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Part 4. Examining Process

Chapter 23. Employment Tax

Section 20. Voluntary Classification Settlement Program (VCSP) Procedures

4.23.20 Voluntary Classification Settlement Program (VCSP) Procedures

Manual Transmittal

June 22, 2020

Purpose

(1) This transmits revised IRM 4.23.20, *Employment Tax - Voluntary Classification Settlement Program (VCSP) Procedures*.

Material Changes

- (1) IRM 4.23.20.1. New subsection, *Program Scope and Objectives*. Rearranged existing IRM content to place information involving internal controls for a program IRM under this subsection to conform to the new rules to ensure that the program's internal controls are adequately expressed in the IRM.
- (2) IRM 4.23.20.1.1. New subsection, *Background*.
- (3) IRM 4.23.20.1.2. New subsection, *Authority*.
- (4) IRM 4.23.20.1.3. New subsection, *Responsibilities*.
- (5) IRM 4.23.20.1.3.1. New subsection, *Program Roles*. Formerly (1) and (3) of IRM 4.23.20.3.
- (6) IRM 4.23.20.1.4. New subsection, *Program Objectives and Review*.
- (7) IRM 4.23.20.1.4.1. New subsection, *Program Reports*.
- (8) IRM 4.23.20.1.5. New subsection, *Acronyms*. Compiled a list of frequently used abbreviations and their terms.
- (9) IRM 4.23.20.1.6. New subsection, *Related Resources*.
- (10) IRM 4.23.20.1. IRM 4.23.20.1. *Guiding Principles*, deleted. Former (1) moved to 4.23.20.1.1, *Background*. Former IRM 4.23.20.1 (2) and (3) moved to new IRM 4.23.20.2.
- (11) IRM 4.23.20.2. Deleted *Program Roles*. Former IRM 4.23.20.2(1) and (3) moved to new IRM 4.23.20.1.3.1. (2) moved to new Exhibit IRM 4.23.20-1, *Program Roles*.
- (12) IRM 4.23.20.2. New subsection, *Applications to the Voluntary Classification Settlement Program (VCSP)*. From former IRM 4.23.20.1 (2) and (3).

- 4.23.20.4.2 [Complete Applications](#)
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 - 4.23.20.7 [Eligibility Review – General](#)
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 - 4.23.20.7.4 [Guidance Concerning Court Activity](#)
 - 4.23.20.7.5 [Verification of Filing of Form\(s\) 1099](#)
 - 4.23.20.7.6 [Guidance Regarding](#)
- (13) IRM 4.23.20.3. Updated process for new procedures.
- (14) IRM 4.23.20.4.1. Updated procedures for VCSP Assignment Desk.
- (15) IRM 4.23.20.4.3. Updated procedures for incomplete applications.
- (16) IRM 4.23.20.5.1. Updated procedures for yearly employment tax filers.
- (17) IRM 4.23.20.7. Expanded on explanations for some of the bullets.
- (18) IRM 4.23.20.7(3). Added bullet: If all other requirements are met, exempt organizations and government entities are eligible for a VCSP.
- (19) IRM 4.23.20.7.3. Modified Disposal Code 10 to state "This indicates worker classification may have been an issue."
- (20) IRM 4.23.20.7.5. Clarified eligibility for Form 1099 filings.
- (21) Exhibit 4.23.20-1. New Exhibit, *Program Roles*. Formerly IRM 4.23.20.2(2).
- (22) Throughout this IRM, changes were made to replace terms:
- "Lead" with "VCSP Assignment Desk"
 - "VCSP Log" with "SharePoint VCSP Application Log"
- (23) Editorial and technical changes and updates have been made throughout this section.
- Effect on Other Documents**
- This material supersedes IRM 4.23.20, dated February 9, 2017. This IRM incorporates IGM SBSE-04-1219-0048, *Interim Guidance on IRM Address Changes*, issued December 12, 2019.
- Audience**
- This section contains instructions and guidelines for CETO TEs and their managers for the VCSP program.
- Effective Date**
- (06-22-2020)
- Wanda R. Griffin
Director, Specialty Examination Policy
Small Business/Self-Employed Division
- 4.23.20.1 (06-22-2020)**
- Program Scope and Objectives**
- (1) **Purpose:** This IRM section gives an overview of the VCSP program. It also sets guidelines and duties for Centralized Employment Tax Operations (CETO), tax examiners (TEs), and VCSP Assignment Desk tax examiners (VCSP Assignment Desks) to complete the compliance review of Form 8952, *Application for Voluntary Classification Settlement Program (VCSP)*, and execute the VCSP agreement.
 - (2) **Audience:** CETO TEs and their managers for the VCSP program.
 - (3) **Policy Owner:** Director, Specialty Examination Policy of the Small Business/ Self-Employed Division.
 - (4) **Program Owner:** Program Manager - Employment Tax Policy. The mission of Employment Tax Policy is to establish effective policies and procedures, to support compliance with employment tax laws.
 - (5) **Primary Stakeholders:**

Affiliated Groups

- 4.23.20.7.7

Guidance Concerning Collection Activity

- 4.23.20.7.7.1

Indications of Potential Collection Involvement

- 4.23.20.7.7.2

Accounts in Status 03 or 26

- 4.23.20.7.7.3

Accounts in Status 22 or 24

- 4.23.20.8

NAICS Codes

- 4.23.20.9

Case File Documentation and Assembly

- 4.23.20.10

Special Processing Cases

- 4.23.20.11

Indian Tribal Government Procedures

- 4.23.20.12

Conclusion of Review

- 4.23.20.13

Accepted Application

- 4.23.20.13.1

Signed Agreement – Review for Acceptance

- 4.23.20.13.2

Accepted Agreements

- 4.23.20.13.2.1

Processing VCSP Payments

- 4.23.20.13.3

Unaccepted Agreements

- 4.23.20.14

Monitoring Closing

- Employment Tax – Workload Selection and Delivery (SE:S:E:HQ:ECS:S:ETEGCS:EWSD)
- Specialty Examination - Employment Tax (SE:S:E:SE:ET)
- Specialty Examination Policy, Employment Tax Policy (SE:S:E:HQ:SP:ETP)
- Other areas that are affected by these policies and procedures include Appeals, Counsel, SB/SE Examination, LB&I, and TE/GE

4.23.20.1.1 (06-22-2020)

Background

- (1) The Voluntary Classification Settlement Program (VCSP) is an optional program that provides taxpayers that meet the program's criteria with an opportunity to voluntarily reclassify their workers as employees. The settlement offers limited federal employment tax liability for past non-employee treatment. This program is meant to be easy, quick, and inclusive for taxpayers to provide for future compliance with employment tax laws, while remaining consistent with the program's objectives and constraints.
- (2) VCSP allows taxpayers to voluntarily reclassify workers as employees for federal employment tax purposes. It gives eligible taxpayers that agree to prospectively treat workers as employees' relief from a federal employment tax audit for past years for those workers being reclassified and gives them partial relief from federal employment taxes owed related to those workers. To participate, the taxpayer must submit an application to participate in the program, meet certain eligibility requirements, and enter into a closing agreement with the IRS.

4.23.20.1.2 (06-22-2020)

Authority

- (1) Employment tax provisions are found at Internal Revenue Code Subtitle C:
 - Chapter 21, Federal Insurance Contributions Act (FICA),
 - Chapter 22, Railroad Retirement Tax Act (RRTA),
 - Chapter 23, Federal Unemployment Tax Act (FUTA),
 - Chapter 24, Federal Income Tax Withholding (FITW), and
 - Chapter 25, General Provisions relating to employment taxes and collection of income taxes at source.
- (2) The Employment Tax Program is governed by Policy Statements and other internal guidance that apply to all Service personnel regardless of operating division. The Policy Statements found in IRM 1.2.1, *Servicewide Policies and Authorities, Policies of the Internal Revenue Service* apply to all employment tax issues and examinations. Examiners should review these Policy Statements to properly perform their examination duties.
- (3) A website, *Delegation Orders by Process*, located at <https://www.irs.gov/uac/delegation-orders-by-process1> summarizes data contained in the applicable IRM sections under IRM 1.2, relating to Delegation Orders, in a single, electronic source.
- (4) IRM 4.23 provides Servicewide instructions for all operating divisions with employees involved with the correct filing, reporting, and payment of employment taxes. IRM 4.23 serves as the foundation for consistent administration of employment taxes by various IRS operating divisions. By providing one source of authority for all operating divisions, the Service greatly reduces philosophical and procedural inconsistencies.

