



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.10.8

APRIL 10, 2023

EFFECTIVE DATE

(04-10-2023)

PURPOSE

- (1) This transmits a revision of IRM 4.10.8, Examination of Returns, Report Writing.

MATERIAL CHANGES

- (1) Significant changes to this IRM are listed in the table below.

IRM Reference	Description of Change
4.10.8.1.2, Authority	Added policy statements and delegation orders to Authority section.
4.10.8.1.3, Responsibilities	Added IRM references relating to examiner responsibilities, including IRM 4.10.1.2.1, Taxpayer Bill of Rights (TBOR), IRM 4.10.1.4.6, Problem Solving, and IRM 4.2.1.22, Taxpayer Advocate Program.
4.10.8.1.5, Terms	Clarified terms for 30-day letter and added Paperless electronic closure, Primary taxpayer, and Secondary taxpayer.
4.10.8.1.6, Acronyms	Added to the list of acronyms: CCDM, CTA, JC, JCR, PHC, QBID, TAS, and TCS.
4.10.8.1.7, Related Resources	Added links to knowledge bases and IRC 199A - Qualified Business Income Deduction book on the virtual library.
4.10.8.2.2, Preparation of Audit Reports	Added guidance when saving reports for electronic case files, incorporating applicable content from Interim Guidance Memorandum SBSE-04-0722-0032, Procedures for Electronic Case Files.
4.10.8.2.3.1, Letters	Added guidance for mailing closing letters, incorporating applicable content from Interim Guidance Memorandum SBSE-04-0722-0032, Procedures for Electronic Case Files.
4.10.8.2.4.2, Execution and Receipt of Audit Reports and Waivers	Incorporated applicable content from NHQ-01-1019-0001, Clarification of Policy for Use of Fax in Taxpayer Submissions.
4.10.8.2.4.3, Large Dollar Cases	Created new section and two subsections, incorporating applicable content from IRM 4.4.18, Large Dollar Cases. Added paragraph for quick assessment procedures based on IRM 4.4.25.2.1.
4.10.8.2.4.4, Time Frames for Closing Cases from the Group	Renumbered from IRM 4.10.8.2.4.3.
4.10.8.3.1, No-Change (No Adjustments)	Added note for pass-through cases, and added reminder that the group mails closing letters for paperless electronic closure cases.
4.10.8.3.2, No-Change with Adjustments Report Not Impacting Other Tax Year(s)	Added reminder that the group mails closing letters for paperless electronic closure cases.

IRM Reference	Description of Change
4.10.8.3.5, Letters Used in No-Change Cases	Added new paragraph for BBA no-change letters.
4.10.8.3.7, Special Situations: Combat Zones	Deleted content for combat zone guidance which is moving to IRM 4.2.1, General Examination Information.
4.10.8.4.2, Partnership and S Corporation Cases	Deleted obsolete content related to TEFRA, changed Non-TEFRA to ILSC where applicable. Added BBA basic reports.
4.10.8.4.5, Closing Letters for Agreed Cases	Added guidance for mailing closing letters, incorporating applicable content from Interim Guidance Memorandum SBSE-04-0722-0032, Procedures for Electronic Case Files.
4.10.8.5, Excepted Agreed Cases	Clarified explanations for excepted agreed cases follow unagreed format.
4.10.8.7, Splitting Multi-Year Examination Cases	Added guidance when splitting cases, incorporating applicable content from Interim Guidance Memorandum SBSE-04-0722-0032, Procedures for Electronic Case Files.
4.10.8.8, Claims for Abatement, Audit Reconsiderations, and Supplemental Reports	Removed content for audit reconsiderations and referenced IRM 4.10.11, Claims for Refund, Requests for Abatement, and Audit Reconsiderations.
4.10.8.10.2, Application of Revenue Ruling 99-40	Updated content and moved to IRM 4.10.8.16.4.
4.10.8.11, Deficiency Dividends	Renamed to Personal Holding Company (PHC) - Deficiency Dividends. Added content and provided references to IRM 4.10.13.10, Personal Holding Company Deficiency Dividends. Moved instructions for completing Form 4549-A and Form 870 up from 4.10.8.11.1.
4.10.8.11.1, Informal Agreements Under IRC Section 547(c)(3)	Deleted subsection; content is contained in IRM 4.10.13.10 or was moved up to IRM 4.10.8.11.
4.10.8.11.2, Receipt of Claim: Form 976	Deleted subsection; content is contained in IRM 4.10.13.10 and references provided in IRM 4.10.8.11.
4.10.8.11.3, Appeals Cases: Area Compliance Responsibilities	Deleted subsection; summarized content and moved to IRM 4.10.8.11.
4.10.8.11.4, United States Tax Court Cases: Area Compliance Responsibilities	Deleted subsection; summarized content and moved to IRM 4.10.8.11.
4.10.8.11.5, Closing Procedures for All Dividend Deficiency Cases	Renumbered to IRM 4.10.8.11.1. Updated content and added guidance for Form 4549-A and Form 3198.
4.10.8.12, Unagreed Case Procedures	Clarified guidance for cases designated for litigation based on NHQ-04-0521-0003.
4.10.8.12.1, 30-day Letters	Added reference to 4.31, Pass-Through Entity Handbook and Letter 950-B for taxpayers in bankruptcy.

IRM Reference	Description of Change
4.10.8.12.5, Alternative Positions	Added reminder that written supervisory approval of penalties proposed subject to IRC 6751(b), including alternative positions, must be obtained timely or the related penalties cannot be asserted.
4.10.8.12.9.1, Additional Information Received	Added row to table for cases resulting in no change.
4.10.8.12.9.3, Request for Appeals Conference	Added guidance for protested paperless electronic closure cases sent to Appeals, incorporating applicable content from Interim Guidance Memorandum SBSE-04-0722-0032, Procedures for Electronic Case Files.
4.10.8.12.10, No Response to 30-Day Letter	Added guidance for assessments arising from tentative carryback refunds, including the use of Letter 4516.
4.10.8.13, Corrected Reports	Updated IRM references and added a reminder that written supervisory approval of penalties proposed subject to IRC 6751(b), including alternative positions, must be obtained timely or the related penalties cannot be asserted.
4.10.8.14.4, Form 2363	Removed reference to IRM 4.4.11, Entity Changes, and incorporated content from that IRM regarding flagging Form 3198.
4.10.8.14.5, Filing Status: Joint Return Converted to Separate Returns	Incorporated applicable guidance from IRM 4.4.6.3, Joint to Separate Returns, and made other editorial changes.
4.10.8.14.5.1, Closing the Return of the Primary Taxpayer if the Joint Election is Invalid	Incorporated applicable guidance from IRM 4.4.6.3, Joint to Separate Returns, and made other editorial changes.
4.10.8.14.5.1, Closing the Return of the Person Whose Name was Removed from the Joint Return	Incorporated applicable guidance from IRM 4.4.6.3, Joint to Separate Returns, and made other editorial changes.
4.10.8.14.6, Filing Status: Separate Returns Converted to Amended Joint Return	Incorporated applicable guidance from IRM 4.4.6.2, Separate to Joint Return, and made other editorial changes.
4.10.8.14.6.2, Statute and Other Considerations	Incorporated applicable guidance from IRM 4.4.6.2, Separate to Joint Return, and made other editorial changes.
4.10.8.14.6.3, Examination of Return	Changed title to Examination of Amended Joint Return. Incorporated applicable guidance from IRM 4.4.6.2, Separate to Joint Return, and made other editorial changes.
4.10.8.14.6.4, Preparation of Reports	Incorporated applicable guidance from IRM 4.4.6.2, Separate to Joint Return, and made other editorial changes.
4.10.8.14.6.5, Closing Procedures	Incorporated applicable guidance from IRM 4.4.6.2, Separate to Joint Return, and made other editorial changes.
4.10.8.14.15, Adjustments to Qualified Business Income Deductions	Added new subsection with a requirement to include a computation with the report when an adjustment is proposed to the Qualified Business Income Deduction (QBID).

IRM Reference	Description of Change
4.10.8.14.16, Conversion of BMF Returns	Added new section and two subsections incorporating applicable content from IRM 4.4.6.4, Conversion of Other Forms, IRM 4.4.6.5, Agreed Conversions Cases, and IRM 4.4.6.6, Unagreed Cases.
4.10.8.15, Inadequate Records Notices	Deleted content for inadequate records notice guidance which is moving to IRM 4.10.3, Examination Techniques.
4.10.8.16.4, Application of Revenue Ruling 99-40	Newly numbered section with updated content moved from IRM 4.10.8.10.2.
Exhibit 4.10.8-1, Preparation of Form 4549 / Form 4549-A	Clarified a TIN is not legally required.
Exhibit 4.10.8-2, Preparation of Form 870	Clarified a TIN is not legally required and added examples when special language is added to Form 870.
Exhibit 4.10.8-4, Sample Form 4549-A - Personal Holding Company	Deleting obsolete exhibit; instructions are included in IRM 4.10.8.11(3).
Exhibit 4.10.8-5, Sample Form 870 - Personal Holding Company	Deleting obsolete exhibit; instructions are included in IRM 4.10.8.11(3).
Exhibit 4.10.8-6, Sample Form 2198 — Determination of Liability for Personal Holding Company Tax Section 547(c)(3) of the Internal Revenue Code	Deleting obsolete exhibit; instructions are included in IRM 4.10.13.10.3.

EFFECT ON OTHER DOCUMENTS

IRM 4.10.8, dated March 25, 2021, is superseded. This IRM incorporates applicable content from Interim Guidance Memorandum SBSE-04-0722-0032, Procedures for Electronic Case Files; NHQ-01-1019-0001, Clarification of Policy for Use of Fax in Taxpayer Submissions; and NHQ-04-0521-0003, Interim Guidance on Designation of Cases for Litigation.

AUDIENCE

Small Business/Self-Employed (SB/SE) Field and Specialty Examination, Large Business & International (LB&I) and Tax-Exempt/Government Entities (TEGE) Examiners.

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4.10.8
Report Writing

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4.10.8.1
(09-13-2019)
Program Scope and Objectives

- (1) **Purpose-** This IRM section includes guidelines for the preparation of audit reports. In addition to basic report writing procedures, this IRM provides details regarding the preparation of corrected reports and discusses issues that require special reports and forms. It also provides instructions for some case closing requirements.
- (2) **Audience-** These procedures apply to examiners in SB/SE Field and Specialty Examination, LB&I, and TE/GE.
- (3) **Policy Owner-** The Director, Examination Field and Campus Policy, who reports to the Director, Examination Headquarters.
- (4) **Program Owner-** Field Examination General Processes (FEGP), which is under the Director, Examination Field and Campus Policy.
- (5) **Contact Information-** To recommend changes or make any other suggestions related to this IRM section, see IRM 1.11.6.5, Providing Feedback About an IRM Section - Outside of Clearance.

4.10.8.1.1
(09-13-2019)
Background

- (1) This IRM provides guidance for report writing that examiners should understand and apply in the performance of their duties.

4.10.8.1.2
(04-10-2023)
Authority

- (1) By law, the Service has the authority to conduct examinations under Title 26, Internal Revenue Code, Subtitle F – Procedure and Administration, Chapter 78, Discovery of Liability and Enforcement of Title, Subchapter A, Examination and Inspection, which includes, but is not limited to, the following IRC sections:
 - IRC 7602, Examination of books and witnesses
 - IRC 7605, Time and place of examination

Note: Procedures for exercising examination authority are contained in the 26 CFR 601.105, Statement of Procedural Regulations.

- (2) “Policy Statements” generally advise IRS employees and the public of the IRS’ commitment to an ideal or value. They are authorized by the Commissioner or Deputy Commissioners. These statements can form the basis for procedures and instructions in the Internal Revenue Manual (IRM). Policy Statements are organized by business process in IRM 1.2.1, Servicewide Policy Statements.
- (3) “Delegation Orders” are issued by Division Commissioners, Chiefs, National Taxpayer Advocate, and equivalent level executives to re-delegate authorities delegated to them or their subordinates by the Commissioner or through the Commissioner. As a Bureau Head, the Commissioner receives authorities through Statute, Regulations or Treasury decisions, the President of the United States, and the Secretary of the Treasury (Treasury Orders and Directives). See IRM 1.2.2, Servicewide Delegations of Authority, for Delegation Orders applicable to all divisions and functions. See IRM 1.2.63, Division Delegations of Authority for Large Business and International, and IRM 1.2.65, Small Business/Self-Employed Division Delegations of Authority, for Delegation Orders applicable to those business units.

4.10.8.1.3
(04-10-2023)
Responsibilities

- (1) The Director, Examination Headquarters, is the executive responsible for providing policy and guidance for SB/SE Examination employees and ensuring consistent application of policy, procedures and tax law to effect tax administration while protecting taxpayers' rights. See IRM 1.1.16.5.5, Examination Headquarters, for additional information.
- (2) The Director, Examination Field and Campus Policy, reports to the Director, Examination Headquarters, and is responsible for the delivery of policy and guidance that impacts the field and campus examination processes. See IRM 1.1.16.5.5.1, Examination Field and Campus Policy, for additional information.
- (3) Field Examination General Processes (FEGP), which is under the Director, Examination Field and Campus Policy, is the group responsible for providing policy and procedural guidance on standard examination processes to field employees. See IRM 1.1.16.5.5.1.1, Field Examination General Processes, for additional information.
- (4) Examiners are responsible for observing the Taxpayer Bill of Rights, including the taxpayer's right to be informed regarding IRS decisions about their tax accounts. Examiners should ensure taxpayers receive clear explanations of the outcomes by issuing examination reports and letters that identify the amounts (if any) of tax due, interest, additional amounts, additions to the tax and assessable penalties. See IRM 4.10.1.2.1, Taxpayer Bill of Rights (TBOR), for additional taxpayer rights and examiner responsibilities. See IRM 4.10.1.4.6, Problem Solving, and IRM 4.2.1.22, Taxpayer Advocate Program, for additional guidance.
- (5) Examiners and their managers should thoroughly acquaint themselves with the report writing procedures and information contained in this IRM, as well as other resources, such as those listed in IRM 4.10.8.1.7, Related Resources, below.

4.10.8.1.4
(09-13-2019)
Program Reports

- (1) Reports are derived from a variety of sources including the Audit Information Management System (AIMS), AIMS - Centralized Information System (A-CIS), and Examination Returns Control System (ERCS) databases. These reports provide Headquarters and Field Examination with timely and reliable information. There are a variety of reports designed to meet the needs of the group or function. Additional information can be found in IRM 4.4.27, Reports; IRM 4.7.6, Reports; and IRM 1.4.40.5, Monitoring Reports Overview.
- (2) Periodic program reviews are conducted to:
 - Assess the effectiveness of specific programs within Examination or across the organization,
 - Determine if procedures are being followed,
 - Validate policies and procedures, and
 - Identify and share best/proven practices.

4.10.8.1.5
(04-10-2023)
Terms

- (1) The following table contains a list of terms used throughout this IRM and their definitions.

