

IRM PROCEDURAL UPDATE

DATE: 05/06/2020

NUMBER: wi-21-0520-0589

SUBJECT: Carryback CARES Act Guidance

AFFECTED IRM(s)/SUBSECTION(s): 21.5.9

CHANGE(s):

IRM 21.5.9.1.6 Added MTC definition to acronym definitions list.

1. The following table includes comment acronyms utilized in the carryback program.

Acronym	Definition
AGI	Adjusted Gross Income
AM	Accounts Management
AMT	Alternative Minimum Tax
BMF	Business Master File
BMFOL	Business Master File On-line
BS	Blocking Series
CFOL	Corporate File On-Line
CFWD	Carryforward
CIS	Correspondence Imagine System
EIN	Employer Identification Number
FR	Filing Requirement
FTC	Foreign Tax Credit
ICFW	International Carryforward
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IMFOL	Individual Master File On-Line
IRNT	International Carryback Claim
ITCB	International Carryback Tentative Application
JCC	Joint Committee Case
MeF	Modernized e-File
MFT	Master File Tax
MTC	Minimum Tax Credit
NCL	Net Capital Loss
NIIT	Net Investment Income Tax
NMF	Non-Master File
NOL	Net Operating Loss
NOLD	Net Operating Loss Deduction

PSC	Personal Service Corporation
RICS	Return Integrity and Compliance Services
RINT	Carryback Claim
RIVO	Return Integrity Verification Operation
SRP	Shared Responsibility Payment
SSN	Social Security Number
TC	Transaction Code
TXI	Taxable Income

2. For additional information see the ReferenceNet Legal and Tax Research Service page provides an Acronym Database to research acronyms found within this IRM.

IRM 21.5.9.5.6.4(4) Removed (4) and added "application" to (5) due to changes per the CARES Act.

1. The Tax Cuts and Jobs Act of 2017, Section 14103, *Treatment of Deferred Foreign Income Upon Transition to Participation Exemption System of Taxations*, amended section 965 to provide rules for the tax treatment of deferred foreign income upon transition to the participation exemption system of taxation. For the last taxable year of a deferred foreign income corporation (DFIC) which begins before January 1, 2018, a United States shareholder of the DFIC must include in its subpart F income its pro rata share of the accumulated post-1986 deferred foreign income of the DFIC. The rules also allow a reduction to inclusions for the pro rata share of the deficit in foreign earnings and profits of other foreign corporations.
2. Section 965(n) allows, among other things, a United States shareholder of a DFIC to make an election to not take into account certain amounts described under section 965(n)(2) in determining:
 - a. Its net operating loss for the taxable year or
 - b. The amount of taxable income which may be reduced by NOL carry overs or carry backs.
3. Section 965(n) will generally affect carryback claims filed on tax year 2017 and subsequent.
4. To process the carryback claim or application on tax years 2017 or 2018, include the appropriate hold code on the adjustment, if applicable.

CAUTION: A hold code may be required if a taxpayer has made a section 965(n) election because until the taxpayer pays the entire amount of the non-section 965 liability plus the entire amount of the section 965(h) net tax liability, the taxpayer is not entitled to a refund of the excess payment.

REMINDER: Follow guidance in IRM 21.5.9.5.10.11 if the loss year is affected by the Tax Cuts and Jobs Act of 2017.

5. If there is a section 965(h) net tax liability, coordination with the P&A staff at the centralized AM section 965 sites (BMF- Ogden or IMF- Brookhaven) must be completed. Take the following actions.
 - a. Input the carryback adjustment on the applicable accounts and include hold code 4 only on those accounts with section 965(n) inclusion.
 - b. Forward the case to your site Carryback P&A Analyst who will coordinate with the P&A Analyst at the appropriate centralized AM section 965 site (BMF - Ogden or IMF - Brookhaven)

NOTE: The centralized AM section 965 site will input the required TC 767/ CRN 263 including a hold code on any accounts with a remaining credit balance.
- c. After the review and appropriate actions have been completed by the centralized AM section 965 site have been completed, the account will be returned to the carryback team to complete any remaining actions such as offsets to a balance due or issuing a manual refund per the guidance in IRM 21.5.9.5.8.
- d. Issue the appropriate carryback letter to notify the taxpayer of the difference between the expected carryback refund and the actual carryback refund.

