

Guide to Substitute for Returns (SFR)



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Catharine O'Connor, Esq. **Head of Education, Tax Mentor**

- Licensed to practice in Florida since 2012
- Practiced Tax Controversy from 2012-2020 for one of the largest national tax resolution companies.
- Resolved millions in tax debts, logged thousands of call hours with IRS collections personnel, and worked with hundreds of clients to resolve their tax controversy issues.
- Subject matter expert in tax issues facing small businesses, particularly payroll tax debts, with years of practical experience in achieving excellent results for my client.



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Acronyms Used in Presentation

ACRONYM	MEANING	CONTEXT
ASED	Assessment Statute Expiration Date	The IRS has a limited time to assess, via audit, additional tax debt. The ASED is the date after which additional assessment by the IRS are prohibited.
ASFR	Automated Substitute for Return (Unit)	Unit within the IRS responsible for Substitute For Returns (SFRs). Technically an exams unit, but with a specific purpose.
CSED	Collection Statute Expiration Date	The IRS has a limited time to collect a tax debt, starting 10 years from the date of assessment (plus tolling events). The CSED is the date the debt is no longer legally enforceable.
FOIA	Freedom of Information Act	Enacted in 1966, the Freedom of Information Act, or FOIA, gives any person the right to access federal agency records or information. The FOIA is based on the presumption that the government and its information belong to the people.
IRP	Information Reporting Program	Any person engaged in a trade or business, including a corporation, partnership, individual, estate and trust, who makes reportable transactions during the calendar year, must file information returns to report those transactions to the IRS and furnish a copy of the information returns to recipients.
NOD	Notice of Deficiency	Generally, the final notice issued in the examinations process. Lists changes and/or amount of the deficiency (i.e. balance due). NOD letter also carries appeals and tax court rights. Time Sensitive! May also be referred to as a Statutory Notice of Deficiency (SNOD)
PPS	Practitioner Priority Service	Phone line specifically for use by Tax Pros, can use to complete investigations on multiple taxpayer accounts or be directed to collections or exams.
SFR	Substitute for Returns	Shorthand to indicate that an IRS prepared return is on file. SFRs prepared under IRC 6020(b).

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Description

The IRS is allowed to prepare a Substitute for Return (SFR) under IRC §6020 when a taxpayer fails to file a return. This is a powerful tool when a taxpayer fails to meet their tax obligations, resulting in balances which the IRS can then pursue via collection enforcement. For tax professionals working with delinquent taxpayers, understanding the SFR process is crucial. This webinar aims to guide Tax Pros through the SFR process and provide best practices for assisting clients dealing with the fallout from an SFR.




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Learning Objectives

- Understand the selection criteria & process when the IRS pursues creation of a substitute assessment under IRC§6020(b).
- Understand the differences between Substitute for Returns (SFR) created by different IRS departments.
- Understand a taxpayer's options at each stage of the process as well as best practices to address after a Substitute for Return has been completed.



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What is an SFR?

- When a taxpayer fails to file a tax return the IRS can prepare an assessment under IRC § 6020(b). Prior to the assessment becoming final the IRS will issue a Statutory Notice of Deficiency.
- The return will reflect income, with no expenses or itemization, and assumes taxpayer is Single/Married Filing Separately, has no dependents and applies a standard deduction.
- A completed Substitute for Return counts as a return for compliance purposes if present in the compliance period.



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What IRS Unit Prepares SFRs?

- Substitute for Returns fall under the examination function of the IRS.
- Automated Substitute for Return (ASFR) Unit
 - Uses data from the Information Reporting Program (IRP) to identify non filers who have reported income which may indicate a tax liability exists.
 - If return remains unfiled after issuance of the CP59 the unit may decide to proceed with preparing the SFR and issuing the NOD. Very resource dependent.
- Other Examination Functions (See IRM 4.4.9 Delinquent and Substitute for Return Processing)
 - Delinquent Return Investigation
 - Referrals from IRS Collections Personnel
 - Additional tax period opened up during exams



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What is the Information Reporting Program

- Any person engaged in a trade or business, including a corporation, partnership, individual, estate, and trust, who makes reportable transactions during the calendar year, must file information returns to report those transactions to the IRS and furnish a copy of the information returns to recipients.
- Data is received by the IRS in bulk with most forms due no later than February 28th of the following year.
 - NOTE: Wages (W-2 & W-3) are reported to the Social Security Administration (SSA) which are then transmitted to the IRS.
- IRS then spends several months recording that data under Taxpayers.
 - This is general available for taxpayer/tax pro access by May.
 - IRS begins cross referencing the Information Reporting Program (IRP) data against 1040 filings after the Extension Deadline.

