



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

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Affected IRM: 4.31.9

MEMORANDUM FOR ALL LB&I AND SB/SE EMPLOYEES ASSIGNED TO
SYNDICATED CONSERVATION EASEMENT (SCE) COMPLIANCE INITIATIVE
PROJECT (CIP) AND CAMPAIGN CASES

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SUBJECT: Deviation from Established Time Frames Described in IRM [4.31.9](#)
Regarding 2018, 2019 and 2020 Syndicated Conservation Easement
Compliance Initiative Project (CIP) and Campaign Cases Audited
Under the Centralized Partnership Audit Regime of the Bipartisan
Budget Act of 2015 (BBA).

On November 12, 2020, [Interim Guidance Memo LB&I-04-1020-0019](#) was issued to allow 2018 Syndicated Conservation Easement (SCE) BBA returns to be closed to Technical Services (TS) with a minimum of 6 months on the statute as a deviation from the 12 months as stated in IRM 4.31.9, Centralized Partnership Audit Regime (BBA) Field Examination Procedures. On March 18, 2022, [Interim Guidance Memo LB&I-04-0322-0008](#) was issued to allow 2019 and 2020 Syndicated Conservation Easement (SCE) BBA returns to be closed to Technical Services (TS) with a minimum of 6 months on the statute as a deviation from the 12 months as stated in IRM 4.31.9, Centralized Partnership Audit Regime (BBA) Field Examination Procedures. This memorandum supersedes, combines, modifies, and extends these deviations for 2018, 2019 and 2020 SCE cases and:

- Provides an overview of IRC 6235,
- Provides an overview of issuing a Notice of Proposed Partnership Adjustment (NOPPA) within time frames,

- Addresses SB/SE Field Examination's request to deviate from IRM 4.31.9 when closing SCE BBA cases to TS with imminent adjustment statutes.

Overview of IRC 6235: IRC 6235 applies to partnerships subject to the BBA. The statute of limitations under IRC 6235 prescribes the time allowed to make partnership adjustments instead of time to make assessments. The general rule is that no partnership adjustment for any partnership taxable year may be made after the later of three specified dates. The **6235(a)(1) date**, the 6235(a)(2) date, or the 6235(a)(3) date. The Notice of Proposed Partnership Adjustment (NOPPA) must be issued prior to the expiration of the **6235(a)(1) date**. These dates may be extended by the Partnership Representative (PR). In addition, special rules may apply (e.g., substantial omission, fraud, etc.) to extend the period of limitations. The special rules are listed in 6235(c). Refer to attachment 1 for additional information.

Time to issue the NOPPA: A NOPPA must be mailed (certified) on or before the expiration of the 6235(a)(1) date (including any extensions and applicable special rules). If a NOPPA is not issued prior to the expiration of the IRC 6235(a)(1) date, the Service is precluded from issuing a Notice of Final Partnership Adjustment (FPA) under IRC 6235(a)(3).

TS must have enough time to issue the NOPPA before the 6235(a)(1) date expires. There are various actions that TS must take on a BBA case before a NOPPA can be issued. At a minimum:

- Review the case to ensure appropriate BBA and SCE procedures were applied;
- Work with the group and/or Tax Computation Specialists to address any questionable items;
- As necessary, solicit Counsel review/approval of the SCE adjustments and penalties reflected in the NOPPA. (This can take 45-60 days or longer);
- As necessary, solicit CI approval to issue the NOPPA (this can take 30 days or longer); and
- Request updated interest computations from Centralized Case Processing (CCP) for inclusion in the NOPPA package (approximately 2 weeks).

Note: In the event there is a problem that would cause the IRS to withdraw the NOPPA, a new one cannot be issued once the 6235(a)(1) date has expired.

Field Examination deviation: As stated above, a NOPPA must be mailed on or before the expiration of the 6235(a)(1) date. The earliest 6235(a)(1) expiration date on a timely filed 2019 partnership return is 03/15/2023. IRM 4.31.9 states for cases with adjustments (no appeal), there must be 12 months (1 year) remaining on the statute at the time the case is received in TS. Applying this guidance to the SCE 2018, 2019 and 2020 returns, Field Examination would need to ensure all SCE cases are in TS with 1 year or more remaining on the 6235(a)(1) expiration date.

This memo and attachment 2 are in response to Field Examination's request. The proposal is strictly with respect to 2018, 2019 and 2020 SCE examinations subject to the Centralized Partnership Audit Regime (BBA).

Effect on Other Documents: This memorandum supersedes, combines, modifies, and extends Interim Guidance Memorandums LB&I-04-1020-0019 and LB&I-04-0322-0008. This deviation should not be incorporated into IRM 4.31.9, other BBA documents or other campaigns.

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cc: irs.gov

Attachments (2)

Attachment 1

[IRM 4.31.9.8.4](#) provides field examination procedures, processes and guidelines for statute control. [IRM 4.31.9.8.4.1](#) specifically states that Field Examination is responsible for protecting the 6235(a)(1) date, which is the later of:

- 3 years after the date the return was due; or
- 3 years after the date the return was filed; or
- 3 years after an Administrative Adjustment Request (AAR) is filed.

In some instances, there may be a BBA (campaign and non-campaign) case with an imminent statute. An imminent statute, as defined by IRM 4.31.9, is a BBA return with adjustments (no Appeals) **having (12) months** remaining on the statute of limitations on making adjustments under IRC 6235(a)(1). In these instances, the assigned Revenue Agent should follow the procedures below.

