

IRM PROCEDURAL UPDATE

DATE: 05/29/2024

NUMBER: ts-03-0524-0698

SUBJECT: 4442 Clarification; 8832 TOE State Conversion Clarification; 2553 Special Scenario

AFFECTED IRM(s)/SUBSECTION(s): 3.13.2

CHANGE(s):

IRM 3.13.2.8.22(8) (c) - Added instruction if no fax number is present, treat 4442 as classified waste. Alphas corrected in remaining table.

(8) **Form 4442**, Inquiry Referral

If...	Then....
A) Form 4442, Inquiry Referral is received,	<ul style="list-style-type: none">• Batch under OFP 390-10014.• The case must be completed within 20 days of the date stamped by the fax machine.• Process the taxpayer inquiry, Section B according to your IRM procedures.• Complete Section C, Response/Final Resolution in blue or black ink according to the actions taken.
B) A fax number is present,	Fax the Form 4442 back to the originating office. Note: If the issue is an EIN consolidation, retain the Form 4442 as part of your consolidation case. It is not necessary to return Form 4442 to originator.
C) A fax number is not present,	Treat the Form 4442 as classified waste. See IRM 21.5.1.4.10, Classified Waste.
D) Form 4442 is received by Entity and the inquiry is not an Entity related issue,	This is considered an erroneous referral. Send the Form 4442 to your campus transshipping coordinator. The coordinator will alert the originating transshipping site of their error. The case must be processed in the receiving site to avoid delay. If the referral is received from a call site or Taxpayer Assistance Center (TAC), please refer the case to the Form 4442 Erroneous Referral Coordinator at the particular site. Please see Form 4442 Erroneous Referral Coordinators.

E) Form 4442 will be received from AM asking Entity to establish an SSN on the V/W tape for MFT 17 (Form 8288) or MFT 68 (Form 3520),	Entity TEs will input TC 000 to establish the SSN on the V/W tape as requested. Enter an audit trail on Form 4442 and route to originator.
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If a Form 4442 is received in BMF Entity and there is an open BMF Entity unpostable on CC UPTIN, expeditiously forward the 4442 to BMF Entity Unpostables.

IRM 3.13.2.10.18(1) - Added TOE requirement of 1 for state converted entity. SERP Feedback #19350.

(1) If an Entity reorganizes/converts at the state level and maintains the same structure (officers, employees, type of business), the entity may retain their EIN. Follow guidelines listed below:

- Information found on the Secretary of State websites identifying the reorganization/conversion can be used for case documentation without contacting the taxpayer. Print documentation to attach to the case. See Exhibit 3.13.2-8.

Note: If the state does not allow conversions and requires the entity to re-register, the taxpayer is allowed to keep their EIN if it maintains the same structure. The taxpayer must submit a signed statement stating they have re-registered with the state.

- If unable to secure documentation from the SOS, contact the taxpayer via telephone requesting the state paperwork showing the reorganization/conversion. If unable to secure documentation via phone, return any documents received to the taxpayer explaining the reason. Ensure open paragraphs are reviewed by lead TE. If unable to secure documentation, do not update the account.
- Update the taxpayer's name, address and/or FRCs as needed. Update LLC indicator as needed.
- Prepare a "dummy" Form 8832, see IRM 3.13.2.2(11), BMF Entity - General, with the state paperwork attached. Input TC 074 (as a source document) effective the date the entity reorganized/converted. If the taxpayer submits a Form 8832, use it as the source document rather than preparing a "dummy" document. TOE input will always be 1 since this is an initial election. The FOE input will depend on the change to the Entity and the taxpayer's intent. See IRM 3.13.2.27.5(6), Processing Approved Form 8832.
- Send the taxpayer a Letter 3064C or Letter 3574C telling them our records have been updated to reflect the state reorganization/conversion.
- When using the IAT SET tool for Form 2553 or Form 8832, in conjunction with a state reorganization, applicable letters will be utilized.

Reminder: If the EIN reflects a previous TC 074/076, input a TC 075/077 to reverse the original election. Use a PDC 1 on the TC 074 input.

IRM 3.13.2.23.4(14) NOTE - Changed "very rare" verbiage to occasional and corrected TC 971 AC 37X.

(14) Rev. Proc. 2013-30 allows relief without a time restriction for **one specific scenario:**

- The corporation is not seeking late corporate classification election relief concurrently with a late S corporation election under this revenue procedure;
- The corporation fails to qualify as an S corporation solely because the Form 2553 was not timely filed;
- The corporation and all its shareholders reported their income consistent with S corporation status for the year the S corporation election would have been made, and for every subsequent taxable year (if any);
- At least 6 months have elapsed since the date on which the corporation filed its tax return for the first year the corporation intended to be an S corporation; and
- Neither the corporation nor any of its shareholders was notified by the IRS of any problem regarding the S corporation status within 6 months of the date on which the Form 1120-S for the first year was timely filed.

