

IRM PROCEDURAL UPDATE

DATE: 03/10/2026

NUMBER: sbse-04-0326-0299

SUBJECT: Incorporate Section 70605(e) of OBBBA; Guidance to Close an Examination with an Alpha Statute; Update Guidance for Form 907

AFFECTED IRM(S)/SUBSECTION(S): 4.23.13

CHANGE(S):

IRM 4.23.13.1.2(3) - Updated paragraph due to the reorganization that resulted in one Deputy Commissioner.

(3) A website, Search Servicewide Delegation Orders, located at IMD Search Servicewide Delegation Orders provides a searchable list of Servicewide Delegation Orders issued by the Commissioner of the Internal Revenue, or on their behalf the deputy commissioner. Delegation Orders pertaining to each IRS business process can be found in IRM 1.2.2, *Servicewide Delegations of Authority*.

IRM 4.23.13.1.7(1) - Updated the definitions of "Abatement" and "Audit Reconsideration." Added to "Claim for Refund" definition that an original return can be a claim or refund under certain conditions.

(1) General terms and definitions:

Term	Definition
Abatement	An abatement is the reduction or elimination of an unpaid assessment. See IRM 25.6.1.10.1.1, Abatement Authority . It is not a claim for refund because it does not include a request for credit or refund of an overpayment.
Additional Adjustment	An additional adjustment is when a claim for refund is examined and adjustment (increase in tax) to the original Form 94X is proposed.
Adjusted Return	An adjusted return is a request to correct a previously filed Form 94x. The correction can be either an overpayment of tax (taxpayer is due a credit) or underpayment of tax (taxpayer owes additional tax). Adjusted returns can not result in a refund issued to the taxpayer. Any credit balance resulting from the exam or processing of the adjusted

	return must be moved to the tax period in which the adjusted return was filed.
Administrative Error	An administrative error is only a transposition or basic math error, such as addition, subtraction and multiplication computations. For example, the amount reported on Form 941, line 3 (Federal income tax withheld from wages, tips, and other compensation), does not agree with the amount the employer withheld from an employee's wages. For additional examples refer to IRM 21.7.2.4.4.3.1, <i>Administrative Errors</i> .
Amended Return	Any subsequent return which changes information submitted on the original filed return.
Audit Reconsideration	An audit reconsideration is the process the IRS uses to reevaluate the results of a prior audit where additional tax was assessed and remains unpaid, or a tax credit was reversed. The purpose of the audit reconsideration is generally to examine information that was not considered in a previously completed audit. Refer to IRM 4.13.1.2 , Overview .
Claim for Refund	A claim is a request for a refund or credit of an overpayment of amounts already assessed and paid. An original, non-frivolous return can be a claim for refund if a refund shown on a processed return is held or frozen (for example, the refund was not paid and not applied to a balance due) and the module reflects a credit balance. Refer to IRM 4.10.11.6.1, Claim for Refund on the Original Return .
Offsetting Adjustment	An offsetting adjustment is an adjustment having an opposite tax effect. For example, an adjustment increasing tax "offsets" the amount requested in a claim for refund.
Protective Claim	Protective claims are filed to preserve a taxpayer's right to claim a refund when the refund is contingent on future events that may not be ascertainable until after the period of limitation expires. <i>AmBase v. United States</i> , 731 F.3d 109, 118 (2d Cir. 2013); <i>United States v. Kales</i> , 314 U.S. 186, 196 (1941). Protective claims are filed when there is active litigation or expected changes in the law, where one element of the claim (usually the amount of the claim) is not certain within the limitations period.
Resolved Claim for Refund	Is when the refund has been paid or applied to a period with an outstanding balance or transfer to the tax period an adjusted return was filed.

