



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224


COMMISSIONER
SMALL BUSINESS / SELF-EMPLOYED DIVISION

July 26, 2019

Control Number: SBSE-04-0719-0034
Expiration Date: 07/25/2021
Impacted IRMs: See attachment

MEMORANDUM FOR Commissioners, LB&I, SBSE, TEGE, and W&I

FROM: Nikki C. Johnson
Director, Collection Policy

 Digitally signed by
Nikki C. Johnson
Date: 2019.07.26
10:31:42 -04'00'

SUBJECT: Interim Guidance on Third-Party Contact Notification Procedures

This memorandum provides interim guidance on following the Third-Party Contact (TPC) Notification procedures as a result of Section 1206 of the Taxpayer First Act. The Taxpayer First Act amended IRC Section 7602(c)(1) and is effective for notices provided, and contacts of third parties made after August 15, 2019. This guidance supersedes the current instructions found in IRM 25.27, *Third Party Contacts*. Please distribute this guidance to all affected employees within your organization.

The purpose of this memorandum is to provide guidance to all IRS employees who intend to contact third parties in connection with the determination or collection of a tax liability of a taxpayer.

Currently, IRM 25.27.1.3, *Notification Requirements*, contains the Servicewide guidance, which states that IRS employees may not contact any third party without first providing reasonable notice to the taxpayer. IRM 25.27.1.3.1, *TPC Notification Procedures*, states that Publication 1, *Your Rights as a Taxpayer*, satisfies the advance notice requirement. In certain types of cases, such as trust fund recovery penalty, preparer, and promoter exams, the IRM advises employees to use the Letter 3164, *Third-Party Notice* series to notify taxpayers of possible third-party contacts. When an employee issues Letter 3164, the IRM advises employees to wait 10 days before contacting a third party.

Effective August 15, 2019, Publication 1 will no longer satisfy the advance notice requirement of IRC Section 7602(c)(1).

The Code now requires that IRS:

- issue advance notice of third-party contacts,
- intend, at the time such notice is issued, to contact third parties (the notice must state this intent),
- specify in the notice the time period, not to exceed one year, within which IRS intends to make the third-party contact(s), and
- send the notice at least 45 days before contact with a third party.

In all cases involving third-party contact notices provided after August 15, 2019, or in which contacts with third-parties will occur after August 15, 2019, a notice meeting the new requirements must be provided. Employees may not contact a third party until the 46th day following the date of the notice.

The notice must also include the tax period(s) at issue. Employees may reissue notices yearly, if necessary. The current notices (e.g., Letter 3164 series and Letter 3404C) will be updated to add reference to the applicable tax period(s) and effective contact period. Until the appropriate use letter is updated, a manual edit must be made to include the tax period (heading of letter) and contact period (paragraph 3 of the body) in the letter (L3164 examples attached).

This guidance is effective immediately and will be incorporated into the appropriate IRM sections within one year from the date of this memorandum. If you have any questions concerning this guidance, please contact Valerie P. Williams, Senior Tax Analyst, Collection Policy.

Attachments:
Impacted IRMs
Letter 3164A
Letter 3164X

Distribution:
Director, Collection
National Taxpayer Advocate
IRS.gov

Attachment 1 Interim Guidance: SBSE-04-0719-0034

IMPACTED TPC IRMs:

- 4.1.10 - Return Preparer Program Coordinator
- 4.8.8 - Miscellaneous Responsibilities
- 4.10.1 - Overview of Examiner Responsibilities
- 4.10.2 - Pre-Contact Responsibilities
- 4.10.3 - Examination Techniques
- 4.10.4 - Examination of Income
- 4.11.57 - Third Party Contacts
- 4.12.1 - Nonfiled Returns
- 4.15.2 - Examination Procedures
- 4.16.1 - SEP Responsibilities and Case Development
- 4.19.3 - IMF Automated Underreporter Program
- 4.19.13 - General Case Development and Resolution
- 4.23.5 - Technical Guidelines for Employment Tax Issues
- 4.24.6 - Technical Guidance and Information Processing for Excise Tax Examination Issues
- 4.25.1 - Estate and Gift Tax Examinations
- 4.32.2 - The Abusive Transactions (AT) Process
- 4.46.3 - Planning the Examination
- 4.61.4 - Information Gathering
- 4.71.1 - Overview of Form 5500 Examination Procedures
- 4.75.11 - On-Site Audit Guidelines
- 4.81.5 - Conducting the Examination
- 4.86.5 - Conducting Indian Tribal Government Examinations
- 4.90.9 - Procedures, Workpapers and Report Writing
- 4.119.4 - BMF Underreporter (BMF-AUR) Program
- 5.1.1 - Miscellaneous Collection Procedures
- 5.1.10 - Taxpayer Contacts