<https://www.irs.gov/businesses/small-businesses-self-employed/information-return-reporting>



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What Does the IRS do with the Data?

- Wage & Income Transcripts
 - Wage & Income Transcript and Wage & Income Summary
 - Available to Tax Pros via e-Services & Available to Taxpayers via IRS Online Account
- Automated Underreporter (AUR) Unit
 - Compares Information Reporting Program Data to filed returns, flagged mismatches are referred to AUR Personnel to review and issue a CP2000 if warranted.
- **Automated Substitute for Return (SFR) Program**
 - Reviews non compliant tax periods (i.e. no return filed) with data from the Information Reporting Program. If the data shows a filing requirement (i.e. tax due likely if filed) the IRS may refer to the ASFR unit.




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The Process - ASFR

- At the close of the tax filing season the IRS computers begin comparing reported income to returns on file. Non –Filers with a filing requirement (i.e. not due a refund) may receive an inquiry due to non filing (CP 59).
- Not all delinquencies are referred and not all referrals result in an SFR. IRS has limited resources to address all instances and has to work in order or priority.

 Department of Treasury Internal Revenue Service		Notice CP59 Tax Year [XXXX] Notice Date October 10, 2010 Social Security Number [REDACTED] To contact us Phone 1-800 [REDACTED] Your Caller ID: [REDACTED] Select code [REDACTED]
Message about your 2010 Form 1040 You didn't file a Form 1040 tax return		
Our records show that you haven't filed your tax return for the tax year ending on December 31, 2010.		
What you need to do immediately if you are required to file a tax return for 2010, please do so immediately. <ul style="list-style-type: none"> Complete and sign all required tax forms, include a payment for any taxes due, and mail us your return using the envelope provided. If you can't pay the amount due, pay as much as you can now and make payment arrangements that allow you to pay off the rest over time. Visit www.irs.gov and search for keyword "tax payment options" for more information about: <ul style="list-style-type: none"> Installment and payment agreements—download required forms or save time and money by applying online using the Online Payment Agreement application if you qualify. Automatic payment deductions from your bank account. Payroll deductions. Credit card payments. Or, call us at 1-800-[REDACTED] to discuss your options. You risk losing your refund if you don't file your return. If you are due a refund for withholding or estimated taxes, you must file your return to claim it by [return due date + 3 years + any extension of time to file]. The same rule applies to a right to claim tax credits such as the Earned Income Credit. Or if you don't think you had to file a tax return for 2010. Complete the Response form on Page 3 to indicate whether any of the circumstances below apply to you. Send us the form in the enclosed envelope. Indicate whether: <ul style="list-style-type: none"> You already filed a tax return for 2010 (if so, send us a signed and dated copy of the return along with your Response form). The person addressed on this notice is deceased and you already filed a Form 1041, Income Tax Return for Estates and Trusts. You don't think you are required to file for one of the reasons listed on Page 3. 		
If we don't hear from you <ul style="list-style-type: none"> If you don't file a tax return, or dispute this notice if you feel you've received it in error, we may determine your tax for you. You may continue to accrue penalties and interest charges on the amount of tax due. 		

