

INTERIM IRM PROCEDURAL UPDATE

DATE: 03/20/2012

NUMBER: WI-03-0312-0705

SUBJECT: Form W-2 Name Mis-match with ITIN Tax Return Name

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

CHANGE(s):

IRM 3.21.263.4.8.3 - Expanded definition of Hard Reject 1.

2. The following table describes the Hard Reject reason codes that are displayed on the ITIN-RTS when a Hard Reject condition is identified.

Hard Reject Reason Codes	Definition
HR 1	The attached U.S. federal tax return was not valid. NOTE: The Hard Reject 1 status is also used to process applications with Forms W-2 that do not match the name of the primary or secondary W-7 taxpayer on the tax return. The remarks screen is updated to show that local letter 4939 requesting a corrected Form W-2 or other proof of income was sent to the primary taxpayer on the return and CAA.. See Exhibit 3.21.263-45 and see IRM 3.21.263.5.3.2
HR 2	The attached U.S. federal tax return was not signed.

IRM 3.21.263.4.9 - Expanded reasons CP 569 are generated.

1. The table below lists the types of ITIN Notices that are issued to applicants.

CP 569 / 569 -	Hard Reject Notice	This notice advises the applicant their application is being rejected, because the federal tax return did not reflect a filing requirement .The Hard Reject Notice or
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SP		<p>CP 569 generates locally in the ITIN Operation.</p> <p>CAUTION: The Hard Reject 1 status is also used to process applications with Forms W-2 that do not match the name of the primary or secondary taxpayer. Letter 4939 is sent to the primary taxpayer on the return and CAA requesting a corrected Form W-2 or other proof of income in lieu of the CP 569. See IRM 3.21.263.5.3.2</p>
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IRM 3.21.263.5.2.4.2 - Added responses to letter 4939 for income verification.

6. In addition to batching receipts of Form W-7, designated clerks will also batch correspondence which includes responses to ITIN notices (excluding CP 566), responses to the ITIN letter 4939 requesting income verification, white mail (taxpayer inquiries or requests) and faxes. Refer to the table below for related batching guidelines.

If ...	Then ...
CP 565 (ITIN Assign)	<ul style="list-style-type: none"> ○ date stamp ○ If Form W-7 is not attached or the application is for the person named on CP 565, then batch as correspondence. ○ If Form W-7 is attached for someone else, batch as a new application, W-7 with or without return. Put CP 565 behind the application. <p>NOTE: If a letter is sent in with a CP 565 indicating a change is needed, then batch as Correspondence.</p>
CP 567 (ITIN Reject)	<ul style="list-style-type: none"> ○ date stamp ○ Batch as new application with/without if a W-7 application is attached. Otherwise batch as correspondence (white mail). ○ Assemble with Form W-7 on top, followed by the CP 567, then supporting documents. ○ Separate into with and without return.
CP 569 (Hard Reject)	<ul style="list-style-type: none"> ○ date stamp ○ Batch as new application with return if a W-7 application is attached. Otherwise batch

	<p>as correspondence (white mail).</p> <ul style="list-style-type: none"> ○ Assemble with Form W-7 on top, followed by the CP 567, then supporting documents.
Correspondence (White Mail)	<ul style="list-style-type: none"> ○ batch in quantities of 50 ○ date stamp ○ pull out any state returns
Responses to the letter 4939	<ul style="list-style-type: none"> ○ batch in quantities of 25 ○ date stamp ○ pull associated case from the suspense wall ○ check DLN and name for correct match ○ staple to suspended case ○ place on batching tower
Faxes	<ul style="list-style-type: none"> ○ Received date is the date on the top of the fax. Stamp not required. ○ batch as correspondence <p>EXCEPTION: Form 4442 has its own category</p> <ul style="list-style-type: none"> ○ New W-7 applications received by fax are not accepted. A local letter should be mailed back to the mailing address on Form W-7 advising the applicant that the faxed application is not acceptable. The faxed application may then be classified. <p>EXCEPTION: Faxed applications from Gaming Commissions (casinos) are accepted. Place in basket to be worked by designated area.</p> <ul style="list-style-type: none"> ○ Refer Form W-7 with Form 1040-C received from TAC offices to your Lead/Manager to be delivered to the designated group for expedite processing.

IRM 3.21.263.5.2.6.2.1 - Added instructions for Hard Reject 1 letter 4939 cases.