Agreement-Post Assessment

- 4.23.20.15 [Timing of Actions, Deadlines and Follow-Up](#)
- 4.23.20.16 [Unique Situations and Resolutions](#)
- Exhibit 4.23.20-1 [Program Roles](#)

4.23.20.1.3 (06-22-2020)

Roles and Responsibilities

- (1) Director, Specialty Examination Policy, is responsible for the procedures and updates addressed in this IRM.
- (2) Director, Specialty Examination, is responsible for examination operational compliance.
- (3) Chief, Employment Tax Examination, is responsible for ensuring general information about basic employment tax examiner responsibilities.

4.23.20.1.3.1 (06-22-2020)

Program Roles

- (1) IRS Small Business/Self Employed (SB/SE), Specialty Examination Policy, Employment Tax, developed the VCSP program. Employees from these functions play a role:
 - SB/SE Specialty Examination Policy: Employment Tax Policy (SB/SE ET Policy) oversees the program and provides technical guidance
 - SB/SE Specialty Tax: Employment Tax Examination has oversight of the Centralized Employment Tax Operations (CETO), site of the program
 - The Offices of Tax Exempt & Government Entities Division Counsel (TEGEDC) and Associate Chief Counsel Employee Benefits, Exempt Organizations, and Employment Taxes (EEE), specifically Employment Tax Branch 2, provide legal guidance.

Note: See new *Exhibit 4.23.20-1, Program Roles*, for a listing of employees directly involved with working the VCSP applications.

- (2) CETO Management provides oversight of the program, ensures all employees working VCSP are adequately trained, and executes all signed agreements after review of the case file. Manager will close the file within RCCMS and forward the paper case file to the VCSP Assignment Desk for final closing actions.

Note: During a temporary absence of the employee assigned the VCSP Assignment Desk role, CETO Management is responsible for carrying out the VCSP Assignment Desk duties listed above, or for delegation of those duties.

4.23.20.1.4 (06-22-2020)

Program Objectives and Review

- (1) Program Goals: The processes and procedures provided in this IRM are consistent with the objectives or goals for Employment Tax - Examination that are addressed in IRM 1.1.16.3.3.3, *Employment Tax Examination* and for Employment Tax Policy, found in IRM 1.1.16.3.5.2.2, *Employment Tax Policy*.
- (2) Annual Review: Employment Tax Policy - Program Manager, is responsible for reviewing the information in this IRM annually to ensure accuracy and promote consistent tax administration.

4.23.20.1.4.1 (06-22-2020)

Program Reports

- (1) Program Reports: Information regarding the reporting of program objectives are included on, but not limited to, the following reports:
 - Headquarters Examination Monthly Briefing,

- Program Manager Monthly Briefing,
- Examination Operational Review, and
- Business Performance Reviews.

4.23.20.1.5 (06-22-2020)**Acronyms**

- (1) The following table lists commonly used acronyms and their definitions:

Acronym	Definition
ACS	Automatic Collection System
AMDISA	IDRS Command Code to request information on current audits
CAF	Centralized Authorization File
CETO	Centralized Employment Tax Operations
CSP	Classification Settlement Program
EIN	Employer Identification Number
ET-WSD	Employment Tax – Workload Selection and Delivery
GECU	Government Entities Compliance Unit
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
LB&I	Large Business & International
MF STAT	Master File Status Codes
MFT	Master File Tax
NAICS	North American Industry Classification Code System
POA	Power of Attorney
RCCMS	Reporting Compliance Case Management System
RO	Revenue Officer
SB/SE	Small Business/Self Employed
SERP	Servicewide Electronic Research Program
TDA	Taxpayer Delinquent Account
TDI	Tax Delinquent Investigation
TE	Tax Examiner
VCSP	Voluntary Classification Settlement Program

4.23.20.1.6 (06-22-2020)**Related Resources**

- (1) Helpful information sources include:
- The SB/SE Knowledge Management home page for Employment Taxes <https://portal.ds.irsnet.gov/sites/VL014/Pages/default.aspx>.
 - The Specialist Referral System (SRS) home page: <https://srs.web.irs.gov/>.
 - A list of SB/SE Employment Tax Policy Analysts, their contact information and program assignments, are found at: Policy Analysts.
 - The web site "Examining an Employment Tax Case" at: [https://portal.ds.irsnet.gov/sites/vl014/pages/home.aspx?bookshelf=examining an employment tax case](https://portal.ds.irsnet.gov/sites/vl014/pages/home.aspx?bookshelf=examining%20an%20employment%20tax%20case).
 - IRM 4.23: IRM sections owned by SB/SE Specialty Examination Policy. Provides Servicewide instructions for employees of all operating divisions

involved with the correct filing, reporting, and payment of employment taxes. IRM 4.23 serves as the foundation for consistent administration of employment taxes by various IRS operating divisions.

- (2) The Taxpayer Advocate Service (TAS) is an independent organization within the IRS whose employees assist taxpayers experiencing economic harm, who are seeking help in resolving tax problems that have not been resolved through normal procedures, or who believe that an IRS system or procedure is not working as it should. Pub 1546, *Taxpayer Advocate Service - We Are Here to Help You*, provides contact and additional information. The program is designed to alleviate taxpayer hardships that arise from systemic problems or the application of the Internal Revenue Code. In addition, see IRM 13.1.7, *Taxpayer Advocate Service (TAS) Case Criteria*, and IRM 13.1.19, *TAS Operations Assistance Request (OAR) Process*, for additional information.

4.23.20.2 (06-22-2020)

Applications to the Voluntary Classification Settlement Program (VCSP)

- (1) Applications are submitted using Form 8952, *Application for Voluntary Classification Settlement Program (VCSP)*, and will not be shared with any other compliance organization within the IRS, (other than with those in SB/SE Employment Tax who administer the VCSP program), nor with any other federal, state, or local government entity. This is to protect taxpayers from being targeted for audits simply because they applied for this program. Follow-up reviews will be done on all executed agreements to ensure continued compliance. Employment tax audits MAY be conducted if it appears the taxpayer is not in compliance with the signed agreement.
- (2) Applications must be worked in a timely manner to allow taxpayers to meet their request to reclassify workers as employees. Generally, applications should request a starting date at least 60 days in the future to allow the IRS time to receive and review the application to determine eligibility.

4.23.20.3 (06-22-2020)

Location of VCSP Files

- (1) All applications are logged into the SharePoint VCSP Application Log by the VCSP Assignment Desk. This log will be maintained to show:
 - All applications received,
 - Date and reason application is rejected,
 - Date and name of TE to whom the application is assigned to review, and
 - Date and final disposition of case file.
- (2) The SharePoint VCSP Application Log is maintained on SharePoint and accessible to the Analyst and CETO Management at all times. VCSP Assignment Desk management is responsible for routinely reviewing and monitoring this log.
- (3) RCCMS is used to house all accepted VCSP applications. The VCSP Assignment Desk will enter the accepted VCSP application into RCCMS, ensure the case establishes correctly, upload all necessary documents, assign the case to a TE in RCCMS, and forward the paper case file to the TE.
- (4) When the TE has completed review of the application, the TE will:
 - a. Make copies of the signed agreement, original application, and activity record.

- b. Ship the originals to Employment Tax – Workload Selection and Delivery (ET-WSD) at
Internal Revenue Service
7940 Kentucky Drive, MS 5702A
Florence KY 41042
 - c. File the copies in the case file.
 - d. Forward both the paper case file and the ET-WSD packet to the TE Manager for final review, execution of the agreement, and closure in RCCMS.
- (5) Upon completion of the final closure in RCCMS, the paper case file and the ET-WSD packet will be returned to the VCSP Assignment Desk. The VCSP Assignment Desk will:
- a. Update the SharePoint VCSP Application Log with the final disposition of the case
 - b. File the paper case file in its appropriate location in the CETO unit
 - c. Mail the ET-WSD originals packet to Employment Tax – Workload Selection and Delivery (ET-WSD) in Florence, KY
 - d. File the copy in CETO.
- Note:** For a TE/GE taxpayer, the paper case file is sent to the Government Entities Compliance Unit (GECU) in Ogden, UT.

4.23.20.3.1 (06-22-2020)

Naming Convention in RCCMS

- (1) To facilitate review, all documents located in the paper case file must be saved to the appropriate taxpayer within RCCMS.
- (2) Each document saved within RCCMS will use the following naming convention:
 - 100 series: Application and attachments
 - 200 series: Correspondence sent to the taxpayer
 - 300 series: Correspondence and all attachments received from the taxpayer
 - 400 series: Workpapers and IDRS prints
 - 500 series: Agreement

Each document name will contain a description of the file content.