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ASFR Criteria IRM 5.18.1.3.2

(1) A module meets ASFR criteria if all the following conditions exist:

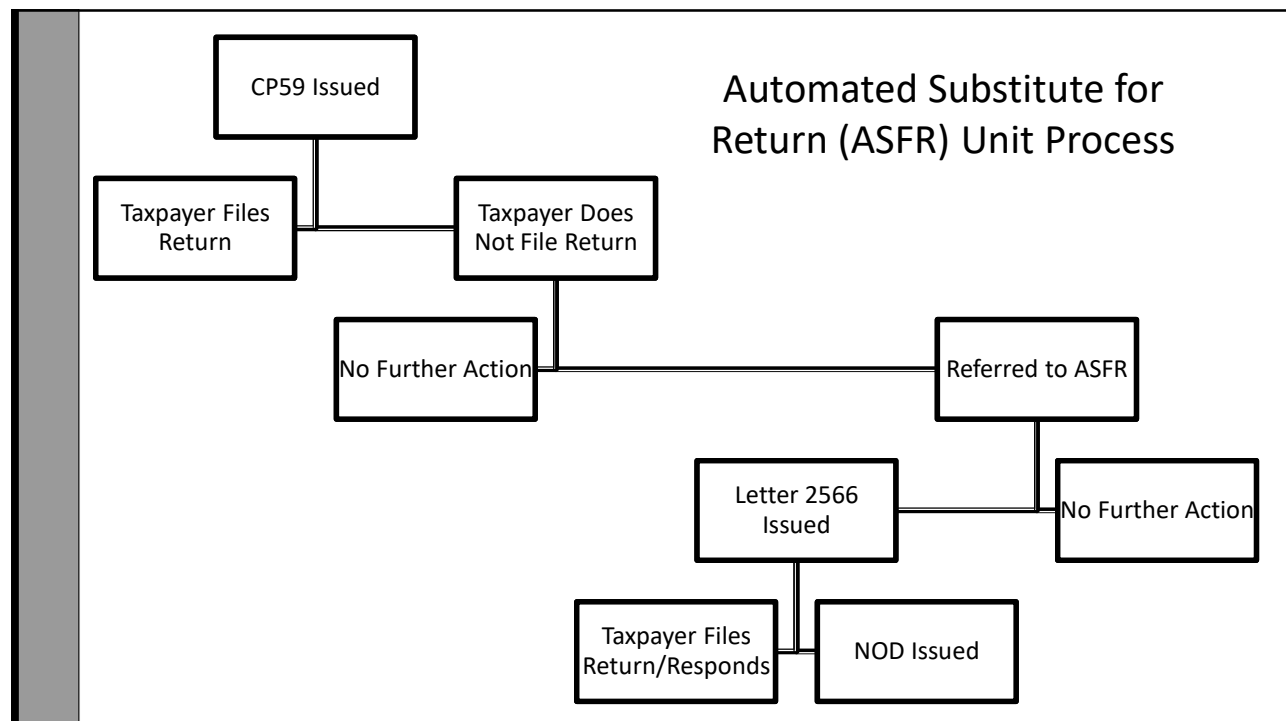
- It is not older than five years prior to the current processing year, and
- It has IRP with a proposed tax liability of [REDACTED] or more; or IRP with a proposed tax liability of [REDACTED] or more for Federal Employee/Retiree Delinquency Initiative (FERDI), and
- It has no associated balance due modules in a status greater than 12, including statuses 53 and 60, and
- The total IRP documents for the module are 60 or less, and
- There are no -V, -W, -L, -Z or , Z- freezes on the module or account, and
- The selection code is not a CI, International, or IRS employee selection code.




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Department of the Treasury
Internal Revenue Service
Austin TX 78714-9338

s0189995467116
JAMES Q. HINDS
22 BOULDER STREET
HANSON, CT 06030-7253

Notice 2566
Tax Year 2012
Notice date January 23, 2017
Social Security number 999-99-9999
To contact us Phone 1-866-681-4271
Hours of operation 8:00 a.m. to 8:00 p.m.
Your caller ID 123456
Page 1 of 9
ADR Bar code

Letter 2566

Taxpayer has 30 days to respond after which the Notice of Deficiency will be issued.

Not Present on the Account Transcript.

We still have not received your 2012 Form 1040

You must file your 2012 tax return

We sent you previous notices asking that you file your tax return (Form 1040) for 2012. However, we still have not received any response from you.

You must file your return by February 22, 2017, or we will assess taxes for you using a filing status of "single" or "married filing separately." This means you may not receive certain exemptions, deductions, or credits that you would otherwise receive if you filed your own return.