Term	Definition
30-day letter (also known as a “preliminary letter”)	Letter used to transmit the findings of the examination (e.g., audit report) to the taxpayer and allow the taxpayer 30 days to request Appeals’ consideration of their case, or take other actions as outlined in the specific letter.
Agreed tax period	<p>An examined tax period resulting in changes to tax and/or penalty and the taxpayer agrees to the findings by signing a report.</p> <p>The following scenarios are considered agreed closures even without a signature on the agreement form:</p> <ul style="list-style-type: none"> • Prior to the issuance of a notice of deficiency an advance payment is received (other than a payment designated as an IRC 6603 deposit) which fully pays the deficiency • The net result of the audit is an overassessment (other than a claim for refund disallowed in full or part) that is not protested.
Audit report (also known as examination report)	<p>A form and all attachments used to summarize and explain the findings of an examination, containing all the information necessary to ensure a clear understanding of the adjustments and demonstrating how the tax liability was computed. An audit report signed by the taxpayer is a legally binding document, and serves as the basis for assessment and collection action.</p> <p>Example: Form 4549, Report of Income Tax Examination Changes, with an explanation of each item of adjustment, a computation of tax and penalties (if applicable), and a copy of the signed Civil Penalty Approval Form (if applicable).</p>
Closing letter (also known as a “final letter”)	<p>Letter used to notify the taxpayer:</p> <ul style="list-style-type: none"> • The examination report has been reviewed and accepted by the appropriate Director for the respective operating division, and/or • The examination proceeding is officially closed.
No-Change tax period	An examined tax period resulting in no adjustment(s) to the taxpayer’s reported income, loss, deductions or credits.
No-Change with adjustments tax period	An examined tax period resulting in adjustment(s) to the taxpayer’s reported income, loss, deductions or credits, but no net change to tax and/or penalty.

Term	Definition
Overassessment tax period	An examined tax period resulting in adjustment(s) that reduce the taxpayer's liability in the year examined. An overassessment becomes an <i>overpayment</i> when a refund is indicated (subject to the time limits prescribed by law for making a refund or credit).
Paperless electronic closure	A process in which a case is closed with no corresponding physical administrative case file shipped to Files.
Primary taxpayer	On a joint return, the person whose SSN is shown first on the return. Note: If one spouse did not previously file a return and an amended joint return is received, the taxpayer (with the established account) is the primary taxpayer for that year. Their account will be adjusted to reflect the joint return.
Secondary taxpayer	On a joint return, the person whose SSN is shown second on the return and is identified as the "spouse."
Unagreed tax period	An examined tax period that results in a deficiency, a disallowed claim for refund, or a no-change (but the adjustments impact the tax liability of another year), and the taxpayer does not agree to the findings and a report or waiver is not signed by the taxpayer.
Waiver	A form allowing taxpayers to waive certain restrictions or requirements. Example: Form 870, Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment.

4.10.8.1.6
(04-10-2023)

Acronyms

- (1) The following table lists acronyms used throughout this IRM and their definitions.

Acronym	Definition
A-CIS	AIMS - Centralized Information System
AIMS	Audit Information Management System
AMT	Alternative Minimum Tax

Acronym	Definition
ASED	Assessment Statute Expiration Date
AUR	Automated Under Reporter
BBA	Bipartisan Budget Act of 2015
BNA	Bureau of National Affairs
CAF	Centralized Authorization File
CCDM	Chief Counsel Directives Manual
CCP	Centralized Case Processing
CEAS	Correspondence Examination Automation System
CFR	Code of Federal Regulations
CTA	Corporate Tax Analyzer
CZ	Combat Zone
DET	Direct Examination Time
DIF	Discriminant Index Function
DISC	Domestic International Sales Corporation
DLN	Document Locator Number
DOD	Department of Defense
DPC	Designated Payment Code
EEFAX	Enterprise Electronic Facsimile
EGC	Employee Group Code
EIN	Employer Identification Number
EOAD	Examination Operational Automated Database
ERCS	Examination Returns Control System
FFTF	Fraudulent Failure to File
FICA	Federal Insurance Contribution Act
FORT	Field Office Resource Team
FTS	Fast Track Settlement
IC-DISC	Interest Charge Domestic International Sales Corporation
ICE	Informant's Claims Examiner
IDRS	Integrated Data Retrieval System
IIC	International Individual Compliance
ILSC	Investor Level Statute Control
IMF	Individual Master File

Acronym	Definition
IMS	Issue Management System
IRA	Individual Retirement Arrangement
IRC	Internal Revenue Code
IRN	Inadequate Records Notice
JC	Joint Committee
JCR	Joint Committee Review
LB&I	Large Business and International
LCU	Large Corporate Underpayment
LUQ	Large Unusual and Questionable
MACRS	Modified Accelerated Cost Recovery System
MFJ	Married Filing Jointly
MFT	Master File Tax
NMF	Non-Master File
NOLD	Net Operating Loss Deduction
NRP	National Research Program
PHC	Personal Holding Company
POA	Power of Attorney
POD	Post of Duty
PSP	Planning & Special Programs
QBID	Qualified Business Income Deduction
RA	Revenue Agent
RGS	Report Generation Software
RRA	Restructuring and Reform Act of 1998
RSED	Refund Statute Expiration Date
SB/SE	Small Business and Self-Employed
SBU	Sensitive but Unclassified
SECA	Self-Employed Collection Act
SFR	Substitute for Return
SSN	Social Security number
TAS	Taxpayer Advocate Service
TC	Transaction Code
TCS	Tax Computation Specialist
TCO	Tax Compliance Officer

Acronym	Definition
TDF	Treasury Department Form
TEFRA	Tax Equity and Fiscal Responsibility Act
TEGE	Tax Exempt Government Entities
TIN	Taxpayer Identification Number
USTC	United States Tax Court

4.10.8.1.7
(04-10-2023)

Related Resources

(1) Following are the primary sources of procedures and guidelines examiners will use for report writing:

- IRM 4.2.2, Disaster Assistance Relief
- IRM 4.7.5, Examination Returns Control System (ERCS), Group and Territory
- IRM 4.10.1, Overview of Examiner Responsibilities
- IRM 4.10.6, Penalty Considerations
- IRM 4.10.7, Issue Resolution
- IRM 4.10.9, Workpaper System and Case File Assembly
- IRM 4.10.10, Standard Paragraphs and Explanation of Adjustments
- IRM 4.10.11, Claims for Refund, Requests for Abatement, and Audit Reconsiderations
- IRM 4.23.10, Report Writing Guide for Employment Tax Examinations
- IRM 4.23.22, Unagreed Employment Tax Case Procedures
- IRM 4.24.20, Excise Tax Report Writing Guide
- IRM 4.25.6, Report Writing Guide for Estate and Gift Tax Examinations
- IRM 4.27.1, Bankruptcy, Examiner Responsibilities and Procedures
- IRM 4.31.2, TEFRA Examinations - Field Office Procedures
- IRM 4.31.5, Investor Level Statute Control (ILSC) Examinations - Field Office Procedures
- IRM 4.31.9, Centralized Partnership Audit Regime (BBA) Field Examination Procedures
- IRM 4.36, Joint Committee Procedures
- IRM 4.46.6, Workpapers and Reports Resources
- IRM 8.13.1, Closing Agreements
- IRM 20.1, Penalty Handbook
- IRM 20.2, Interest
- IRM 25.6.1, Statute of Limitations Processes and Procedures

(2) Links to other helpful information:

- *1040 Knowledge Base*
- *BBA (within the Partnerships Knowledge Base)*
- *CCP Exam EFax Numbers*
- *Disclosure and Privacy Knowledge Base*
- *Employment Tax Small Business Knowledge Base*
- *Exam Procedures Knowledge Base*
- *Ex Parte Communications*
- *Interest Job Aids*
- *Interest Knowledge Base*
- *IRC 199A - Qualified Business Income Deduction Book*

- *Joint Committee Cases*
- *Letter Chart Job Aid*
- *Partnerships Knowledge Base*
- *Penalties Knowledge Base*
- *Quick/Prompt and Partial Assessments*
- *Report Generation Software (RGS) & Correspondence Examination Automation Support (CEAS)*
- *S Corporations Knowledge Base*
- *Working a Whistleblower Claim - Knowledge Base*

4.10.8.2
(09-13-2019)
Audit Reports

- (1) Examiners have the responsibility to ensure audit reports are properly prepared and issued.
- (2) The following sections give an overview of audit reports, discuss report preparation and issuance, and provide guidance regarding matters examiners must consider after reports are issued.

4.10.8.2.1
(09-13-2019)
Overview of Audit Reports

- (1) Audit reports serve several important purposes. Therefore, examiners should take all necessary steps to ensure report accuracy. Audit reports:
 - a. Protect the taxpayer's "Right to be Informed." Audit reports should contain all the information necessary to ensure a clear understanding of the adjustments and identify the amounts (if any) of tax due, interest, additions to the tax, and assessable penalties.
 - b. Serve as the basis for assessment and collection action. Reports (unlike workpapers) are legally binding documents.
 - c. Give notice of a tax liability for purposes of interest suspension. IRC 6404(g) provides for the suspension of interest when the Service fails to provide timely and adequate notice of a tax liability. For example, Form 4549 is sufficient notice if it contains an explanation of each item of adjustment. See Treas. Reg. 301.6404-4(a)(7)(i). See IRM 4.10.8.14.13, which addresses notice requirements for IRC 6404(g).
- (2) The type of audit report an examiner prepares depends on the outcome of the examination. For example, reports are prepared for the following types of cases:
 - No-Change and No Liability (IRM 4.10.8.3)
 - Regular Agreed (IRM 4.10.8.4)
 - Excepted Agreed (IRM 4.10.8.5)
 - Partially Agreed (IRM 4.10.8.6)
 - Unagreed (IRM 4.10.8.12)

4.10.8.2.2
(04-10-2023)
Preparation of Audit Reports

- (1) This section contains general guidance for income tax report preparation. Other sections in this IRM contain specific guidance for reports for each type of outcome (e.g., no-change, agreed, etc.). LB&I examiners see IRM 4.46.6, Workpapers and Reports Resources, for additional report writing guidance.
- (2) Form 4549, is the basic report form for most individual and corporate income tax cases. Form 4549 reflects adjustments to taxable income and the corrected tax liability, and allows for a taxpayer signature, waiving restrictions on assessment and collection of a deficiency or acceptance of an overassessment. By signing, the taxpayer is indicating they do not wish to exercise appeal rights

with regard to the adjustments reflected in the report. The report is subject to review and acceptance by the Area Director (or comparable level of management) as stated on the form. See Exhibit 4.10.8-1, Preparation of Form 4549 / Form 4549-A, for instructions for preparing Form 4549.

- (3) Form 4549-A, Report of Income Tax Examination Changes (Without Taxpayer Signature), does not have a place for the taxpayer(s) to sign, and is appropriate for no-change, unagreed (RA), excepted agreed, fully allowed claims for refund, and abatement cases. If Form 4549-A is issued in an unagreed or partially agreed case, examiners typically prepare and provide Form 870, Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment, to the taxpayer to solicit a consent to assessment. See Exhibit 4.10.8-1, Preparation of Form 4549 / Form 4549-A for instructions for preparing Form 4549-A. See Exhibit 4.10.8-2 for additional information and instructions for preparing Form 870.
- (4) An **Information Only report** is a completed Form 4549 that does not propose a change in tax liability. It furnishes taxpayer information to the taxpayer or others who need this information. The report should be labeled "FOR INFORMATION ONLY." Information reports are usually submitted in connection with offers in compromise and requests for information from Headquarters and other Area offices.
- (5) Forms in the 870 series are used to indicate the taxpayer is waiving the statutory restriction upon assessment and collection of the deficiency of tax and are used in excepted agreed cases and unagreed cases requiring a Preliminary (30-day) letter. Signing the waiver stops the running of interest 30 days from the date of receipt if the assessment and notice for payment are not made within the 30-day period. Signing the waiver does not preclude assertion of a further deficiency by the Commissioner or a request for further consideration of the issues by the taxpayer. See Exhibit 4.10.8-2, Preparation of Form 870, for instructions for preparing Form 870.

Note: Office Examination can use Form 4549 in lieu of Form 4549-A and a waiver, for unagreed cases. If Form 4549 is used, a waiver is not required.

- (6) Report Generation Software (RGS) is required for generation of all income tax examination reports (with the exception of LB&I agents utilizing BNA Software inside of IMS) and for entry of all data required for the Examination Operational Automation Database (EOAD). EOAD is designed to allow the tracking of examination adjustments by issue and related cause. This data helps identify specific areas of noncompliance based on examination reports. See IRM 4.10.16, Examination Operational Automation Database (EOAD). Procedures for using RGS in report writing can be found in RGS User Guides, training materials, and IRM 4.10.15, Report Generation Software (RGS).
- (7) RGS contains the nationally approved standard explanations and automatically inserts standard explanations for statutory adjustments. The user also has an opportunity to customize standard explanations. The number of customized standard explanations should be limited as the National Standard Explanations are approved by Counsel. See IRM 4.10.8.12.4, Explanation of Items, for additional information.
- (8) RGS users must save a complete copy of all audit reports provided to the taxpayer or representative to RGS Case File Documents. Each report must be saved as a single PDF file using the established file naming convention:

REPORT – [Form #] – [Creation Date Using YYYYMMDD Format]. See IRM 4.10.15, Report Generation Software (RGS), and the *RGS File Naming Conventions* job aid for additional guidance. When applicable, the file name should include additional descriptive information to allow users to identify the correct report (see example 2 below).

Example: (1) Form 4549 created by the examiner on April 7, 2021 should be named “REPORT – 4549 – 20210407”.

Example: (2) Form 4549-A created by an LB&I Tax Computation Specialist (TCS) on November 1, 2021 for a Joint Committee case should be named “REPORT – 4549-A – 20211101 – TCS”.

Note: If the case is excluded from paperless electronic closure (see *Cases Excluded From Paperless Electronic Closure*), the complete report must also be printed and included in the physical (i.e., paper) administrative case file.

Note: For LB&I cases maintained in IMS, the TCS prepares the appropriate audit report using RGS or Corporate Tax Analyzer (CTA) software. Refer to IRM 4.46.6.7.1, TCS Procedures, for information on storing TCS reports in IMS. IMS users follow electronic workpaper naming conventions in IRM 4.46.6.2, Workpaper Organization and Considerations.

(9) A complete audit report includes the following elements.

Audit Report Elements	Examples
Report form summarizing the audit findings and any proposed adjustments.	<ul style="list-style-type: none"> Form 4549 Form 4549-A Form 4605
Supporting schedules and/or explanations, which contain the information necessary to ensure a clear understanding of the adjustments and demonstrating how the tax liability was computed (when applicable).	<ul style="list-style-type: none"> Issue lead sheets for primary and alternative positions (excluding audit steps) Standard explanation paragraphs RGS-generated computation schedules
Other procedurally required forms, when applicable.	<ul style="list-style-type: none"> Civil Penalty Approval Form required by IRM 4.10.6

(10) Form 9984, Examining Officer's Activity Record, should properly document actions related to report delivery. When reports are issued be sure to include:

- Date(s) of the notice(s),
- Method of delivery of notice (i.e., personal delivery, regular mail, certified mail),
- Person(s) to whom the notice(s) were delivered, and
- Items included in the delivery (i.e., letter, report form, publications, etc.)