2. The table below will define the necessary steps for the clerical staff after the *Final W-7 Status Sheet* is printed and associated to the Form W-7.

Hard Reject 1 (CP 569) Flagged	<p>The application is in a special Hard Reject 1 status waiting for the TP response:</p> <ul style="list-style-type: none">○ These applications are flagged by the tax examiner for special handling.○ The tax examiner will have generated letter 4939 asking for a Form W-2 or corrected W-2 or other proof of income to the primary or secondary taxpayer on the return and to the CAA . The tax examiner will address the envelope(s) and insert the letters.○ Pull all CP 569(s) and associate with Forms W-7 and tax return(s).○ The Final Status sheet will indicate "Hard Reject" and all applications in this status will have a CP 569 Notice. Associate each Final Status notice to the correct Form W-7 and place on top of the notice.○ Assemble the family pack with the primary application on top and place in DLN order by processing date sections in a designated Suspense Wall area.
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IRM 3.21.263.5.2.8 - Added instructions for maintaining files of HR 1 letter 4939 cases.

3. A special section of the Suspense Wall will be used for holding Forms W-7 packages sent letter 4939 asking for a corrected Form W-2 or other income proof. File these application packages in DLN order in subsections for each processing date. Mark the subsections so that it can be readily determined when 65 days have lapsed since the local letter was sent.

IRM 3.21.263.5.2.8.2 - Added reference to letter 4939 asking for proof of income.

1. Designated clerks will pull cases from the Suspense Wall. Cases are pulled when a taxpayer response to CP 566 Suspense Notice or the letter 4939 are received or the time frame to hold the suspense case has expired.

IRM 3.21.263.5.2.9 - Added instructions for pulling Hard Reject letter 4939 cases.

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:
 - o Daily pull all flagged cases with all attachments when 65 calendar days have passed since the letter 4939 was sent.
 - o Stamp or annotate "ITIN REJECT" in the TIN areas of any attached return next to the applicant's name.
 - o Attach Form 3471, edit Sheet to HR1 returns and notate the 65th day (from letter 4939 issuance) as the RPD
 - o Route Form W-7 to Files.

IRM 3.21.263.5.2.6.2.1(2) - Added instructions for HR1 (CP569) flagged cases.

2. The table below will define the necessary steps for the clerical staff after the *Final W-7 Status Sheet* is printed and associated to the Form W-7.

<p>Hard Reject 1 (CP 569) Flagged</p>	<p>The application is in a special Hard Reject 1 status waiting for the TP response:</p> <ul style="list-style-type: none"> o These applications are flagged by the tax examiner for special handling. o The tax examiner will have generated letter 4939 asking for a Form W-2 or corrected W-2 or other proof of income to the primary or secondary taxpayer on the return and to the CAA . The tax examiner will address the envelope(s) and insert the letters. o Pull all CP 569(s) and associate with Forms W-7 and tax return(s). o The Final Status sheet will indicate "Hard Reject" and all applications in this status will have a CP 569 Notice. Associate each Final Status notice to
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	<p>the correct Form W-7 and place on top of the notice.</p> <ul style="list-style-type: none"> ○ Assemble the family pack with the primary application on top and place in DLN order by processing date sections in a designated Suspense Wall area.
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IRM 3.21.263.5.3.2 - Added procedures for suspending and writing for proof of income when payer documents do not match the Form W-7 identity.

3. The tax return does 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:
 - Form W-2 for another taxpayer (not the primary or secondary taxpayer), or
 - Form W-2 with the original name whited-out or altered

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.

4. Use caution when deciding if the name on the Form W-2 is a different person than the Form W-7 applicant as the applicant may have used a different naming custom on the Forms. Compare the W-2 name to the attached tax returns and documentation. The tax return is always the governing authority for all applicants for the last name. See IRM 3.21.263.5.3.5.3.
5. The tables below give examples of matching and non-matching names for primary or secondary taxpayers.

Matching Names		
If W-2 shows...	And return shows...	Then...
Maria Vallejo Amarillo Reno	Maria V Amarillo	Consider the names a match,
Maria Vallejo Amarillo Reno	Maria V Reno	Consider the names a match,
John Q Public	John Quincy Public	Consider the names a match,

John Q Public	John Public	Consider the names a match,
Non-Matching Names		
If W-2 shows...	And return shows...	Then...
Maria Vallejo Amarillo Reno	Dulce Reno	Do not consider the names a match.
Maria Vallejo Amarillo Reno	Maria Gonzales	Do not consider the names a match.
Maria Vallejo Amarillo	Susan Smith	Do not consider the names a match.