Summary	
Tax you owe (proposed amount)	\$3,551.00
Payments you made	-2,349.00
Failure-to-file penalty	270.45
Failure-to-pay penalty	262.47
Interest charges	342.64
Proposed amount due	\$2,097.56

What you need to do immediately

To avoid the assessment of the proposed amount due, and additional penalty and interest charges, you must file your 2012 tax return by February 22, 2017. You also have the option to accept our proposed amount due and pay immediately. Keep in mind that this amount may be higher than what you would owe if you filed your own return.

To file your 2012 tax return

- Complete, sign, and date the Response form, and mail it to us along with a copy of your 2012 return so we receive it by February 22, 2017. Send this to us in the envelope provided, and please be sure to place your Response form on top of your return.
- If you file a joint return, both taxpayers are required to sign.

If you don't think you had to file a return

Please call 1-866-681-4271 to speak with an IRS representative and explain your situation.

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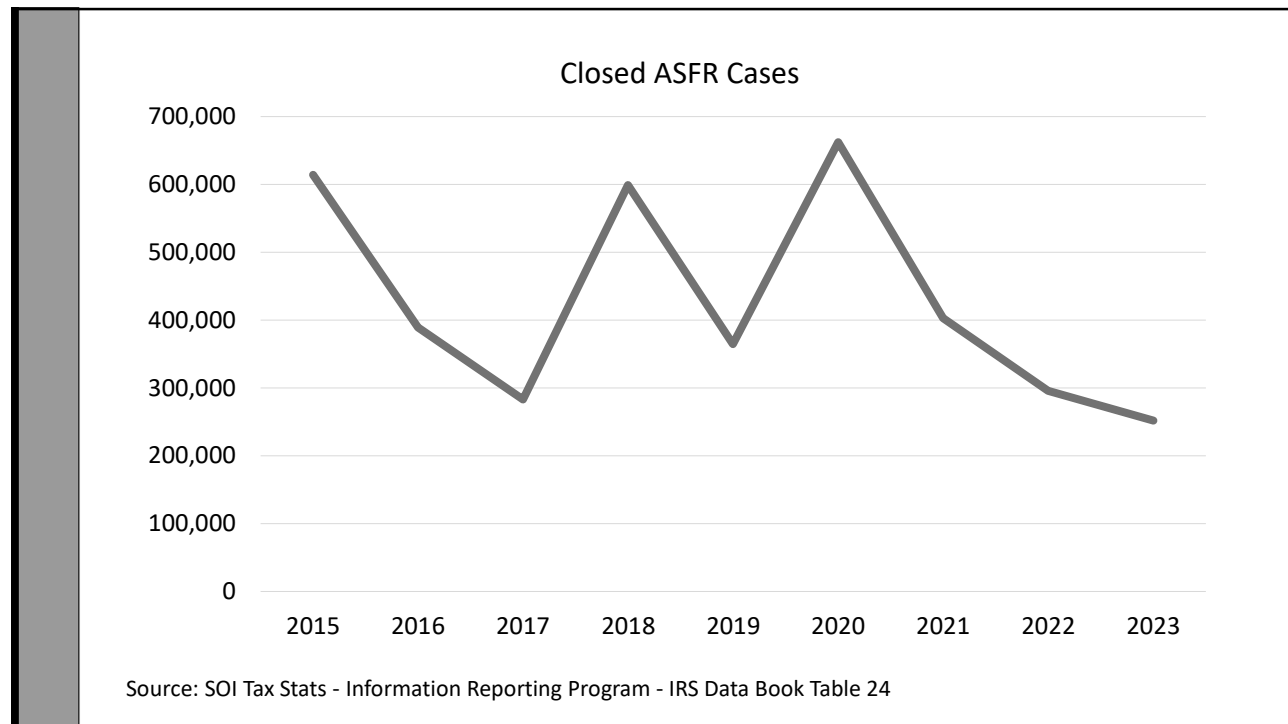
ASFR Data Book