4.10.8.2.2.1
(03-25-2021)
**Form 4549 / 4549-A:
Other Information**

- (1) Statements should be included in the “Other Information” section of the Form 4549 or Form 4549-A as needed. Below are examples of situations that require a statement to clarify the examination results:
- a. Statement on corrected or revised reports such as “This report supersedes report dated _____.” (See IRM 4.10.8.13).
 - b. References to attachments.
 - c. If there is an increase or decrease in personal holding company tax or accumulated earnings tax write “Additional Tax Due” or “Net Overassessment” and the dollar amount under the appropriate column and explain the change in an attachment.
 - d. Statements regarding the disposition of claims or amended returns as discussed in IRM 4.10.11, Claims for Refund, Requests for Abatement, and Audit Reconsiderations.
 - e. Statement regarding the application of any penalties or additions to tax (or reference to attachments) not otherwise listed on the report. Include the IRC section, title of the penalty, and the dollar amount.
 - f. Statements regarding innocent spouse determination (IRM 25.15.6.10.1, Pre-Assessment Determination and Report Writing).
 - g. Statements regarding IRC 6404(g) (suspension of interest provisions) and the date on which the notice was provided, when it applies (see IRM 4.10.8.14.13).
 - h. Statements regarding the applicability of IRC 6601(d) (interest on carry-backs) for restricted interest cases. See IRM 4.10.8.14.3.4 for examples.
 - i. Statements regarding the applicability of IRC 6621(c) for large corporate underpayments. See IRM 20.2.5.8, Large Corporate Underpayment (LCU), for the rules and requirements in applying this rate.

Reminder: IRC 6621(c) formerly pertained to interest on tax motivated transactions (TMT), and was repealed for returns with due dates (without regard to extensions) after December 31, 1989. See IRM 20.2.5.9, Tax Motivated Transaction (TMT) Interest, for the applicability of this 120 percent rate for returns with due dates before January 1, 1990.

4.10.8.2.3
(03-25-2021)
**Issuance of Audit
Reports**

- (1) The examiner should discuss the progress of the examination and potential issues with the taxpayer and/or representative at frequent intervals throughout the examination. To facilitate discussion of proposed adjustments to individual, corporate, or fiduciary income tax returns, the examiner may provide the taxpayer with a Form 5278, Statement - Income Tax Changes. See IRM 4.10.7.5, Proposing Adjustments to the Taxpayer and/or Representative, for guidance on the time and manner for issuing reports in both office and field examinations.
- (2) Whenever possible, examiners should discuss proposed adjustments (including penalties) with the taxpayer and/or representative during a face-to-face appointment. If penalties requiring supervisory approval are proposed and the examiner has not yet obtained approval, Form 5278 or a written list of proposed adjustments (including penalties) can be shared to facilitate discussion during a face-to-face appointment. The activity record should be contemporaneously documented to indicate the date and circumstances under which the Form 5278 or written list was provided.

- (3) When a report is mailed, the examiner must prepare and issue the appropriate letter to transmit the report and notify the taxpayer of the examination process and their rights (e.g., Letter 915, Letter 950, Letter 4121, Letter 5153, etc.). See IRM 4.10.8.2.3.1 below for additional guidance on preparing and issuing letters.

Reminder: Generally, for deficiency cases, TCOs issue Letter 915 with the first report (in person or by mail).

Caution: Written supervisory approval of penalties proposed subject to IRC 6751(b) must be obtained timely or the related penalties cannot be asserted.

- (4) If the issuance of a 30-day letter is delayed while the examiner secures the manager's signature on the letter or the penalty approval form, TCOs must update the ERCS action code to 08, Follow-Up Action.
- (5) For a joint return, follow IRM 4.10.1.2.2.1, Separate Notice Requirements, to determine if the report must be issued separately.
- (6) Generally, a qualified representative is authorized to receive any notice or other written communication required or permitted to be given to the taxpayer in the matter concerning the taxpayer, as directed on Form 2848, Power of Attorney and Declaration of Representative, or Form 8821, Tax Information Authorization. Before issuing an audit report, the examiner should research the Centralized Authorization File (CAF) on IDRS to ensure the taxpayer did not submit a new Form 2848 or Form 8821 through channels other than the examiner. For more detailed information on how to mail correspondence when a POA is involved, see IRM 4.11.55.2.9, Notices and Communications. See IRM 4.10.1.3.3, Written Communication to the Taxpayer's Representative, for guidance including the preparation and issuance of Letter 937, Transmittal Letter for Power of Attorney.

4.10.8.2.3.1 (04-10-2023) Letters

- (1) Letters are sent to taxpayers (and their authorized representatives) to transmit reports, explain available appeal rights, and inform the taxpayer of the status of the examination. A copy of the signed and dated letter must be maintained in the case file (following applicable electronic case file procedures). RGS users see IRM 4.10.15.7.19, Office Documents (OD) and Case File Documents (CFD).
- (2) Examiners must follow the guidance in IRM 4.10.1.3.2, Written Communication, when preparing letters. Employee contact information must be included on all correspondence sent to taxpayers. Refer to IRM 4.10.1.2.2.2, Employee Contact Information, for guidance.
- (3) Examiners prepare most letters that are issued from the group or by CCP; the date and signature depend on the type of letter (see (4) below). For example, examiners prepare, but don't sign or date, letters sent by the group manager and closing letters sent by CCP or the group on behalf of the appropriate Director (based on their operating division). For additional information, SB/SE examiners may refer to the *Letter Chart* job aid for report transmittal and case closing letters.

Note: Closing letters for paperless electronic closure cases are mailed by the group (instead of CCP) when the case is closed from the group. Therefore,

select “No letter required to be sent by CCP” on page 2 of Form 3198, Special Handling Notice for Examination Case Processing, under “Letter Instructions for CCP.” LB&I examiners, see IRM 4.46.5.11.2.2, General Information for all Paperless Case Closures, for additional guidance.

- (4) The type of letter (e.g., initial contact, 30-day, closing, etc.) and required signature (e.g., examiner, group manager, area director, etc.) determines how the signature block is completed. For example:

- Letter 2205, Initial Contact, is signed by the examiner and the signature block is completed with the examiner’s name, title, and signature.
- Letter 692, Request for Consideration of Additional Findings, is signed by the examiner therefore the signature block is completed with the examiner’s name, title, and signature.
- 30-day letters discussed in IRM 4.10.8.12.1, must be signed by the group manager (SB/SE examiners see IRM 1.2.65.4.34, SBSE 1-23-55, Authority to Sign Thirty Day Letters). Therefore, the signature block on 30-day letters must contain the group manager’s name, title, and signature.

Reminder: Office Examination Letter 1912, Follow-Up Letter Transmitting Examination Reports, is not a 30-day letter. It is signed by the examiner and the signature block is completed with the examiner’s name, title, and signature.

- Closing letters indicate the examination has been closed after acceptance by the Area Director (or comparable level of management). For example, Letter 590, No-Change Final Letter, and Letter 987, Agreed Income Tax Change, notify the taxpayer the report has been reviewed and accepted. Therefore, the signature block is completed with the name and title of the Area Director (or comparable level of management) and signed by the group manager on behalf of the Area Director (or comparable level of management).

Reminder: Closing letters are signed by the group manager, whether they are mailed by the group (i.e., paperless electronic closure cases) or CCP.

- (5) Generally, letters issued at the group level can be signed digitally provided the procedures in IRM 4.10.1.4.4, Digital Signatures, are followed.

Reminder: Digitally signed letters, forms, and other documents issued to the taxpayer and/or representative must contain an image of the signer’s handwritten signature.

- (6) When applicable, examiners provide instructions to CCP or Technical Services by notating Form 3198 by:
- Indicating the required letter, form, report, or other material to enclose in correspondence to the taxpayer.
 - Providing any special instructions for the handling or disposition of the correspondence.
 - Identifying on the second page of Form 3198 under “Letter Instructions for CCP” if a copy of the letter is to be issued to a POA, by checking the box “Copy to POA - Letter 937.”

Reminder: Closing letters for paperless electronic closure cases are mailed by the group instead of CCP. Therefore, select “No letter required to be sent by CCP” on page 2 of Form 3198 under “Letter Instructions for CCP.” LB&I examiners, see IRM 4.46.5.11.2.2, General Information for all Paperless Case Closures, for additional guidance.

- (7) For closing letters, examiners must prepare an envelope to the taxpayer and, if applicable, to the POA. Envelopes must contain the examiner’s return address. If CCP must mail the closing letter, envelopes should be included in the physical case file with the applicable letters.
- (8) If mail is returned as undeliverable after a case is closed, determine if Master File reflects a new address by researching IDRS (e.g., command codes INOLES, IMFOLE, ENMOD, TRDBV, IRPTRO, etc.). If the U.S. Post Office returns undeliverable mail with a yellow address label affixed to the envelope, compare the information on the yellow label to the name and address shown in IDRS to verify it is the same taxpayer, and determine which address is most current. If a new address is determined, re-mail the letter in an envelope with the new address.

Note: The undeliverable mail (and re-mailing of the letter to the new address, if applicable) must be documented in the closed case file by either retrieving the RGS case from archives, digitizing and saving the documents (including the front and back of the envelope), notating the activity record with actions taken, and re-archiving the case (as explained in IRM 4.10.15.10.2(5), Examined Closures - Manager Responsibilities); or sending the returned mail/copy of the returned mail / re-mailed letter to Files to be associated with the closed case as explained in the *Sending to Files* job aid.

4.10.8.2.3.2
(09-13-2019)
Publications

- (1) Publications sent to the taxpayer should always agree with the enclosures listed on the letter to avoid confusion.
- (2) Publications available on IRS.gov should not be sent to the taxpayer’s representative or appointee. See IRM 4.10.1.3.3, Written Communication to the Taxpayer’s Representative, for additional information.
- (3) Section 3504 of P.L. 106-206 (RRA ’98) requires the Service to include an explanation of the examination and collection process, as well as information about assistance from the Taxpayer Advocate with any first letter of proposed deficiency, which allows the taxpayer an opportunity for administrative review in the IRS Office of Appeals. Pub 3498, The Examination Process, is used for this purpose. The procedures below must be followed:
 - a. Pub 3498 must be provided with the first examination report that is given to the taxpayer, and with all 30-day letters.
 - b. Pub 3498 is not required to be provided again to the same taxpayer with reports for the same tax periods issued subsequent to the first report (i.e., corrected and supplemental reports) unless they are issued with a 30-day letter.
 - c. Pub 3498 is not included with no-change reports, with the exception of no-change with adjustments reports when the adjustments impact other tax years.

4.10.8.2.4
(09-13-2019)
**Considerations After
Report Issuance**

- (1) This section provides general guidance for soliciting payment, receiving executed audit reports, and closing cases within established time frames based on taxpayer responses to issued reports.

4.10.8.2.4.1
(09-13-2019)
Soliciting Payment

- (1) Examiners must follow IRM 4.20.1, Examination Collectibility Procedures, which provides guidelines for using a tiered interview for soliciting payment, securing levy source information, coordinating with Collection, and processing payments received on deficiency cases.

Caution: When a taxpayer has filed or is preparing to file bankruptcy, examiners must refer to IRM 4.27.1, Bankruptcy, Examiner Responsibilities and Procedures, for guidance on soliciting payment.

- (2) Taxpayers, upon receipt of an audit report, may pay the deficiency immediately. See IRM 4.20.1.3.2, Process Payment Received, for information and instructions on payments and remittances, including the preparation of Form 3244-A and timely processing of payments of \$100,000 or more.
- (3) Instead of a payment of tax, taxpayers may submit a “6603 deposit.” For a detailed explanation of the enactment of IRC 6603 and its effect on interest see IRM 20.2.4.8.2, IRC 6603 Deposits, and IRM 25.6.1.10.2.12.7, Deposit Made Under IRC Section 6603.

4.10.8.2.4.2
(04-10-2023)
**Execution and Receipt
of Audit Reports and
Waivers**

- (1) Reports and waivers are considered “executed” when signed by the taxpayer(s). Executed forms must reflect the date received by the IRS. A signed agreement or waiver stops the running of interest 30 days from the date of receipt if the assessment and notice for payment are not made within the 30-day period. See IRM 20.2.7.9, IRC 6601(c), Suspension of Interest on Deficiencies, for additional information and examples. Examiners must date stamp the receipt date on agreements and waivers, with the following exception:

Exception: Agreements and waivers received by IRS EEFax (vs. a traditional fax machine) do not require an additional date stamp **if** the agreement or waiver contains a generated date stamp that is legible and correct.

- (2) The IRS can accept consents to assess additional tax (e.g., Form 4549 or Form 870) and taxpayer closing agreements involving any amount of tax by fax. The term “faxed signatures” should be construed to include electronic images of scanned original signatures transmitted by EEFax. For agreements received by fax, examiners must:
 - a. Document Form 9984, Examining Officer’s Activity Record, including contact with the taxpayer, the date of contact, and that the taxpayer is submitting the consent to assess additional tax by fax.
 - b. Document the origin of an agreement received by EEFax by saving an electronic or hard copy of the incoming e-mail in the case file.
 - c. Ensure Item 416 on Form 5344, Examination Closing Record, contains a “1” if a faxed agreement is received.
- (3) Be very cautious in accepting agreements or waivers where taxpayers have added writing other than their signatures. If possible, a new agreement or waiver should be obtained with just the taxpayer’s signature. If this is not

possible, all facts will be obtained to determine the taxpayer's intent. Conditional statements will invalidate an agreement or waiver.

- (4) To process as "agreed," reports and waivers for joint returns require the signature of both spouses (or authorized power-of-attorney(s), if applicable), unless the deficiency is paid in full as discussed in the following paragraph. When full payment is not received, and only one spouse signs the report or waiver, unagreed procedures apply to the non-signing spouse. Additionally, the account of the agreeing spouse must be assessed using MFT 31 procedures. See IRM 4.10.8.12.3.
- (5) Examiners may process a case as "agreed" without an executed agreement form if a full payment not specifically designated as a "6603 deposit" is received in response to a proposed deficiency (tax and penalties), and there is no evidence the taxpayer intends to file a protest. See IRM 4.4.12.5.18.3, Payment in Lieu, for completing the Form 5344 when payment is accepted in lieu of a signed agreement. Disposal Code 08 is used, and an agreement date is not entered; the suspension of interest described in paragraph (1) above does not apply to payments in lieu of agreements.

4.10.8.2.4.3
(04-10-2023)
Large Dollar Cases

- (1) This subsection covers unique processing instructions for large dollar cases. In determining whether a case should be considered a large dollar case, treat each tax period separately. The following are considered large dollar:
 - A tax period with an agreed and unpaid deficiency of \$100,000 or more. See IRM 4.10.8.2.4.3.1 below.
 - A tax period with an overassessment of \$100,000 or more. See IRM 4.10.8.2.4.3.2 below.
- (2) All large dollar cases with agreed and unpaid deficiencies or overassessments of \$100,000 and greater must be flagged on Form 3198 in the "Expedite Processing" section by checking the "Over \$100,000 Agreed and Unpaid" box.
- (3) Quick assessment procedures are followed when agreed, unpaid deficiencies over \$100,000 (including penalties) of income, estate, gift, and certain excise taxes, cannot be assessed within 30 days of when the agreement is received. See the *Quick/Prompt and Partial Assessments* website for additional information.