- (3) The following example is for taxpayer Birch, Inc. (EIN 00-XXXXXXX, Name Control "BIRC"). The TE made phone contact with the taxpayer to secure copies of Form(s) 1099 and the application met all other criteria. The TE prepared and issued the agreement to the taxpayer, which the taxpayer signed and returned with the proper payment.

Note: The "XXXX" noted below should be replaced by the last 4 digits of the EIN and name control. The balance of the file name should be as descriptive as possible but not overly long. For example:

- 400.VCSP.INOLES.XXXBIRC
- 400.VCSP.AMDISA.XXXBIRC
- 400.VCSP.WEBSITE.XXXBIRC

- 100.VCSP.F8952.XXXBIRC (file will include all attachments to the Form 8952)
- 300.VCSP.F1099.XXXBIRC
- 200.VCSP.L5220.XXXBIRC (file can include the attached agreement)
- 400.VCSP.F9984.XXXBIRC
- 400.VCSP.WP130.XXXBIRC

- 400.VCSP.ZZZZ.XXXXBIRC (include all IDRS prints or other documents needed to support the findings as separate 400 series files, where "ZZZZ" represents the IDRS command code, e.g., AMDISA)
 - 500.VCSP.Agreement.XXXXBIRC (not necessary if the agreement was attached to the Letter 5220 above)
 - 500.VCSP.SignedAgreement.XXXXBIRC
 - 300.VCSP.ScannedPayment.XXXXBIRC
 - 400.VCSP.F3244.XXXXBIRC
- (4) Each case file will be different and some will require more documents than others. The TE must use the naming convention to make finding documents easier and to assist in the review of the case.

4.23.20.4 (06-22-2020)

Receipt and Control of Application

- (1) VCSP applications are generally received in CETO through the Detroit office mail room. VCSP applications may be accepted by fax.
- (2) CETO Clerical staff processing new applications will:
 - a. Date stamp the front of Form 8952 with date of receipt, ensuring the stamp does not cover taxpayer information.
 - b. Attach envelope to back of Form 8952.
 - c. Stamp the check "non-negotiable" if payment is received with the application.
 - d. Forward the entire application package to the VCSP Assignment Desk

4.23.20.4.1 (06-22-2020)

Initial Review

- (1) Upon receipt of the application package, the VCSP Assignment Desk will enter the information into the SharePoint VCSP Application Log and perform a review of the Form 8952 to ensure it is complete and processable. See *IRM 4.23.20.4.2* to determine if the application is complete. The VCSP Assignment Desk will document all findings and actions taken on Form 9984, *Examining Officer's Activity Record*, for all VCSP applications received, whether an application is complete or incomplete.
- (2) If a check was erroneously submitted with the initial application, the VCSP Assignment Desk will use Letter 5210, *Voluntary Classification Settlement Program Receipt Payment Return*, to return the check to the taxpayer.

4.23.20.4.2 (06-22-2020)

Complete Applications

- (1) Only Forms 8952 that provide sufficient information to establish a case will be accepted by CETO. The VCSP Assignment Desk will review the application and accept only those that:
 - Provide a name on Line 1 of Form 8952 that matches IRS information. If the name entered on Form 8952 matches the first or second name line from the INOLES, the name is acceptable.
 - Provide an EIN on Line 2 of Form 8952 that matches IRS information.
 - Provide a valid date for when the worker reclassification will be effective. This should be the beginning date of the employment tax period (calendar

year or quarter) for which the taxpayer wants to begin treating the class or classes or workers as employees. See *IRM 4.23.20.5, Valid Effective Date - General*, to determine what constitutes a valid effective date.

- Provide a signature by an authorized person as defined in the *Instructions for Form 8952* under "Who Must Sign." The Form 8952 must be signed by the taxpayer; Form 8952 cannot be signed by a Power of Attorney.
 - Include an attachment listing names and Social Security Numbers (SSNs) for all workers who are to be reclassified and who are included in the number entered on the Form 8952, Line 15.
- (2) When the VCSP Assignment Desk determines the application is complete, they will:
- Establish case in RCCMS. Refer to the VCSP Desk Guide for step-by-step instructions on establishing a VCSP case within RCCMS.
Note: RCCMS requires a valid North American Industry Classification Code System (NAICS) code to allow the case to properly establish. See *IRM 4.23.20.8* for information on determining the code to use.
 - Download Form 9984, *Examining Officer's Activity Record* (activity record), into RCCMS. A paper copy of this document should also be placed in the file. The VCSP Assignment Desk, the TE, and manager must document all actions taken in the activity record.
 - Scan all documents, forms, and letters and upload into the electronic case established in RCCMS. The files will be saved to the newly established case using the Naming Convention outlined in *IRM 4.23.20.3.1*.
 - Assign the case in RCCMS to the appropriate TE.
 - Update the SharePoint VCSP Application Log with the TE name and date assigned.
 - Prepare a paper case file with a folder labeled with the taxpayer name and EIN and give the case file to the assigned TE.

4.23.20.4.3 (06-22-2020)

Incomplete Applications

- (1) When the VCSP Assignment Desk determines that Form 8952 is incomplete (does not meet one of the criteria listed in *IRM 4.23.20.4.2(1)*), they will make contact with the taxpayer in an attempt to obtain correct information or a corrected application. In most cases the VCSP Assignment Desk can make changes to the information contained on the Form 8952 with verbal consent from the taxpayer unless the form is not properly signed. If the form is not signed by an authorized person, a corrected Form 8952 must be obtained. See *IRM 4.23.20.6.2* for information on making changes to Form 8952.
- (2) If the VCSP Assignment Desk obtains information that makes the Form 8952 complete or they receive a corrected application from the taxpayer, they will follow the steps outlined in *IRM 4.23.20.4.2(2)*. If corrected information is not received, the VCSP Assignment Desk will prepare Letter 5252, *Essentials Rejection Letter*, marking the box indicating the reason the application cannot be processed and mail it to the taxpayer with the original Form 8952 attached. Enter the date rejected and a short reason for the rejection into the SharePoint VCSP Application Log.
- (3) Incomplete applications will not be entered into RCCMS, but a copy will be maintained in a paper case file and filed with rejected applications. An activity record should be maintained in the paper case file to document all actions taken and the date the Letter 5252 was mailed.

4.23.20.5 (06-22-2020)**Valid Effective Date - General**

- (1) Generally, Form 8952 must contain an effective date at least 60 days from the date the application is received; however, there is one exception to this rule. If the requested effective date is no earlier than the first day of the quarter in which the application is received, it can be accepted with a retroactive date. See *IRM 4.23.20.5.1, Acceptable VCSP Effective Dates*, for additional information.
- (2) If the application contains an effective date that is earlier than the 1st day of the quarter in which the application is received, the VCSP Assignment Desk or TE will contact the taxpayer to determine a valid date.
- (3) If the taxpayer is unwilling to change the effective date, or they cannot be reached by phone, send Letter 5215, *Voluntary Classification Settlement Program Received Retro Rejection*, with the Form 8952 attached requesting a new application with an effective date that is at least 60 days later. A copy of the Form 8952 will be maintained in a paper case file.
- (4) If the taxpayer agrees to change the effective date or a new application is received with a valid date, follow instructions in *IRM 4.23.20.4.2, Complete Applications*.

4.23.20.5.1 (06-22-2020)**Acceptable VCSP Effective Dates**

- (1) VCSP applications may have effective dates as far as a year in advance. For Form 941 quarterly filers, a retroactive effective date before the beginning of the calendar quarter in which the Form 8952 is received is never acceptable. If the taxpayer is a yearly employment tax filer, (i.e., Form 943 agricultural employer, Form 944 required annual filer, or Schedule H, household employer), the effective date can never be before January 1 of the year in which the application is received.

Example: On January 2, 2016, a taxpayer files Form 8952 requesting an effective date of January 1, 2017. Because January 1, 2017 is within one year from the date received, this effective date can be accepted.

Example: On May 1, 2016, a taxpayer files Form 8952 with an effective date of January 1, 2016. Taxpayer files quarterly Forms 941. This is not acceptable because the January 1, 2016 effective date falls earlier than the beginning of the quarter in which the Form 8952 was received. In this example, the earliest acceptable retroactive date is April 1, 2016.

Example: On April 22, 2016, a taxpayer files Form 8952 requesting an effective date of May 30, 2016. While working the application to determine eligibility, it is learned that the taxpayer actually began treating the workers as employees on April 1, 2016. Because the application was received in the same quarter that the reclassification actually occurred, request the taxpayer for permission to change the effective date to April 1, 2016.

