer. Consider the following:
 - In situations where an individual owner of an LLC is identified as the liable taxpayer, that individual is directly responsible for the entire liability and the TFRP is not required as to the owner.
 - When the owner of an LLC is a partnership, the liable taxpayer is the partnership and the partnership is responsible for the liability. Counsel should be consulted to determine if individual partners are directly responsible for the liability or if a TFRP should be considered with respect to anyone who meets the definition of responsibility and willfulness under IRC 6672. Revenue officers should consider consulting with Advisory prior to contacting Counsel.
 - When the owner of an LLC is a corporation, the liable taxpayer is the corporation and the corporation is responsible for the liability. Consider the TFRP with respect to employees of the LLC or of the corporation who meet the definition of responsibility and willfulness under IRC 6672.
- If assessments in the name and Employer Identification Number (EIN) of an LLC include some tax periods where the LLC is identified as the liable taxpayer and other tax periods where the owner of the LLC is identified as the liable taxpayer, separate CNC determinations must be made for each identified taxpayer.

Caution:

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

- There will be situations where one case resolution is appropriate for the single member owner and a separate case resolution is appropriate for the LLC, and special case processing is required. Case resolution actions must be taken in a specific order as shown in the table below:

If CNC is the appropriate case resolution for . . .	And . . .	Then request CNC . . .
all modules for both liable taxpayers	the same closing code is appropriate for both liable	for all modules using appropriate closing code and submit for approval on ICS.

If CNC is the appropriate case resolution for . . .	And . . .	Then request CNC . . .
	taxpayers	
all modules for both liable taxpayers	different closing codes are appropriate for each liable taxpayer	for one liable taxpayer using appropriate closing code and submit for approval on ICS. Following approval of the CNC on the first liable taxpayer, request CNC for remaining modules for the other liable taxpayer using appropriate closing code and submit for approval on ICS to close case. Caution: If closing one taxpayer as unable to locate (CC 03), unable to contact (CC 12) or tolerance (CC 09), you must close modules using the other closing code first.
CNC is the appropriate case resolution for one liable taxpayer	modules for the other liable taxpayer will remain open or require a separate case resolution	for that liable taxpayer, using appropriate closing code and submit for approval on ICS. Then take necessary action on remaining modules for other liable taxpayer. Note: Requests for closing specific modules as unable to locate (CC 03), unable to contact (CC 12) or tolerance (CC 09), require manual input of TC 530 by sending Form 53 by secure E-mail to CCP.

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

5.16.1.3.5 (05-05-2009)

Preparer/Promoter Penalties

- The IRC 6700 civil penalty is assessed against the promoters of abusive tax shelters. The IRC 6701 civil penalty is assessed against any person who aids and abets the understatement of a tax liability. See IRM 20.1.6.5, *Penalty for Promoting Abusive Tax Shelters IRC 6700*, and IRM 20.1.6.6, *Penalties for Aiding and Abetting IRC 6701 Legislative Overview*, for detailed descriptions of the IRC 6700 and IRC 6701 civil penalties. Persons against whom these penalties have been assessed often conceal assets and distort their financial picture through a wide variety of sophisticated means, making it difficult to immediately determine the true collection potential of promoter penalty assessment accounts with a high degree of confidence. Assets currently concealed or placed beyond the government's reach may be discovered or become available during subsequent investigations.
- IRC 6700 and IRC 6701 balance due accounts should be assigned to an Abusive Tax Avoidance Transaction (ATAT) trained RO. Contact the Area ATAT Coordinator for reassignment of a promoter penalty assessment account. See IRM 5.20.8.1.1(1), *Coordination with the Exam Function*, for a web link to the Small Business/Self-Employed (SB/SE) abusive tax web site for a list of Area ATAT coordinators for collection. In addition to the requirements of IRM 5.16, the procedures in IRM 5.20.8, *Abusive Tax Transaction - Promoter/Preparer Penalties*, should be followed prior to closing a promoter penalty assessment account as CNC.

5.16.1.4 (05-05-2009)

Requesting Currently Not Collectible Input for Assessed and Pre-assessed Tax Periods