4.10.8.2.4.3.1
(04-10-2023)
**Large Dollar Cases:
Agreed and Unpaid
Deficiency**

- (1) This section pertains to income, estate, gift, and certain excise taxes with agreed and unpaid deficiencies of \$100,000 and greater that are subject to interest suspension under IRC 6601(c). These procedures do not apply to employment tax returns or delinquent returns secured by Examination after a Substitute for Return has posted.
- (2) Due to interest owed on the deficiency, these cases must receive expedited processing. Every effort should be made to forward these cases as expeditiously as possible to assess the deficiency within 30 calendar days of the agreement date. The group must document actions taken on Form 9984. The following time frames have been established:
 - a. The group has 4 calendar days after receipt of the waiver to forward the case for processing.
 - b. Technical Services has 8 calendar days to review the case if it was forwarded to them.

- c. Centralized Case Processing has 9 calendar days to input the case for closure if the case has been through Technical Services. If the case did not go through Technical Services, CCP has 17 calendar days.

4.10.8.2.4.3.2
(04-10-2023)
**Large Dollar Cases:
Overassessment**

- (1) Overassessments of \$100,000 or more (which are agreed or not appealed) must receive expedited processing. See IRM 4.10.8.2.4.4 below.
- (2) Overassessments of \$10 million dollars or more (including allowable interest) will be refunded using manual refund procedures; examiners must check the "Manual Refund" box in the "Expedite Processing" section of Form 3198.
- (3) For refunds in excess of \$2 million (\$5 million for C corporations), see IRM 4.36.2, Identification of Joint Committee Cases, to determine if Joint Committee procedures apply.

4.10.8.2.4.4
(08-11-2006)
**Time Frames for Closing
Cases from the Group**

- (1) Generally, cases should be closed from the group within the following time frames:
 - a. 10 days for case closures for agreed or no-change examinations – from the first date the report is received or the no-change status is communicated to the taxpayer,
 - b. 20 days for case closures for unagreed examinations – from the date the 30-day letter defaults or the request for Appeals conference is received from the taxpayer,
 - c. 4 days for case closures for agreed large dollar unpaid deficiency or overassessment cases - see IRM 4.10.8.2.4.3 above for more information.

4.10.8.3
(09-12-2014)
**No-Change and No
Liability Cases**

- (1) This section contains procedures for closing a case when the examination results in no adjustments, or there are adjustments that result in no additional liability.
- (2) If the additional tax resulting from examination adjustments is less than tolerance, the return will be no-changed, providing a special situation does not exist. See IRM 4.10.2.3.1, Large Unusual or Questionable (LUQ) Items Defined, for tolerance amount.

4.10.8.3.1
(04-10-2023)
**No-Change (No
Adjustments)**

- (1) Upon completion of a field or office examination resulting in no adjustments (Disposal Code 02), the examiner will prepare and provide the appropriate no-change letter to the taxpayer(s) and, if applicable, to the taxpayer's representative.

Note: LB&I examiners follow IRM 4.46.6.4.1, No-Change Examination (Disposal Code 02) Procedures. LB&I IIC examiners see IRM 4.63.4.11, Report Writing.

- (2) The following no-change letters advise the taxpayer that a no-change is proposed but the determination is subject to review:
 - a. Letter 3401, No-Change Report Transmittal Letter, or
 - b. Letter 3401-S, Pass-Through Entity No-Change Transmittal Letter (ILSC)

Note: Letter 3401-S is used to transmit a no-change report to non-TEFRA Partnerships, Partnerships electing out of BBA, Fiduciaries,

S-Corporations and Interest Charge Domestic International Sales Corporations when there are no changes to any item on the entity's return (Disposal Code 01 or 02).

Note: See IRM 4.31.2, TEFRA Examinations-Field Office Procedures, for additional report preparation guidance and letters to be issued by the examiner, the Field TEFRA Coordinator and/or the Campus TEFRA Function (CTF). The IRM also provides direction for completion of Form 3198, Special Handling Notice for Examination Case Processing, in TEFRA examinations.

Note: See IRM 4.31.9, Centralized Partnership Audit Regime (BBA) Field Examination Procedures, for additional report preparation guidance and letters to be issued by the examiner, the Field Technical Services Passthrough Coordinator and/or the Campus Passthrough Function (CPF). The IRM also provides direction for completion of Form 3198, Special Handling Notice for Examination Case Processing, in BBA examinations.

- (3) SB/SE examiners must generate a "no-change" report using RGS and provide it to the taxpayer and, if applicable, the taxpayer's representative, at the conclusion of the examination. The "Other Information" or "Remarks" section of the report must include the statement "No-Change Subject to Approval by Area Director or Area Manager."
- (4) Examiners must prepare an undated Letter 590, No-Change Final Letter (or Letter 992, No-Change, for Form 1120-S, U.S. Income Tax Return for an S Corporation; Form 1065, U.S. Return of Partnership Income; or Form 5500, Annual Return/Report of Employee Benefit Plan), and have it signed by the group manager. Letter 590 (or Letter 992) notifies the taxpayer the report has been reviewed and accepted. For cases excluded from paperless electronic closure, the closing letter is left undated in the case file (with a copy for the file) and it's mailed by CCP. Closing letters for paperless electronic closure cases are mailed by the group instead of CCP.
- (5) On Form 3198, check the boxes for "No-Change Letters" and "Letter 590" or "Letter 992" in the "Letter Instructions for CCP" section if CCP is responsible for mailing the letter.

Reminder: For paperless electronic closure cases, select "No letter required to be sent by CCP" on page 2 of Form 3198 under "Letter Instructions for CCP." A copy of the signed and dated letter is saved in the case file. LB&I examiners, see IRM 4.46.5.11.2.2, General Information for all Paperless Case Closures, for additional guidance.

- (6) Re-opening procedures do not apply if subsequent changes are needed before issuance of Letter 590 or Letter 992.
- (7) The "no-change" report may be acceptable documentation for repetitive audit verification in lieu of Letter 590 (or Letter 992) if the transaction code on the transcript corroborates the taxpayer's no-change report. The examiner should research IDRS using command code IMFOLZ or BMFOLZ which will display the results of the last two audits. This command code will show the "No-Change Issue Codes," also known as "IMF Issue Codes," disposal codes and any deficiency amount. The "IMF Issue Codes" can be found in IRM Exhibit 4.10.16-1, IMF Issue Codes.

4.10.8.3.2
(04-10-2023)
**No-Change with
Adjustments Report Not
Impacting Other Tax
Year(s)**

- (1) This section contains procedures for an examination that results in adjustments that do not change the taxpayer's liability in the year examined and do not impact any other tax years.
- (2) In cases where the examination results in adjustments but no change to the tax liability in the year examined and there is no impact to any other tax year(s), it is still important to notify the taxpayer of the adjustments so the taxpayer treats the issue(s) properly when filing subsequent year returns.

Caution: For adjustments or items impacting a prior or subsequent tax year, follow the applicable procedures in IRM 4.10.8.3.3.

- (3) Upon completion of a field or office examination resulting in no-change with adjustments (Disposal Code 01), and there is no impact to other tax years, the examiner will prepare and provide Letter 3402-A, Change/No-Change Report Transmittal - Adjustments Do Not Impact Other Tax Years, to the taxpayer(s) and, if applicable, to the taxpayer's representative. Letter 3402-A advises the taxpayer that a no-change with adjustments is proposed but is subject to review. It is not necessary to secure the taxpayer's agreement since there is no tax liability.

Note: No-change with adjustments report procedures do not apply to partnership or S corporation examinations.

- (4) The examiner must generate an "agreed" report using RGS and provide it to the taxpayer and, if applicable, the taxpayer's representative, at the conclusion of the examination.
- (5) The examiner must prepare an undated Letter 1156, Change, No-Change Final Letter, and have it signed by the group manager. Letter 1156 notifies the taxpayer the report has been reviewed and accepted. For cases excluded from paperless electronic closure, the closing letter is left undated in the case file (with a copy for the file) and it's mailed by CCP. Closing letters for paperless electronic closure cases are mailed by the group instead of CCP.
- (6) On Form 3198, check the boxes for "No-Change Letters" and "Letter 1156" in the "Letter Instructions for CCP" section if CCP is responsible for mailing the letter.

Reminder: For paperless electronic closure cases, select "No letter required to be sent by CCP" on page 2 of Form 3198 under "Letter Instructions for CCP." A copy of the signed and dated letter is saved in the case file. LB&I examiners, see IRM 4.46.5.11.2.2, General Information for all Paperless Case Closures, for additional guidance.

- (7) Re-opening procedures do not apply if subsequent changes are needed before issuance of Letter 1156.

4.10.8.3.3
(03-25-2021)
**No-Change Report with
Adjustments Impacting
Other Tax Year(s) Filed,
Delinquent or Not Due to
be Filed**

- (1) This section contains procedures for an examination that results in adjustments that do not change the taxpayer's liability in the year examined but may impact other tax year(s). Generally, cases considered by Appeals involve a disputed tax liability. However, Appeals will consider cases that do not have an immediate tax consequence but may impact the tax liability of other tax year(s). See IRM 8.1.1.3.2, No Immediate Tax Consequence Cases.

Example: Adjustments made to an NOL carryforward, or timing issues.

- (2) When an examination results in adjustments that do not change the taxpayer's liability in the year examined, but impact other tax year(s):
 - If the other tax year(s) are filed or delinquent, the examination should be expanded to include the other tax year(s) in accordance with IRM 4.10.5.3, Prior and Subsequent Returns. If the examination of the other impacted tax year(s) results in a change to the tax liability, follow the procedures in IRM 4.10.8.3.4.
 - If the other tax year(s) are not yet due to be filed, see IRM 4.10.5.14, Form 5346, Examination Information Report, for guidance on preparing Form 5346 when there is information of sufficient compliance value to warrant enforcement action.
- (3) For an examination that results in a no-change with adjustments that impacts other tax year(s), examiners generate an "agreed" report and provide it to the taxpayer and, if applicable, to the taxpayer's representative, at the conclusion of the examination. The examiner should solicit the taxpayer's signature since there are proposed adjustments to the return and they impact other tax year(s).
 - **Field Examination:** Letter 4121, Agreed Examination Report Transmittal, can be used to mail taxpayers a report when they have indicated agreement to all adjustments. The response date added to Letter 4121 is determined by the examiner based on the facts and circumstances of the case. When a taxpayer does not respond within the requested time frame, the examiner should follow-up with the taxpayer to determine if unagreed case procedures should be initiated.
 - **Office Examination:** Letter 950-F, 30-Day Letter - No Deficiency, is used to transmit both agreed and unagreed no-change with adjustment reports. Update ERCS action code to 07 for closure in 30 calendar days.
- (4) If an agreement is secured, close the case to CCP. The examiner will use the disposal code applicable to the closure for each tax year examined (e.g., disposal code 01 for the no-change with adjustments), and prepare the applicable closing letter (undated) to be issued by CCP (e.g., Letter 1156, Change, No-Change Final Letter, for the no-change with adjustments).
- (5) When an agreement is not secured, examiners must follow unagreed procedures in IRM 4.10.8.12 and generally use Letter 950-F, to transmit the no-change with adjustments examination report and offer the taxpayer the opportunity to go to Appeals. See IRM 4.10.8.12.1(4) when fewer than 240 days remain on the statute of limitations.

4.10.8.3.4
(04-05-2017)
**Multiple Year Exams
Including No-Change
Years**

- (1) When a multi-year examination results in both change and no-change year(s), the examiner should prepare a separate report for the no-change year(s), depending on the type of no-change, i.e., no adjustments impacting other tax years, etc. See IRM 4.10.8.3.1 through IRM 4.10.8.3.3.
- (2) See IRM 4.10.8.7 for procedures for closing cases that contain at least one agreed/no-change year and one unagreed year.

4.10.8.3.5
(04-10-2023)
**Letters Used in
No-Change Cases**

- (1) The following form letters are no-change notification letters:
 - a. Letter 3401, No Change Report Transmittal Letter
 - b. Letter 3401-S, Pass-Through Entity No Change Transmittal (ILSC)
 - c. Letter 3402-A, Change/No Change Report Transmittal - Adjustments Do Not Impact Other Tax Years
 - d. Letter 3402, Change/No Change Report Transmittal - Adjustments Impact Other Tax Years

Note: Letter 950-F, 30-Day Letter - No Deficiency, is the 30-day letter appropriate for unagreed cases with adjustments impacting the taxpayer's liability of other tax periods.
- (2) The following form letters may be issued as final no-change letters:
 - a. Letter 590, No Change Final Letter;
 - b. Letter 992, No Change (for ILSC flow through entities); or
 - c. Letter 1156, Change, No Change Final Letter.
- (3) For TEFRA Partnership cases the following form letters are issued as no-change notification letters:
 - a. Letter 1864, Notice of Beginning of Administrative Proceedings (NBAP) Withdrawal Letter;
 - b. Letter 2064, Notice of Final Partnership Administrative Adjustment; or
 - c. Letter 2621, No Adjustments to Pass Through Investor.
- (4) For BBA Partnership cases the following form letters are issued as no-change notification letters:
 - a. Letter 6099, No Change Under Centralized Partnership Audit Regime - Partnership, and
 - b. Letter 6099-A, No Change Under Centralized Partnership Audit Regime - Partnership Representative
- (5) For nonfiler cases closed without an examination report, the following form letters are issued as no-change notification letters:
 - a. Letter 2769, No Change after Examination of Delinquent Income Tax Return(s); or
 - b. Letter 2778, Non-filer No Change - Penalty Waived.

4.10.8.3.6
(09-12-2014)
**No-Change Issue and
Disposal Codes**

- (1) For no-change cases with no adjustments, RGS will populate the no-change issue codes on the Form 5344 from the issues created and no-changed.
- (2) Enter the disposal code on the appropriate line of Form 5344 as:
 - 01 - No-Change with Adjustments
 - 02 - Regular No-Change
 - 07 - Appealed

4.10.8.4
(03-25-2021)
Regular Agreed Cases

- (1) This section contains instructions for the preparation of reports when the taxpayer agrees with the examiner's proposed liability. Certain cases are "excepted" from the procedures outlined in this section (e.g., partially agreed, Joint Committee, etc.). See IRM 4.10.8.5.

- (2) The regular agreed report is designed to cover a three-year period and should include an adequate explanation (e.g., standard paragraphs or lead sheet(s) as discussed in IRM 4.10.8.12.4) to support the proposed adjustment(s).
- (3) Generally, regular agreed report forms require the taxpayer's signature and include a statement that the report is subject to acceptance by the Area Director (or comparable level of management).

4.10.8.4.1
(03-25-2021)

Individual and Corporate Cases

- (1) Form 4549 is the basic report form for regular agreed individual and corporate cases.
- (2) General guidance related to the issuance of audit reports is found in IRM 4.10.8.2.3. The subsections below provide additional guidance depending on whether the individual or corporate tax periods result in a deficiency or an overassessment.

4.10.8.4.1.1
(03-25-2021)

Deficiency Cases

- (1) Generally, when the examination of a tax period results in an agreed deficiency, examiners generate an "agreed" report and provide it to the taxpayer and, if applicable, to the taxpayer's representative, at the conclusion of the examination. The examiner should solicit the signature of the taxpayer(s).
- (2) **Field Examination:** Letter 4121, Agreed Examination Report Transmittal, can be used to mail taxpayers a report when they have indicated agreement to all adjustments.