6. Use the entire table below to determine if a return shows a tax filing need.

If ...	And ...	Then...
Return has money amounts shown,	They are other than the standard deduction and exemption amounts,	Return shows a tax filing need. Select "Yes" for RTS question "Is the tax return valid?"
Return only has one item of income or credit shown,	Source is from a Form W-2 for someone other than the primary or secondary taxpayer NOTE: The name mismatch is only an issue if that is the person applying for an ITIN. If the wage earner(s) already has an assigned TIN (ITIN or SSN), the W-2 name mismatch is not an issue as they previously proved a federal tax filing need. Answer "yes" to the query "is the tax return valid?"	Return does not show a tax filing need. <ul style="list-style-type: none"> o Select "no" for the RTS question "Is the tax return valid?" and "Cannot calculate tax liability" from "Invalid tax return reason." CAUTION: Do not select "Tax return not signed" from the "Invalid tax return reason" menu. <ul style="list-style-type: none"> o Send one letter 4939 to the primary taxpayer on the tax return and another letter 4939 to the CAA advising to

		<p>secure corrected Form W-2, or a pay stub in the Form W-2 name for the W-2 tax year, or proof of this income deposited to their bank account, or acceptable ID in the W-2 name; address envelope(s) and insert letters. See Exhibit 3.21.263-45.</p> <ul style="list-style-type: none"> ○ Update the Remarks screen with "<i>Letter 4939 sent for corrected W-2</i> " ○ Do not edit the return or W-7s at this time ○ Flag account for Clerical to hold CP 569 and suspend application and return
<p>Return only has one item of income or credit shown,</p>	<p>Source is from a Form W-2 with the name altered or whited-out, NOTE: The identity mismatch is only an issue if that is the person applying for an ITIN. If the wage earner(s) already has an assigned TIN (ITIN or SSN), the W-2 name mismatch is not an issue as they previously proved a federal tax filing need. Answer "yes" to the query "is the tax return valid?"</p>	<p>Return does not show a tax filing need. Select "<i>no</i>" for the RTS question "Is the tax return valid?" and "<i>Cannot calculate tax liability</i>" from "Invalid tax return reason.""" CAUTION: do not select "<i>Tax return not signed</i>" from "Invalid tax return reason menu."</p> <ul style="list-style-type: none"> ○ Send letter 4939 to the primary taxpayer on the tax return and another letter 4939 to the CAA advising to secure corrected Form W-2, or a pay stub in the Form W-2 name for the W-2 tax year, or proof of this income deposited to their bank account, or acceptable

		<p>ID in the W- 2 name. Address the envelope(s) and insert the letter(s). See Exhibit 3.21.263-45.</p> <ul style="list-style-type: none"> ○ Update the Remarks screen with "<i>Letter 4939 sent for corrected W-2</i> " ○ Do not edit the return or W-7s at this time ○ Flag account for Clerical to hold CP 569 and suspend application and return
Return has income listed,	no Forms W-2, W-2G or Form 1099-R or other acceptable substantiation is attached,	Return shows a tax filing need. Select "yes" for the RTS question "Is the tax return valid? "
Return has income listed,	only Form 4852, Substitute for Form W-2, Wage and Tax Statement, is attached,	Return shows a tax filing need. Select "yes" for the RTS question "Is the tax return valid? "
Return has "zero" line entries,	Schedules or attachments with dollar amounts to support the "zero" line entries are attached,	Return shows a tax filing need. Select "Yes" for the RTS question "Is the tax return valid?"
Return has "zero" line entries,	No schedules or attachments with dollar amounts to support the "zero " line entries are attached,	<p>return does not show a tax filing need. . Select "<i>no</i> " for the RTS question "Is the tax return valid?" and "<i>Cannot calculate tax liability</i>" from "Invalid tax return reason."</p> <p>CAUTION: Do not select "<i>Tax return not signed</i>" from the "Invalid tax return reason" menu.</p>

IRM 3.21.263.5.8.4(7) - Added explanation of HR1 letter 4939 cases.

7. When a CAA inquires about the status of their clients application or has received a notice from the ITIN database, determine actions using the table below.

