



OFFICE OF THE TAXPAYER ADVOCATE  
WASHINGTON, DC 20224

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MEMORANDUM FOR TAXPAYER ADVOCATE SERVICE EMPLOYEES

FROM: /s/ Bridget Roberts  
Deputy National Taxpayer Advocate

SUBJECT: Interim Guidance on Exceptions to TAS Case Acceptance Criteria For Taxpayer Issues Related to Unemployment Compensation Received in Taxable Year 2020

This memorandum revises TAS case acceptance criteria involving recent statutory changes to how certain unemployment compensation is taxed. Because the IRS is planning a systemic relief process to address this change, TAS cannot meaningfully assist most of these taxpayers.<sup>1</sup>

This change involves the exclusion of unemployment compensation received in taxable year 2020 from gross income pursuant to § 9042 of the American Rescue Plan Act of 2021 (ARPA).<sup>2</sup> ARPA § 9042(a) provides a special rule for suspension of tax on portion of unemployment compensation for certain individual taxpayers in tax year 2020. IRC § 85(c), as amended by the ARPA, excludes from gross income up to \$10,200 of unemployment compensation received by an individual with adjusted gross income (AGI) of less than \$150,000 during tax year 2020 (up to \$20,400 in the case of a joint return). The IRS will implement a systemic relief process which will input an adjustment to correct the affected taxpayer's tax module. The IRS will determine the correct taxable amount of unemployment compensation and will recalculate the taxpayer's AGI, taxable income (TXI) and tax accordingly. The IRS will either refund any resulting overpayment of tax or apply it to the taxpayer's outstanding tax liability.

**Reminder: A reduction in AGI and TXI may also result in a change to refundable credits.**

Since the IRS is already implementing a systemic relief process that will adjust the taxpayer's account for this issue, TAS cannot meaningfully advocate on behalf of affected taxpayers. Action taken by TAS could delay or interfere with this systemic relief. Therefore, TAS will generally not accept the case if the taxpayer contacts TAS about this issue.

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<sup>1</sup> This guidance is applicable to both unrepresented and represented taxpayers.

<sup>2</sup> Pub. L. No. 117-2, Title IX, § 9042(a), 135 Stat. 122 (2021).



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**Exceptions:** TAS will continue to accept cases involving Offset Bypass Refunds. See Internal Revenue Manual ([IRM 13.1.24.6.2](#), Advocating from Taxpayers Seeking Offset Bypass Refunds).

TAS will also accept cases involving identity theft meeting TAS Case Acceptance Criteria in [IRM 13.1.7.2.1](#), TAS Case Criteria 1–4, Economic Burden, [IRM 13.1.7.2.3](#), TAS Case Criteria 8, Best Interest of the Taxpayer, and [IRM 13.1.7.2.4](#), TAS Case Criteria 9, TAS Public Policy, which includes referrals from Congressional offices. Open identity theft cases will be excluded from the IRS’s systemic relief process. However, the Identity Theft Victims Assistance unit (IDTVA) will be working cases where an identity theft indicator is present. TAS employees can identify those cases excluded from the IRS’s systemic adjustment for unemployment compensation by the following transaction codes using CC IMFOLE:

- TC 971 AC 123 with MISC “IDTVACASE” (IDTVA case is open)
- TC 972 AC 123 with MISC “IDTVACLSD” (IDTVA case has been resolved)

See [IRM 25.23.4.21.1](#), ARPA – Unemployment Income Tax Relief, for IDTVA procedures for addressing these accounts.

**Reminder:** [IRM 13.1.7.3\(1\)\(e\)](#), Exceptions to Taxpayer Advocate Service Criteria, states that taxpayers experiencing Identity Theft meeting [IRM 13.1.7.2.2](#), TAS Case Criteria 5 – 7, Systemic Burden, are instead referred to the Accounts Management Identity Protection Specialized Unit (IPSU) (see [IRM 25.23.3.2.6](#), Identity Theft Assistance Request (ITAR) - General Information, rather than having a case created in TAS.

**What TAS will do**

TAS employees should remind taxpayers contacting TAS **not** to file a Form 1040X, Amended U.S. Individual Income Tax Return, unless the calculations make the taxpayer newly eligible for additional federal credits or deductions not already included on the original tax return.

For example, the IRS will systemically adjust refunds for taxpayers whose Earned Income Tax Credit (EITC) increased because of the change in how unemployment income is taxed. However, taxpayers would have to file an amended return if they did not originally claim the EITC or other credits but now are eligible because the exclusion changed their adjusted gross income.

Remind taxpayers to review their state tax returns as well.

TAS employees should be empathetic and understand the financial hardship this may cause some taxpayers and the frustration they may feel. TAS will use the Contact Record to document the contact and will select “IRS Account Information” as the Reason for Contact, “Other” as the Reason for No Case, and input the literal **\*\*UNEMPLOY\*\*** in the Reason for No Case Description.



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TAS will continue to monitor IRS's implementation of this systemic relief process. The Deputy National Taxpayer Advocate may modify or rescind this guidance at any time by notifying TAS employees through the issuance of a TAS Welcome Screen article discussing the change in guidance.

**Effect on Other Documents:** TAS may incorporate aspects of this guidance into the next revision of IRM 13.1.7, Taxpayer Advocate Service (TAS) Case Criteria.

Please contact Michael Kenyon, Deputy Executive Director of Case Advocacy, Technical Support, at (701) 237-8299, if you have questions.

cc: [www.irs.gov](http://www.irs.gov)