

CC-2013-009

March 19, 2013

**Subject:** Payment-Memoranda Preparation  
and Routing Procedures

**Cancel Date:** Upon incorporation  
into the CCDM

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**Purpose**

In Chief Counsel Notice CC-2012-014, issued on July 30, 2012, we advised that Chief Counsel Directives Manual (CCDM) 34.10.1.2.2, which discusses preparing and routing memoranda that authorize refunds in refund-litigation cases, is not current. This Notice provides updated procedures for preparing and routing payment memoranda at the conclusion of refund litigation. The attached revisions to CCDM 34.10.1.2.2, Payment Memorandum, include revisions to Exhibit 34.12.1-33, now Exhibit 34-12.1-36 (current IRS Campus addresses and contacts). This package also includes new Exhibits 34-12.1-33 (a chart to assist attorneys in determining which Campus should process the refund) and 34-12.1-37<sup>1</sup> (a sample payment memorandum authorizing a refund pursuant to a judgment (Form 8690)). In addition, this Notice updates and clarifies CCDM 36.2.4.3, Closing Procedures Specific to Refund Cases, which also discusses payment memoranda.

If you have questions concerning these procedures, please contact Procedure and Administration Branch 1 at (202) 622-4910.

      /s/        
Thomas R. Thomas  
Acting Associate Chief Counsel  
(Procedure and Administration)

Attachments—

- 1: CCDM 34.10.1.2.2, Payment Memorandum
- 2: CCDM 36.2.4.3, Closing Procedures Specific to Refund Cases
- 3: CCDM Exhibit 34.12.1-33, Chart for Determining Campus to Process Refund
- 4: CCDM Exhibit 34.12.1-36, Campus Addresses and Contacts
- 5: CCDM Exhibit 34.12.1-37, Sample Payment Memorandum (Form 8690)

<sup>1</sup> Exhibit 34.12-1-35, the next sequential exhibit, was referenced by Notice CC-2013-001, issued but not yet incorporated into the CCDM.

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Distribute to:	Tax Litigation staff	X	Tax Litigation staff & Support personnel
	All Personnel	X	Electronic Reading Room
Filename:	CC-2013-009		File copy in: CC:FM:PM

## **Attachment 1: CCDM 34.10.1.2.2, Payment Memorandum**

### **34.10.1.2.2 Payment Memorandum**

(1) Payment memoranda are prepared at the conclusion of a refund suit when the Government has either partially or totally lost a case and a final judgment in favor of the taxpayer has been entered, or when the Government has settled or conceded the case resulting in a refund or credit due the taxpayer. The payment memorandum authorizes and instructs the Service to refund or credit a certain amount of tax, applicable amounts of penalty, and assessed underpayment interest. When a refund is warranted at the conclusion of a refund suit, the case cannot be closed until the refund is paid to the taxpayer, so it is important that the payment memorandum be prepared and transmitted timely. See 34.10.1.2.2.1(2) to determine who -- the field attorney or the Department of Justice attorney -- prepares the payment memorandum and transmits it to the appropriate IRS Campus for processing.

(2) If the refund case involves a trust fund recovery penalty, Department of Justice (DOJ) and field attorneys should not follow the payment-memorandum procedures identified in CCDM 34.10.1.2.2. Instead, the DOJ attorney should notify the field attorney, in writing, that the refund litigation is concluded, and the field attorney should work with the local Field Collection Advisory Group (Advisory) to get a refund issued to the appropriate claimant(s). The assigned field attorney will need to provide a copy of the judgment or settlement document to Advisory, along with a memorandum explaining, in detail, the action that Advisory needs to take to refund the specified amounts to the claimant(s).

#### **34.10.1.2.2.1 Preparing the Payment Memorandum**

(1) How Prepared. Use Form 8690 (Memorandum - Refund Pursuant to Judgment) when a final judgment in favor of the taxpayer has been entered. Use Form 8691, Memorandum - Refund Pursuant To Settlement/Government Concession (referred to as Form M-4457 by DOJ) when the Government has settled or conceded the case.