6. For additional guidance on section 965, see IRM 21.6.4.4.21, *Section 965 - Transition Tax on Untaxed Foreign Earnings*, or IRM 21.7.4.4.25, *Section 965 - Transition Tax*.

IRM 21.5.9.5.10.11.4(1) Per technical guidance included in the CARES Act (HR 748, PL 116-136) fiscal year filers of net operating losses incurred in the trade or business of farming and non-life insurance companies beginning after December 31, 2017 are the only entities eligible for a net operating loss carryback per TCJA.

1. The Tax Cuts and Jobs Act of 2017 (TCJA), Section 13302, as amended by the Coronavirus Aid, Relief, and Economic Security Act (CARES), HR 748, PL 116-136, repealed the two-year and all special carryback periods for net operating losses, unless the net operating losses (NOLs) are (1) certain losses from a farming business or (2) losses sustained by non-life insurance companies who retain the two-year carryback period for net operating losses arising in tax periods beginning **after** December 31, 2017. For losses arising in tax years ending after 2017, most taxpayers are no longer eligible to file claims or applications for refund for an NOL carryback but instead must carry their NOLs forward.

IRM 21.5.9.5.10.16 New section discussing CARES Act sections affecting net operating loss carrybacks.

1. The Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act) was signed into law on March 27, 2020, as Public Law 116-136. Section 2303, *Modifications for Net Operating Losses*, amends section 172(a) of the Internal Revenue Code and provides a temporary repeal of the 80 percent taxable income limitation for net operating loss (NOL) deductions enacted by the Tax Cuts and Jobs Act (TCJA). Section 2303 of the CARES Act, *Modifications for Net Operating Losses*, amends section 172(b)(1) of the Internal Revenue Code to provide relief from changes made by the Tax Cuts and Jobs Act (TCJA) for tax years 2019, 2019, and 2020. Section 2304 of the CARES Act, *Modification of Limitation on Losses for Taxpayers Other than Corporations*, amends section 461(l) of the Code to provide relief for non-corporate taxpayers from disallowance of excess business losses. Section 2305, *Modification of Credit for Prior Year Minimum Tax Liability for Corporations*, of the CARES Act amends sections 53 and 6411 of the Code to provide corporate taxpayers with additional opportunities to receive tax refunds by filing Form 1139, *Corporation Application for Tentative Refund*.
2. The CARES Act, Section 2303 and Section 2304 of the CARES Act, provide special rules for the temporary amendment of limitations imposed by certain Tax Cuts and Jobs Act of 2017 (TCJA) provisions for net operating losses (NOLs) incurred in tax years 2018, 2019, and 2020. The items temporarily repealed include:
 - a. The 80 percent taxable income limitation of NOLs arising in tax years beginning after December 31, 2017.
 - b. Allow entities other than eligible farming businesses and non-life insurance companies to carry back NOLs.
 - c. The requirement for non-corporate taxpayers to file Form 461, *Limitation on Business Losses*.
 - d. The two-year carryback requirements for business losses incurred in the trade or business of farming and losses incurred by non-life insurance companies.
3. The CARES Act, Section 2303, provided for additional special rules for net operating losses arising in tax years 2018, 2019, and 2020 which include the following:
 - a. Entities incurring a net operating loss arising in a taxable year beginning in 2018 and ending in 2020 are eligible for a five-year carryback.
 - b. The net operating losses incurred by taxpayers who file Form 1120-REIT are not permitted to be carried back to prior REIT tax periods but taxpayers are permitted to carryback net operating losses incurred in non-REIT tax periods to non-REIT gain years.
 - c. Net operating losses incurred by taxpayers who file Form 1120-L, *U.S. Life Insurance Company Income Tax Return*, and that previously reported operations loss deductions are eligible for the five-year carryback. These losses are allowed as Operational Loss Deductions per the terminology of section 810 prior to repeal by the TCJA.

- d. Entities incurring a net operating loss on tax periods with a section 965 inclusion shall be treated as having made the section 965(n) election.
- e. Entities incurring a net operating loss on tax periods with a section 965 inclusion are permitted a special election to exclude tax years with section 965 inclusions for one or more gain years when requesting a five-year NOL carryback.

