

INTERIM IRM PROCEDURAL UPDATE

DATE: 11/21/2012

NUMBER: WI-03-1112-1853

SUBJECT: Expanded Letter 4939 Processing, Correcting Exception 2 Paragraph Alpha Characters

AFFECTED IRM(s)/SUBSECTION(s): 3.21.263

CHANGE(s):

IRM 3.21.263.5.2.9(1) and (2), Revised HR1 letter 4939 processing.

1. Applicants that are issued a Suspense Notice (CP 566) are given a time frame of 45 days to respond. If a response is not received within the allotted time, the Form W-7 systemically moves from Suspense Status to Reject Status "R 99" and will appear on the ITN0099 Report. The ITIN0099 Report is printed daily by the Clerical Manager or designee. ITIN Clerical will take the following steps to address applications in "R 99" status:
 - o Review the report daily for applications that have moved from Suspense to Reject Status,
 - o Pull the Form W-7 applications listed on the report and all related attachments from the suspense wall,
 - o Annotate "R 99" in red ink in the top left corner of the application on the *Final W-7 Status Screen* page that is already attached . Be sure to circle out any other status codes present.

NOTE: The status screen previously reflected the Suspense Status.

- o Stamp or annotate "ITIN Reject" in the TIN area of any attached return next to the applicant's name.

NOTE: If the primary applicant is "ITIN Reject on a refund return(s) comprised of refundable tax credits, staple the return(s) to the back of the Form W-7 for routing to Files and filing under the Form W-7 DLN. Do **NOT** send the return(s) to processing."

REMINDER: If the primary or secondary taxpayer (with a Schedule SE) on the return, has been rejected, then separate the tax return from the Form W-7 and prepare a local cover sheet to route return to SP Entity Function for assignment of an IRSN. Route prepared Form W-7 to Files for retention.

- Attach Form 3471, Edit Sheet to R 99 applications and annotate the R 99 report date as the RPD only for returns being sent to processing.
- 2. Applicants in Hard Reject 1 status are sent letter 4939 when the tax return documents do not prove a federal tax filing need. They are told to respond within 45 days. Take the following actions:
 - Daily pull all flagged cases with all attachments when 65 calendar days have passed since the letter 4939 was sent.
 - Stamp or annotate "ITIN REJECT" in the TIN areas of any attached return next to the applicant's name.
 - Stapled these returns to the back of Form W-7 and documentation. Do **NOT** route the return to processing.
 - Route Form W-7/documentation/return to Files for filing under the Form W-7 DLN.

IRM 3.21.263.5.3.2(3), Added documents that do not establish a filing requirement.

3. Refund tax return(s) (refund comprised of refundable credits) do not establish a tax filing requirement for the applicant when the **only** item of income or credit on the return is the credit or income shown on:
 1. Form(s) W-2 for another taxpayer (not the primary or secondary taxpayer), or
 2. Form(s) W-2 with the original name whited-out or altered, or
 3. Forms W-2C or Form 4852 completed in pen and ink with the name of the employee on Form W-2C/Form 4852 as the employer and the name of the ITIN applicant as the employee.

EXCEPTION: If other items of income or credit create a tax filing need, accept the return as establishing a tax filing need. If multiple returns are attached and at least one return has acceptable Form W-2s, the filing need is established for all of the tax returns. If RTS assigns an ITIN, edit to all returns.

IRM 3.21.263.5.4.2(4), Revised instructions for IRSN cases.

Edit the IRSN on Line 6f of Form W-7

Note: If review of the attached return shows it is a duplicate of a return filed under the IRSN, staple this return to the back of the Form W-7/documentation. Route to Files for filing under the current Form W-7 DLN. Do **NOT** process.

IRM 3.21.263.5.10.5, Revised 4939 letter response processing.

5. Once the application has been located in RTS,
 - a. Review the *W-7 History Screen* to determine the initial reason(s) the application was placed in a Suspend Status. Refer to IRM 3.21.263.8.4.2.

- b. Select *Correspondence Received (S -Status)* on the *W-7 Application View Screen*, *Reason for Change drop-down box* and enter the received date of the notice in the *Comments* field. Refer to IRM 3.21.263.8.4.3.
- c. Follow procedures for *W-7 Application Edit Screen*.

REMINDER: You must overlay the batch number with the current (new) batch number. See IRM 3.21.263.8.4.4.

NOTE: If taxpayer response does not satisfy the Suspense condition, capture in the *RTS Remarks* field any remaining issues with the application. For example, "S 03 - No ID certification."

- d. Accept a parent's signature as valid unless it can be determined by documentation in hand (i.e. tax return, birth certificate) that the signatory is not the parent.
- e. Once the edit is completed on *RTS* the application will either *Assign* or *Reject*.

NOTE: If the primary application rejects, staple the return to the back of *Form W-7* and documentation. Send the *Form W-7* with attachments to *Files* for filing under the *Form W-7 DLN*. Do **NOT** process the return. Update the *Remarks Screen* with comments about the return, such as "*2010 return to Files*."

- 6. If applicant is responding to *Form 4939* and does not substantiate the wages are his, the identity of the return filer is not established. Staple these returns to the back of the *Form W-7* and documentation. Send the *Form W-7* with attachments to *Files* for filing under the *Form W-7 DLN*. Do **NOT** send the return for processing. Update the *Remarks Screen* with notes indicating the tax return and issue such as *2010 return to Files*, *ID not confirmed* , etc.

IRM 3.21.263.5.10.7(7), revised 4939 letter processing

- 7. If the letter 4939 response substantiates the income, consider the tax filing need met for all attached returns and issue the *ITIN(s)*. Select "yes" to the *RTS* question "Is the tax return valid?" and continue processing the *Form(s) W-7* and *return(s)*.

CAUTION: Attach any proof of income (*Form W-2*, *paystubs*, *W-2C*, *bank statements*, etc.) to the applicable tax return.

NOTE: If income is substantiated but there are other suspense codes and *RTS* generates *R44* status, have the lead override the *R44* status so that the other suspense codes can generate *CP 566*.

8. If the letter 4939 response does not substantiate the income, consider the tax filing need not met. Do not change the response to "Is the tax return valid?"
When review of the account shows:

- Form W-7 was received and suspended/rejected because of name mismatch with the Form W-2
- Letter 4939 was sent
- Applicant did not respond with sufficient information . Examples include:
 - Files another Form W-7 for exception processing, for example, exception 1b with bank documentation
 - Files Form 1040X
 - Files Form W-2C or Form 4852 completed in pen and ink and showing the name of the employee on the Form W-2/Form 4852 as the employer and the name of the ITIN applicant as the employee on the Form W-2C/Form 4852.

Reject any subsequent attempts to apply for an ITIN. Update the Remarks Screen with the reason the Form W-2 was not substantiated, for example, "new W-7 but no corrected W-2, 2011 return to Files", etc., and flag the case for the lead to override to R99 status. Staple the return(s) to the back of the Form W-7 and documentation. The Form W-7/documentation/return will be sent to Files for filing under the Form W- 7 DLN. Do *NOT* process the return(s).

9. When working CP 566 responses from primary applicants and review of RTS shows the account was originally a letter 4939 W-2 name mis-match situation and the CP 566 response does not satisfy Form W-7 requirements (application rejects), send the return for IRSN assignment.