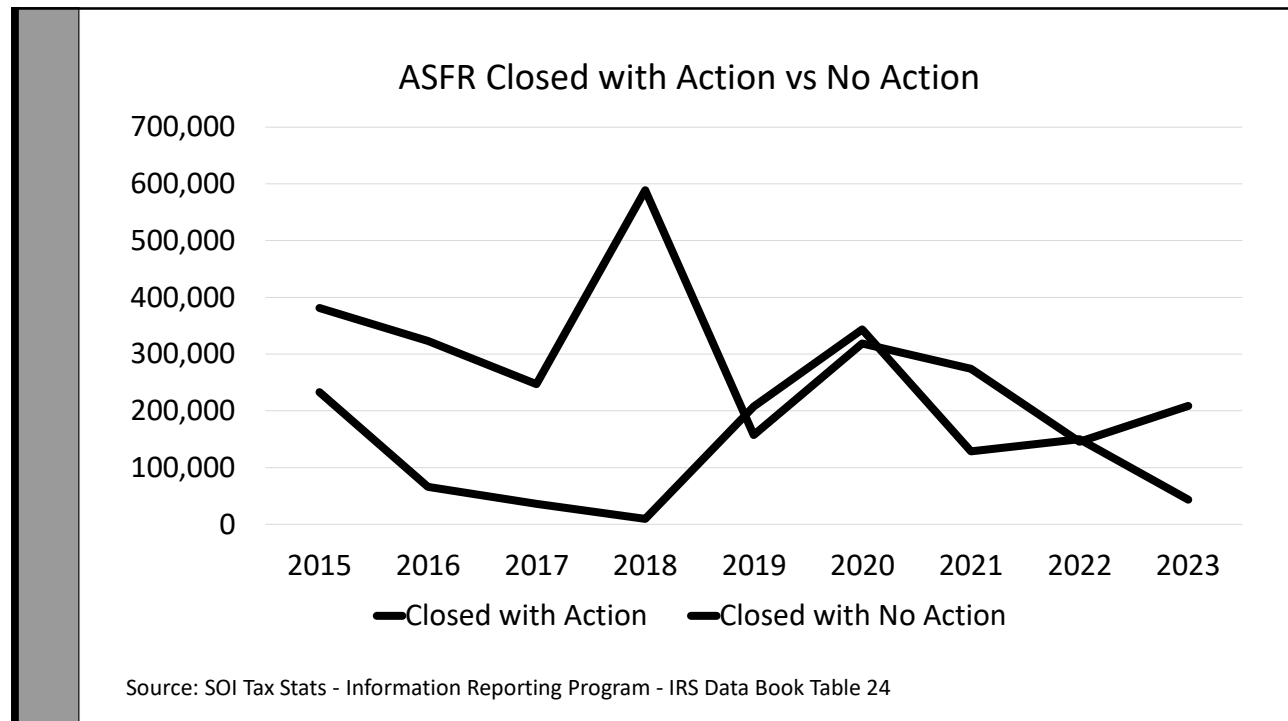
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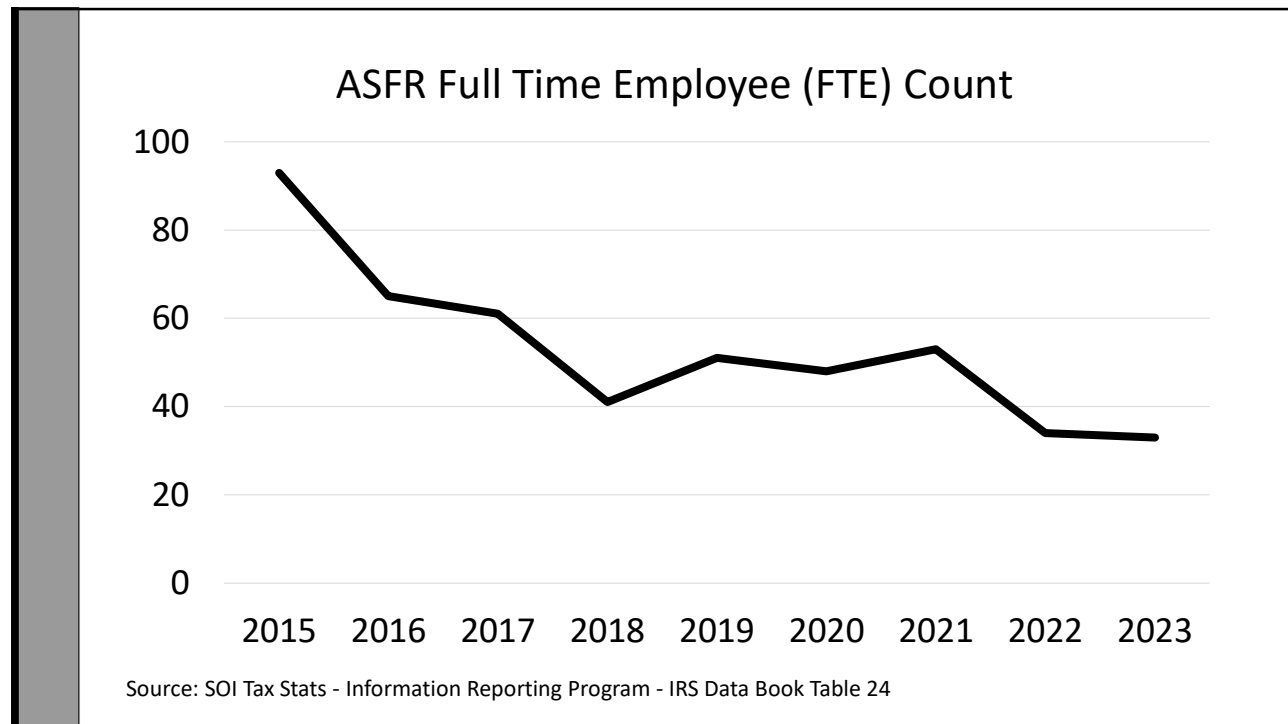
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SFRs & Account Transcripts