4. Section 2305 of the CARES Act updates the percentage of the refundable corporate minimum tax credit (MTC) reported on line 5c of Form 8827, *Credit for Prior Year Minimum Tax - Corporations*, to 100 percent refundable for tax years 2018 and 2019 and provides that a refund of the MTC can be requested on a Form 1139.
5. The following IRM subsections (IRM 21.5.9.5.10.16.1 through IRM 21.5.9.5.10.16.10) contain specific guidance for processing Form 1139/Form 1045 with net operating losses, section 965 inclusions, and 100 percent refund of MTC filed under provisions of the CARES Act.

IRM 21.5.9.5.10.16.1 New section providing guidance for repeal of 80 percent taxable income limitation per the CARES Act.

1. The CARES Act provides for a temporary repeal of the 80 percent taxable income limitation per the Tax Cuts and Jobs Act (TCJA) of 2017 for losses arising in tax years 2018, 2019, and 2020. The 80 percent taxable income limitation is reinstated for losses arising in tax years beginning in 2021 and after.
2. Net operating loss applications and claims filed for tax years 2018, 2019 and 2020 are processed utilizing previously established procedures in IRM 21.5.9.5.10, *Carryback Net Operating Loss (NOL)*, without consideration of procedures for TCJA guidance beginning in IRM 21.5.9.5.10.11, *Tax Cuts and Jobs Act (TCJA) of 2017 (P.L. 115-97), Sections Affecting Net Operating Losses*.

IRM 21.5.9.5.10.16.2 New section providing guidance for entities eligible for five-year carryback period per the CARES Act.

1. The CARES Act temporarily removes the restriction that only eligible farming businesses and non-life insurance companies can carry back net operating losses (NOLs). Corporate and non-corporate taxpayers incurring an NOL in tax years 2018, 2019, and/or 2020 are permitted to carryback business net operating losses five years.
2. The five-year carryback period is automatically extended to those taxpayers incurring net operating losses. Unless the taxpayer specifically elects to relinquish the carryback period, the five-year carryback is mandatory. The CARES Act does not require taxpayers to elect a three, four, or five-year carryback period.
3. Taxpayers filing a five-year carryback who also have tax periods (gain years) with section 965 inclusion can elect to forgo their section 965 tax years. See

IRM 21.5.9.5.10.16.6, *Carryback Elections - CARES Act*, and IRM 21.5.9.5.10.16.8, *Carryback Applications (TENTs) with Section 965 Involvement - CARES Act*, for additional information.

IRM 21.5.9.5.10.16.3 New section providing guidance for repeal of limitation of business losses, Form 461, for non-corporate taxpayers per the CARES Act.

1. The CARES Act temporarily repeals the requirement for non-corporate taxpayers to apply the Excess Business Loss limitations of the Tax Cuts and Jobs Act of 2017, the amount by which the total deductions attributable to all of the taxpayer's trades or businesses that exceed total gross income and gains attributable to those trades or businesses, plus applicable threshold amounts (\$250,000 for single filers/\$500,000 for joint filers in 2018; \$255,000/\$510,000 in 2019) .
2. The CARES Act temporarily repeals the requirement to file Form 461, *Limitation on Business Losses*, for losses in tax years 2018, 2019 and 2020. The requirement to file Form 461 is reinstated beginning with tax year 2021.

IRM 21.5.9.5.10.16.4 New section providing guidance for carryback net operating losses incurred by life insurance companies per the CARES Act.

1. Taxpayers file Form 1120-L, *U.S. Life Insurance Company Income Tax Return*, to report income, gains, losses, deductions, credits, and to figure the income tax liability of life insurance companies.

NOTE: The filing requirement code for Form 1120-L is 03.

2. Changes were implemented under the Tax Cuts and Jobs Act of 2017 (TCJA), Section 13511, updating an operations loss deduction (OLD) utilized to carryback and carryover operation loss deductions of Form 1120-L to allow the OLD the same considerations as a net operating loss deduction under IRC 172 for taxable years 2018 and subsequent.
3. The CARES Act allows for a five-year carryback of net operating losses for life insurance companies. Operations loss deductions/net operating loss deductions are reported on line 21b of Form 1120-L.
4. Carryback of net operating losses incurred by life insurance companies for tax years 2018, 2019, and 2020 for five years are processed by following guidance provided in IRM 21.5.9.5.10, *Carryback Net Operating Loss (NOL)*, without consideration of procedures for TCJA guidance beginning in IRM 21.5.9.5.10.11, *Tax Cuts and Jobs Act (TCJA) of 2017 (P.L. 115-97), Sections Affecting Net Operating Losses*.