- Input of a TC 530 may be requested on Form 53, *Report of Currently Not Collectible Taxes*, Form 3177, *Notice of Action for Entry on Master File*, and Form 4844, *Request for Terminal Action*. The information required includes the SSN/EIN, name control, tax period(s), MFT and the closing code.
- For ICS cases, the group manager's approval of the CNC allows the TC 530 and closing code to upload to IDRS. At least one of the tax periods must be in status 26 on IDRS for the upload to be successful.
- ICS will not send a TC 530 to IDRS on pre-assessed/unassessed tax periods. Consider the following:
 - If a NFTL will be required on the pre-assessed tax periods, the ICS case with a combination of assessed and unassessed tax periods must be held until all tax periods for CNC have been assessed. Once assessed on IDRS, create the "ICS Only Bal Due Notice" tax periods on ICS. Wait ten days after assessment to request the NFTL on ICS in accordance with IRM 5.12.2.2, *Lien Filing Requirements - Creation and Duration*, and IRM 5.12.2.3, *Lien Filing Requirements Taxpayer Contact*. The case can then be closed as CNC on ICS. It is not necessary to wait until all tax periods are in Status 26, as long as at least one tax period is in Status 26.
 - If a NFTL will **not** be required on the pre-assessed tax periods, create the pre-assessed tax periods on ICS as "ICS Only Bal Due Pre-assessed Modules". This will generate "pre-assessed" to print on the Form 53 for each pre-assessed tax period. Complete the CNC process on ICS. If there are both assessed and pre-assessed tax periods, the assessed tax periods will upload the TC 530 to IDRS. The pre-assessed tax periods will not upload and therefore must be processed to CCP for input of TC 530 after assessment. Attach a copy of the signed tax return for each pre-assessed tax period to the CNC file. For additional information see the Who/Where tab on SERP or click on this link http://sbse.web.irs.gov/CCP/Contacts/CCP_Addresses.htm.
- For cases not processed on ICS, prepare Form 53 and complete the following actions:
 - If a NFTL is required on the pre-assessed tax periods, the case must be held until the assessments are made. After NFTL filing requirements are met in accordance with IRM 5.12.2.2, *Lien Filing Requirements - Creation and Duration*, and IRM 5.12.2.3, *Lien Filing Requirements Taxpayer Contact*, complete Form 12636, *Request for Filing or Refiling Notice of Federal Tax Lien*, available through the macro/template process. Complete all applicable fields and forward Form 12636 to the Centralized Lien Unit (CLU) for processing. For additional information, please click on the Who/Where tab on SERP, scroll down to Lien Payoff/Release Numbers to visit the Centralized Lien Unit Site, or click on this link <http://serp.enterprise.irs.gov/databases/who-where.dr/als.dr/case-processing-lien-units.htm>. Forward the CNC file to CCP for input of TC 530 on the assessed tax periods. Click on this link for the CCP addresses. http://sbse.web.irs.gov/CCP/Contacts/CCP_Addresses.htm.
 - If a NFTL is **not** required annotate Form 53 "Assessed/Unassessed" in red or bold. Group assessed and unassessed tax periods together in Item 16 of Form 53, beginning with assessed liabilities; write "Unassessed" at the beginning of the unassessed periods header. Attach a copy of the signed tax return for each pre-assessed tax period to the file. Forward the file to CCP for input of TC 530 on the assessed tax periods and monitoring of the unassessed tax periods. Click on this link for the CCP addresses http://sbse.web.irs.gov/CCP/Contacts/CCP_Addresses.htm.
- Completion of item 15 on Form 53 will depend on the nature of the closure and the procedures needed to close the account. Only certain records need to be checked depending on the dollar level and type of account. See IRM 5.16.1.2. for further guidance.
- Form 53 requires managerial approval prior to input of a CNC request. See IRM 5.16.1.5. Unapproved requests will be returned to the initiator.

5.16.1.5 (05-05-2009)

Managerial Approval

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

Exception:

- As noted in IRM 5.16.1.2.3(8), corporations and liquidating LLCs (where the LLC is the liable taxpayer), that have filed a Chapter 7 bankruptcy petition and have been designated a "No Asset" case that are being closed as TC 530 cc 07 by the Centralized Insolvency Operation, do **not** require managerial approval.
 - As noted in IRM 5.16.1.2.5(3), accounts with balances below the amount specified in LEM 5.16.1.2.5(1) & (2) being closed with TC 530 cc 09 do **not** require managerial approval.
2. The manager's review must address the thoroughness of the investigation to ensure that a hardship condition exists before approving a recommendation to declare an account uncollectible. If a mandatory follow-up is required, the manager must verify it meets the criteria in IRM 5.16.1.6. See IRM 1.4.50 Exhibit 1.4.50 - 2 *Criteria for Review of Completed Work* for additional information.
 3. If additional actions are needed to CNC an account, the manager should indicate what additional steps need to be taken before the CNC can be approved such as partial collection from available assets, consideration of an installment agreement, or an offer in compromise.