Example: On June 23, 2016, a taxpayer files Form 8952 requesting an effective date of January 1, 2016 for his farm workers. He is a Form 943 filer. Since the Form 943 is a yearly employment tax return that is not due until January 31, 2017, the retroactive date of January 1, 2016 is acceptable.

4.23.20.6 (06-22-2020)**Preliminary Review by TE**

- (1) Upon receipt of the case, the TE will review the case file and ensure all documents contained in the paper case file have been uploaded to the RCCMS electronic case

file. If not, the TE will take steps to upload the documents using the naming convention described in *IRM 4.23.20.3.1*.

- (2) The TE will update the case to "12" in RCCMS to show that they have started work on the case.

4.23.20.6.1 (06-22-2020)

Review of Form 8952

- (1) Before assigning a case to a TE, the VCSP Assignment Desk will take steps to ensure the application was complete (no "fatal" errors). It is assumed that any case assigned to the TE from the VCSP Assignment Desk is a complete application that can be worked to determine eligibility.
- (2) The first step taken by the TE is to review the application for accuracy and take steps to get it corrected, if necessary. Upon completion, the TE will begin the eligibility review to make the final determination as to whether or not the taxpayer should be offered a VCSP agreement. Follow paragraphs (3) through (7) to determine if the application is accurate and can be worked to determine eligibility.
- (3) Compare the address on INOLES to the application. If they do not match, the TE will contact the taxpayer to ascertain the correct address. If the Form 8952 is the correct address, the TE will ask the taxpayer if they wish to change the entity address on INOLES to the one reflected on the application. To correct IRS records, send Form 8822, *Change of Address*, to the taxpayer for return to the TE for processing. If the taxpayer does not want to change the address on IRS records, the TE will document that the taxpayer was asked and record their response on the activity record.
- (4) Ensure that "Part II - Contact Person" on the Form 8952 is complete with name, title, and contact information of the person the taxpayer wants CETO to work with during the VCSP process. See *Instructions for Form 8952* for more information on the contact person. This contact person may be a designated POA. If so, the TE should verify that the Form 2848, *Power of Attorney and Declaration of Representative*, has been properly completed. If not, the TE should not discuss any issues with the POA until corrected. See *IRM 4.23.20.6.3* for specific steps when reviewing the Form 2848.
- (5) Review "Part III - General Information about Workers to Be Reclassified" :
 - Line 15: The total number of workers to be reclassified should match the number of names/SSNs provided with the application. If they do not, the TE will contact the taxpayer and address the discrepancy. If the taxpayer does not resolve the discrepancy, reject the application. See *IRM 4.23.20.13.3* for processing rejected application.
 - Line 16: The job title is an appropriate description of the class or classes of workers to be reclassified. Entries should be descriptive enough to determine the type of worker or workers, such as "secretary" , "sales" , "administrative" , "maintenance" , etc. Simply entering "independent contractors" is unacceptable.
 - Line 17: A valid date is reflected. Generally, the VCSP provides taxpayers an opportunity to reclassify workers for future tax periods; however, there are certain exceptions. See *IRM 4.23.20.5, Valid Effective Date - General*.
- (6) Review "Part IV - Payment Calculation Using Section 3509(a) Rates" to ensure the amount on line 24 is correct. Contact the taxpayer to resolve any discrepancies.
- (7) Review "Part V - Taxpayer Representations" for proper signature. Eligible signers are described on page 2 in the *Instructions for Form 8952* under "Who Must Sign."

Note: Form 8952 cannot be signed by a POA. If the signer is not the taxpayer, make contact with the person listed in Part II to request a new Form 8952 signed by the taxpayer.

- (8) Form 8952 cannot be used for any issue other than the VCSP process. If the taxpayer asks for other uses or attaches other forms (e.g., Form 941, Form 941c, Form 941-X, etc.), contact the taxpayer and explain that the VCSP program does not address these matters. The taxpayer must re-submit the Form 8952 deleting the references or attachments relating to other issues.

4.23.20.6.2 (06-22-2020)

Making Changes to Form 8952

- (1) Changes to any field on Form 8952 may be made by CETO with the taxpayer's or the properly designated POA's verbal consent, except when the Form 8952 is not signed by an authorized person. In those situations, the application must be resubmitted with a valid signature. These corrected forms can be resubmitted via fax.
- (2) Any change to Form 8952 that is made with verbal consent will be noted, initialed, and dated on the form by the CETO employee making the correction. The action will also be documented in the activity record with the name and title of the person giving verbal consent, the date, what line(s) are being changed and why.
- (3) When contact with the taxpayer cannot be made via telephone to obtain verbal consent to change appropriate information on the Form 8952, Letter 5205, *Voluntary Classification Settlement Program Information Request*, will be mailed to the taxpayer with the appropriate block(s) completed for the necessary information.

4.23.20.6.3 (06-22-2020)

Review of Form 2848

- (1) Review Form 2848 for accuracy and to ensure it is solely being submitted for the VCSP program.
- (2) Review "Part I - Power of Attorney" to ensure that:
 - Line 1: Reflects the same taxpayer name, address, and EIN as on Form 8952.
 - Line 2: Matches Part II of Form 8952 if that section was completed. If the taxpayer wants the POA to receive notices and communications, the box in the "Name and address" field must be checked.
 - Line 3: All columns are blank except for "Description of Matter." This block must contain only "Voluntary Classification Settlement Program" or "VCSP". The other two columns ("Tax Form Number" and "Year(s) or Period(s)") must be left blank.
 - Line 4: Must be checked. If not checked, contact the POA and obtain verbal permission to check this box. When making the change, document this permission and action on the Activity Record. Checking the box means the Form 2848 applies only to VCSP and will not be sent to any Centralized Authorization File (CAF) unit.

Caution: Line 4 is the **only** line on the Form 2848 that can be changed with verbal consent. Other errors found on the Form 2848 will require the form to be corrected and resubmitted by the taxpayer.
 - Line 7: Signed and dated by the taxpayer.

- (3) Ensure that in "Part II Declaration of Representative," each POA named on the Form 2848 completes and signs in the designated area.
- (4) Form 2848 must designate an individual, not a firm, as POA.
- (5) **Do NOT fax Forms 2848 to the CAF unit.** These documents are for the VCSP application process **only** and are not recorded on the IRS systems. The document should be scanned and loaded into RCCMS and the hard copy maintained in the case file.
- (6) All communications, notices, and correspondence must be sent to a valid POA with a copy to the taxpayer.
- (7) Form 8821, *Tax Information Authorization*, cannot be used to designate a representative for the VCSP process since it does not authorize the representative to advocate the taxpayer's position with respect to federal tax laws, to execute waivers, consents, or closing agreement or to otherwise represent a taxpayer before the IRS.

4.23.20.6.4 (06-22-2020)

Review of List of Workers

- (1) Taxpayers are required to provide a list containing the names and SSNs of workers that they want to reclassify when submitting the application. When the list provided does not contain names and SSNs of the individuals, the TE will resolve the omission with the taxpayer. In some instances, the omission may result in the application being rejected.
- (2) If Employer Identification Numbers (EINs) are provided instead of SSNs, this indicates the worker is holding themselves out as a business entity (i.e., partnership, sole proprietorship or corporation). If an SSN is not available, the TE must inform the taxpayer that a business entity cannot be an employee. If the taxpayer meets all other eligibility requirements and is given an agreement, they will be required to treat the worker as an employee, withhold all appropriate taxes, and file a Form W-2 on the worker. If no SSN is provided before the Form W-2 is due to be filed, the Form W-2 will be filed with all zeroes as the SSN, which may result in contact from the IRS or SSA.
- (3) If the list of workers contains names and either an Individual Taxpayer Identification Number (ITIN) or no Taxpayer Identification Number (TIN), the TE will contact the taxpayer to try to obtain an SSN for the worker. If the taxpayer does not provide an SSN, the TE will tell the taxpayer that, if they meet the other eligibility requirements for a VCSP agreement, they will be required to treat the worker as an employee, withhold all appropriate taxes, and file a Form W-2 on the worker. If no SSN is provided before the Form W-2 is due to be filed, the Form W-2 will be filed with all zeroes as the SSN which may result in contact from the IRS or SSA.

4.23.20.7 (06-22-2020)

Eligibility Review – General

- (1) Once the application has been determined to be accurate, the TE will begin review to determine if the taxpayer meets the eligibility criteria for the VCSP program.
- (2) To be eligible for a VCSP agreement, the taxpayer:
 - Wants to voluntarily reclassify certain workers as employees for federal income tax withholding, FICA and FUTA taxes for future tax periods.
 - Cannot include ineligible workers on the application. See *IRM 4.23.20.7.1*.