IRM 21.5.9.5.10.16.5 New section providing guidance for net operating losses incurred by real estate investment trust (REIT) taxpayers per the CARES Act.

1. Taxpayers who file a Form 1120-REIT, *U.S. Income Tax Return for Real Estate Investment Trusts*, are not eligible to file a net operating loss carryback.

NOTE: The filing requirement code for Form 1120-REIT is 18.

2. A corporation, trust, or association that meets certain conditions must file a Form 1120-REIT if they elect to be treated as a REIT. See IRM 21.7.4.4.4.11.2, *Form 1120-REIT, U.S. Income Tax Return for Real Estate Investment Trusts*, for additional information. However, a taxpayer who files Form 1120-REIT may terminate their REIT status and become a regular C Corporation. This taxpayer could have previous tax periods where they filed as a C Corporation before electing REIT status. In those instances where an NOL in a C Corporation tax year following the termination of REIT status was incurred, a carryback of that NOL to the pre-REIT C Corporation tax years before converting to a REIT is allowable.

CAUTION: Before processing a carryback for a taxpayer who has been identified as a REIT, ensure each of the carryback periods are reviewed to verify the NOL is incurred in a non-REIT, C Corporation tax period(s) and is carried back to a non-REIT tax period, C Corporation tax period.

IRM 21.5.9.5.10.16.6 New section providing guidance for carryback elections included in the CARES Act.

1. The CARES Act provided for carryback elections in addition to the previously existing election to forgo a carryback period. Rev. Proc. 2020-24 provides additional clarification of the elections discussed in the CARES Act. These additional elections are discussed in this section.
2. Taxpayers have an option to file the following elections:
 - a. File an election to forgo all of the carryback periods and carry the losses forward, or
 - b. IRC 965 taxpayers - file an election to not carryback NOLs to tax periods with section 965 inclusions only, or
 - c. Fiscal Year 2018 Taxpayers - file an election to revoke a previous election to forgo the carryback period and carry the NOL back up to five years.

CAUTION: Calendar year 2018 taxpayers **cannot** file an election to revoke their previously filed election to forgo the carryback period.

3. The CARES Act provides for an extension of the timeframe to file an election to forgo the carryback, exclude section 965 tax periods or revoke an election to forgo the carryback period for fiscal year 2018 filers. See the chart in IRM

21.5.9.5.10.16.7, *Tentative Carryback Applications (TENTS) Filed Under the CARES Act - Extension of time to File*, for additional information.

REMINDER: An election, once made, is generally irrevocable, unless specific exceptions apply.

IRM 21.5.9.5.10.16.7 New section providing guidance for processing net operating loss tentative carryback applications (TENTS) filed per the CARES Act.

1. The due date of a TENT is one year after the end of the loss year. However, the CARES Act and Notice 2020-26 provide for updated TENT due dates in certain circumstances. This section discusses the due dates for those certain circumstances.
2. TENTS filed reporting a net operating loss (NOL) arising in any taxable year that began during calendar year 2018 and ended on or before June 30, 2019 have been granted a six-month extension of time to file Form 1139 or Form 1045. This extension of time **does not** include the carry back of net capital losses, unused business credits or claim of right per Notice 2020-26, Extension of Time to File Application for Tentative Carryback Refund.

EXAMPLE: A taxpayer sustaining an NOL in a taxable year ending on December 31, 2018, would normally have until December 31, 2019 to file a TENT to carry back the NOL, as applicable, but will now have until June 30, 2020 to file a TENT.

EXAMPLE: Same facts as the first example, except the Form 1139 is reporting a request for refund of the refundable corporate minimum tax credit (MTC) and an NOL carryback for taxable year ending on December 30, 2018. Under Notice 2020-26, the Form 1139 must be filed by June 30, 2020.

3. Taxpayers must perform the following actions in order to take advantage of this extension of time to file Form 1045 or Form 1139:
 - a. File the applicable form no later than eighteen months after the close of the taxable year in which the NOL arose (no later than June 30, 2020 for taxable year ending December 31, 2018); and
 - b. Include on the top of the application form "Notice 2020-26, Extension of Time to File Application for Tentative Carryback Adjustment".
4. Refer to the following table for determining TENTS timely filed under the CARES Act.