5.16.1.6 (05-05-2009) Mandatory Follow Up

1. Systemic follow-up is limited to hardship, unable to locate, and unable to contact cases. The systemic process for reactivating hardship CNC cases relies on an increase in Total Positive Income (TPI) above a predetermined amount based on the hardship closing code when the case is closed as CNC. The TPI is reviewed annually when a taxpayer files an income tax return. For BMF cases on sole proprietorships, partnerships and LLCs, (where the owner is identified as the liable taxpayer), the TPI is determined by the annual income of the individual, general partner or member. The Social Security Number (SSN) of the individual, general partner or member of an LLC, (where the owner is identified as the liable taxpayer), must be cross-referenced on IDRS. These cases do not require a mandatory follow-up.
2. In some circumstances a mandatory follow-up action is requested to ensure protection of the revenue potential on a CNC case including specific assets such as vestment in funds or full payment of an encumbrance of real property.
3. Request mandatory follow-up only when required or when there is a likelihood that revenue will be collected by taking the requested action.
4. **Do not request a mandatory follow-up** in the following instances:
 - to update and review a CIS on the chance that a taxpayer's financial condition will change.
 - if follow-up will occur in less than 90 days; these cases should be held in the RO inventory.
 - to check on future compliance with filing requirements.
 - to verify that payments are being made on an installment agreement.
 - to verify that estimated tax payments are being made.
 - to determine offset of a potential refund.
 - to attempt to locate a taxpayer whose accounts were reported CNC with closing code 03.
 - if the aggregate account balance, including accruals, is less than the Bal Due deferral level in LEM 5.16.1.6 (4).

Example:

Financial information shows the taxpayer's allowable expenses exceed income and there is **no equity** in assets. The taxpayer has fallen on hard times but expects to be back to work in a year and able to pay the tax debt. Allowable expenses are \$22,000. Report the account CNC using closing code 25. Do not request a mandatory follow-up. The account will be reissued systemically when the taxpayer files a return with income of \$28,000 or more.

Example:

Financial information shows the taxpayer's allowable expenses exceed income. The taxpayer has equity in their home sufficient to pay the tax debt and requests an extension of eight months to allow them time to refinance their residence. Do not report this account as CNC. Continue to pursue equity in asset using appropriate IRM procedures.

Example:

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

5. Request mandatory follow-up when there is evidence that the taxpayer's ability to pay will improve and either computer generated reactivation is not available or the improvement will happen significantly sooner than systemic reactivation can occur. Generally, the expectation is that revenue will be collected as a result of the follow-up request. Circumstances include:
 - IMF accounts where the taxpayer will pay off a debt which creates positive cash flow for payment of the tax.

Example:

Financial information shows the taxpayer's allowable expenses equal income. The taxpayers have **equity** in their home but already have a second mortgage and **cannot qualify** at this time for a third. The second mortgage will be paid in ten months. Allowable expenses are \$42,000. Report the account CNC using cc 27 with a mandatory follow-up in twelve months to see whether, based on the current equity in assets, the IRS may be able to secure payment from the taxpayer through either a new second mortgage and/or an installment agreement.

- When the primary taxpayer is deceased and there is no current collection potential from the surviving spouse in accordance with IRM 5.16.1.2.4(3).
- In business corporation cases and other employment tax cases (proprietorship, partnership, or LLC) where the taxpayer is still in business in accordance with IRM 5.16.1.2.7(5).
- BMF accounts for which the principals file as the secondary SSN on a joint income tax return.

Example:

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

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

Example:

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

- The taxpayer is reported CNC as a defunct business (other than a sole proprietorship) but requires a follow-up because there is an indication that the business will be due funds in the future.
- The taxpayer is a seasonal worker, and the tax would be collectible if the taxpayer is contacted when working.
- Non-master file accounts.

- Cases in which the 65 cycle suppression of reactivation built into the systemic follow-up program would prevent timely action.
 - Cases where a notice of levy was issued to attach retirement income and assets or income from a law suit which the taxpayer is not yet eligible to receive.
 - Cases that require a NFTL refile and/or waiver.
6. For cases not processed on ICS, document the specific follow up actions and the date required in the Mandatory Follow-up Action section of Form 53 , (or equivalent) in sufficient detail to ensure appropriate follow-up. Also document the case history to permit review of the follow-up action after part 4 of Form 53 is detached. As each follow-up action is completed, update part 4 to show the date of the next follow-up.
7. When a CNC case is closed through ICS with a mandatory follow-up request, after managerial approval, ICS systemically creates a Non-Field OI and assigns it to Centralized Case Processing (CCP). The RO then sends the paper file to CCP to monitor the follow-up action. Form 3210 , *Document Transmittal* , and the CNC case file should be annotated in bold or red "Mandatory Follow-up 53" . See the Who/Where tab on SERP for the CCP addresses or click on this link. http://sbse.web.irs.gov/CCP/Contacts/CCP_Addresses.htm
8. CCP will maintain a file for mandatory follow-up requests. These files will **not** be retired to the federal records center. CCP will:
- File the cases by month and year of the requested action as determined by the originator.
 - File the cases alphabetically if a systemic monitoring program is used.
 - Generate and control subsequent actions with an ICS OI.
9. If the account remains in CNC after a follow-up, update the closing code to reflect current conditions. If a new closing code is needed request input of TC 530 with the new closing code on the CNC modules. Indicate on the request document, Form 4844, that the entity is not on IDRS. Forward Form 4844 to CCP after the required managerial approval.