- Cannot be under a current employment tax audit for either the applicant or any member of the taxpayer's affiliated group, as listed on Form 8952, lines 11 and 12. See *IRM 4.23.20.7.2* for steps used to determine if a current employment tax audit is opened. See *IRM 4.23.20.7.6* for guidance regarding affiliated groups.
- Cannot have been the subject of a previous IRS employment tax audit concerning the classification of the workers covered by the application or, if previously examined, is in compliance with the prior audit determination. See *IRM 4.23.20.7.3* for additional information on how to determine if a taxpayer was the subject of a previous employment tax audit.
- Cannot be under (or have been under) any court proceedings with respect to the classification of the workers listed on the VCSP application. See *IRM 4.23.20.7.4* for more information on how to make this determination and what steps are necessary to verify eligibility with the VCSP Program.
- Has consistently been treating the workers to be reclassified as independent contractors or other nonemployees, including having filed all required Forms 1099 for the workers to be reclassified under the VCSP for the previous three years, or for all full calendar years in existence if less than three. See *IRM 4.23.20.7.5*.
- Must not be under investigation for any tax module (including a member of the taxpayer's affiliated group, as listed on Form 8952, lines 11 and 12) by Criminal Investigation (CI) as indicated by a "-Z" freeze on the BMFOLI.
- Must not be working with IRS Collection to resolve a worker classification dispute for the same class of workers covered on the VCSP application. See *IRM 4.23.20.7.7* for steps to use to determine collection involvement.
- Cannot be under a current audit by the Department of Labor or other State Agency with regard to worker classification. If previously audited by the Department of Labor or State Agency, must be in compliance with the audit determination.

Note: The TE will not need to conduct research to verify whether the taxpayer has been or is under one of these audits, but rather will accept the signature of the signed Form 8952 and *VCSP Closing Agreement* as the taxpayer's assertion that neither of these have occurred.

(3) These situations do not disqualify an applicant for VCSP:

- If all other requirements are met, exempt organizations and government entities are eligible for a VCSP.
- An IRS determination for Form SS-8, *Determination of Worker Status*. The receipt of an SS-8 Determination will not disqualify the taxpayer from applying for a VCSP agreement since an SS-8 Determination is not considered an examination.
- The BMFOLZ shows a previous employment tax audit closed using a non-examined disposal code. See the table in *IRM 4.23.20.7.3* for a list of examined disposal codes that will affect whether the previous audit has an impact on the taxpayer's eligibility for the program. Disposal codes other than those listed in the table will not affect the VCSP determination.

4.23.20.7.1 (06-22-2020)

VCSP Ineligible Workers

- (1) The following workers may be excluded from the VCSP Program. If any of these workers are listed, the TE will discuss the issue with the VCSP Assignment Desk or manager to determine if additional information is necessary.

- Statutory Non-Employees, such as Direct Sellers, Qualified Companion Sitters and Licensed Real Estate Agents. See IRM 4.23.5.7.4, *Statutory Non-Employees*.
 - Certain State and Local Government workers that are covered under a Section 218 Agreement. See IRM 4.23.20.9, *Special Processing Cases*, for specific information on how to make this determination.
- (2) If the TE is uncertain whether a class of worker can be included in the VCSP application, they will contact their manager or the Policy Analyst assigned the VCSP program to discuss the situation.
 - (3) The application will be rejected using Letter 5225, *Voluntary Classification Settlement Program General Rejection*, if it contains an ineligible worker and a new list/application cannot be obtained from the taxpayer. In the "Other" section, indicate the application is being rejected because the request includes an ineligible class of workers and list the specific class of worker that excludes the application from the program.

4.23.20.7.2 (06-22-2020)

Determining if Taxpayer is under an Employment Tax Audit

- (1) IDRS command codes BMFOLI and AMDISA will be used to determine if the taxpayer, or a member of the taxpayer’s affiliated group, is under an employment tax audit. If BMFOLI reflects an "-L" freeze for any **employment tax** master file tax (MFT) code for the taxpayer or a member of their affiliated group, use command code AMDISA to determine the status of the examination(s). See (4) to determine the appropriate steps.
- (2) Research the following MFT codes to determine if there is an employment tax audit ("-L" Freeze):
 - MFT 01 - Form 941 , *Employer's Quarterly Federal Tax Return*
 - MFT 09 - Form CT-1 , *Employer's Annual Railroad Retirement Tax Return*
 - MFT 10 - Form 940 , *Employer's Annual Tax Return for Agricultural Employees*
 - MFT 11 - Form 943 , *Employer's Annual Tax Return for Agricultural Employees*
 - MFT 14 - Form 944 , *Employer's ANNUAL Federal Tax Return*
 - MFT 16 - Form 945 , *Annual Return of Withheld Federal Income Tax*

Note: An "-L" freeze audit indicator on any other MFT module will not affect the VCSP request.
- (3) The following table provides actions based on the status code reflected on the AMDISA:

If AMDISA shows Status Code...	Then
6 or 8 for taxpayer or affiliated group	Proceed with VCSP

If AMDISA shows Status Code...	Then
10 for taxpayer	Contact the VCSP Assignment Desk or your manager. Coordination with the group manager where the employment tax case is assigned is required to determine whether the application will be pursued or not. Note: Find the group manager by EGC using the ET group listing at the following site: http://mysbse.web.irs.gov/examination/specialty/et/contacts/29634.as
10 for a member of the affiliated group	Ask your manager to contact the appropriate manager to see if they object allowing a VCSP for the applicant. Refer to <i>IRM 4.23.20.7.6, Guidance Regarding Affiliated Groups</i> .
12 to 18	The taxpayer doesn't qualify for VCSP.
12 to 18 for a member of an affiliated group	Ask your manager to contact the appropriate group manager to discuss whether allowing the VCSP will affect the examination of the affiliated group. Refer to <i>IRM 4.23.20.7.6, Guidance Regarding Affiliated Groups</i> .
Above 18	Case has been closed. Contact the VCSP Assignment Desk or your manager. The group closing the case will be contacted to determine the issues that were addressed during the examination. If the issues did not include work classification, proceed with the eligibility determination.

4.23.20.7.3 (06-22-2020)

Prior Audits

- (1) Research command code BMFOLZ to determine if there was any previous employment tax audit(s) for the taxpayer. Use results only for the MFT codes listed in *IRM 4.23.20.7.2(2)* to make this determination. Results under any other MFT code will not affect the VCSP application. Research of any affiliated group is not necessary.
- (2) Use the following table to determine what steps to take when a previous employment tax audit for the taxpayer is indicated on BMFOLZ:

Step	Action	Result	Explanation	VCSP Determination
1	Check BMFOLZ for prior audit history	No prior audit history or prior audit history on non-ET modules	No Explanation Needed	Does not affect VCSP eligibility

Step	Action	Result	Explanation	VCSP Determination
		Prior Audit of any ET return (MFT 01, 09, 10, 11, 14 or 16)	No Explanation Needed	Go to Step 2
2	Determine Disposal Code on prior ET audit	Disposal Code 01	Exam was closed a no-change with adjustments	Does not affect VCSP eligibility
		Disposal Code 02	Exam was closed a no-change	Does not affect VCSP eligibility
		Disposal Code 03/04	Exam was closed agreed	Go to Step 3
		Disposal Code 07	Case was closed to Appeals	Go to Step 4
		Disposal Code 08	Exam was closed unagreed	Go to Step 5
		Disposal Code 10	Exam was closed as unagreed, no response to a Letter 3523, <i>Notice of Employment Tax Determination Under IRC Section 7436</i> . This indicates worker classification may have been an issue.	Go to Step 5
		Disposal Code 11	Taxpayer filed a petition in response to the Letter 3523. The case could either be resolved or still pending in Tax Court	Go to Step 5
		Any other Disposal Codes, such as 31, 32, 36, 37 (not all inclusive)	Case was closed as a survey or with a non-examined disposal code	Does not affect VCSP eligibility