(2) By Whom Prepared. In cases in which a final judgment in favor of the taxpayer has been entered, the field attorney will prepare the Form 8690 and send it to the appropriate Campus for processing. See Exhibit 34.12.1-37 for a sample Form 8690. See Exhibits 34.12.1-33 and 34.12.1-36 to determine the appropriate Campus. In cases in which the Government has settled or conceded the case, the DOJ attorney, when feasible, will prepare the Form 8691 (DOJ-Form M-4457) and forward it directly to the Campus for processing. Even in settled and conceded cases, however, DOJ attorneys may, at their discretion, send prepared forms M-4457 to the field attorney for execution and forwarding to the appropriate Campus. To ensure that payment memoranda are timely prepared and forwarded to the appropriate Campus for processing, it is imperative that the assigned field attorney communicate with the assigned DOJ attorney about who will prepare and transmit the memorandum.

Note: When a settlement is approved, but the overpayment amount has not yet been computed, the DOJ attorney may request that the field attorney obtain a recomputation as well as prepare and execute the payment memorandum. See CCDM 34.10.1.2.2.1(4) for more information on recomputations.

(3) Background Information. When transmitting payment memoranda to the appropriate Campus, field attorneys should include the following as background information:

- a. Closing letter from DOJ;
- b. An original and one copy of the certified judgment (or settlement document);

- c. Recomputation (if required);
- d. Copy of the taxpayer's complaint; and
- e. Any other information requested by the Campus.

(4) **Recomputations.** To obtain a recomputation for settlements and judgments in refund-litigation cases, field attorneys should contact Appeals Tax Computation Specialists (TCS). The recomputation must show breakdowns of tax, penalties, and underpayment interest by periods. See IRM 8.17.5.29, Refund Litigation Cases, for additional information.

#### **34.10.1.2.2.2 Where to Send the Payment Memorandum**

(1) Exhibit 34.12.1-33 is a chart to assist field attorneys in determining which Campus should process the refund. This chart cannot account for every type of refund case. If the chart does not clearly show which campus would handle the refund, field attorneys should call the Campus contacts to verify the correct point of delivery.

(2) Exhibit 34.12.1-36 provides a list, current as of the publication date in the CCDM, of Campus addresses and contacts to be used for payment memoranda purposes only. This list will be regularly updated and posted online at [Civil Cases \(Department of Justice Cases\)](#). To ensure the most current Campus mailing information, field attorneys should refer to this website. Field attorneys may also call a Campus contact in nonroutine cases if there is a question on whether additional information or documents are needed to process the refund. See CCDM 34.10.1.2.2.1(3)(e).

#### **34.10.1.2.2.3 Computation of Statutory Interest**

The payment memorandum should request copies of both the statutory-interest computation and the notice of adjustment. See Exhibit 34.12.1-37. The purpose of these copies is to resolve quickly any dispute over the amounts refunded or credited. The field attorney should review the statutory-interest computation as soon as it is received. If any portion appears to be in error, the field attorney should consult the DOJ attorney about delaying delivery of the refund check until the statutory-interest computation can be verified.

#### **34.10.1.2.2.4 [Removed]**

**Attachment 2: CCDM 36.2.4.3, Closing Procedures Specific to Refund Cases**

**36.2.4.3 Closing Procedures Specific to Refund Cases**

(1) A crucial prerequisite to closing a refund case in which a refund is to be paid to a taxpayer is preparing a payment memorandum and transmitting it to the appropriate IRS Campus. A payment memorandum is a document that authorizes and instructs the Service to refund or credit a certain amount of tax, applicable amounts of penalty, and assessed underpayment interest. It is only prepared when the Government has either partially or totally lost a case and a final judgment in favor of the taxpayer has been entered or when the Government has settled or conceded a case and a refund or credit is warranted.