5.1.18 - Locating Taxpayers and their Assets

5.1.28 - Identity Theft for Collection Employees

5.7.4 - Investigation and Recommendation of the TFRP

5.9.3 - Debtors' Delinquent Accounts

5.14.10 - Payroll Deduction Agreements and Direct Debit Installment Agreements

5.17.6 - Summonses

5.18.1 - Automated Substitute for Return (ASFR) Program

5.19.5 - ACS Inventory

5.20.3 - Third Party Contacts

5.20.12 - Initial Contact and Research Actions Related to Abusive Tax Avoidance Transactions cases

7.11.1 - Employee Plans Determination Letter Program

8.1.6 - Disclosure, Security and Outside Contacts

11.3.40 - Disclosures Involving Trust Fund Recovery Penalty Assessments

13.1.2 - Internal Revenue Service Restructuring and Reform Act of 1998 (RRA98)

13.1.10 - Special Processes

20.1.6 - Preparer, Promoter, Material Advisor Penalties

20.1.12 - Penalties Applicable to Incorrect Appraisals

21.1.3 - Operational Guidelines Overview

21.1.7 - Campus Support

25.18.2 - Income Reporting Considerations of Community Property



Department of the Treasury
Internal Revenue Service
[Operating Division / Program Name]

[Address line 1]

[Address line 2]

[Address line 3]

[Recipient name]

[Address line 1]

[Address line 2]

[Address line 3]

Date:

07/15/2019

Taxpayer ID number (last 4 digits):

Tax forms:**Tax periods:****Person to contact:**

Name:

ID number:

Telephone:

Fax:

Hours:

Dear [Name]:

We received information indicating you may be responsible for the unpaid **trust fund tax** for the business named below. We encourage you to contact us if you have information that would help us determine your personal liability.

Business name: [Business name]

The business hasn't paid its employment taxes. A portion of the owed amount relates to trust fund taxes. We're initiating an investigation to determine who may be personally responsible for the unpaid trust fund portion of the total unpaid employment tax.

We'll continue to correspond with you or your authorized representative on this issue. However, we sometimes talk with other persons if we need information that you can't provide or verify information we've received.

We're writing to tell you **we intend** to contact other persons such as a neighbor, a bank, an employer, or employees. When we contact other persons, we generally need to tell them limited information, such as your name.

The law prohibits us from disclosing **more information than is necessary to obtain or verify the information we're seeking. We will make contact beginning 45 days from the date of this letter, on [fill in beginning date], and ending one year later, on [fill in ending date].** You have a right to request a list of those contacted. You can make your request by telephone, in writing, or during a personal interview.

We've included Publication 1, Your Rights as a Taxpayer. The publication describes the Taxpayer Bill of Rights and the processes for examination, appeal, collection, and refunds.

If you have questions about this letter or want to request a list of the other people we've contacted, you can contact the person at the top of this letter. If you write, include the person to contact name and the employee ID number shown above.

Sincerely,

[Name]

[Title]

Enclosure: Publication 1



**Department of the Treasury
Internal Revenue Service
[Operating Division / Program Name]**

[Address line 1]
[Address line 2]
[Address line 3]

[Recipient name]
[Address line 1]
[Address line 2]
[Address line 3]

Date:
07/15/2019
Taxpayer ID number (last 4 digits):

Tax forms:

Tax periods:

Person to contact:
Name:
ID number:
Telephone:
Fax:
Hours:

Dear [Name]:

We're attempting to get **unfiled returns from you**. You should know about this from our previous contacts with you.

Generally, the IRS will deal directly with you or your duly authorized representative. However, we sometimes talk with other persons if we need information that you've been unable to provide, or to verify information we've received.

We're writing to tell you **we intend** to contact other persons such as a neighbor, a bank, an employer, or employees. When we contact other persons, we generally need to tell them limited information, such as your name.

The law prohibits us from disclosing more information than is necessary to obtain or verify the information we're seeking. **We will make contact beginning 45 days from the date of this letter, on [fill in beginning date], and ending one year later, on [fill in ending date]**. You have a right to request a list of those contacted. You can make your request by telephone, in writing, or during a personal interview.

The Taxpayer Bill of Rights describes ten basic rights that all taxpayers have when dealing with the IRS. To help you understand what these rights mean to you and how they apply, visit our website at www.irs.gov/tbor.

If you have questions about this letter or want to request a list of the other people we've contacted, you can contact the person at the top of this letter. If you write, include the person to contact name and the employee ID number shown above.

Sincerely,

[Name]
[Title]

Enclosure: Publication 1