If ...	And ...	Then ...
Form 1139 or Form 1045 for tax year 2019 is filed	Includes all types of carryback requests (i.e., NOL, NCL (corporations only), unused general business credits)	Considered timely if received by the last day of tax year 2020 (December 31, 2020, in the case of a

		calendar year taxpayer)
Form 1139 or Form 1045 for tax year 2018 is filed	Includes an NOL arising in taxable years beginning in 2018 and ending on or before 6/30/2019 only (does not include the carryback of any other item)	Considered timely if received within 18 months from the close of the tax year (by June 30, 2020, in the case of a calendar year taxpayer)
Form 1139 for tax year 2018 is filed	Includes the accelerated refund of the corporate MTC and net operating loss under section 2303 and section 2305 of the CARES Act	The Form 1139 is timely if received within 18 months from the close of the tax year (by June 30, 2020, in the case of a calendar year taxpayer)
Form 1139 for tax year 2018 is filed	Includes the accelerated refund of 100 percent corporate MTC under section 2305(b) of the CARES Act only	Considered timely if received by December 30, 2020 (six months from June 30, 2020)
Form 1139 is filed for both an applicable 2018 NOL and 100 percent refundable corporate MTC in 2018	Includes both an NOL carryback for a loss arising in a taxable year beginning in 2018 and ending on or before 6/30/2019, and the special election for the 100 percent corporate MTC for taxable years beginning in 2018	Form 1139 filed for both an applicable loss carryback, plus the 2018 MTC must be filed by the earlier of: within 18 months from the close of the taxable year or December 30, 2020. EXAMPLE: A taxable year ending June 30, 2019 is timely if filed by December 30, 2020. EXAMPLE: A taxable year ending December 31, 2018 is timely if filed by June 30, 2020.
Form 1139 for 2018 fiscal year (tax years beginning before January 1, 2018	Includes only NOLs arising in a 2018 fiscal year (only applicable to taxpayers previously prohibited a carryback under TCJA). See	Considered timely if received by July 27, 2020

and ending after December 31, 2017) is filed	IRM 21.5.9.5.10.11.1, "TCJA - NOL Carryback and Carryforward Periods", for additional information)	
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CAUTION: When determining if an application is timely received verify the signature date and postmark date prior to rejecting the case.

5. Section 2305(b) of the CARES Act provides for the acceleration of the 100 percent recovery of the corporate refundable Minimum Tax Credit (MTC) for 2018, and is reported on Form 1139, Line 29. The total available MTC carryover amount reported on Form 1139, Line 1(d) should match the amount from line 9 of the original 2018 Form 8827, *Credit for Prior Year Minimum Tax - Corporations*, for tax years 2018 and 2019. Absent the special election above, Section 2305(a) of the CARES Act allows for the refund of the corporate MTC equal to 50 percent of excess MTC over the regular tax liability on 2018 and 100 percent of the excess MTC over the regular tax liability in 2019 and is reported on Form 8827. See IRM 21.7.4.4.9.4, *Coronavirus Aid, Relief and Economic Security Act of 2020 (CARES Act) (PL 116-136, Section 2305)*, for additional information.
6. Taxpayers who incurred certain losses in the trade or business of farming or losses from non-life insurance companies and who previously filed an election to forgo the carryback period for calendar year 2018 are **not** permitted to revoke the previous election and then file a five-year election to fore the carryback NOLs under the CARES Act. However, fiscal year 2018 filers do have the option to revoke a previously filed election to forgo the carryback period.
7. TENTs filed for tax year 2019 are considered timely if filed by the close of tax year 2020 (December 31, 2020, for calendar year taxpayers).
8. Review the application to identify processible and unprocessable applications by following guidance in IRM 21.5.9.4.2, *Identifying Processible and Unprocessable Carryback Applications/Claims*.

CAUTION: See IRM 21.5.9.5.10.16.10, *TENTs Received via EFAX*, for special instructions for unprocessable TENTs.

9. If a determination is made that the application was not timely received, follow guidance in IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*.
10. If a determination is made that the application is processible, follow guidance in IRM 21.5.9.5.10, *Carryback Net Operating Loss (NOL)*, without consideration of procedures for TCJA guidance beginning in IRM 21.5.9.5.10.11, *Tax Cuts and Jobs Act (TCJA) of 2017 (P.L. 115-97), Sections Affecting Net Operating Losses*.

IRM 21.5.9.5.10.16.8 New section providing guidance for net operating loss tentative carryback applications (TENTs) filed with Section 965 involvement under the CARES Act.