(2) See CCDM 34.10.1.2.2, Payment Memorandum, for instructions on preparing and transmitting payment memoranda. The field attorney prepares the payment memorandum in all cases in which a Chief Counsel attorney, rather than a DOJ attorney, is responsible for preparing the payment memorandum — even if an Associate Chief Counsel attorney is also assigned to the case.

**Attachment 3: Exhibit 34.12.1-33, Chart for Determining Campus to Process Refund**

<b>If the payment is a refund from . . .</b>	<b>And the lawsuit was filed in . . .</b>	<b>Then send the payment memorandum to . . .</b>
Form 1040NR, Form 1040-C Form 1040-PR, Form 1040-SS	any refund court	Austin
Trust fund recovery penalty (section 6672)	any refund court	The general payment memorandum procedures do not apply; see CCDM 34.10.1.2.2(2) for additional information.
Innocent spouse cases	any refund court	Innocent Spouse Operation
Form 1040, Form 1040A, Form 1040EZ, Penalties against individuals other than the trust fund recovery penalty	Alabama, Connecticut, Delaware, District of Colombia, Georgia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, or West Virginia	Kansas City
	Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, or Wyoming	Fresno
	Florida, Louisiana, Mississippi, Texas, or a U.S. possession or territory	Austin

If the payment is a refund from . . .	And the lawsuit was filed in . . .	Then send the payment memorandum to . . .
Estate and gift tax returns, Form 2290, Form CT-1, Any other form that is currently filed only at the Cincinnati Campus	any refund court	Cincinnati
Tax-exempt organizations, Governmental entities, Indian tribal governments, Interest-netting, Any other form that is currently filed only at the Ogden Campus	any refund court	Ogden
Form 940, Form 941, Form 945, Form 1041, Form 1120, Penalties against entities, Any other form that is currently filed at both the Cincinnati and Ogden Campuses	Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, or Wisconsin	Cincinnati
	Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, or a U.S. possession or territory	Ogden

**Attachment 4: Exhibit 34.12.1-36, Campus Addresses and Contacts (For Payment Memoranda Purposes Only)**

Note: This list will be regularly updated and posted online at [Civil Cases \(Department of Justice Cases\)](#). To ensure the most current Campus mailing information, field attorneys should refer to this website.

**AUSTIN CAMPUS**

Contact: (512) 460-1882

Mail to:

Director, Austin Campus

Internal Revenue Service

Post Office Box 934

Austin, TX 78767

Attention: Technical Unit, Stop 6561 AUSC

**OR** -- If using a Private Delivery Service:

Director, Austin Campus

Internal Revenue Service

3651 South Interregional Highway 35

Austin, TX 78741

Attention: Technical Unit, Stop 6561 AUSC

**CINCINNATI CAMPUS**

Contact: (859) 669-2134

Mail to:

Director, Cincinnati Campus

Internal Revenue Service

Post Office Box 12267

Covington, KY 41012-0267

Attention: Team 101, Technical/Large Corp, Stop 537G

**OR** -- If using a Private Delivery Service:

Director, Cincinnati Campus

Internal Revenue Service

201 West Rivercenter Blvd.

Covington, KY 41011

Attention: Team 101, Technical/Large Corp, Stop 537G

**FRESNO CAMPUS**

Contact: (559) 454-6754

Mail to:

Director, Fresno Campus

Internal Revenue Service

5045 E Butler Ave.

Fresno, CA 93888

Attention: Accounts Management, Stop AY001

**KANSAS CITY CAMPUS**

Contact: (816) 325-2335

Mail to:

Director, Accounts Management Kansas City Campus

Internal Revenue Service

Post Office Box 24551

Kansas City, MO 64131

Attention: OP 1 Dpt. 3, Stop 6800 N-2, Team 301, Unit 332

**OR** -- If using a Private Delivery Service:

Director, Accounts Management Kansas City Campus

Internal Revenue Service

333 W. Pershing Rd.

Kansas City, MO 64108-4302

Attention: OP 1 Dpt. 3, Stop 6800 N-2, Team 301, Unit 332

**OGDEN CAMPUS**

Contact: (801) 620-4245

Mail to:

Director, Accounts Management

Ogden Campus

Internal Revenue Service

1973 Rulon White Blvd., Mail Stop 6800

Ogden, UT 84404

Attention: Complex Interest Team, Stop 6800

**INNOCENT SPOUSE OPERATION**

Contact: (859) 669-7131

Mail to:

Internal Revenue Service

Innocent Spouse Operation, Stop 840F

Post Office Box 120053

Covington, KY 41012

Attention: Department Manager (DOJ Cases)



**Attachment 5: Exhibit 34.12.1-37, Sample Payment Memorandum (Refund Pursuant to Judgment, Form 8690)**

**[Letterhead]**

date: [ Date]

to: Director, [Campus]  
[Campus's Address]  
Attn: [Name]

from: [Name]  
[Title and Office]

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subject: Refund or Credit Pursuant to Judgment  
[Case Caption]  
[Docket Number]  
Amount of Judgment: [Dollar Amount of Judgment], plus statutory interest  
[Taxpayer's Name]  
[TIN]

In the case described above, the taxpayer filed a lawsuit to recover a refund of certain **[Type of Tax Liability]** tax liabilities for the tax year(s) **[Year(s)]**. The taxpayer won the lawsuit in whole or in part, causing the court to enter a judgment against the Government in the case. The Department of Justice has advised this office that the Solicitor General has decided not to appeal from the judgment (or from that portion of the judgment adverse to the Government). This office recommends payment of the judgment in the amount of **[Dollar Amount of Judgment]** for **[Tax Year(s)]**, which is verified by the recomputation that is attached hereto. Please contact our office immediately if you are not the correct Campus to process this payment memorandum.

Under section 6402 of the Internal Revenue Code of 1986, any overpayment may be credited against any other tax liability of the person who made the overpayment. Please make the check in the name of **[Taxpayer's Name]** and mail the check or a notice of credit to:

**[Taxpayer's Name]**  
c/o Assistant Attorney General  
Tax Division, Department of Justice  
P.O. Box 310 – Ben Franklin Station  
Washington, DC 20044-0310

Please notify this office when a check or notice of credit has been issued. We will then follow up to ensure that the litigation-freeze codes are removed.

The notice of adjustment should contain the following statement:

This Notice of Adjustment is issued pursuant to directions from the Department of Justice relative to overpayments of federal income taxes in the sum of **[Total Amount of Judgment]**, plus interest as provided by law. Payment of the sums mentioned herein is made and accepted in accordance with the judgment entered on **[Date Judgment Entered]**, in the **[Name of Court]**, in the case of **[Case Caption and Docket Number]**, instituted for the recovery of federal **[Type of Tax Liability]** taxes in the amount(s) of **[Amount(s)]** for the year(s) **[Tax Years]**.

We enclose the materials identified below that contain the information necessary to process the refund check or letter of credit.

Please forward both to this office and that of the Assistant Attorney General three copies of the completed Notice of Adjustment noting the date of issuance of the refund check or notice of credit, and three copies of the statutory interest computation.

**[Name]**  
Associate Area Counsel  
**[Office]**

By: \_\_\_\_\_  
**[Name]**  
**[Title and Office]**

Enclosures:

- \_\_\_\_\_ Recomputation dated **[Date]** (1 copy)
- \_\_\_\_\_ DOJ Closing Letter dated **[Date]** (1 copy)
- \_\_\_\_\_ Certified Judgment dated **[Date]** (original and 1 copy)
- \_\_\_\_\_ Taxpayer's Complaint, filed **[Date]** (1 copy)