NOTE: Carefully review all remarks on the W-7 Application View Screen as well as comments on the *W-7 History* Screen before working the case.

If CAA inquires regarding...	And...	Then...
Status of their client's application,	It has been less than six (6) weeks since the application was submitted,	advise CAA to allow for normal processing time-frame.
	It has been more than six (6) weeks since application was submitted and applicant has not received any notice, research the RTS for status of the application. If research shows application status is Assign (CP 565 A/B), NOTE: If application was filed during peak filing season (January 15 through April 30) or from abroad, allow 10 weeks.	advise CAA that the ITIN has been assigned and they will receive notification of the number by mail. Reissue CP 565 assignment notice, after verifying mailing address, if appropriate.
	It has been more than six (6) weeks and research shows application status is Suspense (CP 566),	1. Advise CAA that the application is in suspense status and additional information required to continue processing the application. See IRM 3.21.263.4.8.1 for ITIN Suspense Reason Codes. CAUTION: If the CAA will not be able to submit the application before the 60 day processing period expires then advise CAA that applicant will

		<p>need to reapply.</p> <p>2. If oral testimony is appropriate, and the CAA can provide the correct information, update ITIN database and assign ITIN. Advise CAA that an assignment letter should be received in 2-3 weeks.</p> <p>3. If oral testimony cannot be applied, then advise CAA to respond to the notice by securing the necessary information from the applicant and mail to the ITIN Operations.</p>
	<p>It has been more than six (6) weeks and research shows application status is Reject (CP 567/569),</p>	<p>1. Advise CAA that the application has been rejected and the reason for the rejection. See IRM 3.21.263.4.8.2 for ITIN Rejection Codes.</p> <p>2. If applicant still requires an ITIN, advise the CAA to respond to the notice by securing the required information from the applicant, and submit ting a new application by mail to the ITIN Operations.</p> <p>CAUTION: If RTS shows CP 569 HR1, review the Remarks Screen. If this screen shows letter 4939 sent due to Form W-2 name mis-match with the primary or secondary taxpayer on the return, applicant must send the requested information for the ITINs to be assigned. See IRM 3.21.263.5.3.2 and Exhibit 3.21.263-45.</p> <p>If the information is not</p>

		received within 45 days of the date of the letter, no ITINs will be assigned and the return will be processed with an IRS temporary identification number (IRSN) unless the primary taxpayer already has an ITIN.
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IRM 3.21.263.5.10.4(10) - Added more instructions for undeliverable CP 569.

10. The resolution of undeliverable mail inventory that is from system generated notices is based on the type of notice that was issued and the current RTS Status. Refer to the table below.

CP 569 - Hard Reject Notice	better address is found,	<p>Staple the CP 569 to the back of the W-7 packet. Print the better address on a new envelope. Insert Form(s) W-7 and Form(s) 1040. Update the address on RTS by selecting <i>Current Mailing Address Change</i> from the drop down box. Overlay the original batch number on the <i>W-7 Preliminary Application Data Screen</i> with the new batch number located on the folder you are currently working (Critical).</p> <p>NOTE: If the CP 569 is one year or older send the local letter and return all applicant documentation.</p> <p>CAUTION: if the Remarks Screen indicates CP 569 HR1 was generated in response to Form W-2 name mis-match with the primary or secondary taxpayer and no letter 4939 has been sent, send the letter 4939. See Exhibit 3.21.263-45. Also send letter 4939 to the CAA. Prepare envelope(s) and insert letter(s). Update the remarks Screen with "Sent letter 4939 for corrected W-2"</p> <p>NOTE: do not edit the W-7s or returns at this point.</p> <p>Staple the CP 569 to the back of the Form W-7. Flag the entire W-7 application package for filing in the specially designated area.</p>
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IRM 3.21.263.5.10.6 - Added instructions for Form W-2 identity mis-match.

6. If the Remarks Screen shows this is in response to the letter 4939 (see Exhibit 3.21.263-45) requesting a corrected Form W-2, review the response to determine if the taxpayer has verified that the income claimed on the Form W-2 is theirs and they need an ITIN to file a tax return. Submitted documents from the taxpayer to support the income should be one of the following:
 - o A corrected Form W-2 in the primary or secondary taxpayer's name, or
 - o A pay stub in the Form W-2 name with year-to-date totals for the same year as the Form W-2, or
 - o Bank statements showing this income being deposited into the taxpayer's account, or
 - o Acceptable ID (as defined by Form W-7) in the Form W-2 name.