1. Carryback TENTs including section 965 involvement included on Form 1139 are now processible. Do not reject a TENT requesting an NOL under the CARES Act provision to a section 965 year.
2. CARES Act provides for a special election to exclude section 965 years that are part of the five-year carryback period. This election to exclude section 965 tax periods must be included when the taxpayer requests the five-year carryback. If not included, the TENT is processed for all of the tax periods requested on the application. See IRM 21.5.9.5.10.16.6, *Carryback Elections Filed Under the CARES Act*, for additional information.
3. Follow guidance in IRM 21.5.9.5.6.4, *Carryback Applications and Claims with Section 965 Involvement*, for the processing of TENTs with section 965 involvement.

IRM 21.5.9.5.10.16.9 New section providing guidance for Form 1139 net operating losses filed to request a refund of prior year minimum tax credit under the CARES Act.

1. CARES Act, Section 2305, provides for the modification of credit for prior year minimum tax liability of corporations. For tax years beginning in 2018 and 2019 only, a corporation is allowed a refundable minimum tax credit (MTC) amount equal to 50 percent (100 percent for tax years beginning in 2019) of the excess of minimum tax credit over the corporation's regular tax liability. No credit is carried forward to 2020. The credit is reported on line 8c for 2018 and line 5c for 2019 of Form 8827, *Credit For Prior Year Minimum Tax - Corporations*. Alternatively, section 2305(d) allows corporate taxpayers to make an election to file Form 1139, *Corporation Application for Tentative Refund*, prior to December 31, 2020 to request a refund of 100 percent of the prior year minimum tax credit for tax year 2018. If the corporation makes this election, no credit is allowed in 2019. See IRM 21.7.4.4.9, *Refundable Credits, Income Tax Returns*, for additional information.

NOTE: Although Section 2305 of the CARES Act provides taxpayers an opportunity to request a refund of the prior year corporate refundable MTC, they are not prohibited from utilizing a Form 1120-X, *Amended U.S. Corporation Income Tax Return*, to request a refund of the corporate refundable MTC. The Service implemented a temporary process for taxpayers to submit Form 1139 via EFAX for TENTs requesting refunds per the CARES Act. For additional information regarding this process see IRM 21.5.9.5.10.16.10, *TENTs Received via Temporary EFAX Process*.

2. Taxpayers filing Form 1139 requesting the refund of the corporate MTC are instructed to complete the following lines on Form 1139.

- Enter on Line 1(d) the MTC carryforward to tax year 2019 (as reported on the original Form 8827 Line 9).
- Enter on line 29 the difference between the amount reported on the original tax year 2018 Form 8827 Line 8(c) and the amount reported on the revised Form 8827 Line 8(c).

NOTE: For purposes of reporting the 100 percent corporate refundable MTC, disregard the instructions for Lines 1(d) and 29 which state those lines are to be utilized to report a claim of right adjustment under section 1341(b)(1).

CAUTION: Review Form 1139 (particularly for the reference at the top of the Form 1139 to an election under the CARES Act, section 2305(b)) to determine whether the taxpayer is filing to request a refund of the refundable corporate MTC or filing a claim of right.

3. Taxpayers who file a Form 1139 to request a 100 percent refundable corporate MTC are instructed to include "Electing to Take 100% Refundable Credit Amount in 2018 - per CARES Act Section 2305(b)" at the top of the Form 1139 and Form 8827. The submission of the corrected Form 8827 is the supporting documentation for the refund of the prior year minimum tax credit. Take the following actions to adjust the prior year minimum tax credit reported on Form 1139:
 - Math verify Form 8827. The original 2018 Form 8827 Line 9 should match the Form 1139, Line 1(d). The tentative refund amount on Form 1139, Line 29 should be the difference between the original Form 8827, Line 8(c) and the revised Form 8827, Line 8(c).
 - Input TC 298 for zero (.00) and CRN 793 for the amount reported on Line 29 of Form 1139 as a positive amount.
 - Input the INT-CMP-DT using the return due date of the 2018 tax period without considering any extensions.
 - Input an amended claims date (AMD-CLMS-DT).

NOTE: Although Form 1139 is utilized to request a refundable corporate MTC in 2018 as per section 2305(d) of the CARES Act, it is not a carryback adjustment. Therefore, carryback transaction codes and carryback interest considerations are not applicable to the MTC adjustment.

