

## IRM PROCEDURAL UPDATE

**DATE: 06/04/2026**

**NUMBER: sbse-04-0626-0596**

**SUBJECT: Incorporate Penalty for Erroneous Claim for Refund or Credit As a Result of the Legislative Changes to IRC 6676**

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

**CHANGE(S):**

**IRM 4.23.13.1.3 - Revised the title to "Roles and Responsibilities" to be consistent with IRM 1.11.2.2.4, Address Management and Internal Controls.**

Roles and Responsibilities

(1) Director, Specialty Examination Policy is responsible for the procedures and updates addressed in this IRM.

(2) Director, Specialty Examination is the executive responsible for examination operational compliance.

**IRM 4.23.13.1.4 - Revised the title to "Program Management and Review" to be consistent with IRM 1.11.2.2.4, Address Management and Internal Controls; Added paragraphs (3) and (4) to provide information on the reports and reporting mechanisms produced under the program.**

Program Management and Review

(1) Program Goals: The processes and procedures provided in this IRM are consistent with the objectives or goals for Employment Tax - Examination that are addressed in IRM 1.1.16.5.3.3, *Employment Tax Examination* and for Employment Tax Policy, found in IRM 1.1.16.5.5.2.2, *Employment Tax Policy*.

(2) Program Effectiveness: Program goals are measured with Employment Tax Embedded Quality Performance Reports that monitor whether quality attributes are applied uniformly and consistently.

(3) Annual Review: Employment Tax Policy - Program Manager, is responsible for reviewing the information in this IRM annually to ensure accuracy and promote consistent tax administration.

(4) Program Reports: Information regarding the reporting of program objectives are included on, but not limited to, the following reports submitted to the Director, Examination - Specialty:

- Headquarters Examination Monthly Briefing,
- Program Manager Monthly Briefing,
- Examination Operational Review, and
- Business Performance Reviews.

(5) The Quarterly Business Performance Review (BPR) provides updates on the status of Whistleblower claims in Operating Division SME status.

**IRM 4.23.13.1.5 - The subsection has been updated to be consistent throughout the Employment Tax (ET) program. The subsection describes the program controls that ensure the ET program operates accurately, efficiently, and consistently.**

(1) To ensure the program is working consistently and correctly, SB/SE Employment Tax program (ET Program) put in place program controls to oversee it. Program controls are like checks and balances that help the ET program:

- **Prevent Errors:** Stop errors from happening in the first place.
- **Detect Problems:** Find problems quickly if they do happen.
- **Fix Issues:** Fix any issues that come up.

(2) The ET program has implemented the following controls to ensure effective management:

1. **Issue Management System (IMS):** Mandatory use during employment tax examinations by ET examiners.
2. **Standardized Lead Sheets:** Employment Tax Lead Sheets (ETLS) for standard employment tax cases and Large Case Lead Sheets (LCLS) for large case employment tax examinations.
3. **Specialty Employment Tax Application (SETA):** A web-based tool used by ET examiners to generate most of the necessary documents for examination reports and case closure.

(3) All information management systems have safeguard measures in place that address key components of Information Technology (IT) security requirements to restrict access to sensitive data.

(4) The ET program operates under the framework of internal controls designed to ensure that examinations are conducted consistently, accurately, and in accordance with IRC, regulations, and IRS policies. Key controls include:

- Periodic reviews of examination case files by group managers,
- Standardized training for examiners, and
- Review of closed case files is conducted to monitor adherence to established procedures.

(5) The ET program has established a separation of duties of certain users' roles:

- Policy and procedure reside with ET Policy that is within SB/SE Specialty Examination Policy
- Case selection reside with ET-WSD within SB/SE Examination Case Selection, and
- Quality review reside within SB/SE Exam Quality and Technical Support.

(6) Embedded Quality is applied through a common set of attributes, capturing data within the following systems:

- Embedded Quality Review System (EQRS) for group management reviews, and
- National Quality Review System (NQRS) for closed case reviews.

(7) ET group managers regularly evaluate workload management, risk assessments, and resource allocation within their groups. The managers achieve the evaluations via workload and individual case reviews of the examiners within their group. The reviews provide feedback to examiners on their effectiveness and identify opportunities for improvements.

