



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS / SELF-EMPLOYED DIVISION

February 7, 2022

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MEMORANDUM FOR EXAMINATION OPERATIONS IN SB/SE & LB&I

FROM: Garrett Gluth Garrett B. Gluth Digitally signed by Garrett B. Gluth
Director, Examination Quality and Technical Support Date: 2022.02.07 15:41:53 -05'00'

SUBJECT: Interim Guidance for Examining Tax Returns Reporting Net Operating Losses

This memorandum issues guidance to SB/SE and LB&I Examination operations on ensuring awareness of taxpayer's actions with respect to carrybacks when examining tax returns reporting a net operating loss. Please distribute this information throughout your organization.

Purpose: This memorandum provides guidance to employees in SB/SE and LB&I Examination operations on steps to take when examining tax returns reporting a net operating loss.

Background: Generally, eligible taxpayers carrying back a net operating loss (NOL) may file an application for a tentative refund (Form 1045 for individuals or Form 1139 for corporations) within 12 months of the end of the loss year or amend the carryback year return (Form 1040X for individuals or Form 1120X for corporations) within the normal statute for filing claims for refund. Notice 2020-26 provided an extension of time to file a tentative carryback for NOLs that arose in a taxable year which began during calendar year 2018 and ended on or before June 30, 2019. However, the time to file a tentative carryback reverted back to the standard 12 months for subsequent tax years.

As originally provided by the Tax Cuts and Jobs Act and delayed by the Coronavirus Aid, Relief and Economic Security Act, beginning in tax year 2021, net operating loss carrybacks are limited to only farming losses and insurance company losses other than life insurance companies. Although use of carrybacks may be limited for 2021 and later years, it is important for examiners to remain aware of their responsibilities with respect to carryback losses as these rules are often modified.

Procedural Change:

IRM 4.11.11.XX

1) Examiners adjusting returns that report a net operating loss are responsible for addressing the impact of the adjustment on any carryback(s) filed. To help ensure all actions taken by the taxpayer are considered during the examination, examiners should ask the taxpayer if the loss was carried back, and review IDRS at the beginning of the examination and again during the preparation of the proposed adjustments report for all eligible carryback years in search of category and/or transaction codes indicating the loss was carried back.

2) The SUMRY record of the taxpayer may show case controls on the carryback year(s):

- CTRL-ASGMT to indicate there is an open case control in place,
- CLOSED to indicate the case has closed a control(s), or
- MULTIPLE to indicate multiple open case controls.

3) The control base and history information section of the TXMODA record of the **loss year** may show:

- Category code TENT to indicate a tentative refund has been paid or is currently being considered or
- Category code RINT to indicate a restricted interest refund claim on an amended tax return.

See [IRM 21.5.9, Carrybacks](#), for additional information.

4) When a tentative refund request has been filed, the IMFOL/BMFOL record of the **carryback year** may show:

- Transaction Code (TC) 295 to indicate the refund has been paid.

5) When a restricted interest refund claim has been filed, the IMFOL/BMFOL record of the **carryback year** may show:

- TC 976/977 or TC 971 with an Action Code 091 for a filed amended return and/or
- TC 291 for the abated tax if the amended return was processed.

6) If the existence of a carryback is indicated as a result of the IDRS review, examiners should secure the relevant information from the taxpayer or the Correspondence Imaging System (CIS) and address the impact of the proposed loss-year adjustment(s) on any carryback refund(s) claimed or processed. CIS information may be secured through an AIMS/ERCS Coordinator. If the tentative refund/claim has not been processed but there are open case controls, see [IRM 4.10.2.2.5, Other IRS Business Units Working with Taxpayer](#).

Effect on Other Documents: This guidance will be incorporated into IRM 4.11.11 no later than February 7, 2024.

Effective Date: This interim guidance is effective immediately.

Contact: If you have questions regarding this memorandum, you may contact Steve Henson, Program Manager, Exam Quality and Technical Support at (678) 283-1248.

Distribution:

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