Step	Action	Result	Explanation	VCSP Determination
3	Refer case to Manager or VCSP Assignment Desk to contact Employment Tax-Workload Selection and Delivery (ET-WSD) to check the Classification Settlement Program (CSP) list for a match.	CSP agreement involving the same class of workers found. NOTE: A CSP is a closing agreement entered into by the taxpayer during an audit when they agree with the examiner's reclassification of workers.	Taxpayer has already agreed to treat the workers as employees and should be complying with the CSP agreement	Taxpayer is not eligible for a VCSP agreement
		CSP agreement involving a different class of worker	No Explanation Needed	Does not affect VCSP eligibility
		No CSP agreement found	No Explanation Needed	Go to Step 5
4	Contact Taxpayer to determine the issues appealed	Issue did not involve worker classification	No Explanation Needed	Does not affect VCSP eligibility
		Issue involved worker classification – but a different class of workers	No Explanation Needed	Does not affect VCSP eligibility
		Issue involved worker classification – same class of workers	No Explanation Needed	Taxpayer is ineligible for VCSP agreement
5	Contact Taxpayer to determine issues worked during examination.	If issue involved worker classification on same class of workers	No Explanation Needed	Taxpayer is not eligible for a VCSP agreement

Step	Action	Result	Explanation	VCSP Determination
		If case involved worker classification on a different class of workers or did not involve worker classification	No Explanation Needed	Does not affect VCSP eligibility

4.23.20.7.4 (06-22-2020)**Guidance Concerning Court Activity**

- (1) Anytime a taxpayer is involved in a court proceeding with the IRS, the TE must determine if that proceeding will make the taxpayer ineligible for a VCSP agreement. If a "W" freeze is present on the BMFOLI for the MFT modules listed in *IRM 4.23.20.7.2(2)*, the TE must use the following table to determine if the taxpayer is eligible for the agreement:

Step	Action	Result	Explanation	VCSP Determination
1	Check BMFOLI for "-W" Freeze code	"-W" freeze code on any employment tax MFT module (01, 09, 10, 11, 14 or 16)	Indicates current litigation involving ET returns	Go to Step 2
		"-W" Freeze code on any other MFT module or no "- W" freeze on any module	Indicates current litigation other than on an employment tax return or no litigation at all	Does not affect VCSP eligibility
2	Contact Taxpayer to determine issue being litigated	Issue involves worker classification	No Explanation Needed	TP is ineligible for VCSP, reject application
		Issue does not involve worker classification	No Explanation Needed	Does not affect VCSP eligibility

4.23.20.7.5 (06-22-2020)**Verification of Filing of Form(s)1099**

- (1) To be eligible for the VCSP agreement, the taxpayer must have filed all **required** Form(s) 1099 for the previous three years (or all years for which the class of worker was being paid by the taxpayer if less than three) for all workers in the class of worker that they are seeking to reclassify.
 - a. The use of the term "worker" on Form 8952 refers to the entire class of worker. Thus, Forms 1099 should have been filed for all individuals in the class (or classes) of workers for the preceding three calendar years, or existence, if less than three.
 - b. The list provided with the application contains current year workers to be reclassified and may not be the same individuals who received Forms 1099 in previous years.
 - c. In some situations, the taxpayer may still be eligible for a VCSP agreement even when Form(s) 1099 were not filed. These exceptions include:
 - The taxpayer did not pay the worker over \$600.00 in the previous year(s).
 - The worker is a household employee.
 - The worker, in previous years, was incorporated (i.e., no Form 1099 is required to be filed.)
- (2) Command Code PMFOLS will be used to determine if the taxpayer filed Form(s) 1099.
- (3) If PMFOLS shows no Form(s) 1099 filed, the TE must take steps to reconcile the discrepancy by:
 - a. Using command code IRPTRI to see if the individual documents are posted to the account for the previous three years (or all years for which the worker was being paid by the taxpayer if less than three). Look for documents issued to the individuals listed on the application to determine eligibility,
 - b. Conducting IDRS research on the individuals listed on the application to determine if they received the appropriate Form 1099 from the taxpayer,
 - c. Conducting research on an affiliated entity's EIN if present to determine if the Form(s) 1099 information was filed by them on behalf of the applicant,
 - d. Conducting research on the SSN of the sole proprietor if the business files as such to see if the Form(s) 1099 were filed using that number, or
 - e. Contacting the taxpayer to ask about Form 1099 compliance and request copies of the Form(s) 1099 for the individuals listed for the previous three years (or all years for which the worker was being paid by the taxpayer if less than three).

Note: When making contact with the taxpayer to resolve an apparent non-filing discrepancy, the TE should ask them to verify how they filed the Form(s) 1099 with the IRS (i.e., e-file or paper submission). If the taxpayer says they filed the form(s) on paper, ask them if they have documentation, such as a certified mail receipt, that verifies filing. If so, they should provide this information when sending copies of the Form(s) 1099.
- (4) If PMFOLS from the three most current available years show Form(s) 1099 were filed, but the number or amounts reflected for the Form(s) don't support the amounts on lines 15 and 18 of Form 8952, the TE will take steps to reconcile this discrepancy by researching IDRS to see if the Form(s) 1099 are available on the IRPTRI command code from the most recently complete calendar year. Previous year's Form(s) 1099 are not available on PMFOLS until sometime during the late spring or early summer of the following year but may be reflected on IRPTRI earlier.
- (5) If neither IRPTRI nor PMFOLS information is available to reconcile the amounts on Form 8952, the TE will contact the taxpayer and ask them to provide copies of the

forms that were filed for the workers being reclassified.

- (6) If the taxpayer does not submit the requested documents or the amounts on the Form 8952 cannot be resolved, reject the application.

4.23.20.7.6 (06-22-2020)

Guidance Regarding Affiliated Groups

- (1) A taxpayer that is a member of an affiliated group per IRC 1504(a) is considered to be under employment tax audit for purposes of the VCSP if any of its members are under employment tax audit (Announcement 2012-45).
- (2) When Form 8952 indicates that there are related subsidiaries (or when INOLES reflects related entities) and IDRS research shows that any of these entities has an open employment tax audit, reject the VCSP application and close the case off RCCMS. (See *IRM 4.23.20.7.7.2* for steps in determining whether or not there is an open employment tax audit).

4.23.20.7.7 (06-22-2020)

Guidance Concerning Collection Activity

- (1) When a taxpayer signs either Form 8952 or the VCSP agreement, they are certifying that there is currently no dispute between the taxpayer and the IRS as to whether the workers involved are non-employees or employees for Federal Employment tax purposes. As discussed previously, any taxpayer (or member of the affiliated group) currently open for an employment tax audit will be rejected.
- (2) A taxpayer may also be in dispute with the IRS concerning worker classification if IRS Collection is working on the case. Collection may be attempting to secure delinquent employment tax returns or taxes owed that relate to a worker classification issue. If research indicates involvement by Collection for the taxpayer making the application, the TE must determine what specific issues are involved before proceeding with the eligibility determination.

4.23.20.7.7.1 (06-22-2020)

Indications of Potential Collection Involvement

- (1) Use IDRS command code BMFOLI for indications of a Taxpayer Delinquent Account (TDA) and/or a Taxpayer Delinquency Investigation (TDI).
- (2) Collection is involved if BMFOLI shows positive amounts under "MOD BAL" for any employment tax return **and** the Master File Status Codes (MF STAT) reflect 03, 22, 24, or 26. If any of these status codes are present, the TE must take steps to determine if continuing with the VCSP will interfere with collection activity. If so, reject the VCSP application.

4.23.20.7.7.2 (06-22-2020)

Accounts in Status 03 or 26

- (1) Status "03" or "26" in the MF Status Code Column on BMFOLI indicates a revenue officer (RO) may be working the account. Contact must be made with the RO to determine what issues are being addressed and to make sure proceeding with the VCSP application review will not jeopardize the collection case.
- (2) Use IDRS command code SUMRY to determine who the account is assigned to. On the first page of the SUMRY screen:
 - "COLL-ASGMT>" followed by an eight-digit number indicates the case is assigned to an RO,

- "COLL-ASGMT>" followed by eight zeros indicates the case is not assigned and the TE can proceed with their review of the application.
- (3) For those accounts assigned to an RO, the TE will use the eight-digit number listed on the SUMRY to identify the actual employee working the case. The TE will:
 - a. Go to Servicewide Electronic Research Program (SERP) at:
<http://serp.enterprise.irs.gov/serphome/who.html>
 - b. Scroll down and click on RO by TSIGN/ZIP/STATE
 - c. In the "Search by" drop-down box, select "Assignment Number" . Enter the first six digits of the eight-digit number and click on "Search" . This will list the assigned RO Collection group's phone and address.
 - (4) The TE will make contact with the assigned RO to discuss the collection issues.
 - If the issue involves worker classification, the TE will explain to the taxpayer that the VCSP application is not eligible for an agreement because of the dispute with collection; the issue needs to be resolved with the RO. Reject the application.
 - If worker classification is not the issue, the TE will continue with their review and determination of eligibility.

