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

SMALL BUSINESS/SELF-EMPLOYED DIVISION

August 17, 2026

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Affected IRM: 4.8.9

MEMORANDUM FOR SB/SE TECHNICAL SERVICES EMPLOYEES

FROM: Heather J. Yocum /s/ Heather J. Yocum
Director, Examination Field and Campus Policy

SUBJECT: Interim Guidance for Recapturing Erroneous BMF Refunds

This memorandum issues guidance for issuing a notice of deficiency to recapture Business Master File (BMF) erroneous refunds issued by a Campus function until IRM 4.8.9, *Statutory Notices of Deficiency*, is published. Please distribute this information to all affected employees within your organization.

Purpose: To provide SB/SE Technical Services employees guidance for recapturing BMF erroneous refunds issued by Campus through the issuance of a notice of deficiency.

Procedural Change: SB/SE Technical Services employees are required to issue a notice of deficiency to recapture BMF erroneous refunds issued by Campus.

Effective Date and Effect on Other Documents: This guidance is effective immediately and will be incorporated into IRM 4.8.9 by a date not to exceed two years from the date of this memorandum.

Contact: Ronald Zarriello, Supervisory Tax Analyst, with any questions.

Attachment

Distribution: IRS.gov

Attachment – Interim Guidance: SBSE-04-0826-0054

IRM 4.8.9.X
Notice of Deficiency Procedures for Business Master File (BMF) Erroneous Refunds Issued by Campus

(1) This section and its subsections contain guidance for issuing a notice of deficiency to recapture Business Master File (BMF) Category A1 and Category A2 erroneous refunds issued by a Campus function that involve income and estate and gift taxes.

> **Note:** Notices of deficiency are not used to recover Category B (IRM 21.4.5.5.3, Category B Erroneous Refunds), Category C (IRM 21.4.5.5.4, *Category C Erroneous Refunds*) and Category D (IRM 21.4.5.5.5, *Overview of Category D Erroneous Refunds*) erroneous refunds. Technical Services should return all Category B, Category C, and Category D erroneous refund referrals to the originating Campus function.

(2) When a Campus function submits a BMF erroneous refund referral to Technical Services mailbox (*SBSE TS BMF Erroneous Refund), ensure the following items are included:

- Form 3210, *Document Transmittal*.
- Completed and signed Form 4442, *Inquiry Referral*.

  Caution: The referring Campus function must request the taxpayer repay the erroneous refund before referring the case to Technical Services. Form 4442 must state which notification letter was issued to the taxpayer and the date the letter was mailed.

- Completed and signed Form 12356, *Erroneous Refund Worksheet*.

  Note: Ensure the referring Campus function provides a detailed explanation of the events leading to the erroneous refund being issued including if the taxpayer caused the erroneous refund.

- A copy of the return and/or amended return, and all supporting documentation considered when the erroneous refund was issued.
- Current TXMOD (within 30 days).

(3) Dependent upon the review of the BMF erroneous refund package, Technical Services will take one of the following steps:

If	Then
The referral package is complete	Send an acknowledgement email to the originating Campus function within 21 days of receipt.

The referral package is incomplete	Return the incomplete referral package to the originating Campus function to perfect it. **Note:** A response should be added to Form 4442, Section C, Response/Final Resolution, explaining which documents are missing and/or any missing information.

(4) Prior to proceeding with issuing a notice of deficiency, review Campus' referral (e.g., Form 4442 and Form 12356) and the taxpayer's TXMOD to verify the following:

- The referral is a valid erroneous refund.

  Note: If the taxpayer returned the erroneous refund check or repaid the erroneous refund, the referral is not valid and the referral should be returned to the originating Campus function.

- The Assessment Statute Expiration Date (ASED) is still open.

  Note: If the ASED is barred, the referral should be returned to the originating Campus function for consideration of recapturing the erroneous refund by following the procedures in IRM 21.4.5.6, *Category D Erroneous Refund Procedures*.

- Campus indicated the correct erroneous refund amount (see Form 12356, *ERRF Amount $)*.
- Campus identified the correct erroneous refund type (see Form 12356, *ERRF Category*, and IRM 21.4.5.5, *Erroneous Refund Categories and Procedures*).
- Campus input TC 971, *Miscellaneous Transaction*, AC 663, *Identify Erroneous Refunds*, on each erroneous refund module.

  Note: The TRANS-AMOUNT (Field 4) column should reflect the amount of the erroneous refund.

(5) If Campus did not input TC 971 AC 663, the reviewer must submit Form 3870, *Request for Adjustment*, to Memphis CCP at 855-235-6795 using the following resources:

- Example – Form 3870 – Erroneous Refunds – TC971 AC 663
- Exhibit 21.4.5-1, *TC 971 AC 663 - Identifying Erroneous Refunds*, for determining the valid entries for FREEZE-RELEASE-AMT, Erroneous Refund Category Codes, Responsible Party, and Type of Error.

(6) If the erroneous refund referral is valid, Technical Services will:

- Create a collateral record in Examination Return Control System (ERCS) (see Job Aid – Establishing BMF Erroneous Refund (BER) Collateral Records in ERCS).
- Manually set up the case in RGS.

(7) The assigned reviewer will issue a notice of deficiency to recapture the erroneous refund following the steps outlined below:

a. Prepare notice of deficiency (see IRM 4.8.9, *Statutory Notices of Deficiency*).

   Note: Unless there is a short statute, do not issue the notice of deficiency until 28 days from the date the notification letter was issued.

b. Date the notice of deficiency (see IRM 4.8.9.11.2, *Dating Notices*).
c. Send the notice of deficiency by certified or registered mail using current procedures and follow procedures in IRM 4.8.9.12.3, *Records of Mailing.*
d. Save a copy of the notice of deficiency in the electronic case file (e.g., RGS).
e. Update the collateral record in ERCS per guidance in IRM 4.8.9.22, *Notice of Deficiency Suspense Files*.