Note: The response date added to Letter 4121 is determined by the examiner based on the facts and circumstances of the case. When a taxpayer does not respond to Letter 4121 within the requested time frame, the examiner should follow-up with the taxpayer to determine if unagreed case procedures should be initiated.

- (3) **Office Examination:** If there are 240 or more days remaining on the statute of limitations, generally Letter 915, Examination Report Transmittal, is used to issue both agreed and unagreed reports. Update the ERCS action code to 04 for follow-up in 15 calendar days.
 - a. If the taxpayer does not respond within 15 days, the examiner will prepare and issue Letter 1912, Follow-Up Letter Transmitting Examination Reports, and update the ERCS action code to 07 for follow-up in 15 calendar days.
 - b. If there are fewer than 240 days remaining on the statute of limitations, follow the procedures in IRM 4.10.8.12.1(4).
- (4) If an agreement is secured, see IRM 4.10.8.4.5, Closing Letters for Agreed Cases, and close the case to CCP. If an agreement is not secured, follow unagreed procedures in IRM 4.10.8.12, Unagreed Case Procedures.

4.10.8.4.1.2
(03-25-2021)

Overassessment Cases

- (1) Generally, when the examination of a tax period results in an agreed overassessment, examiners generate an "agreed" report and provide it to the taxpayer and, if applicable, to the taxpayer's representative, at the conclusion of the examination. The examiner should solicit the taxpayer's signature since there are proposed adjustments to the tax liability.

Caution: If the taxpayer has filed a claim for refund or request for abatement for the tax period examined, the guidance in paragraphs (3) and (4) below do not apply. Instead, examiners follow procedures in IRM 4.10.11, Claims for Refund, Requests for Abatement, and Audit Reconsiderations.

- (2) In all examinations that result in an overassessment with a refund (as opposed to only an abatement), the examiner must determine if the Refund Statute Expiration Date (RSED) is open. See IRM 25.6.1.10.2.7, Claims for Credit or Refund – General Time Period for Submitting a Claim, for the time limits for making a refund. See IRM 4.10.11.5.2, Refund Statute Expiration Date (RSED) - Consideration and Examiner's Responsibilities, for additional information about the RSED. If the refund is barred, enter the following explanation for the barred refund in the "Other Information" section of Form 4549: "The overassessment shown on this report is barred from refunding by IRC 6511, Limitations on Credit or Refund." Additionally, when closing a tax period with a barred refund, examiners must:

- Enter Hold Code 2 on Form 5344 to hold notices and the credit.
- Notate the Special Features section of Form 3198 by checking the "Freeze from Refunding" box and noting the barred amount in the Other Instructions. For example, "The \$5,400 overassessment shown on this report is barred by IRC 6511."

- (3) **Field Examination:** Letter 4121, Agreed Examination Report Transmittal, can be used to mail taxpayers an overassessment report when they have indicated agreement to all adjustments.

Note: The response date added to Letter 4121 is determined by the examiner based on the facts and circumstances of the case. When a taxpayer does not respond to Letter 4121 within the requested time frame, the examiner should follow-up with the taxpayer to determine if unagreed case procedures should be initiated (e.g., Letter 950-F).

- (4) **Office Examination:** Generally, Letter 950-F is used for both agreed and unagreed overassessment reports. Update ERCS action code to 07 for closure in 30 calendar days.

Exception: See IRM 4.10.8.12.1(4) when fewer than 240 days remain on the statute of limitations.

- (5) If an agreement is secured, see IRM 4.10.8.4.5, Closing Letters for Agreed Cases, and close the case to CCP. If an agreement is not secured, follow unagreed procedures in IRM 4.10.8.12. If the RSED is open, examiners should invite the taxpayer to file a claim by following the procedures in IRM 4.10.8.10.1.

4.10.8.4.2
(04-10-2023)
**Partnership and S
Corporation Cases**

- (1) Form 4605, Examination Changes Partnerships, Fiduciaries, S Corporations and Interest Charge Domestic International Sales Corporations, is the basic report form for use in these cases.
- (2) Form 886–S, Partners' Shares of Income, Deductions and Credits, and Form 886–X, Shareholders' Shares of Income, Deductions and Credits, are forms

used to identify partner and shareholder level adjustments for each year in which a change is recommended in Investor Level Statute Control (ILSC) examinations.

- (3) Form 886-Z, TEFRA Partners' Shares of Income, should be printed for the case file only. It reflects the percentages of ownership that are not on the Form 886-S or Form 886-X. See IRM 4.31.2, TEFRA Examinations - Field Office Procedures, and IRM 4.31.5, Investor Level Statute Control (ILSC) Examinations - Field Office Procedures, for procedures in working an ILSC key case and related investors. See IRM 4.31.9, Centralized Partnership Audit Regime (BBA) Field Examination Procedures for procedures when working BBA cases.
- (4) Form 886-S, Form 886-X, and Form 886-Z, should clearly reflect corrected items of income, separately stated items, and other items to be adjusted at the investor level.
- (5) Letter 921, Report Transmittal For ILSC Partnership, Fiduciary, & S Corporation, is a report transmittal letter for ILSC partnership, fiduciary, and S corporation cases.
- (6) The basic reports for BBA partnerships are found in IRM 4.31.9 and summarized below:

Type of report package	Include
Summary Report Package (see IRM 4.31.9.10.1)	<ol style="list-style-type: none"> a. Letter 5895, Preliminary Partnership Examination Changes and Imputed Underpayment, b. Form 14791, Preliminary Partnership Examination Changes, Imputed Underpayment Computation and Partnership Level Determinations as to Penalties, Additions to Tax and Additional Amounts, and c. Form 886-A, Explanation of Adjustments, for each substantive issue, each penalty (if applicable), and the imputed underpayment amount.
30-day Letter Package (see IRM 4.31.9.10.2)	<ol style="list-style-type: none"> a. Letter 5891, 30-Day Letter, b. Form 14791, Preliminary Partnership Examination Changes, Imputed Underpayment Computation and Partnership Level Determinations as to Penalties, Additions to Tax and Additional Amounts, and c. Form 886-A, Explanation of Adjustments, for substantive issues, penalties (if applicable), and the imputed underpayment.

Type of report package	Include
Notice of Proposed Partnership Adjustment (NOPPA) Package (see IRM 4.31.9.10.3) Note: The NOPPA package is issued by Technical Services or Appeals; not the examiner.	a. Form 14792, Partnership Examination Changes, Imputed Underpayment Computation and Partnership Level Determinations as to Penalties, Additions to Tax and Additional Amounts, b. Letter 5892, BBA Partnership Notice of Proposed Partnership Adjustment c. Letter 5892-A, BBA Notice of Proposed Partnership Adjustments-Partnership Representative, and d. Form 886-A, Explanation of Adjustments, for both substantive issues and imputed underpayment amount.

- (7) See the *Audit Procedures* shelf on the *Partnerships Knowledge Base*, for report writing resources.

4.10.8.4.2.1
(09-13-2019)
Form 4605

- (1) The following instructions are for preparing Form 4605. If a section of the form is not addressed, then it is self-explanatory. This section only applies to ILSC entity cases.
- (2) Name and Address — show current address.
- (3) Line 1 — Adjustments to Ordinary, Distributable Net, or Taxable Income — cross out words which do not apply. After “year”, enter the tax period to which the column applies.
- (4) Line 1a through 1g — list adjustments. Place a bracket around dollar amount when an adjustment is in the taxpayer’s favor. If there are more than seven adjustments, write “See page ___” on line 1a and use Form 4549–B. This report should only reflect:
 1. separately stated items that have been adjusted in amount(s) and/or
 2. all separately stated items affected by a change in the allocation percentages to the investors.
- (5) Line 2, 3, and 4 — cross out text which does not apply.
- (6) Line 5, Other Adjustments — this section applies to adjustments which do not affect ordinary, distributable net, or taxable income. For example, a change to contributions or capital gains distributed to partners. Identify the items adjusted on lines 5a and 5b. When there are more than two such adjustments, use Form 886–A, Explanation of Items, or “Remarks” section.
- (7) Remarks — Include any supplemental information which may be needed to clarify the adjustments and other items contained in the report.

4.10.8.4.2.2
(08-11-2006)
Special Situations: S Corporation Cases

- (1) Under certain circumstances, an S Corporation pays tax on built-in gains or on excessive net passive income. IRC 1374 and IRC 1375 are taxes that are imposed at the S Corporation level and do not flow through to the shareholders. This section covers the forms used when a deficiency or overassessment is recommended directly against the S corporation or if a claim is involved.

- (2) Deficiency, Overassessment or Claim — These results should be presented on a Form 4549. See Exhibit 4.10.8-1 for instructions to prepare Form 4549.
- (3) In certain instances a deficiency (e.g., built-in gains tax), overassessment or claim directly against the S corporation and a change in distribution to shareholders may be present. In this situation both Form 4549 and Form 4605 should be prepared along with Form 886–X.
- (4) If an S Corporation is converted to a taxable entity, two reports are required:
 - a. A Form 4549 is required to show the taxable income of, and any tax due from the corporation.
 - b. The Form 4605 and Form 886–X are required to remove items of income and separately stated items from the shareholders' returns.
- (5) References for S Corporation Level Tax - ILSC are as follows:
 - IRM 4.10.1.2.1.5, Right to Appeal an IRS Decision in an Independent Forum
 - IRM 25.6.22.6.3, Subchapter S Corporations (Investor Level Statute Control)
 - *S Corporations Knowledge Base*

4.10.8.4.2.3
(06-10-2005)

**Special Situations:
Change in Accounting
Method**

- (1) In the case of a change in method of accounting by a partnership or an S corporation, the adjustments required by IRC 481(a) shall be made on the partnership or S corporation return. However, the limitations on tax under IRC 481(b) shall apply at the partner/shareholder level. IRC 481(b) applies to a partner/shareholder whose income is increased by more than \$3,000 as a result of an IRC 481(a) adjustment to the partnership or S corporation's ordinary income. See Exhibit 4.10.8-3. Also, see IRM 4.11.6, Changes in Accounting Methods

4.10.8.4.3
(05-14-1999)

**Interest Charge
Domestic International
Sales Corporations**

- (1) Form 4605 is the basic report form for "regular agreed" Interest Charge Domestic International Sales Corporation (Form 1120–IC DISC) cases.
- (2) Form 886–Y, Examination Changes—Shareholder's Share of Deemed and Actual Domestic International Sales Corporation's Distributions, is prepared in conjunction with Form 4605 for each year in which a change is recommended to show the corrected Schedule of Distributions.

4.10.8.4.4
(08-11-2006)

Fiduciary Cases

- (1) The basic reports used for fiduciary cases are as follows:
 - a. Deficiency, Overassessment or Claim — results should be presented on a Form 4549.
 - b. Distributions to Beneficiaries — changes should be reflected on Form 4605. Form 886–W, Distribution of Beneficiary's Shares of Income and Credits, should be prepared for each year in which a change is recommended. Form 886–W is used to show the corrected distribution of each beneficiary's share of fiduciary income and credits.
 - c. When both of the situations described in paragraphs (a) and (b) occur, the instructions in both paragraphs should be followed.

4.10.8.4.5
(04-10-2023)
**Closing Letters for
Agreed Cases**

- (1) Inform taxpayers that the agreed case is subject to review and once it is accepted, they will receive Letter 987, Agreed Income Tax Change, stating the case is closed. Examiners will prepare Letter 987 which is signed by the group manager. For cases excluded from paperless electronic closure, the letter is left undated in the case file (with a copy for the file) and it's mailed by CCP. Closing letters for paperless electronic closure cases are mailed by the group instead of CCP.
- (2) Letter 987 contact information can be completed with either the examiner's name or the group manager's name.
- (3) Annotate the "Letter Instructions for CCP" section of Form 3198 "Agreed - Letter 987" if CCP is responsible for mailing the letter.

Note: Letter 1002 is used instead of Letter 987 for agreed ILSC entity cases.

Reminder: For paperless electronic closure cases, select "No letter required to be sent by CCP" on page 2 of Form 3198 under "Letter Instructions for CCP." A copy of the signed and dated letter is saved in the case file. LB&I examiners, see IRM 4.46.5.11.2.2, General Information for all Paperless Case Closures, for additional guidance.

4.10.8.5
(04-10-2023)
Excepted Agreed Cases

- (1) When the taxpayer agrees to proposed adjustments, but the examination results are subject to review or additional processing or some other condition, the taxpayer may waive the statutory restriction upon assessment and collection of the deficiency of tax. Generally Form 4549-A and Form 870 are used for excepted agreed cases, with explanations following the unagreed case format in IRM 4.10.8.12.4. See Exhibit 4.10.8-2, Preparation of Form 870, for instructions for preparing Form 870. Form 870-PT/LT — TEFRA agreement forms are used instead of Form 4605.
- (2) Signing the waiver stops the running of interest 30 days from the date of receipt if the assessment and notice for payment are not made within the 30-day period.
- (3) Signing the waiver does not preclude assertion of a further deficiency by the Commissioner or a request for further consideration of the issues by the taxpayer. That is, the case is "excepted" from application of the case reopening criteria.
- (4) The following cases are excepted agreed:
 - Partially agreed corporate and individual cases;
 - Claims allowed in full or part in a partially agreed case if there are agreed adjustments in addition to the claim;
 - When an overassessment on one return and a deficiency proposed on a related return is the result of the shifting of income or expenses (whipsaw issues);
 - "Excepted agreed" fiduciary cases;
 - Form 1120S for a S corporation case where small business corporation provisions of the Internal Revenue Code (Subchapter S) are not applicable;

Note: Agreed report forms are used in cases involving the conversion of a return from Form 1120S to Form 1120.

- Cases involving personal holding company deficiency dividends;
- Joint Committee Cases;
- Transferor—transferee cases;
- Fast Track Settlement cases when the Appeals official settles the issues based on hazards of litigation. See IRM 4.10.7.5.5(2), FTS Closing Procedures.

4.10.8.6
(03-25-2021)

Partially Agreed Cases

- (1) This section includes general instructions for preparing reports for partially agreed cases. Partially agreed cases are excepted agreed cases as described in IRM 4.10.8.5. Form 870 is used as a waiver in partially agreed cases (for both Office Examination and Field Examination). See IRM 4.10.8.2.2. RGS users access “Waivers” for Form 870.
- (2) A partially agreed case contains more than one issue of which at least one issue is agreed and at least one issue is unagreed. Unless the case is excluded from a partial assessment (see (3) below), after the partially agreed report is processed, unagreed case procedures apply to the remaining issues.
- (3) Cases excluded from partial assessments include:
 - a. Joint Committee cases and cases requiring Chief Counsel review.
 - b. Cases for a specific year with both agreed tax-reducing issue(s) and unagreed tax-increasing issues, with an apparent net overall deficiency.
 - c. Multiple year cases when a combined net overall deficiency is apparent, even though the agreed result for one or more years would be an over-assessment.
 - d. Cases docketed in the United States Tax Court.
 - e. Delinquent returns secured after the posting of a TC 150 SFR when there is audit potential but tax per return is zero (before withholding and/or refundable credits).