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SFR process has started but no assessment
yet

** INFORMATION FROM THE RETURN AS ADJUSTED **

EXEMPTIONS:	01
FILING STATUS:	Single
ADJUSTED GROSS INCOME:	0.00
TAXABLE INCOME:	0.00
TAX PER RETURN:	0.00
SE TAXABLE INCOME TAXPAYER:	0.00
SE TAXABLE INCOME SPOUSE:	0.00
TOTAL SELF EMPLOYMENT TAX:	0.00
RETURN DUE DATE OR RETURN RECEIVED DATE (WHICHEVER IS LATER)	Apr. 19, 2022
PROCESSING DATE	Mar. 09, 2022

TRANSACTIONS		
CODE	EXPLANATION OF TRANSACTION	AMOUNT
150	Substitute tax return prepared by IRS	\$0.00
n/a	19210-888-00000-2	
140	Inquiry for non-filing of tax return	\$0.00
971	Notice issued CP 0059	\$0.00
595	Account referred for review	\$0.00
570	Additional account action pending	\$0.00
420	Examination of tax return	\$0.00

3 years, 4 months,
& 22 days
between CP59 and
IRS Starting the SFR.

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SFR process (referral) started 10/27/2014

TRANSACTIONS		
CODE	EXPLANATION OF TRANSACTION	AMOUNT
150	Substitute tax return prepared by IRS	\$0.00
n/a	28210-888-00000-4	
140	Inquiry for non-filing of tax return	\$0.00
971	Notice issued CP 0059	\$0.00
595	Account referred for review	\$0.00
570	Additional account action pending	\$0.00
420	Examination of tax return	\$0.00
170	Penalty for not pre-paying tax 08-31-2025	\$901.04
160	Penalty for filing tax return after the due date 08-31-2025	\$11,307.83
300	Additional tax assessed by examination 08-31-2025	\$50,257.00
n/a	28247-619-03435-5	
421	Closed examination of tax return	\$0.00

SFR assessment posts 8/31/2015, would have been
preceded by a Notice of Deficiency