      Reminder: Review types are now 3 digits.

f. Update the assessment statute based on the notice of deficiency (see IRM 4.8.9.X.6).

(8) Depending on the taxpayer's response to the notice of deficiency, the assigned reviewer will follow the guidance in the applicable section below:

- IRM 4.8.9.X.1, Taxpayer Agrees with Notice of Deficiency for Erroneous Refund
- IRM 4.8.9.X.2, Taxpayer Protests Notice of Deficiency for Erroneous Refund
- IRM 4.8.9.X.3, Taxpayer Petitions Tax Court for Erroneous Refund
- IRM 4.8.9.X.4, Taxpayer Does not Respond to Notice of Deficiency for Erroneous Refund
- IRM 4.8.9.X.5, BMF Erroneous Refund Partial Assessment
- IRM 4.8.9.X.6, Updating BMF Erroneous Refund Assessment Statutes

IRM 4.8.9.X.1
Taxpayer Agrees with Notice of Deficiency for Erroneous Refund

(1) If a payment is received from the taxpayer, process the payment (see IRM 4.20.1.3.1, *Process Payment Received*).

(2) Date stamp the waiver or agreement form and associate it with the case file. If an agreement is received prior to the closing of the case (Status Code 90), use an agreed disposal code. The waiver must be scanned and enclosed in the electronic case file .

(3) Review the waiver or agreement form to determine if it is properly signed by the taxpayer(s).

(4) Verify the statute is correct and update the ASED as necessary (see IRM 4.8.9.X.6).

(5) Submit a partial assessment following the procedures in IRM 4.8.9.X.5.

(6) Once the correct TC 290, *Additional Tax Assessment*, amount is posted, close the collateral record on ERCS to Status 90 and archive the electronic case file.

IRM 4.8.9.X.2
Taxpayer Protests Notice of Deficiency for Erroneous Refund

(1) Ensure the taxpayer's protest meets the criteria outlined in Publication 5, *Your Appeal Rights and How to Prepare a Protest If You Disagree* (see IRM 4.8.9.25, *Protests, Correspondence and Waivers After Issuance of Notice of Deficiency*).

(2) If the taxpayer filed an adequate protest, coordinate with the assigned Independent Office of Appeals (Appeals) per IRM 4.8.9.25.1, *Protests for Appeals Hearings*.

(3) If Appeals accepts the case, close the case per guidance in Job Aid - Closing BMF Erroneous Refund (BER) Collateral Records to Appeals.

(4) If Appeals waives jurisdiction, see IRM 4.8.9.26, *Appeals Waiver of Jurisdiction in Notice of Deficiency Cases*.

> **Note:** Appeals will send written notification to the taxpayer explaining the reason for the denial making it clear the denial does not extend the 90-day period for filing a petition with Tax Court (see IRM 8.2.2.3(6), *Appeals Jurisdiction on a Compliance Issued Statutory Notice of Deficiency (SND)*).

(5) If the taxpayer filed an inadequate protest and is unable to revise their protest to meet the criteria in Publication 5, follow guidance in IRM 4.8.9.25(1).

IRM 4.8.9.X.3
Taxpayer Petitions Tax Court for Erroneous Refund

(1) Follow the procedures in IRM 4.8.9.27.4, *Processing Petitioned Cases,* to send the case to Appeals.

(2) Close the case to Appeals following the guidance in Job Aid - Closing BMF Erroneous Refund (BER) Collateral Records to Appeals.

IRM 4.8.9.X.4
Taxpayer Does not Respond to Notice of Deficiency for Erroneous Refund

(1) If the taxpayer does not respond to the notice of deficiency, complete the following actions after the notice of deficiency defaults:

- Verify the statute is correct (see IRM 4.8.9.X.6)
- Submit a partial assessment (see IRM 4.8.9.X.5)

(2) Once the correct TC 290 amount is posted, close the collateral record on ERCS to Status 90 and archive the electronic case file.

IRM 4.8.9.X.5
BMF Erroneous Refund Partial Assessment

(1) Verify the statute is correct (see IRM 4.8.9.X.6) and eFax the following documents to Memphis CCP at 855-235-6795:

- Form 3870 (see Example – Form 3870 – Erroneous Refunds – TC290).

  Caution: Separate Forms 3870 must be submitted to input TC 971 AC 663 and TC 290.

- The first page of Letter 531, *Notice of Deficiency - 531*, and the first two pages of the examination report (e.g., Form 4549-A, *Report of Income Tax Examination Changes (Without Taxpayer Signature)*, or Form 5278, *Statement – Income Tax Changes*) to Memphis CCP at

TC 290 is po If the TC 290 is posted with an incorrect amount, research the reason(s) and adjust accordingly.

IRM 4.8.9.X.6
Updating BMF Erroneous Refund Assessment Statutes

(1) Update the assessment statute based on the notice of deficiency (see IRM 4.8.9.22.1, *Updating the Assessment Statute Expiration Date*) by following the procedures below:

- To update the AIMS statute, eFax, Form 3177, *Notice of Action for Entry on Master File*, to Memphis CCP at requesting a TC 560, *Waiver Extension of Date Assessment Statute Expires*, to be input.

  Caution: The AIMS statute cannot be updated using Form 5348, *AIMS/ERCS Update (Examination Update)*.

- To update the ERCS statute submit Form 5348 to the group manager for approval and input into ERCS.

  Caution: The ERCS statute cannot be updated using Form 3177.