NOTE: Include priority code 6 on CIS for the corporate refundable MTC refund requests received on Form 1139. If corporate refundable MTC is combined with an NOL, do not include priority code 6.

4. Taxpayers may file Form 1139 requesting a combination of the corporate refundable MTC by completing Lines 1(d) and 29 as well as the appropriate lines to report the NOL. A Form 1139 received with a combination of refundable corporate MTC and net operating losses will require two separate adjustments. See (3) above for adjustment input guidance for the corporate refundable MTC. Follow guidance in IRM 21.5.9.5.10, *Carryback Net*

Operating Loss (NOL), without consideration of procedures for TCJA guidance beginning in IRM 21.5.9.5.10.11, *Tax Cuts and Jobs Act (TCJA) of 2017 (P.L. 115-97), Sections Affecting Net Operating Losses*, for NOL adjustments per the CARES Act.

IRM 21.5.9.5.10.16.10 New section providing guidance for net operating loss tentative carryback applications (TENTs) filed under the CARES Act provisions via the temporary EFAX process.

1. The Service implemented a temporary process to ensure taxpayers receive refunds filed on Form 1139 or Form 1045 (TENTs) during the timeframe IRS Service Centers were closed due to COVID-19. The temporary EFAX process to receive TENTs was implemented on April 17, 2020, and will continue to be operational until further notice. Taxpayers were advised of this process on IRS.gov in FAQs included in Temporary procedures to fax Form 1139 and Form 1045 due to COVID-19.
2. TENTs received via EFAX will be processed for the following scenarios **only**:
 - a. Filed per section 2305(b) of the CARES Act requesting the 100 percent refund of the corporate refundable MTC reported on line 8c of Form 8827, *Credit for Prior Year Minimum Tax - Corporations*, for tax year 2018
 - b. Filed per Section 2303 of the CARES Act requesting up to a five-year carryback of net operating losses (NOLs)
 - c. Filed per section 2303 and 2305 of the CARES Act requesting both a refund of the corporate refundable MTC and up to a five-year carryback of NOLs
3. A TENT received via EFAX can also be processed if the taxpayer is requesting up to a five-year NOL that include tax periods with section 965 inclusions. These cases will be processed **only** if the taxpayer is taking advantage of the changes to the Carryback program due to the section 2303 of the CARES Act.

NOTE: A TENT received via EFAX including issues other than the ones identified in (2) and (3) will not be processed until Service Centers are once again functional. CIS must be documented with "**Not eligible for EFAX processing**". Once Service Centers are fully functional, review the cases again for processing. If unable to process include notations on CIS with the reasons the case is not processible and reject per guidance in IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*.

4. If an amended return is received in conjunction with a TENT and the information on the amended return supports the refund request on the TENT, process the case. However, if a TENT is received with an amended return requesting additional adjustments to the account outside of those requested on the Form 1139 or Form 1045, **do not** process but instead document CIS with "**Not eligible for EFAX processing**" and move to the next EFAX received case.

5. Prior to processing an EFAXed TENT carryback employees are required to verify the TENT was filed by the taxpayer or their representative.

If ...	Then ...
# [REDACTED]	Refer the case to the Accounts Management - BMF ID Theft Liaison per the guidance in IRM 25.23.11.7.6, <i>BMF Identity Theft Referrals</i> . The BMF ID Theft Liaison will review the case for potential ID theft and provide guidance for next actions. Do not process the TENT prior to contacting the BMF ID Theft Liaison.
# # #	Process the TENT

6. Guidance for rejecting unprocessable carryback applications are located in IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*. However, issuance of a carryback letter to request missing information is not possible until normal processes resume. TENTS received via EFAX will **require** a call to the taxpayer or their representative to obtain any missing information needed to make the application processible. Due to size limitations of the EFAX process, taxpayers were advised to only include up to 100 pages of their applications and were also advised they will be contacted for any missing information. This contact **requires** a phone call to the taxpayer or their representative utilizing the guidance included in IRM 21.5.9.4.3(1) with the exception of the guidance to issue a letter if the phone contact is unsuccessful. If attempts to contact the taxpayer or their representative are unsuccessful, document CIS of the attempts as well as the missing information required to make the application processible and suspend the case. Prior to contacting the taxpayer follow the guidance in (5) above to ensure the application has been filed by the corporation.

[REDACTED]
[REDACTED]
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