IRM 4.23.13.2.4.2 - Updated the title of the IRM subsection to "Statute of Limitations Control for Certain COVID-19 Credits." Removed paragraph (1), (2), and (3) and replaced with a single paragraph (1) that provides a reference to IRM 25.6.1.9.5.10, COVID-19 Related Employment Tax Credits. IRM 25.6.1 provides all IRS employees in Business Operating Divisions (BODs) guidance on statute of limitation issues. Moved the reminder from the deleted paragraph (3) to the new paragraph (1). All subsequent paragraphs were renumbered accordingly.

Statute of Limitations Controls for Certain COVID-19 Credits

(1) The American Rescue Plan of 2021 (the ARP) and One, Big, Beautiful Bill Act provide extended statutes of limitations on assessment that relate to certain COVID-19 related employment tax credits. For further information refer to IRM 25.6.1.9.5.10 , **COVID-19 Related Employment Tax Credits** and its revision IRM Procedural Update 25U3739, **Statute of Limitations - Various Changes**, dated December 17, 2025.

Note: For other tax periods and other issues, the normal three-year period of limitations on assessment under IRC 6501 applies. Since an examination may involve issues other than entitlement to COVID-19 credits, examiners should operate under the general presumption that the regular three-year period for assessment applies.

(2) If the extended statute of limitation applies to your examination and there are 180 days or less on the normal statute date, the ASED can be updated on AIMS and ERCS to alpha code RR. See IRM 25.6.23-3, *Instructions for Updating the Statute on AIMS*.

- a. The month (MM) position of the statute field should reflect the normal ASED month. Alpha code RR will be entered into the day (DD) position. The year (YYYY) position will reflect the extended expiration date.
- b. The extended statute of limitations is considered live and is extended only for tax attributable to the relevant credit. The related assessment must be made before the extended statute expires. Examiners and managers must be aware of, and protect, the live statute.

Example: A Form 941 filed timely for third quarter of 2021 claiming Employee Retention Credit (ERC) has a normal statute date of April 15, 2025. The recapture of excess of the ERC would have a six-year statute of limitation on assessment for the recapture of excess employment tax credits of April 15, 2028. The alpha code would be 04/RR/2028.

Reminder: Examiners will follow IRM 4.23.14.3.1, *Form 895 and Statute Control Procedures*, for proper statute control and monitoring procedures.

Reminder: Audit Information Management System (AIMS) does not send an alpha statute update to Business Master File On-Line Transcript (BMFOLT); therefore, the

original statute date is still present. For more information, you can refer to IRM 4.38.1.7.3.1.23.1, *Alpha Codes*.

(3) When a COVID-19 credit recapture case, including a partial assessment, that has an RR statute date is submitted to a closing unit, such as Centralized Case Processing (CCP), the following actions are to be completed:

- a. The alpha statute date is to be converted to the numeric extended statute date before closing. A TC 560 will be entered to update the ASED to the numeric statute, and
- b. A Form 3177, *Notice of Action for Entry on Master File*, is to be completed and forwarded for processing. In addition to the standard identifying information required by Form 3177, enter "971" in the last line of the TRC column and in the associated box marked "Other (specify)" write "AC 804 MISC field: COVID CR ASED EXTSN".

(4) The alpha statute RR would generally not be used for:

- a. Annual tax returns for tax year 2021 (Form 943, Form 944, and CT-1). These returns may report wages paid or leave taken in non-ARP quarters that the extended statute of limitations would not apply and for ARP quarters that the extended statute of limitation would apply. It is problematic to apply the alpha code RR in this situation.
- b. Quarterly tax returns (Form 941) where there are both non-ARP COVID-19 Credits and ARP COVID-19 Credits in the same tax period (unless the examination issue is limited to the ARP COVID-19 credits).
- c. Unpaid claims for refund of COVID-19 Credits. The taxpayer has three-years to file a claim for refund from the date the return was filed or two-years from the payment of tax. There is no period of limitations for the IRS to render a determination on the unpaid claim for refund. Taxpayers may file suit in District Court or the Court of Federal Claims if the IRS has not rendered a final determination within 180 days of the filing of the claim for refund.
- d. Non-COVID-19 Credit issues or adjustments.