Example:

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

Example:

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

5.16.1.7 (05-05-2009)**Quality Review of Currently Not Collectible Accounts**

1. Quality review of CNC accounts is conducted through Embedded Quality (EQ).
2. CNC cases with closing codes other than 39 are included in a weekly random sample of closed Balance Due taxpayer cases. See IRM 5.13.1.10 , *NQRS Sampling* .
3. EQ quality review attributes pertaining to CNC and other closures are found in IRM 5.13.2 , *Embedded Quality Attribute Definitions* .

Exhibit 5.16.1-1 (05-05-2009)**Form 53 Report of Currently Not Collectible Taxes — Part 1 (Front)**

- (1) Enter the name of the taxpayer as it appears on the Bal Due account or notice and the last known address of the taxpayer. Underline the name control.
- (1a) Self explanatory.
- (2) Available for local use.
- (3) Check the appropriate box. The date of NFTL filing is not required.
- (4) Complete whenever a Form 53 is assigned to an employee for reinvestigation.
- (5) An entry is required if the criteria for TC 130 contained in IRM 5.1.12.21 , *Refund Offset* are met.
- (6) Check the appropriate box. Complete this item to cross reference an individual SSN to a related EIN when the individual's TPI on subsequently filed returns is used to reactivate the account. See IRM 5.16.1.2.9(10).
- (7) Complete this item when mandatory follow-up action is required. See IRM 5.16.1.6.
- (8) Enter the date of the full compliance check. If not applicable, as in unable to locate or unable to contact cases, write "N/A" .
- (9) If the taxpayer is deceased, enter the date of death.
- (10) Check "Yes " to only close the BMF filing requirements. Check "No " if the BMF entity remains liable for any returns. Leave blank for IMF or NMF accounts.
- (11) Enter "1 " for Advisory or CCP, "2" for Collection Field function (CFf), "3" for CSCSO, or " 4" for ACS.
- (12) Enter the employee identification number.
- (13) No entry required.
- (14) Enter the closing code that fits the situation of the accounts being reported CNC. A listing of the closing codes is contained on the reverse of Part 1 or see Exhibit 5.16.1-2.
- (15) Only certain records need to be checked depending on the dollar level and type of account. See *IRM 5.16.1.2*.
- (16) Item 16 a — enter the TIN. If different master file accounts on the same taxpayer are reported, the appropriate TIN may be entered once for each group of accounts. Ditto marks may be used for successive TIN entries. Items 16 b – d are self explanatory.
- Item 16 e is used when the account balance consists only of accruals. Write "Unassessed Periods" in this column. See IRM 5.16.1.4(4).
- (17) Self explanatory.
- (18) Self explanatory.
- (19) Self explanatory.
- (20) Self explanatory.
- Proposed Action - Item
- a. Check N/A if TFRP is not required. Date Submitted - will be the date the manager signs Form 4183 on ATFR.
- b. Date Submitted - will be date transferee recommendation is sent to Advisory.
- c. Date Submitted - will be date suit recommendation is sent to Advisory.
- d. Self explanatory.
- e. Check appropriate box if OIC was discussed with taxpayer as possible case resolution.
- f. If an OIC was filed and rejected, enter the amount of the offer.
- g. If Installment Agreement was discussed with taxpayer as possible case resolution, check appropriate box.
- Mandatory Follow up Action(s). Document specific follow-up action and date required in sufficient detail to ensure appropriate follow-up. An entry is required whenever Item 7 is checked "Yes" .

Exhibit 5.16.1-2 (05-05-2009)**Report of Currently Not Collectible Taxes — Part 1 (Reverse)**

- (1) The most common MFT codes and type of Tax are listed for quick reference. See Document 6209 Section 11. Collection (5) TDA Closing Codes for additional information regarding closing codes and type of tax.
- (2) The handbook text explains the use of the closing codes.
- (3) Values for the hardship closing codes are as follows:

24	\$20,000
25	\$28,000
26	\$36,000
27	\$44,000
28	\$52,000
29	\$60,000

30	\$68,000
31	\$76,000
32	\$84,000

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