

## IRM PROCEDURAL UPDATE

**DATE: 05/04/2015**

**NUMBER: WI-21-0515-0811**

**SUBJECT: Processing Individual, Estate and Trust Carryback Cases Involving Net Investment Income Tax (NIIT)**

**AFFECTED IRM(s)/SUBSECTION(s): 21.5.9.5.14.10**

**CHANGE(s):**

**IRM 21.5.9.5.14.10 Added guidance for processing Net Investment Income Tax Carryback cases.**

1. The Health Care and Education Reconciliation Act of 2010 (PL 111–152) added a Net Investment Income Tax (NIIT) under IRC 1411 of the Internal Revenue Code for tax years 2013 and subsequent. For additional information, see IRM 21.6.4.4.20, *Net Investment Income Tax*; IRM 21.8.1.12.6, *Net Investment Income Tax*; or IRM 21.7.4.4.1.7, *Form 8960, Net Investment Income Tax - Individuals, Estates, and Trusts*.
2. NIIT is not applicable to Corporate Income Tax returns.
3. NIIT is recalculated based on the Carryback of a Net Operating Loss (NOL) on gain years as long as at least part of the NOL deduction is an IRC 1411 amount, as defined in the IRM sections identified in paragraph (1) above.