Note: If a partial assessment was not processed because the tax was zero, the Per Return figures for the report will be the amounts shown on the return filed by the taxpayer. See IRM 4.4.9.7.5, Delinquent Return Secured by Examination After TC 150 SFR, With Audit Potential - Final Closing Package (Partial Assessment Processed), for additional information.
- (4) Examiners should refer to IRM 4.4.12, Examined Closings, Surveyed Claims, and Partial Assessments, for partial assessment procedures including the preparation of Form 5344. The partially agreed package sent to CCP includes:
 - a. Form 3210, Document Transmittal.
 - b. Form 3198, Special Features section annotated “Partial Assessment Requested” and in the Other Instructions section, “Return via e-fax when completed.”
 - c. Waiver and copy of the report.
 - d. Form 5344 with the results of the partial agreement.
 - e. Form 2285 (if required for restricted interest).
 - f. Copy of the front page of the tax return with an IMFOLT or BMFOLT transcript.

Reminder: Groups must follow IRM 4.10.1.4.8.1, Form 3210 - Monitoring, to ensure the partial package was received by CCP.

- (5) RGS users can refer to *Partial Agreements and RGS* for information on penalties and completing Form 5344.

4.10.8.6.1
(03-25-2021)

Partial Overassessments

- (1) The allowance of partial overassessments should not be made routinely but only if the facts and circumstances warrant such action. Whether a partial overassessment should be allowed must be a matter of sound judgment and discretion. Group manager approval will be obtained prior to the allowance of a partial overassessment. Group manager concurrence will be documented on Form 9984.
- (2) A partial overassessment will be made only if there has been an agreement on the issue(s) resulting in the partial overassessment. These cases generally fall into the following categories:
 - a. Cases for a specific year involving two or more tax-reducing issues;
 - b. Cases for a specific year involving several issues, both tax-reducing and tax-increasing, provided the overall result, after giving effect to the tax-increasing issues, is a net overassessment;
 - c. Cases involving more than one year if the net result is an overassessment.
- (3) The following are examples of partial overassessments that could be made for the situations listed above:
 - a. Allowing an agreed tax-reducing issue results in an overassessment of \$15,000 for the taxable year. A contested tax-reducing issue for the same year, if allowable, would result in an additional overassessment of \$10,000. A partial allowance reflecting an overassessment not exceeding \$15,000 could be made.
 - b. A case for a specific year involves two tax-reducing issues, one of which is contested, and two tax-increasing issues which may or may not be contested. Allowing one of the agreed tax-reducing issues results in a net overassessment of \$50,000, after considering the offsetting adjustments for the two tax-increasing issues. A partial overassessment not exceeding \$50,000 could be made.
 - c. There is an unagreed proposed deficiency of \$40,000 for the year 2012, but a complete agreement to an overassessment of \$70,000 for the year 2013. A partial overassessment not exceeding \$30,000 (\$70,000-\$40,000) for 2013 could be made.

4.10.8.6.2
(03-25-2021)

**Partially Agreed
Deficiency Cases -
Individuals and
Corporations**

- (1) This subsection includes guidance for partially agreed individual and corporate **deficiency** cases. See IRM 4.10.8.6.1 for partial overassessment guidance.
- (2) Generally, TCOs only consider a partial agreement after a request for an Appeals conference is received and the taxpayer indicates agreement to one or more issues in the request. RAs generally have opportunities to secure an agreement or partial agreement prior to issuing a 30-day letter.

Reminder: Written supervisory approval of penalties proposed subject to IRC 6751(b) must be obtained timely or the related penalties cannot be asserted. Examiners must follow IRM 4.10.8.2.3.

- (3) The subsections below provide guidance for soliciting a partial agreement. If the taxpayer indicates agreement to one or more issues prior to the request for an Appeals conference, follow IRM 4.10.8.6.2.1, Partially Agreed Deficiency

Cases - Individuals and Corporations – Prior to Request for Appeals Conference. If the taxpayer indicates agreement as part of the request for an Appeals conference, follow IRM 4.10.8.6.2.2, Partially Agreed Deficiency Cases - Individuals and Corporations – After Request for Appeals Conference.

Note: Because TCOs generally issue Letter 915 (30-day letter) with the first report, they generally follow the procedures in IRM 4.10.8.6.2.2, Partially Agreed Deficiency Cases – Individual and Corporations – Request for Appeals Conference Received.

4.10.8.6.2.1
(03-25-2021)

**Partially Agreed
Deficiency Cases -
Individuals and
Corporations – Prior to
Request for Appeals
Conference**

- (1) When the taxpayer indicates agreement to one or more issues prior to a request for an Appeals conference and a partial agreement is solicited, multiple examination reports are required as discussed in the table below.

Report Type	Report Forms	Waiver Form	Comments
"Regular" report	Form 4549	N/A (use Form 4549)	Form 4549 reflects all proposed adjustments and the total deficiency, in the event the taxpayer chooses to agree. See (3) below.
"Agreed" report	Form 4549-A "Agreed"	Form 870	Form 4549-A "Agreed" reflects only the agreed adjustments and agreed deficiency; Form 870 reflects only the agreed deficiency. See (2) and (3) below.
"Total" report	Form 4549-A "Total"	N/A	Form 4549-A "Total" reflects all the proposed adjustments, but only the unagreed deficiency. See (4) and (5) below.

- (2) The Form 4549-A "Agreed" report reflects only the adjustments for which the taxpayer indicated agreement, and the agreed deficiency. Since partially agreed cases are "excepted agreed" cases, Form 870 must be used as a waiver. Indicate "Agreed" at the top of the Form 4549-A and **include the following statement** in the "Other Information" section of the Form 4549-A: "This report reflects only the agreed adjustments and deficiency; not the total proposed adjustments and deficiency."

Reminder: For RGS users, the Form 4549-A "Agreed" report is generated in RGS. For 1040 cases, select "Partial Agreement" as the Agreement Status on the Tax Computation screen. For 1120 cases, the agreement status is determined by comparing the Adjustment and Agreed fields for each

issue; any difference in the two amounts will generate the partial reports. RGS will create an “agreed” and “total” report. Do NOT include the Form 4549-A “Total” report generated by RGS with the solicitation for partial agreement; the “Total” report is only used AFTER a Form 870 is secured for the agreed amount AND the partial agreement is assessed. See (4) and (5) below.

- (3) To solicit a partial agreement the “regular” report, and “agreed” report with Form 870, are provided to the taxpayer with a response due date (generally 15 days). Letter 1967, Partially Agreed, can be used to transmit and explain the examination reports with agreement options.

Note: If the taxpayer was previously provided a report with all proposed adjustments and the total deficiency, another “regular” report does not need to be issued. For example, after a “regular” report was issued, a revenue agent could issue an “agreed” partial report during a face-to-face meeting instead of using Letter 1967.

- a. If an agreement to all adjustments is secured, follow procedures in IRM 4.10.8.4, Regular Agreed Cases.
 - b. If an agreement is not secured, continue with unagreed case procedures for the full deficiency (e.g., issue a regular report with a 30-day letter if not already issued, or follow IRM 4.10.8.12.9, Response to 30-Day Letter, if already issued.)
 - c. If an executed Form 870 is secured, follow IRM 4.10.8.6(4) above and ensure the amount(s) on the Form 870 are assessed. Continue with unagreed case procedures for the remaining deficiency, following procedures in (4) and (5) below.
- (4) The Form 4549-A “Total” report must be created to reflect both agreed and unagreed adjustments, and only the remaining unagreed deficiency. For RGS users, this is the Form 4549-A “Total” report that is created when a partially agreed report is generated. The examiner must ensure the Form 4549-A “Total” report:
- a. Contains an asterisk (*) in front of the name of each agreed adjustment.
 - b. Reflects the previously adjusted tax on the “Total Tax Per Return or as Previously Adjusted” line, which includes the tax on the agreed adjustments (previously assessed by the partial assessment procedures.)
 - c. Reflects the following statement in the “Other Information” section:
“*These adjustment(s) have been agreed, and the applicable deficiency has been assessed and is included in Total Tax as Previously Adjusted. The amount due in this report represents the remaining unagreed deficiency.”
- (5) Normal unagreed case procedures apply to the remaining deficiency, with the exceptions noted in the table below.

If	Then
The Form 870 for the partial agreement was secured prior to the issuance of a 30-day letter	Follow IRM 4.10.8.12, Unagreed Case Procedures, including guidance for issuing 30-day letters. Exception: Use the following report and waiver forms: <ul style="list-style-type: none"> Form 4549-A “Total” reflecting all the proposed adjustments, but only the unagreed deficiency. Form 870 (which must be manually prepared) reflecting the unagreed deficiency shown on the Form 4549-A “Total.”
The Form 870 for the partial agreement was secured after the issuance of a 30-day letter but before a request for Appeals conference was received	A new 30-day letter must be issued for the remaining unagreed deficiency. Follow IRM 4.10.8.12.1, 30-Day Letters. Exception: Use the following report and waiver forms: <ul style="list-style-type: none"> Form 4549-A “Total” reflecting all the proposed adjustments, but only the unagreed deficiency. Form 870 (which must be manually prepared) reflecting the unagreed deficiency shown on the Form 4549-A “Total.”

4.10.8.6.2.2
(03-25-2021)

**Partially Agreed
Deficiency Cases -
Individuals and
Corporations – After
Request for Appeals
Conference Received**

- (1) When the taxpayer indicates agreement as part of the request for an Appeals conference and a partial agreement is solicited, two additional examination reports are required as discussed in the table below.

Report Type	Report Forms	Waiver Form	Comments
“Agreed” report	Form 4549-A “Agreed”	Form 870	Form 4549-A “Agreed” reflects only the agreed adjustments and agreed deficiency; Form 870 reflects only the agreed deficiency. See (2) and (3) below.
“Total” report	Form 4549-A “Total”	N/A	Form 4549-A “Total” reflects all the proposed adjustments, but only the unagreed deficiency. See (4) and (5) below.

- (2) The Form 4549-A “Agreed” report reflects only the adjustments for which the taxpayer indicated agreement, and the agreed deficiency. Since partially agreed cases are “excepted agreed” cases, Form 870 must be used as a

waiver. Indicate “Agreed” at the top of the Form 4549-A and **include the following statement** in the “Other Information” section of Form 4549-A: “This report reflects only the agreed adjustments and deficiency, not the total proposed adjustments and deficiency.”

Reminder: For RGS users, the Form 4549-A “Agreed” report is generated in RGS. For 1040 cases, select “Partial Agreement” as the Agreement Status on the Tax Computation screen. For 1120 cases, the agreement status is determined by comparing the Adjustment and Agreed fields for each issue; any difference in the two amounts will generate the partial reports. RGS will create an “agreed” and “total” report. Do NOT include the Form 4549-A “Total” report generated by RGS with the solicitation for partial agreement; the “Total” report is only used AFTER a Form 870 is secured for the agreed amount AND the partial agreement is assessed. See (4) and (5) below.

- (3) To solicit a partial agreement, the “agreed” report and Form 870 are provided to the taxpayer with a response due date (generally 15 days). Letter 1967-A, Partial Agreement to Appealed Issues, can be used to transmit and explain the examination report. TCOs will update the ERCS action code to 07.
 - a. If a partial agreement is not secured, continue with unagreed case procedures for the full deficiency, following IRM 4.10.8.12.9.3, Request for Appeals Conference.
 - b. If an executed Form 870 is secured, follow IRM 4.10.8.6(4) above and ensure the amount(s) on the Form 870 are assessed. Then follow procedures in (4) and (5) below.
- (4) The Form 4549-A “Total” report must be created to reflect both agreed and unagreed adjustments, and only the remaining unagreed deficiency. For RGS users, this is the Form 4549-A “Total” report that is created when a partially agreed report is generated. The examiner must ensure the Form 4549-A “Total” report:
 - a. Contains an asterisk (*) in front of the name of each agreed adjustment.
 - b. Reflects the previously adjusted tax on the “Total Tax Per Return or as Previously Adjusted” line, which includes the tax on the agreed adjustments (previously assessed by the partial assessment procedures.)
 - c. Reflects the following statement in the “Other Information” section: “*These adjustment(s) have been agreed, and the applicable deficiency has been assessed and is included in Total Tax as Previously Adjusted. The amount due in this report represents the remaining unagreed deficiency.”
- (5) Follow IRM 4.10.8.12.9.3, Request for Appeals Conference, to address the request for an Appeals conference for the unagreed issues. For cases transferred to Appeals, include a copy of the Form 4549-A “Total” report with the letter used to notify the taxpayer the case is being closed to Appeals (e.g., Letter 2280, Transfer to Appeals, or Letter 5072, Examiner’s Rebuttal.)

Reminder: Form 870 must be assessed prior to submitting the case for unagreed case procedures (e.g., closing to Appeals or Technical Services).

4.10.8.6.3

(09-13-2019)

**ILSC Entities and
Fiduciary Cases**

- (1) Letter 921 transmits Form 4605, for nontaxable pass-through entity returns when adjustments are made to the entity's return (both agreed and unagreed). Enclose Form 4605 to reflect the adjustments made to the entity's ordinary income/loss and separately stated items of income, loss, deduction and credit. A nontaxable pass-through entity indicates agreement by having an authorized person sign Form 4605; however, the signature at the entity level is not binding. Therefore, an agreement (or partial agreement) must be obtained at the investor level. Partial agreements are not processed on nontaxable pass-through entities.
- (2) See IRM 4.31.5, Investor Level Statute Control (ILSC) Examinations-Field Office Procedures, for detailed information on pass-through entities.

4.10.8.6.4

(09-13-2019)

**S Corporations and
Fiduciary Cases**

- (1) The procedures for processing a partially agreed S corporation or fiduciary case that is subject to tax are the same as the procedures for individual and corporation cases outlined in IRM 4.10.8.6.2.

4.10.8.6.5

(09-13-2019)

**Interest Charge
Domestic International
Sales Corporations**

- (1) Letter 921, Report Transmittal for ILSC Partnership, Fiduciary, & S Corporation, is used to transmit the pass-through audit adjustments from Form 4605 to the investors. The agreement (or partial agreement) must be obtained at the investor level. Partial agreements are not processed on an Interest Charge Domestic International Sales Corporation.

4.10.8.7

(04-10-2023)

**Splitting Multi-Year
Examination Cases**

- (1) Generally, multi-year cases worked in RGS CEAS are linked together in RGS and in the same folder as instructed in IRM 4.10.15.5, Creating Cases, and IRM 4.10.9.9, Case File Assembly for Closing Physical Administrative Case Files. This section discusses situations which require splitting multi-year examination cases because at least one of the tax years requires different processing. Examples include:
 - One examined year and one surveyed year.
 - One no-change (no adjustments) year and one unagreed deficiency year.
 - Two unagreed years with Appeals requests, and one year is ineligible for Appeals because fewer than 365 days remain on the statute of limitations.
- (2) When closing a multi-year case containing at least one agreed/no-change year and one unagreed year, examiners should split the electronic and physical (if a physical (i.e., paper) administrative case file is required) case into an agreed/no-change case file and an unagreed case file as instructed in the table below.

