

IRM PROCEDURAL UPDATE

DATE: 12/08/2015

NUMBER: WI-21-1215-1727

SUBJECT: Erroneous Refunds

AFFECTED IRM(s)/SUBSECTION(s): 21.4.5

CHANGE(s):

IRM 21.4.5.5.1(2) - Removed Note requirement to obtain the TC 840 document.

2. Employees who identify a Category D erroneous refund are responsible to create an erroneous refund package and complete the following actions before referring the case to the appropriate A/ER Unit. An erroneous refund package must include the following information:
 - o A completed Form 12356, *Erroneous Refund Worksheet*
 - o Erroneous refund category and what caused it
 - o Documentation of all actions taken (verbal, C Letters, etc.)
 - o Context of telephone conversations, if applicable
 - o Copies of all letters (i.e., Letter 510C, Quick Notes, etc.)

IRM 21.4.5.14.1.1(3) - Added exception to the 5 year rule for fraud purposes.

3. If it appears the five year statute may apply, prepare Form 4442/e-4442, *Inquiry Referral*, and seek advice of local Counsel. Refer to IRC 6532 (b).

EXCEPTION: A five year statute will apply if the IRS can show the erroneous refund was induced by fraud or a misrepresentation of a material fact.

NOTE: Erroneous refunds caused by payment over cancellation meet the requirements of the five-year statute. You may use the five-year statute in these cases without seeking confirmation from Counsel.