CAUTION: This list of acceptable documents is not all-inclusive. If the applicant provides another type of evidence that the income shown on the Form W-2 was actually earned by the same person submitting the Form W-7 application (even if the names are different):

The income is substantiated

The need for an ITIN to file a tax return is proven.

REMINDER: see also IRM 3.21.263.5.3.4.4.

7. If the 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).
8. If the response does not substantiate the income, consider the tax filing need not met. Do not change the response to "Is the tax return valid?" Update the Remarks Screen with the reason the Form W-2 was not substantiated, for example, "no corrected W-2", etc., and continue processing.

IRM 3.21.263.6.1.32.4(3) - Added explanation of HR1 status and letter 4939.

3. The Hard Reject 1 status is also used to process applications with Forms W-2 that do not match the name of the primary or secondary taxpayer. A letter 4939 (see Exhibit 3.21.263-45) is sent in lieu of the CP 569 to the applicant and CAA requesting that the applicant send within 45 days:
 - A corrected Form W-2 in the primary or secondary taxpayer's name from their employer, or
 - A pay stub in the Form W-2 name with year-to-date totals for the same year as the Form W-2, or
 - Bank statements showing this income being deposited into the taxpayer's account, or
 - Identification documents that match the name on the Form W-2.


NOTE: The original Form W-7 and return are held for the taxpayer's response.

IRM 3.21.263.7.2.4(3) - Added explanation of HR 1 Letter 4939 processing.

3. The Hard Reject 1 status is also used to process applications with Forms W-2 that do not match the name of the primary or secondary taxpayer. Letter 4939 (see Exhibit 3.21.263-45) is sent to the applicant and CAA (in lieu of the CP 569) requesting that the applicant send within 45 days:
 - A corrected Form W-2 in their name from their employer, or
 - A pay stub in the Form W-2 name with year-to-date totals for the same year as the Form W-2, or
 - Bank statements showing this income deposited into the taxpayer's account, or
 - Identification documents that match the name on the Form W-2.

NOTE: the original Form W-7 and return are held for the taxpayer's response.

Exhibit 3.21.263-45 - Letter 4939, Added new exhibit for letter used when Form W-2 does not match identity of primary or secondary taxpayer.

 <p>Department of the Treasury Internal Revenue Service AUSPC ITIN Operations PO Box 149342 Austin, TX 78714-9342</p>	<p>Date:</p> <p>Case Reference Number:</p> <p>For assistance, call us at: 1-800-908-9982</p> <p>For International callers: (This is not a Toll-Free Number) 1-267-941-1000</p>
<p>Dear Taxpayer:</p>	
<p>Why You're Receiving This Letter</p>	
<p>We can't process the Form W-7, <i>Application for Individual Taxpayer Identification Number (ITIN)</i>, received with your tax return(s). The name listed on Form W-2, <i>Wage and Tax Statement</i>, and the tax return are not the same. We can't verify that you earned the income and need an ITIN to file a federal tax return.</p>	
<p>What You Need To Do</p>	
<p>We need the following information from you to process your W-7 application:</p>	
<ul style="list-style-type: none">• A corrected Form W-2 in your name from your employer, OR• Other documents showing you earned the income reported on the Form W-2, such as a paystub with year-to-date totals, OR• Bank records showing the wages deposited into your account, OR• Identification documents that match the name on the Form W-2 (if applicable). <p>Please see Form W-7 instructions for the 13 types of acceptable identification documents.</p>	
<p>Please send the corrected Form W-2, additional documents, or identification within 45 days of the date of this letter.</p>	
<p>If We Don't Hear From You</p>	
<p>If we don't hear from you within 45 days, or if you don't provide the requested information, we will reject all Form W-7 applications received with the tax return. We will not assign any ITINs for the rejected Forms W-7 and will process your tax return under a temporary IRS number if the primary taxpayer does not have an ITIN.</p>	
<p>How To Contact Us</p>	
<p>If you need to contact us about this matter, please write us at the address above and enclose this letter. If you prefer to call, please contact us at the number listed above and refer to the Case Reference Number listed at the top of this letter.</p>	
<p>Thank you for your cooperation.</p>	
<p>Sincerely yours,</p>	
<p>Mary L. Barrios Operations Manager, ITIN</p>	
<p>Letter 4939 (3-2012) Catalog Number 59393S</p>	