**IRM 4.23.13.3.1 - A paragraph (3) has been added to the subsection, providing examiners with guidance on the erroneous claim for refund or credit penalty under IRC 6676. Effective July 4, 2025, examiners are required to consider this penalty and document the case file. One Big, Beautiful Bill Act (Public Law 119-21), Section 70605(f), amended IRC 6676 by broadening the scope of the penalty by replacing the reference to "income tax" with "income or employment tax."**

(1) Cases containing claims for refund that are disallowed in full are processed in three different ways:

- Full disallowance without audit development
- Full disallowance with no additional tax adjustment
- Full disallowance with additional adjustment

(2) The explanation and reason for disallowance must include enough information to enable the taxpayer to challenge the determination.

(3) For claims filed after July 4, 2025, examiners must consider and document the applicability of the penalty for erroneous claim for refund or credit under IRC 6676 when a claim for refund is disallowed in full or part (including withdrawn claim issues). Document the reasonable-cause analysis and ensure the report explanation clearly states why the penalty does or does not apply. See IRM 4.23.9.18, *Penalty for Erroneous Claim for Refund or Credit*.

**IRM 4.23.13.3.1.2(2) - Instructions were clarified on the completion of Letter 2841. Added a note to paragraph (1) stating a Letter 4121-E cannot be issued in situations where a claim is fully disallowed with no additional tax adjustment. This is because the letter provides guidance to the taxpayer regarding a balance due, which is not applicable in cases where no additional tax is owed.**

(2) If the taxpayer has signed and returned the Form 2297 and Form 3363 to the examiner, the examiner may issue closing Letter 2841, *Agreed Claim Disallowed in Full*, to the taxpayer. It will be prepared and provided by the examiner as follows:

- a. Mark the appropriate box on Form 3198 that states "No letter required to be sent by CCP."
- b. A Letter 2841 is completed for each Form 94x-X filed.
- c. The specific form number associated with the claim for refund or credit, such as Form CT-1X, Form 941-X, Form 943-X, Form 944-X, or Form 945-X, The date the form was received, and the tax period covered by the claim for refund or credit.
- d. The point of contact will be either the assigned examiner or their manager, who will provide their name, Employee ID number, and phone number
- e. The manager reviews the case file.

**Note:** This letter is not signed by the group manager on the behalf of the Chief, Employment Tax.

- f. Upon notification from the group manager the case has been closed a copy of the Letter 2841 will be provided to both the taxpayer and the taxpayer's authorized representative.
- g. The Form 9984 will be updated by the examiner to document the letter and date sent and to whom.

**Note:** TE/GE examiners are to refer to IRM 4.70.17.6.3.1, *Employment Tax Cases: Claim Partially Disallowed Without Additional Tax Adjustments*, or IRM 4.70.17.6.5.1, *Employment Tax Cases: Claim Disallowed in Full without Additional Tax Adjustment*, for guidance.

**IRM 4.23.13.3.2 - A paragraph (3) has been added to the subsection, providing examiners with guidance on the erroneous claim for refund or credit penalty under IRC 6676. Effective July 4, 2025, examiners are required to consider this penalty and document the case file. One Big, Beautiful Bill Act (Public Law 119-21), Section 70605(f), amended IRC 6676 by broadening the scope of the penalty by replacing the reference to "income tax" with "income or employment tax."**

(1) Cases containing claims for refund that are disallowed in part are processed in two different ways:

- Partially disallowed with no additional tax adjustment
- Partially disallowed with additional tax adjustments resulting in an increase in employment tax liabilities

(2) The explanation and reason for disallowance must include enough information to enable the taxpayer to challenge the determination.

(3) For claims filed after July 4, 2025, examiners must consider and document whether the IRC 6676 erroneous claim penalty applies when a claim for refund is disallowed in full or part (including withdrawn claim issues). Document the reasonable-cause analysis and ensure the report explanation clearly states why the penalty does or does not apply. See IRM 4.23.9.18, *Penalty for Erroneous Claim for Refund or Credit*.

**IRM 4.23.13.3.2.1(1) - Added a note to paragraph (1) stating a Letter 4121-E cannot be issued in situations where a claim is partially disallowed with no additional tax adjustment. This is because Letter 4121-E provides guidance to the taxpayer regarding a balance due, which is not applicable in cases where no additional tax is owed.**

(1) Cases containing claims for refund that are examined and disallowed in part, **with no additional audit adjustments**, will be closed with DC "04" if agreed, DC "07" if appealed, or DC "08" if unagreed without an appeal request. Case files must include:

Item	Additional Information
Form 886-A	Required for unagreed cases, optional for others.