4.23.20.7.7.3 (06-22-2020)

Accounts in Status 22 or 24

- (1) Accounts in either Status "22" or "24" indicate the case may be open in ACS.
- (2) Use IDRS command code SUMRY to determine who the account is assigned to in ACS. On the first page of the SUMRY screen look for: "COLL-ASGMT>" . "COLL-ASGMT>" followed by an eight-digit number with "ACS-ACCT" reflected below indicates the case is assigned to a TE in ACS.
- (3) Command Code FIEMP using the employee number will provide the ACS employee's name and phone number if the ACS employee is serviced by the same server as the CETO employee.
- (4) If FIEMP yields "EMPLOYEE NUMBER ENTERED DOES NOT MATCH THE SECURITY FILE" , the command code cannot be used to find the ACS employee. Go to the IDRS Unit and USR Database (IUUD) at: <http://iuud.web.irs.gov>. Enter the first five digits of the employee number in the field "Enter Units 5-Digit IDRS Unit Number" and click "Search" . This will provide the ACS TE's manager's name and telephone number.
- (5) If neither (3) or (4) identify the ACS TE, access the SERP homepage tab "Who/Where" . Click on "ACS Support and Status 22 TAS Liaisons" :
<http://serp.enterprise.irs.gov/databases/who-where.dr/acs-support-status-22-tas-liaisons.html>. Use the drop-down boxes to enter the taxpayer's BOD and state from INOLES. Answer "No" for the question "Does the case have TAS Involvement?" and click "Find" . The result will show the name of the ACS Liaison for the taxpayer's state.
- (6) Call the ACS Support Liaison and give the Liaison the TE's employee number. The liaison will provide the TE's name and phone number.
- (7) Contact the ACS employee to ensure that a VCSP agreement will not affect the collection proceedings. If the issue:
 - Involves worker classification, reject the application. The taxpayer is not eligible for a VCSP agreement because of the dispute with collection; the issue needs to be resolved with ACS.
 - Does not involve worker classification, the TE will continue with their review and determine eligibility.

4.23.20.8 (06-22-2020)**NAICS Codes**

- (1) Every VCSP case is assigned a NAICS code. All open cases must have the code posted in RCCMS.
- (2) To identify a NAICS code, use command code BMFOLE or IMFOLE. If the code cannot be determined, the examiner can research the Internet to see if the taxpayer has a website that describes the business or use the business name to determine the appropriate code.
- (3) Contact the taxpayer only when the appropriate NAICS code cannot be determined.

4.23.20.9 (06-22-2020)**Case File Documentation and Assembly**

- (1) All actions taken on VCSP cases must be fully documented.
 - Form 9984, *Examiner Activity Record*: Used to document all actions taken and contacts made from the time the VCSP Assignment Desk receives the case until it is closed by the manager.
 - Workpaper 130, *Eligibility Research Workpaper*: Used to document findings when making the eligibility determination for the VCSP agreement by walking the TE through the steps necessary to make a proper determination.
 - All workpapers, letters, forms, agreements and miscellaneous documents must be scanned and uploaded to the electronic case file in RCCMS before the case is forwarded to the manager for final closure.
- (2) The TE will photocopy the Executed Agreement, Form 8952, and Activity Record. The originals will be placed in a separate folder for forwarding to ET-WSD. The photocopies will be placed in the paper case file.
- (3) The TE will assemble the paper case file as follows (top to bottom, unless otherwise noted):
 - Activity Record, attached to the left inside of the folder,
 - Executed Agreement,
 - Application with any attachments, including Form 2848,
 - Workpaper 130,
 - IDRS prints and other documents supporting Workpaper 130 (documents should follow order of workpaper sections), and
 - All miscellaneous taxpayer correspondence, with latest documents on top.

4.23.20.10 (06-22-2020)**Special Processing Cases**

- (1) Some applications require special handling when certain employment codes are present on IDRS. A review of the Employment Code on the INOLES will help the TE to determine if one of these situations exists. If any of the following taxpayers submit applications, follow the appropriate procedures when working and processing the case file:
 - "Employment Code I" : Indian Tribal Government (ITG) entity. This case must be handled according to protocols established by ITG. The VCSP Assignment Desk or Manager will contact the SB/SE Employment Tax Policy Analyst to coordinate the case with ITG; the TE will not make direct contact

with the taxpayer without first discussing with the analyst. See *IRM 4.23.20.11, Indian Tribal Government Procedures*, for further information.

- "Employment Code T" : Government Entities with a Section 218 Agreement. Contact the taxpayer to determine if the class of worker being reclassified is covered by the Section 218 Agreement. If so, reject the VCSP application as the class of worker is ineligible for a VCSP. If the class of worker is not covered under the Section 218 agreement, process the case using normal VCSP procedures.

4.23.20.11 (06-22-2020)

Indian Tribal Government Procedures

- (1) If INOLES reflects "Employment Code I" **or** the name of the entity indicates it may be a federally recognized tribe or tribal entity, the taxpayer should not be contacted until the case is discussed with the VCSP Assignment Desk, Manager, and the SB/SE Employment Tax Policy Analyst for the VCSP Program.
- (2) There are three ways to identify potential ITG customers:
 - a. Form 8952 Line 9: Tribal governments or entities should check *Other* and list "Tribal Government" or "Tribally-owned Business" .
 - b. INOLES: BOD code of "TE" and "Employment Code I" .
 - c. The name of the entity may indicate it is an ITG entity.
Note: INOLES may be mis-coded. If the examiner is unsure of whether or not the entity is a tribal government or tribally owned business, contact the analyst for the VCSP Program. The analyst will contact ITG for verification of the status.
- (3) If it is determined the entity is NOT an ITG customer, the TE will document the activity record that ITG verified the taxpayer was determined not to be a tribal entity. The TE will work the case using normal VCSP procedures.
- (4) If it is determined the entity IS an ITG customer, the case file will be transferred to TE/GE to work the VCSP application following instructions provided by the manager or analyst.

4.23.20.12 (06-22-2020)

Conclusion of Review

- (1) There are three possible VCSP outcomes:
 - a. Accepted: The applicant meets the basic eligibility requirements. Prepare the VCSP Agreement using the VCSP Closing Agreement template. Follow *IRM 4.23.20.13, Accepted Application*, to process the agreement.
 - b. Rejected: The applicant doesn't qualify for the VCSP agreement. Prepare Letter 5225, *General Rejection Letter*, and give the case file to the manager for review. The manager will sign the letter and return the case to the TE to upload the signed letter to RCCMS and mail the original to the taxpayer. The case will be closed on RCCMS and the paper file forwarded to the manager for a final review and closure.
 - c. Withdrawn Applications: The applicant withdraws the application. Confirm the withdrawal by preparing Letter 5225 to the taxpayer. Check the "Other" box and enter "This acknowledges receipt of your VCSP application withdrawal." Give the case file to the manager for review. The manager will sign the letter and return the case to the TE to upload the signed letter to RCCMS and mail the original to the taxpayer. The case will be closed on

RCCMS and the paper file forwarded to the manager for a final review and closure.

4.23.20.13 (06-22-2020)

Accepted Application

- (1) If the application is accepted, the TE will phone the taxpayer or taxpayer's representative to notify them they qualify for a VCSP agreement.
- (2) If there is no POA, the TE will prepare and send two copies of the VCSP Closing Agreement (*221.VCSP.Agreement*) using Letter 5220, *Voluntary Classification Settlement Program Agreement Cover Letter*, to the taxpayer for signature. The terms of the agreement cannot be altered.
- (3) If the taxpayer has a POA, the TE will determine if they have been authorized to receive copies of notices and communications (as indicated on the Form 2848, Part 1, Line 2). If the box has not been checked, no documents will be sent to the POA. If the box has been checked, the TE will:
 - Add "cc" and the name of POA at the bottom of the Letter 5220.
 - Make a copy of the Letter 5220 and two copies of the VCSP Closing Agreement and mail to the POA using Letter 5235, *Voluntary Classification Settlement Program POA Cover Letter*.
 - Mail the Letter 5220 and two copies of the VCSP Closing agreement to the taxpayer.
 - Update the case to Status "13" in RCCMS.