Forms/Documents	Unagreed Case File	Agreed/No-Change Case File
Examination report	Examination report containing the unagreed adjustment(s)	Original agreed examination report signed by the taxpayer(s)
Returns	Returns for the unagreed year(s)	Returns for the agreed year(s)
Form 5344	Completed Form(s) 5344	Completed Form(s) 5344
Workpapers	Original Workpapers and information	None required

Forms/Documents	Unagreed Case File	Agreed/No-Change Case File
Form 3198	Notate in the top margin: “Unagreed - Do Not Separate from Agreed Case File”	Notate in the top margin: a. “Agreed - Do Not Separate from Unagreed Case File” and Notate in the Other Instructions blank: a. “The YYYYMM case file contains the original workpapers”

- (3) When closing a multi-year **unagreed** case containing at least one appealed year(s) and one year that is not eligible for Appeals, examiners must split the case into two files. The issues reflected on Form 4318, issue lead sheets, and workpapers must be split and associated with the applicable year(s) to ensure each file contains the documents needed to support the audit findings.

Example: Year 1, Year 2, and Year 3 are examined and have proposed deficiencies. Year 1 has less than 240 days remaining on the ASER; Letter 5153 was issued and a statute extension was solicited but not secured. A 30-day letter was issued for Years 2 and 3 and an Appeals request was received. When it is determined that Year 1 will close for a notice of deficiency and Years 2 and 3 will close to Appeals, the case must be split into two files.

- (4) Generally, the group will close the case to the appropriate function after it is split (e.g., agreed/no-change year is closed directly to CCP; the unagreed years are sent to Technical Services in Status 21). Do NOT split the following multi-year examination cases:
- Joint Committee cases (unless instructed by JCR).
 - Multi-year cases containing one agreed/no-change year and one unagreed year, when the issues raised in the unagreed year(s) are related to or dependent on the issues raised in the agreed or no-change year(s).

Note: Per Policy Statement 4-34, IRS requires delaying the closing of a case with an overassessment until the taxpayer in an interrelated case with a deficiency agrees to the proposed adjustments or a court establishes the correctness of the adjustments. See IRM 1.2.1.5.13, Policy Statement 4-34, Closing of overassessment case to be withheld until deficiency of related taxpayer is established, and IRM 4.10.13.5, Adjustments Between Correlative U.S. Taxpayers to Achieve Consistent Tax Treatment (a/k/a Whipsaw Issues).

- (5) See IRM 4.10.15.10.1, Examined Closures - Examiner Responsibilities, for more information on splitting cases in RGS.

4.10.8.8
(04-10-2023)
**Claims for Abatement,
Audit Reconsiderations,
and Supplemental
Reports**

- (1) Examiners should refer to IRM 4.10.11, Claims for Refund, Requests for Abatement, and Audit Reconsiderations, for guidance on claims for refund, requests for abatement, and audit reconsiderations.
- (2) Supplemental reports are prepared for abatements (reduction) of previously assessed (but unpaid) tax. These types of reports differ from reports prepared

for claims in that the supplemental report reduces tax which has been assessed but not paid. In such cases any overassessment shown on the supplemental examination report will not be refunded to the taxpayer; instead the existing balance due will be reduced or eliminated. This point should be clearly explained to the taxpayer.

- (3) A reduction in previously assessed penalties should be clearly explained to minimize confusion. For example, if an accuracy related penalty of \$500 was assessed, and the examiner later determines that the correct penalty is \$200, the supplemental report should show a penalty amount of (\$300). The "Other Information" section of the report should explain the reduction as follows:

Accuracy Related Penalty as Corrected.....	\$200
Amount Previously Assessed.....	\$500
Adjustment (reduction) in Accuracy Related Penalty.....	(\$300)

Note: A computation should be provided for each penalty that is abated.

- (4) Form 3198 should be annotated "Supplemental Report - Reduction of Previously Assessed Tax" if the request is allowed in part or in full. In all cases an annotation should be made indicating the letter number and date it was issued.

4.10.8.8.1
(03-25-2021)

**90-Day / Notice of
Deficiency
Reconsideration Cases**

- (1) A "90-Day / Notice of Deficiency Reconsideration" case is one in which the taxpayer receives a statutory notice of deficiency (determination) and requests reconsideration of the deficiency before the 90 days have expired. Technical Services has responsibility for issuing notices of deficiency for SB/SE Field Examination, LB&I, and Estate and Gift cases. The last day the taxpayer can file a petition with the United States Tax Court is 90 days after the notice is issued (150 days if either the taxpayer is outside the United States when the notice is mailed or the notice is mailed to an address outside the United States).

Note: A 90-Day / Notice of Deficiency Reconsideration is not an "audit reconsideration." The original audit is still open because the notice of deficiency has not defaulted and the proposed assessment has not been made. See Rev. Proc. 2005-32 for the definition of a closed case.

- (2) If sufficient time remains to reconsider a case prior to the expiration of the 90 days (or 150 days), Technical Services may return the case to the examination group to consider the taxpayer's request for an interview and/or additional information. If sufficient time does not remain to reconsider the case prior to the expiration of the 90-day (or 150-day) time period, Technical Services will inform the taxpayer they should petition if they disagree, otherwise the tax will be assessed. 90-Day / Notice of Deficiency Reconsideration cases are a priority and must be closed back through Technical Services.

Note: Reconsidering the case does not suspend or extend the 90-day (or 150-day) time period to petition Tax Court. All communication to the taxpayer should include the following statement: "The reconsideration of your case will in no way serve to suspend or extend the 90-day period in which a petition for a redetermination of the proposed deficiency may be filed with the Tax Court."

- (3) Technical Services will use Form 3990, Reviewer's Report, to transmit a 90-Day / Notice of Deficiency Reconsideration case to the group, and provide instructions and a response date. Examiners must follow the instructions from Technical Services and if revisions to the report are needed the examiner must:
- Prepare a supplemental report based upon the transcript taxable income and tax per return (or as previously adjusted) before the statutory notice of deficiency. The deficiency on the revised report cannot be larger than the amount on the original notice.
 - Label the top of the report as "Supplement to the Notice of Deficiency" and date the supplemental report with the current date.
 - Add the following comment in the "Other Information" section of the report: "This report is only a supplement to the notice of deficiency. It does not supersede the previous report, nor does it serve to extend the 90-day period for filing a petition to the United States Tax Court."
- Note:** The examiner should not solicit an agreement to the supplemental report. Technical Services is responsible for reviewing the accuracy of the supplemental report and sending the appropriate letter to the taxpayer.
- (4) Once the examination group has completed work on the case, it should be returned to Technical Services. The statutory notice reviewer is responsible for notifying the taxpayer of the final outcome of the reconsideration using Letter 555-T, Reconsideration After Statutory Notice, or Letter 645-T, No Change - After Statutory Notice Issued. Neither of these letters are issued by the examination group.

4.10.8.9
(06-10-2005)
**Reports For Cases
Reopened By
Examination**

- (1) A report of re-examination is used when a taxpayer's books and records are re-examined as the result of the Service initiating the action using the case reopening criteria set forth in Policy Statement 4-3. See IRM 1.2.1.5.1, Policy Statement 4-3, and Rev. Proc. 2005-32.
- (2) When a contact falls under reopening criteria, prior approval must be obtained using Form 4505, Reopening Memorandum, before starting the examination. See IRM 4.2.1.6, Reopening of Closed Cases.
- (3) Use the appropriate forms for the entity and type of closing. Once prepared, write "Reopening" in capital letters on the top of the report.
- (4) Prepare the report as you would a supplemental report. In the "Other Information" section state "This report supplements the report dated mm/dd/yyyy."
- (5) Re-examination reports require special processing. Form 3198 should be annotated "Reopening Case."
- (6) A re-examination report should not be used for a closed deficiency assessment reconsidered at the taxpayer's request (audit reconsideration).

4.10.8.10
(03-25-2021)
**Claims for Refund and
Overassessments**

- (1) Examiners should refer to IRM 4.10.11, Claims for Refund, Requests for Abatement, and Audit Reconsiderations, for guidance on claims for refund or request for abatements. Guidance specific to claims for refund is located in IRM 4.10.11.2, Claims for Refund.

4.10.8.10.1
(03-25-2021)
**Inviting Claims in
Overassessment Cases**

- (1) If an unagreed case results in a proposed refund where a claim has not been filed, examiners should advise the taxpayer to file a valid claim for refund before the RSED expires if they want to protect their opportunity to recover the refund. See IRM 4.10.11.5.2, Refund Statute Expiration Date (RSED) - Consideration and Examiner's Responsibilities, for additional information about the RSED.

Note: If during an examination, the taxpayer raises an affirmative issue that does not meet the criteria for a claim for refund, SB/SE examiners generally may consider the issue (see IRM 4.10.11.2.1.4, Claims for Refund - Deficient). LB&I examiners must refer to IRM 4.46.3.7.2.2, Claims Not Meeting the Standards of Treas. Reg. 301.6402-2. Examiners should advise the taxpayer to file a valid claim for refund (before the RSED expires) if they want to protect their opportunity to recover a refund related to the affirmative issue.

- (2) A claim invitation is not needed in an agreed case because the Service considers an agreement (e.g., Form 4549 series) or a waiver in the Form 870 or Form 890 series to be a valid claim for refund when the taxpayer agrees to an overassessment determined by the Service as explained in IRM 25.6.1.10.2.6.2.2(3), Prescribed Forms for Amending an Original Tax Return or Abating a Penalty Already Paid.

- (3) Taxpayers should be invited to file claims in the following types of **unagreed** cases if the proposed overassessments are not already covered by claims:
- a. Cases to be referred to Appeals in a "pre-90-day" status when a period of less than 180 days remain to allow the overassessment. See IRM 8.7.7.2, Receipt of Newly Assigned Case.

Note: A pre-90-day case is a protested case on which a notice of deficiency or other final determination letter has not been issued.

- b. Cases involving proposed overassessments exceeding \$100,000, regardless of the time remaining in the limitation period for scheduling overassessments.
 - c. Cases forwarded to the Headquarters Office, regardless of the amount of overassessment involved, if 30 days or less remain in the statutory period for scheduling overassessments.
- (4) To invite a taxpayer to file a claim, the following must be added to the "Other Information" section of the Form 4549 or Form 4549-A:
- The processing of the examined case may not be completed before the expiration of the period allowed by law to file a refund claim (generally 3 years from the date the return was filed or 2 years from the time the tax was paid, whichever is later).
 - A claim should be filed prior to the expiration of the period allowed by law to file a refund claim.
 - The claim should be made on the appropriate amended income tax return (e.g., Form 1040X, Form 1120X) or Form 843 (for penalty and interest claims).
 - The amount shown on the report may be used as the claim amount.

4.10.8.11
(04-10-2023)
**Personal Holding
Company (PHC) -
Deficiency Dividends**

- (1) IRC 547, Deduction For Deficiency Dividends, provides a method under which a personal holding company (PHC) may, under certain circumstances, be relieved from the payment of a liability of the tax imposed on personal holding companies. See IRM 4.10.13.10, Personal Holding Company Deficiency Dividends, for an explanation of a PHC and the PHC tax.
- (2) In any case in which a deficiency in personal holding company tax is disclosed to which the taxpayer agrees, the benefits afforded by IRC 547 will be explained to the taxpayer, if applicable. If neither jeopardy assessment nor fraud is involved, and the taxpayer agrees to all adjustments including the liability for PHC tax in the amount proposed, the taxpayer may be relieved of the liability for the PHC tax by payment of "deficiency dividends." If the corporation makes the payment of this deficiency dividend within 90 days following formal notification of the deficiency determination, and files a claim within 120 days of the deficiency determination, the corporation is relieved of having to pay the PHC tax. See the following IRM sections:
 - IRM 4.10.13.10.1.1, Deficiency Dividend Procedures, for additional deficiency dividend information, including the use of Form 2198, Determination of Liability for Personal Holding Company Tax.
 - IRM 4.10.13.10.4, Final Closing Agreement Procedures, for information when a closing agreement is used.
 - IRM 4.10.13.10.5.1, Form 976 Procedures, for information on how the taxpayer declares a dividend and files Form 976, Claim for Deficiency Dividends Deductions by a Personal Holding Company, Regulated Investment Company, or Real Estate Investment Trust.
- (3) If the case is unagreed, follow normal procedures for unagreed cases. If the case is agreed, follow "Excepted Agreed" procedures in IRM 4.10.8.5. Prepare Form 4549-A and Form 870 as follows:

Form	Information Included
Form 4549-A	Personal holding company tax is shown as "Other Taxes" with "See attached" noted in Line 10 or Other Information. Attach an explanation with computations of PHC income, PHC tax liability, and income tax liability (e.g., lead sheet or Form 886-A).

Form	Information Included
Form 870	<p>Include the following statements on or as an attachment to Form 870 with a heading that reads, "This statement is attached to and made part of Form 870 in the case of (taxpayer's name)."</p> <ul style="list-style-type: none"> • The waiver of restrictions on assessment and collection contained herein is subject to the approval of Form 2198 relating to the taxpayer's liability for income and personal holding company tax. • This waiver will not take effect until after the expiration of the 120 day period to begin with the effective date of Form 2198. • If the taxpayer complies with IRC 547, relating to the payment of deficiency dividends, by (1) paying the deficiency dividends within 90 days after the effective date of Form 2198, and (2) filing a proper claim on Form 976 subsequent to the payment of the deficiency dividends and within 120 days after the effective date of Form 2198, then the amount of the deficiency stated on this waiver shall be reduced by the amount necessary to give effect to the timely paid deficiency dividends, and the remainder, if any, will be assessed. • If, at the expiration of the 120 day period beginning with the effective date of the Form 2198, a Form 976 has not been filed or timely deficiency dividend payments have not been made, the entire amount of the deficiency shown in this waiver will be assessed.

(4) Forward the case to Technical Services if unagreed (for a notice of deficiency or closing to Appeals) or if agreed and Form 2198 is secured. See IRM 4.10.13.10.3, Form 2198, for additional information.

(5) The case may be returned to the examiner if:

- The taxpayer timely files a claim for a deficiency dividend deduction on Form 976. Technical Services will return the case to the examiner with instructions for verifying the claim and processing the case. See IRM 4.8.8.4.2, Reviewer Responsibilities, and IRM 4.10.8.11.1 below.
- Appeals accepts a Form 2198, but is unable to easily verify the taxpayer's claim on Form 976. Appeals may send the substantiating evidence and administrative file to Compliance to verify the claim and prepare the report. The report should include adjustments made by Appeals and reflect the allowance or disallowance of the claim. The report should be returned to Appeals for closing. If the examiner determines the claim was not timely filed, the case should be returned to Appeals without contacting the taxpayer. See IRM 8.7.1.2, Personal Holding Company Tax Alleviated by Deficiency Dividend.

- The liability for PHC tax has been established by a decision of the United States Tax Court; Appeals has forwarded the case to Technical Services for suspense until a Form 976 is filed or until the expiration of the 120 day period for filing Form 976, whichever is earlier; and Form 976 is timely filed. Technical Services will return the case to the examiner with instructions for verifying the claim and processing the case. See IRM 8.20.7.24.6, Docketed Personal Holding Company Tax Cases, IRM 4.8.8.4.2, Reviewer Responsibilities, and IRM 4.10.8.11.1 below.