Form 2297	Refer to IRM 4.23.13.3.4, <i>Form 2297</i> and Exhibit 4.23.13-3, <i>Instructions for Completing Form 2297</i> .
Form 3363	Refer to IRM 4.23.13.3.5, <i>Form 3363</i> , and Exhibit 4.23.13-4, <i>Instructions for Completing Form 3363</i> .
Form 4666	Refer to IRM 4.23.13.3.6, <i>Form 4666</i> , for language in the "Other information" section.
Form 4667	If applicable.
Form 4668	If applicable.
Form 4668-B	If applicable.
Form 4668-C	If applicable.
Letter 5376	This letter is considered a 30-day letter (see IRM 4.23.22.6, <i>30-Day Letters: Unagreed Case Procedures</i> ).
Forms 2504, 2504-S, or 2504-T	Whichever if applicable. Refer to IRM 4.23.10.10.10, <i>Form 2504</i> , <i>Form 2504-S</i> , and <i>Form 2504-T</i> for information on the appropriate version.
Pub 5	Blank
Pub 594	Blank

**Note:** Letter 4121-E cannot be issued when a claim is fully disallowed and there is no additional tax adjustment. Letter 4121-E provides balance-due guidance, which does not apply when the taxpayer does not owe additional tax.

**Note:** TE/GE examiners are to refer to IRM 4.70.17.6.3.1, *Employment Tax Cases: Claim Partially Disallowed without Additional Tax Adjustment*, for guidance.

**IRM 4.23.13.3.2.2 - Added a note to paragraph (1) stating a Letter 4121-E can be used to transmit a partially disallowed claim with an additional tax adjustment, but only if the additional tax due exceeds the refund amount. This is because Letter 4121-E provides taxpayer guidance on paying a balance due, making it suitable for situations where the taxpayer owes more than they are requesting as a refund. Paragraph (3) was removed due to note to paragraph (1).**

(1) Cases containing claims for refund that are examined and disallowed in part, **with additional audit adjustments resulting in an increase in employment tax liabilities**, will

be closed with DC "03" if agreed, DC "07" if appealed, or DC "08" if unagreed without an appeal request. Case files may include:

Item	Additional Information
Form 886-A	Required for unagreed cases, optional for others.
Form 2297	Refer to IRM 4.23.13.3.4, <i>Form 2297</i> and Exhibit 4.23.13-3, <i>Instructions for Completing Form 2297</i> .
Form 3363	Refer to IRM 4.23.13.3.5, <i>Form 3363</i> , and Exhibit 4.23.13-4, <i>Instructions for Completing Form 3363</i> .
Form 4666	Refer to IRM 4.23.13.3.6, <i>Form 4666</i> , for language in the "Other information" section.
Form 4667	If applicable.
Form 4668	If applicable.
Form 4668-B	If applicable.
Form 4668-C	If applicable.
Letter 5376	This letter is considered a 30-day letter (see IRM 4.23.22.6, <i>30-Day Letters: Unagreed Case Procedures</i> ).
Forms 2504, 2504-S, or 2504-T	Whichever if applicable. Refer to IRM 4.23.10.10.10, <i>Form 2504</i> , <i>Form 2504-S</i> , and <i>Form 2504-T</i> for information on the appropriate version.
Pub 5	Blank
Pub 594	Blank

**Note:** Letter 4121-E may be used to transmit a partially disallowed claim with an additional tax adjustment only when the additional tax due exceeds the refund amount. Letter 4121-E provides balance due payment guidance and is appropriate only when a net balance due remains.

**Note:** TE/GE examiners are to refer to IRM 4.70.17.6.4.1, *Employment Tax Cases: Claim Partially Disallowed with Additional Tax Adjustment*, for guidance.

(2) If the taxpayer has signed and returned the Form 2297 and Form 3363 to the examiner, the examiner may issue closing Letter 2841 to the taxpayer. It will be prepared and provided by the examiner as provided in IRM 4.23.13.3.1.2 (2).