IRM 4.23.13.2.4.2(2) - Substituted the phrase "five-year statute" with "extended statute" throughout this paragraph. Updated the example to match the extended statute of limitation allowed by One, Big, Beautiful Bill Act section 70605(e). A note has been added to remind examiners an alpha statute date does not appear on Business Master File On-Line Transcript (BMFOLT).

(2) If the extended statute of limitation applies to your examination and there are 180 days or less on the normal statute date, the ASED can be updated on AIMS and ERCS to alpha code RR. See IRM 25.6.23-3, *Instructions for Updating the Statute on AIMS*.

- a. The month (MM) position of the statute field should reflect the normal ASSED month. Alpha code RR will be entered into the day (DD) position. The year (YYYY) position will reflect the extended expiration date.
- b. The extended statute of limitations is considered live and is extended only for tax attributable to the relevant credit. The related assessment must be made before the extended statute expires. Examiners and managers must be aware of, and protect, the live statute.

Example: A Form 941 filed timely for third quarter of 2021 claiming Employee Retention Credit (ERC) has a normal statute date of April 15, 2025. The recapture of excess of the ERC would have a six-year statute of limitation on assessment for the recapture of excess employment tax credits of April 15, 2028. The alpha code would be 04/RR/2028.

Reminder: Examiners will follow IRM 4.23.14.3.1, *Form 895 and Statute Control Procedures*, for proper statute control and monitoring procedures.

Reminder: Audit Information Management System (AIMS) does not send an alpha statute update to Business Master File On-Line Transcript (BMFOLT); therefore, the original statute date is still present. For more information, you can refer to IRM 4.38.1.7.3.1.23.1, *Alpha Codes*.

IRM 4.23.13.2.4.2(3) - Paragraph (3) has been removed since it is no longer relevant - the normal 3-year statute for 2021 timely filed returns has passed. Insert a new paragraph (3) to provide guidance and instruction to examiners when submitting to a closing unit a COVID-19 credit recapture case with an alpha statute date. All subsequent paragraphs were renumbered accordingly.

(3) When a COVID-19 credit recapture case, including a partial assessment, that has an RR statute date is submitted to a closing unit, such as Centralized Case Processing (CCP), the following actions are to be completed:

- a. The alpha statute date is to be converted to the numeric extended statute date before closing. A TC 560 will be entered to update the ASSED to the numeric statute, and
- b. A Form 3177, *Notice of Action for Entry on Master File*, is to be completed and forwarded for processing. In addition to the standard identifying information required by Form 3177, enter "971" in the last line of the TRC column and in the associated box marked "Other (specify)" write "AC 804 MISC field: COVID CR ASSED EXTSN".

IRM 4.23.13.4(3) - Item c was revised to provide clarity.

(3) Reasons for an audit reconsideration request:

- a. The taxpayer did not receive the initial appointment letter, 30-Day Letter with the report, or Letter 3523, *Notice of Employment Tax Determination Under IRC Section 7436*, or
- b. The taxpayer has new information that, if considered, would change the original assessment, or
- c. The documentation shows that the assessment was made as a jeopardy assessment. (See Policy Statement 4-88 at IRM 1.2.1.5.27, *Policy Statement 4-88, Jeopardy assessments to be used sparingly and assessment to be reasonable in amount.*)

Reminder: Additional information on Audit Reconsiderations can be found in IRM 4.13, *Audit Reconsideration*.

IRM 4.23.13.4.1(3) - Inserted a new paragraph (3) in the subsection. The paragraph provides additional background information regarding abatements.

(3) The authority for the IRS to make abatements comes from IRC 6404. An abatement should not be made of any paid portion of an assessment.

IRM 4.23.13.4.1.1(1) - Paragraph (1) was revised to provide clarity.