With respect to a BBA Partnership return, a statute extension [Form 872-M](#) along with cover [Letter 907-M](#) should be solicited if the 6235(a)(1) date will expire within 14 months. If the taxpayer **does not** timely execute a statute extension, the Revenue Agent will need to finalize the adjustments & penalties write-ups, complete the Imputed Underpayment Workbook, work with a Tax Computation Specialist (TCS) to prepare a summary report, work with an Interest Computation Specialist (CCP) to obtain an interest calculation and issue the Summary Report package to the Partnership Representative (PR).

The Summary Report package per [IRM 4.31.9.10.1](#) will include:

- [Letter 5895, Preliminary Partnership Examination Changes and Imputed Underpayment,](#)
- [Form 14791, Preliminary Partnership Examination Changes, Imputed Underpayment Computation and Partnership Level Determinations as to Penalties, Additions to Tax and Additional Amounts,](#) and
- [Form 886-A, Explanation of Adjustments, for each substantive issue, each penalty \(if applicable\), and the imputed underpayment amount.](#)

During the 30-day period following the issuance of the summary report, if the Partnership Representative (PR) does not respond or informs the Revenue Agent they DO NOT wish to extend the IRC 6235(a)(1) date, the Revenue Agent will be required to prepare the Notice of Proposed Partnership Adjustment (NOPPA) package and close the case to TS for issuance of the NOPPA prior to the imminent statute of that particular case.

The NOPPA package per [IRM 4.31.9.10.3](#) will include:

- [Form 14792, Partnership Examination Changes, Imputed Underpayment Computation and Partnership Level Determinations as to Penalties, Additions to Tax and Additional Amounts,](#)
- [Letter 5892, Notice of Proposed Partnership Adjustments- Partnership,](#)

- [Letter 5892-A, Notice of Partnership Adjustments-Partnership Representative,](#)
and
- [Form 886-A, Explanation of Adjustments, for each substantive issue, each penalty \(if applicable\), and the imputed underpayment amount.](#)

The Revenue Agent will prepare Letters 5892 and 5892-A without the following: The IRS person point of contact (name, ID, contact info); Date of issuance; 270-day submission period expiration date; and Response due date. The Revenue Agent must not issue the NOPPA package. TS will issue the NOPPA packages to the partnership and PR. Prior to closure, the field manager must review and approve the NOPPA package. This managerial review and approval should be documented in the case file activity record.

Attachment 2 (2019 SCE Case used as an example)

Normal procedures with respect to a timely filed 2019 SCE Partnership return subject to the BBA (absent any extensions or special rules):

- 03/15/2023 is the earliest 6235(a)(1) expiration date. Therefore,
- 03/15/2022 is the date Field Examination in accordance with IRM 4.31.9 would need to close the case to TS.

Proposed deviation for closing 2019 SCE/BBA imminent statute cases to TS. For explanation purposes, time frames are based on a timely filed 2019 partnership return with the earliest IRC 6235(a)(1) expiration date of 03/15/2023.

The SCE BBA case must have **six (6) months or more** remaining on the 6235(a)(1) date when it is received in TS.

- The case must be in TS status 27, assigned to a TS Passthrough Coordinator (TSPC), formally known as TEFRA Coordinators, by 09/15/2022 (six (6) months remaining on the 6235(a)(1) date). The case cannot be in the mail/in-transit status 21 after that date.
- The TSPC will review the case and, if warranted, will contact Counsel for approval of the NOPPA package in accordance with BBA procedures.

NOTE: If concerns are raised by either TS or Counsel, Field Examination will be contacted to assist. If, in the opinion of TS, too much time is spent resolving all discrepancies, the case may need to be returned to Field Examination status.

- Once the NOPPA is mailed (certified) by TS, the TSPC will update ERCS/AIMS turning on the IRC 6225(c)(7) date; the partnership 270-day period to request modification and the Services IRC 6235(a)(3) date; and the last date to mail an FPA if the partnership does not invoke modification. Note: The IRC 6235(a)(3) date is 330days from the date of the NOPPA.

If the SCE BBA case has **less than six (6) months** remaining on the 6235(a)(1) date **the case will remain in the assigned Revenue Agent's group.** The assigned Revenue Agent will work closely with TS to finalize the NOPPA package.

- TS – Legacy group manager will provide instructions via email to the field group manager including assignment of a TSPC.

- The TSPC will review the case and, if warranted, contact Counsel for approval of the NOPPA package in accordance with BBA procedures. If concerns are raised by either TS or Counsel, Field Examination will be contacted to resolve all discrepancies.
- Once the NOPPA is mailed (certified) by TS, the TSPC will update ERCS/AIMS turning on the IRC 6225(c)(7) date; the partnership 270-day period to request modification and the Services IRC 6235(a)(3) date; the last date to mail an FPA if the partnership does not invoke modification, and then provide guidance to close the case to TS for suspense.

Managerial involvement and engagement are critical. Attempts to solicit statute extensions and managerial discussions regarding the imminent statute must be clearly documented in the case file. Additionally, except for this deviation as it pertains to closing SCE BBA cases with less than 1 year on the IRC 6235(a)(1) date, the assigned LB&I or SB/SE Revenue Agent will follow all procedures outlined in IRM 4.31.9 including but not limited to procedures in preparing Forms 886-As, preparing Summary Report Packages and preparing NOPPA Packages.

For questions, issues or concerns LB&I and SB/SE Revenue Agents should contact their assigned TS Pass-Through Coordinator. Managers should contact TS - Legacy Territory Manager Connie Blanford by email: connie.l.blanford@irs.gov or by phone at (619) 615-7787.