4.23.20.13.1 (06-22-2020)

Signed Agreement – Review for Acceptance

- (1) Upon receipt of the signed agreements, ensure:
 - a. Both copies were returned and are signed; either the taxpayer or authorized POA may execute the agreement.
 - b. There are no additions, deletions, or modifications to the agreement. If the agreement was altered, contact the taxpayer or POA to inform them it is not acceptable and that two new agreement forms will be sent. If they refuse to sign the new agreement, reject the application using Letter 5225. In the "Other" box indicate "The application is being rejected because the signed agreement was altered and a new agreement was not signed and returned" and close the case.
 - c. Proper payment was enclosed; payment must be made by a certified or cashier's check. Ensure that the dollar amount of the check matches the agreement. Any issues with the check must be resolved with the taxpayer and appropriate payment received before sending the application to the manager for signature.
- (2) If payment is received in an unacceptable form, i.e., a personal or a business check, it will be stamped as non-negotiable and returned to the taxpayer using Letter 5756, *VCSP Check Rejection*.
- (3) If payment is received for an incorrect amount (does not match agreement or application), the TE will contact the taxpayer to ask them to submit the correct amount and hold the case until proper payment is made. If the taxpayer does not submit a new payment in the proper format, reject the application using Letter 5225 and return the check that was submitted with the letter. Stamp the check as

non-negotiable. In the "Other" box, enter "The application is rejected because no valid payment was received" and close the case.

4.23.20.13.2 (06-22-2020)

Accepted Agreements

- (1) Upon receipt of a signed agreement with the correct payment, the TE will complete the case for final closure.
- (2) After the TE has received verification that payment was processed appropriately (*IRM 4.23.20.13.2.1*), the TE will place the entire paper case file in the group manager's in-box. The group manager will review the case file, sign both copies of the agreement, and return them to the TE.
Note: Only a group manager can execute the VCSP Closing Agreement on behalf of the IRS Commissioner. See *IRM 1.2.2.5.39, Delegation Order 4-50 (Rev. 1) Voluntary Classification Settlement Program (VCSP) Applications*.
- (3) The TE will send one copy of the signed agreement to the taxpayer using Letter 5230, *Voluntary Classification Settlement Program Signed Agreement Return*, and upload copies of both the agreement and letter to RCCMS.
- (4) The TE will prepare the paper case file for final closure, close the case as "accepted" in RCCMS, and forward the paper case file to the manager for final review and closure.
Note: See the desk guide for step-by-step instructions for closing the case in RCCMS.

4.23.20.13.2.1 (06-22-2020)

Processing VCSP Payments

- (1) VCSP payments are posted to the IRS General Fund; as they are not tax assessments, they are not posted to a specific taxpayer module.
- (2) VCSP payments can only be accepted if they match the amount of the agreement and are Cashier's or Certified checks. Incorrect amounts or forms of unacceptable payment will be stamped "non-negotiable" and returned to the taxpayer.
- (3) TEs will complete Form 3244-A, *Payment Posting Voucher - Examination*, attach the check, and forward the package to the clerk for processing using Form 3210, *Document Transmittal*. The TE will make copies of the check and Form 3210 for the case file and upload the documents to RCCMS.
- (4) The clerk will complete Form 3210, attach all Form(s) 3244-A and checks received for the day, and forward to the payment-processing unit for posting.
- (5) The payment-processing unit will return *Part 3 - Acknowledgement Copy* of the Form 3210 used to submit the VCSP check for posting. The Form 3210 will be noted with "CR 6400" next to the check indicating the check has been properly processed to the general fund.

4.23.20.13.3 (06-22-2020)

Unaccepted Agreements

- (1) If the agreement:
 - Is not signed,
 - Has been altered with any additions, deletions or any modifications,
 - Does not include a certified or cashier's check, or
 - Includes a certified or cashier's check for the incorrect amount,

the TE will call the taxpayer to make arrangements to secure a proper agreement and/or payment, and stamp the check as "non-negotiable" and return it to the taxpayer using Letter 5756.

- (2) The TE will allow the taxpayer or representative 30 days after the initial contact to provide the corrected agreement or payment. If the taxpayer or representative fails to respond by the end of the 30 days, the TE will call the taxpayer or POA to make a final request for a correctly signed agreement or payment. An extension of time, up to 30 days, may be provided if requested.
- (3) If the taxpayer has not returned the agreement (or provided full payment) after 30 days (including any extension), the TE will reject the application by sending Letter 5225. In the "Other" section, indicate "The application is being rejected because a properly signed agreement was not received" or "The application is being rejected because proper payment was not received" . Close the case as "Rejected" in RCCMS and forward the case file to the manager for final review and closure.
- (4) If the taxpayer sends in the signed agreements after the case was closed, notify the VCSP Assignment Desk or Manager; the case will need to be retrieved and re-assigned to the TE for resolution.

4.23.20.14 (06-22-2020)

Monitoring Closing Agreement-Post Assessment

- (1) Upon completion of the final closure of the case in RCCMS by the manager, the paper case file will be sent to the VCSP Assignment Desk for final processing. The VCSP Assignment Desk will update the SharePoint VCSP Application Log with the final closure date and disposition type.
- (2) If the file contains a VCSP agreement for an SB/SE or LBI taxpayer, the VCSP Assignment Desk TE will store the paper case file in a file cabinet in CETO. The VCSP Assignment Desk will send the folder with the original Application, executed agreement, and Activity Record, using Form 3210 , to ET-WSD at the following address:
Internal Revenue Service
Stop 5702A/Employment Tax
7940 Kentucky Dr
Florence, KY 41042
Ensure that no documents sent to ET-WSD are stapled together. Each case should have its own folder.
- (3) For TE/GE taxpayers, the original file will be sent using Form 3210 to the Government Entities Compliance Unit (GECU) at the following address:
Internal Revenue Service
Government Entities Compliance Unit
1973 N Rulon White Blvd.
Mail Stop 7700
Ogden, UT 84404
Note: It is not necessary to make a copy of, or maintain, the TEGE case file.
- (4) A scanned copy of the Form 3210 will be sent via secured e-mail to the VCSP Employment Tax Analyst.

4.23.20.15 (06-22-2020)

Timing of Actions, Deadlines and Follow-Up

- (1) VCSP applications are time-sensitive and must be worked expeditiously; there should not be more than two weeks between actions taken on a case.

Note: In most situations, a VCSP case will be completed to the point of issuing the agreement or rejection/withdrawal letter within 30 days of being assigned to a TE.

- (2) A taxpayer failing to respond to a request for information by the due date will be contacted within two weeks of the missed date.
- (3) Any delay in working the case, e.g., sickness, leave, training, etc., will be documented in the activity record.

4.23.20.16 (06-22-2020)

Unique Situations and Resolutions

- (1) The following table addresses unique situations that the TE may encounter. It is not all-inclusive but is provided to address some of the more common questions the TE may have when reviewing the applications for eligibility into the program.

If	And	Then
An individual TP (not a business) submits Form 8952 for household worker	Compensation paid to the worker is a personal, not business expense	Filing Form(s) 1099 is not required to be eligible for VCSP. TP must compute payment based on last full year's compensation paid to worker. If the current year is the first year the worker performed services, admit them into VCSP without a settlement payment assuming they meet all other eligibility requirements. Enter \$0 for the payment amount
Form 8952 is submitted by a business located in a U.S. Territory (including Puerto Rico, U.S. Virgin Islands, American Samoa, Guam, and Commonwealth of the Northern Marianas Islands)	No other extenuating circumstances exist	Applicant has no Form 1099 filing requirements. Admit them into VCSP without a settlement payment. Enter \$0 in space on agreement for payment amount
TP didn't pay independent contractors in tax year prior to filing Form 8952	TP began hiring independent contractors in current year	Applicant has no prior Form 1099 filing requirements. Admit them into VCSP without a settlement payment. Enter \$0 in space on agreement for payment amount.
TP sent original or amended Form(s) 941 with the application	No other extenuating circumstances exist	Mail the original Form(s) to the address based on the instructions on the form.

Exhibit 4.23.20-1 Program Roles

The following employees are directly involved with working the VCSP applications:

Function	Responsibilities
CETO Clerical and Support	Route applications received to the VCSP Assignment Desk
VCSP Assignment Desk	<ul style="list-style-type: none"> Enter all applications into the SharePoint VCSP Application Log Perform initial screening Establish cases in Reporting Compliance Case Management System (RCCMS) and upload necessary documentation Assign cases to the appropriate employee Forward the original executed agreement for compliance monitoring File all SB/SE or LB&I closed case files within the CETO unit Forward all TE/GE cases to the designated unit
CETO Tax Examiners (TEs)	<ul style="list-style-type: none"> Review the application and determine eligibility Prepare case file and document all actions taken Contact the taxpayer or Power of Attorney (POA) to clarify information or request documents needed to determine eligibility Work the case within RCCMS, ensuring all documents are uploaded and a current activity record is maintained Prepare the VCSP agreement for taxpayer and management signatures Make copies of all SB/SE and Large Business & International (LB&I) closed case files with executed agreements

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