(1) After receipt and evaluation of the taxpayer's information and it is determined that a full abatement is allowable, the examiner will issue:

- Letter 2738, *Audit Reconsideration - Allowed in Full*,
- Form 2504, 2504-S, or 2504-T, whichever if applicable (see IRM 4.23.10.10.10, *Form 2504, Form 2504-S, and Form 2504-T*)
- Form 4666,(see IRM 4.23.13.3.6, *Form 4666*),
- Form 4667, if applicable, and
- Form 4668, if applicable, reflecting the full abatement of tax.

IRM 4.23.13.7(4) - Revised the note for SB/SE employment tax cases worked in Area 212, case closing packages with Form 3870 are E-Fax to CCP. The Form 3870 are no longer sent to ET - Workload Selection and Delivery.

(4) The following special procedures must be used for all Forms 94x-X examined if the taxpayer checked the "Adjusted employment tax return" box:

1. Prepare a partial Form 3870. See Exhibit 4.23.13-2, *Instructions for Completion of Form 3870 by the Examiner*.

Note: A copy of the partially completed Form 3870 must be uploaded as a workpaper into IMS or your functions electronic case file.

2. Enter Hold Code "2" in Item 07 on Form 5344. TE/GE examiners enter Hold Code **2** in the Closing Records General tab on RCCMS. This will keep the credit balance from being refunded to the taxpayer.
3. Enter "Adjusted Return involving a Credit Balance" in the "Other instructions" section of the Form 3198, *Special Handling Notice for Examination Case Processing*. TE/GE examiners enter "Adjusted Return involving a Credit Balance" in the comment section on the RCCMS 3198-A Checksheet and on the Comments tab on the RCCMS Closing Record.
4. Close the case using the appropriate procedures based on case disposition.

Note: For SB/SE employment tax cases worked in Area 212, case closing packages with the Form 3870 are E-Fax to CCP. You can find the appropriate E-Fax number at CCP Exam E-Fax Numbers.

IRM 4.23.13.8(1) - Updated the content in this paragraph to be consistent with background and guidance provided in IRM 4.10.11.2.16.1.1, IRC 6532 Two-Year Period to File Refund Suit - Consideration and Examiner's Responsibilities.

(1) IRC 6532 imposes a general two-year time limit for taxpayers to file a refund suit for the recovery of any internal revenue tax, penalty, or other sum. This two-year time limit starts on the date the statutory notice of claim disallowance was mailed (or the date a signed Form 2297 was filed).

IRM 4.23.13.8(5) - A note was added to the first bullet. The note clarifies the instructions on how to complete Form 2848, Power of Attorney and Declaration of Representative, to authorize an individual to sign the Form 907, Agreement to Extend the Time to Bring Suit. The second bullet was rewritten to emphasize that the guidance is for SB/SE employees. The note in this bullet was moved to the first

bullet. Two notes were added. One provides instruction for cases open in Field Examination and the other instructing users where to find additional resources.

(5) The Form 907 must be prepared in duplicate. They must be signed by:

- The taxpayer or an attorney, agent, trustee, or other fiduciary acting on the taxpayer's behalf pursuant to Form 2848, *Power of Attorney and Declaration of Representative*, and

Note: Rev. Rul. 76-60, 1976-1, C.B. 367, explains that Form 907 may be signed by the taxpayer's attorney or agent only if this action is specifically authorized by a Form 2848, which must accompany Form 907 if not previously filed. This requires checking the "other acts authorized" box and listing the Form 907 in the Form 2848, Line 5a.

- In SB/SE, the authority to execute a Form 907 has been redelegated in IRM 1.2.65.3.9, *SBSE 1-23-24, Authority to Sign Agreements to Extend the Running of the Period of Time to Bring Suit for signature authority and delegation*.

Note: For cases open in Field Examination, SB/SE group managers should contact their servicing Technical Services for assistance in the execution of the Form 907.

Note: For additional information on the two-year for file refund and Form 907 refer to IRM 4.10.11.2.16.1.1, *IRC 6532 Two-Year Period to File Refund Suit - Consideration and Examiner's Responsibilities*.