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TRANSACTIONS				
CODE	EXPLANATION OF TRANSACTION	CYCLE	DATE	AMOUNT
150	Substitute tax return prepared by IRS		01-10-2011	\$0.00
n/a	19210-887-00020-0			
460	Extension of time to file tax return ext. Date 10-15-2007		04-15-2007	\$0.00
140	Inquiry for non-filing of tax return		03-24-2008	\$0.00
971	Notice issued CP 0059		04-14-2008	\$0.00
570	Additional account action pending		01-10-2011	\$0.00
494	Final notice before tax is determined by IRS		03-15-2011	\$0.00
474	Established non-filing of tax return		07-05-2011	\$0.00
455	Resolved tax determination		10-26-2011	\$0.00
599	Tax return secured		07-01-2011	\$0.00
766	Credit to your account		04-15-2007	-\$51.23
770	Interest credited to your account		04-15-2007	-\$8.77
766	Credit to your account		04-15-2007	-\$2,000.00
290	Additional tax assessed 11-21-2021	20114508	11-21-2011	\$7,247.00
n/a	19254-701-32073-1			
166	Penalty for filing tax return 11-21-2021			
196	Interest charged for late payment			
276	Penalty for late payment of tax			

Was an Original Return Filed?

- Transaction Code (TC) 973, 977, or 610 with “Tax Return Secured” – YES
- Transaction Code (TC) 599 with “Tax Return Secured” – Unknown – will need to call PPS to try and confirm

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Substitute for Return & Statutes

- Substitute for Return do not have an Assessment Statute Expiration Date (ASED) BUT they do have a Collection Statute Expiration Date (CSED) which begins running when the tax is assessed.

150	Substitute tax return prepared by IRS		08-12-2019	\$0.00
n/a	18210-887-00048-9			
140	Inquiry for non-filing of tax return		11-23-2015	\$0.00
971	Notice issued CP 0059		12-14-2015	\$0.00
494	Final notice before tax is determined by IRS		03-26-2019	\$0.00
570	Additional account action pending		08-12-2019	\$0.00
170	Penalty for not pre-paying tax 09-02-2029	20193305	09-02-2019	\$153.79
806	W-2 or 1099 withholding		04-15-2015	-\$10,088.00
290	Additional tax assessed 09-02-2029	20193305	09-02-2019	\$19,775.00

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SFR Replacement



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Replacing an SFR

- At anytime in the process (from CP59 to Closed with Assessment) the correct response is filing an ORIGINAL 1040 (signed & dated) not a 1040X.
 - Exceptions could be SFRs prepared by correspondence exam where there was a specific document request (IDR) and/or assessment based on more than just Wage & Income Transcripts.
- Once the ASFR unit begins the process (sending the Letter 2566) the processing times are extended.
 - The return is reviewed by an examination employee prior to processing (confirming data matches up with IRP). Extra data could be requested in order to process (not common).



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ASFR Campus Addresses

Campus	Mailing Address	Private Delivery Service (POS) Mailing	Fax Number
Austin	Internal Revenue Service ASFR Unit P.O. Box 149338 Austin, TX 78714-9338	Internal Revenue Service ASFR Unit Stop 5501 Austin, TX 78714	
Brookhaven	Internal Revenue Service ASFR Unit P.O. Box 9013 Holtsville, NY 11742-9013	Internal Revenue Service ASFR Unit Stop 654 Holtsville, NY 11742	855-386-1135 (SB/SE)
Fresno	Internal Revenue Service ASFR Unit P.O. Box 24015 Fresno, CA 93779-4015	Internal Revenue Service ASFR Unit Stop 81105 Fresno, CA 93779	855-279-2109 (W&I)

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Notice of Deficiency (NOD) & Tax Court

- If the Taxpayer fails to respond to the Letter 2566 the IRS will issue a Notice of Deficiency (NOD) which will provide a 90 day deadline to petition the tax court.
 - NOD is reflected on the Account Transcript.
- Can submit a written protest with the 90 day unit and include a copy of the original return OR
- File petition with the tax court (pro se if not USTCP) with a copy of the original return.




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SFR Reconsideration

- File an original (signed & dated) return through the ASFR Unit via fax or mail.
 - Can put “SFR Reconsideration” at the top of the return (optional).
- SFR replacement should take 3-6 months BUT have seen it take longer:
 - TIP: If past the 6-month mark open a case with the Taxpayer Advocate
- Best Practice: Call at the 30-60 day mark to ensure it was received and is in the pipeline to be worked.
 - Phone Number 1-866-681-4271



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Collection Due Process (CDP) or Equivalent Hearing

- Triggered by the IRS issuing a Final Notice of Intent to Levy with Right to a Collection Due Process (CDP) Hearing or filing a Notice of Federal Tax Lien (NFTL).
 - Approximately 30 days to file a timely CDP Hearing and 1 year to file an Equivalent (non timely CDP) Hearing.
- File form 12153 along with a signed & dated copy of the return, select “I am not liable for the tax the IRS is trying to collect.”
- Can ensure the replacement is followed through on and may provide additional protections or avenues for your client.