Note: This scenario happens occasionally. Entity and/or Entity Unpostables have probably worked returns as AC 347 Rejects or UPCs 310. Research for TCs 971-37X on CC BMFOL'T'.

IRM 3.13.2.23.24(1) - Added TOE requirement of 1 for state converted entity. SERP Feedback #19350.

(1) If an Entity reorganizes/converts at the state level and maintains the same structure (officers, employees, type of business), the entity may retain their EIN. Follow guidelines listed below:

- Information found on the Secretary of State sites, see Exhibit 3.13.2-8, identifying the reorganization/conversion can be used for case documentation without contacting the taxpayer. Print documentation to attach to the case.

Note: If the state does not allow conversions and requires the entity to re-register, the taxpayer is allowed to keep their EIN if it maintains the same structure. The taxpayer must submit a signed statement stating they have converted with the state.

- If unable to secure documentation from the SOS, contact the taxpayer via telephone requesting the state paperwork showing the reorganization/conversion. If unable to secure documentation via phone, return any documents received to the taxpayer explaining the reason. Ensure open paragraphs are reviewed by lead TE. If unable to secure documentation, do not update the account.
- Update the taxpayer's name, address and/or FRCs as needed. Update LLC indicator as needed.
- Prepare a "dummy" Form 8832, see IRM 3.13.2.2 (11), BMF Entity - General, with the state paperwork attached. Input TC 074 (as a source document) effective the date the entity reorganized/converted. If the taxpayer submits a Form 8832, use it as the source document rather than preparing a "dummy" document. TOE input will always be 1 since this is an initial election. The FOE input will depend on the change to the Entity and the taxpayer's intent. See IRM 3.13.2.27.5(6), Processing Approved Form 8832.
- Send the taxpayer Letter 3064C or Letter 3574C stating our records have been updated to reflect their state reorganization/conversion.
- When using IAT SET tool on Form 2553, in conjunction with a state reorganization, applicable letters will be utilized.

Reminder: If the EIN reflects a previous TC 074/076, input a TC 075/077, respectively, to reverse the original election. Use a PDC 1 on the TC 074 input.

IRM 3.13.2.27.5(5) (c) - Added (c) for TOE requirement of 1 for state converted entity. SERP Feedback #19350.

(5) Type of Election (TOE):

- a. When processing Form 8832 submitted by the taxpayer, if box 1a is marked, enter "1" into IDRS.
If taxpayer marks box 1b, enter "2" into IDRS.
- b. A deemed classification election will always be a TOE of 1.
- c. A state conversion will always be a TOE of 1.
- d. If no boxes are checked, default TOE is "1".

IRM 3.13.2.27.13(1) - Added TOE requirement of 1 for state converted entity. SERP Feedback #19350.

(1) If an Entity reorganizes/converts at the state level and maintains the same structure (officers, employees, type of business), the entity may retain their EIN. Follow guidelines listed below:

- Information found on the Secretary of State site, see Exhibit 3.13.2-1, identifying the reorganization/conversion can be used for case documentation without contacting the taxpayer. Print documentation to attach to the case.

Note: If the state does not allow conversions and requires the entity to re-register, the taxpayer is allowed to keep their EIN if it maintains the same structure. The taxpayer must submit a signed statement stating they have converted with the state.

- If unable to secure documentation from the SOS, contact the taxpayer via telephone requesting the state paperwork showing the reorganization/conversion. If unable to secure documentation via phone, return any documents received to the taxpayer explaining the reason. Ensure open paragraphs are reviewed by lead TE. If unable to secure documentation, do not update the account.
- Update the taxpayer's name, address, and/or FRCs as needed. Update LLC indicator as needed.
- Prepare a "dummy" Form 8832, see IRM 3.13.2.2 (11), BMF Entity - General, with the state paperwork attached. Input TC 074 (as a source document) effective the date the entity reorganized/converted. If the taxpayer submits a Form 8832, use it as the source document rather than preparing a "dummy" document. TOE input will always be 1 since this is an initial election. The FOE input will depend on the change to the Entity and the taxpayer's intent. See IRM 3.13.2.27.5(6), Processing Approved Form 8832.
- Send the taxpayer Letter 3064C or Letter 3574C stating our records have been updated to reflect their state reorganization/conversion.
- When using IAT SET tool for Form 8832 or Form 2553, in conjunction with a state reorganization, applicable letters will be utilized.

Reminder: If the EIN reflects a previous TC 074/076, input a TC 075/077, to reverse the original election. Use a PDC 1 on the TC 074 input.