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SFR Replacement Considerations



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Should you Replace an SFR?

- ONLY if it reduces the balance due! (or benefits the taxpayer in some other way like FTA qualification)
- BEFORE you go to the trouble of preparing the return think about whether it will substantially reduce the balance.
 - Self Employment Income AND taxpayer has expenses to offset
 - Dependents and/or filing status with a lower tax rate (HOH or MFJ)
 - Basis
- If you file an SFR replacement with a new balance due then that additional assessment will carry its own Collection Statute Expiration Date (CSED).
- Does the resolution option make it a moot point? (i.e. SFR is 2 years away from expiring and taxpayer qualifies for Currently Not Collectible)



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Impact of Time

- There is generally no time limit on replacing a Substitute for Return BUT the further back in time the tax year the more likely the logistical issues can derail you.
- Taxpayers who don't file and ignore IRS notices also tend to be the type to not keep relevant records.
 - Reconstruction of expenses and events becomes harder the further back in time you go as outside resources (i.e. bank statements) will also have limited periods of availability.
- Wage & Income Transcripts are only available for 10 years.



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Wage & Income Transcript Not Available

- Form 4549 Income Tax Discrepancy Adjustments.
- Will list the Income used as the basis for the SFR. Can provide a starting point.
- Can request from Exams or submit a FOIA (template available in handouts).

1. Adjustments to Income	Period End
a. Schedule C- Gross Receipts	
b. Schedule E - Rental Income	
c.	
d.	
e.	
f.	
g.	
h.	
i.	
j.	
k.	
l.	
m.	
n.	
o.	
p.	



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Representation Case Strategies

- If pursuing a Full Pay Installment Agreement
 - Wait until SFR replacement is processed to establish
 - Call ACS to request hold on collection and/or input pending Installment Agreement (get advocate involved if needed).
 - Recommend voluntary payments while waiting for the return to process.
- If Pursuing a Partial Pay Installment Agreement or Currently Not Collectible Status
 - Proceed with resolution without SFR being replaced.
- If Pursuing an Offer in Compromise
 - STOP & THINK
 - Does the current SFR balance support or hinder acceptance of the OIC? Generally, the higher the balance due the more likely the taxpayer is to qualify for Doubt as to Collectability.



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Replacing MFS SFRs with an MFJ Return

- If **BOTH** taxpayers had a Substitute for Return (SFR) assessment and an MFJ return is subsequently filed it is not uncommon to see the secondary's account not updated to reflect the new MFJ filing.
 - Not a super common occurrence but creates a problem that requires getting the right person at the IRS to understand what happened and correct.
- Recommended Process is to put together a package with both account transcripts (The MFJ under the Primary and the MFS SFR under the secondary), highlight that the socials are the same creating two assessments, and request the SFR assessment be backed out.
 - Send to the SFR unit and/or Taxpayer Advocate.



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Conclusion

- Substitute for Returns are a common occurrence when working with taxpayers who have IRS issues.
 - They can represent an opportunity to have a significant impact on balance due and a client's outcome. Although, patience is a must.
- The main obstacles to replacing an SFR are Individual taxpayer circumstances and access to records.
- Always consider the value proposition of replacing an SFR.
 - Will the taxpayer spend more time/money trying to make it happen then it is worth given all other factors?



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RETENTION & REVENUE OPPORTUNITIES

Tax Check Ups

- Plain English report identifies refund and amended return opportunities
- First Time Abatement checker

Audit Detection and IRS Status Monitoring

- Post Filing Income Verification & Red Flag Reports spot return filing issues long before the IRS
- Software identifies initiation of exams by the IRS 6 months in advance, including CP2000s
- Monitor notices and opportunities for tax resolution services

Tax Resolution

- Streamline client onboarding by quickly & easily diagnosing taxpayer issues
- Suite of tools for every stage of tax resolution

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Questions?

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