4.10.8.11.1
(04-10-2023)
**Closing Procedures For
All Dividend Deficiency
Cases**

- (1) Follow the instructions from Technical Services for processing the case.
- (2) Prepare Form 4549–A showing the general adjustments, the personal holding company income, and the reduction / credit due to the allowance of any deficiency dividend deduction. The examiner should include a statement in the “Other Information” section to identify the credit as a deficiency dividend deduction per the allowed claim and note restricted interest is applicable. See Exhibit 4.10.8-4 for a sample Form 4549-A.

Note: RGS does not reflect a specific credit for a deficiency dividend deduction. The examiner should select “Prepayment Credits” in issue setup for the offset to the PHC tax.

- (3) For all cases where a deficiency dividend deduction is allowed, the examiner will prepare Form 3189, Deficiency Dividend Deduction Case Transmittal. See Exhibit 4.10.8-5 for a sample Form 3189.
 - a. Form 3189 will include a computation of the tax liability before the reduction for payment of deficiency dividends. This is necessary for computing the interest amount.
 - b. The original Form 3189 will be placed on top (outside) of the case file.
 - c. A duplicate Form 3189 will be attached to every corporation return for which a deficiency dividend was paid.
- (4) If a return for which deficiency dividends were paid has not yet been filed, the examiner should prepare Form 5346 to report dividends paid to shareholders in the current year and attach a copy of Form 3189 so that it can be associated upon filing.
- (5) Examiners must flag Form 3198 as a restricted interest case and check the “Other Code Section” box in the “Special/Restricted Interest Feature” section, inserting “IRC 547” - claim for deficiency dividends paid case.
- (6) Generally, Technical Services will request the examiner to return the case to Technical Services for review prior to closing. Check the “Personal Holding Companies” box in the “Forward to Technical Services” section of Form 3198.

4.10.8.12
(04-10-2023)
**Unagreed Case
Procedures**

- (1) Managerial involvement is required in all unagreed cases. SB/SE examiners should be aware of the procedures in IRM 1.4.40.4.11.5, Unagreed Closing Procedures, and inform their group manager when they believe a case will have unagreed issues. The group manager’s actions must be documented in the case file. Form 9984 may be used for this purpose. LB&I examiners should

refer to IRM 4.46.5.7.2, Key Points to Consider and Verify in Preparing an Unagreed Issue Report, and IRM 4.46.6.9, Unagreed Report, for additional guidance.

- (2) If the case is eligible for Fast Track Settlement (FTS) and there are unagreed issues remaining after the group manager has contacted the taxpayer or representative in an attempt to resolve all issues, the examiner or group manager will explain and offer FTS to the taxpayer. FTS should not be offered if the group manager has not spoken to the taxpayer or representative. FTS may be offered on cases returned from Appeals (IRM 4.10.8.12.11). SB/SE examiners see IRM 4.10.7.5.5, SB/SE Fast Track Settlement, for additional information; LB&I examiners see IRM 4.46.5.4.2.6, Fast Track Settlement (FTS) and IRM 4.51.4, LB&I / Appeals Fast Track Settlement Program (FTS).
- (3) Unless specifically excluded from Appeals consideration (see paragraph (5) below), all cases are eligible for an Appeals conference as long as the taxpayer submits an adequate protest (when a formal written protest is required), or a small case request, that includes the information required in Pub 5, Your Appeal Rights and How To Prepare a Protest If You Don't Agree. See IRM 4.10.8.12.9.3 (2) below for additional guidance regarding the adequacy of a formal written protest or small case request.

Note: Generally, if the taxpayer submits new information or evidence to Appeals, or raises a new issue Examination has not considered, the case will be returned to Examination. See IRM 8.2.1.5, Returning a Case to Examination - ATE, and IRM 4.10.8.12.11.

- (4) Original returns are generally required in certain cases (e.g., fraud, delinquent returns and jeopardy assessments) closed to Appeals. See IRM 8.20.5.4.1.1, Non-Docketed Case Types Requiring an Original Return, for exceptions.

Note: For electronically filed returns, a print of the return must be included in the file using one of the internal sources available (e.g., TRPRT, RTVUE, MeF, etc.). See IRM 8.20.5.3.1.1(3), Contents of the Administrative File.

- (5) Following is a list of cases that are excluded from Appeals consideration:
 - Fewer than 365 days (270 days in the case of an estate tax return) remain on the statute of limitations when the case is received in Appeals. See IRM 4.10.8.12.1(1) for additional information.
 - Request/claim for abatement of unpaid tax (IRM 4.10.11.3, Requests for Abatement) that is not an audit reconsideration (taxpayer has no judicial rights).
 - Taxpayer disagrees solely on moral, religious, political, constitutional, conscientious, or similar grounds (IRM 8.1.1.3.1, No Appeals Conference or Concession on Certain Arguments). See IRM Exhibit 25.25.10-1, Frivolous Arguments, for examples.

Note: Examiners must use Letter 1963, Frivolous Filer Examination Report Transmittal, to transmit the report and explain why administrative appeal rights are not applicable. If additional information is subsequently received so the case is no longer excluded from Appeals consideration, follow the procedures in IRM 4.10.8.12.1.

- Fraud cases involving pending criminal prosecution (IRM 8.2.1.5(2), Returning a Case to Examination - ATE).

- Cases with issues designated for litigation. However, a partial agreement may be secured for the non-designated and agreed issues. See IRM 4.10.28, Designation of Cases for Litigation; IRM 4.10.7.4.8, Cases Designated for Litigation; *CCDM* 33.3.6, Designating a Case for Litigation; and *CCDM* 33.3.6.2, Procedures for Designating a Case for Litigation, for additional information.

- (6) The issuance of a notice of deficiency does not preclude transfer of protested cases to Appeals for:
- a. Other taxable periods of the same taxpayer,
 - b. Other types of tax for the same taxable periods for the same taxpayer, or
 - c. An offer in compromise covering the same type of tax and the same taxable periods of the taxpayer.

4.10.8.12.1
(04-10-2023)
30-Day Letters

- (1) 30-day letters are used to transmit the findings of the examination (e.g., audit report) to the taxpayer and allow the taxpayer 30 days to request Appeals consideration of their case, or take other actions as outlined in the specific letter.

Note: The statute of limitations must be considered before issuing a 30-day letter. When a case is initially received in Appeals, there must be at least 365 days remaining on the statute (270 days for estate tax cases or IRC 6206 excessive claim cases). If Appeals previously released jurisdiction of the case and returned it to Examination for additional work, there must be at least 180 days remaining on the statute of limitations when the case is received in Appeals. The group must allow a minimum of 30 days for shipping and processing a case through Technical Services. Therefore, a case should have a minimum of 395 days (or 210 if the case was returned) remaining on the statute when it is closed from the group. See IRM 8.2.1.4, Receipt of New Assignment by an Appeals Technical Employee (ATE).

- (2) 30-day letters are generally issued for cases resulting in the following:
- a. Unagreed change (deficiency or overassessment),
 - b. No-change with adjustments impacting other tax years,
 - c. Formal claim disallowance, and
 - d. Agreed change (deficiency or overassessment) (Office Examination).
- (3) Generally, taxpayers with 240 or more days remaining on the statute of limitations will receive the appropriate 30-day letter. This allows 30 days for the taxpayer to respond to the letter (and extend the statute if needed) and if the taxpayer fails to respond, it also ensures adequate time to close the case from the group (IRM 4.10.8.2.4.4) and provide Technical Services at least 180 days to issue the notice of deficiency. See IRM 25.6.23.7.1, Minimum Time Remaining on ASER.
- (4) When fewer than 240 days remain on the statute of limitations, the examiner should prepare and issue an agreed examination report with Letter 5153, Examination Report Transmittal - Statute less than 240 Days (Straight Deficiency), Letter 5153-A, Examination Report Transmittal - Statute less than 240 Days (Claim), Letter 5153-B, Examination Report Transmittal - Statute less than 240 Days (No-Change with Adjustments), or Letter 5153-D, Examination Report Transmittal - Statute less than 240 Days (Bankruptcy), to transmit the report and notify the taxpayer additional time is needed on the statute of limitations for Appeals to consider their case if it is unagreed, and allow 10 days to

respond. Examiners sign Letter 5153, which is not a 30-day letter. Office examiners will update the ERCS action code to 07. If a statute extension has not already been solicited, the examiner should follow the procedures in IRM 25.6.22, Extension of Assessment Statute of Limitations By Consent, and simultaneously solicit an extension (using a separate envelope), then proceed as follows:

- a. If the case is agreed, close using normal agreed procedures. See IRM 4.10.8.4.5 for deficiency and claim cases, or IRM 4.10.8.3.3(1) for no-change with adjustment cases.
 - b. If the case is unagreed and the taxpayer signs a consent to extend the statute of limitations that will allow sufficient time for the case to be considered by Appeals, prepare and issue a 30-day letter.
 - c. If the case is unagreed and the taxpayer does not sign a consent, close the case to Technical Services for issuance of a notice of deficiency.
- (5) 30-day letter procedures are applicable to income, estate, gift, excise, and employment tax cases. See IRM 4.23.22, Unagreed Employment Tax Case Procedures, IRM 4.24.10, Excise Tax, Appeals Referral Procedures, or IRM 4.25.6, Report Writing Guide for Estate and Gift Tax Examinations, for procedures related to employment tax, excise and estate and gift examinations.
- (6) Examiners issue reports to ILSC pass-through entities with Letter 921; however, this letter is not a 30-day letter. Thirty-day letter procedures are followed for the investors' reports reflecting their share of the adjustments made at the entity level. Only the investors will be able to request a hearing with Appeals because there is no "deficiency" at the entity level. See the applicable sections of IRM 4.31, Pass-Through Entity Handbook, for additional 30-day letter guidance for pass-through entities.
- (7) If an examination of a return results in a deficiency or overassessment that is offset (no deficiency or overassessment results) by a net operating loss carryback, a manual computation of interest may be required. If the taxpayer disagrees with the examination results, they will be afforded an opportunity to request an Appeals hearing. Letter 950-F is used for this purpose.
- (8) The following form letters, specific to the type of case, are 30-day letters used to transmit the examination report and allow the taxpayer 30 days to request Appeals consideration of their case, or take other actions as outlined in the specific letters:
- a. Letter 915 – for straight deficiency, or mixed deficiency and overassessment cases in Office Examination; update ERCS action code to 04 for follow-up in 15 calendar days.
- Note:** If the taxpayer does not respond within 15 days, the examiner will prepare and issue Letter 1912 and update ERCS action code to 07 for follow-up in 15 calendar days.
- b. Letter 950 — for straight deficiency, or mixed deficiency and overassessment cases in Field Examination.
 - c. Letter 950-B — for unagreed reports when the taxpayer is in bankruptcy.
 - d. Letter 950-F — for overassessments and no-change with adjustments cases.
 - e. Letter 950-Z — for unagreed deficiency, overassessment or mixed deficiency and overassessment cases in LB&I Examination.
 - f. Letter 569 — for claim disallowance cases.

- g. Letter 2777 — for fraudulent failure to file penalty on delinquent returns.
- h. Letter 3391 — for nonfiler cases.
- i. Letter 955 — for transferee/transferor cases.

(9) The following items must be included with the 30-day letter:

- a. A complete examination report as discussed in IRM 4.10.8.2.2 (9) (including lead sheets or standard explanations as required in IRM 4.10.8.12.4) and waiver (when required); and
- b. Pub 3498.

Note: Pub 3498 must always be enclosed with a 30-day letter even if it was provided with a previous report or letter.

(10) 30-day letters should be prepared by the examiner, and include the examiner's or group manager's name in the contact area, depending on the type of letter.

Note: The authority to sign and issue 30-day letters is delegated to group managers. SB/SE examiners must follow IRM 1.2.65.4.34, SBSE 1-23-55, Authority to Sign Thirty Day Letters.

(11) IRC 6651(f), Fraudulent Failure to File (FFTF) Cases — The portion of a FFTF penalty attributable to the amount of tax shown on a filed delinquent return is assessable immediately and is not subject to deficiency procedures. See IRM 25.1.7.7.1, Assessment Procedure for the Fraudulent Failure to File (FFTF) Penalty. To ensure the facts of a particular case support fraud, and because the assessment of a FFTF penalty attributable to the amount shown on a filed return will not be reviewed by the Tax Court, all 30-day letters proposing a FFTF penalty (e.g., Letter 2777) on a filed return must be reviewed and approved by Area Counsel prior to issuance. Furthermore, the period of limitations on assessment of such portion would not be suspended by the issuance of a notice for the other portion.

Exception: When proposing the FFTF penalty on an income tax substitute for return (SFR), Counsel's review and approval is not required prior to the issuance of the 30-day letter. However, Counsel will review the case prior to the issuance of a notice of deficiency.

4.10.8.12.2
(03-25-2021)

Unagreed Report Forms

- (1) The unagreed report forms listed below are generally used to present the audit findings for an unagreed case. They are similar to those used for agreed cases and the instructions for completing agreed case reports generally apply. However, unagreed report forms do not include a statement regarding the acceptance of the report by the Area Director. They also do not include a signature line for the taxpayer's consent to assessment and collection, so a waiver is required. See IRM 4.10.8.2.2 and Exhibit 4.10.8-2 for instructions for preparing waivers.
- (2) Generally, the report forms shown in the table below are used for unagreed income tax cases.

Exception: Office Examination can use Form 4549 in lieu of Form 4549-A and a waiver in unagreed cases.

Type of Taxpayer	Report Form	Agreement or Waiver Form
Individual (1040)	4549-A	870
Corporation (1120)	4549-A	870
ILSC Partnership (1065)	4605 and 886-S	N/A
S Corporation	4549-A (entity tax) 4605 886-X	870 (entity tax) N/A (nontaxable entity)
Fiduciary	4605 886-W	870 (entity tax) N/A (nontaxable entity)
Domestic International Sales Corporation	4605 886-Y	N/A

4.10.8.12.3
(03-25-2021)

**Separate Assessments
on Joint Taxpayers**

- (1) In certain cases, it may be necessary to set up separate assessments for taxpayers who filed a joint return. For example, when only one spouse signs an agreement and the deficiency is not fully paid, an assessment may need to be made on the agreeing, or “obligated,” spouse in order to protect the statute of limitations for that taxpayer while unagreed procedures are applied to the other spouse. Similarly, a separate assessment would need to be made when only one spouse does not petition Tax Court after receiving a 90-day letter. In these situations, separate assessments are made using MFT 31, as long as the SSN’s are valid (no asterisks). If invalid, Non-Master File procedures found in IRM 21.7.12, Non-Master File (NMF) Adjustments, and IRM 3.17.46, Automated Non-Master File Accounting, will apply.
- (2) Although an assessment will be made on the obligated spouse, no collection notices will be mailed until the case is ultimately resolved (and assessment adjusted if necessary). At that time, an MFT 31 assessment will be set up for the other spouse.
- (3) If only one spouse signs an adequate protest requesting Appeals consideration and no response is received from the other spouse, the case will normally be sent to Appeals as long as there is sufficient time on the statute of limitations for both spouses. In other words, one signature on the protest may be adequate.
- (4) However, if one spouse agrees and one protests, a separate assessment may be necessary on the obligated spouse especially if the statute of limitations for that spouse is imminent. In any event, note on the Form 3198 that one spouse has signed a waiver, so CCP can calculate interest accordingly.
- (5) If one spouse agrees and the other does not respond to the 30-day letter, a separate assessment needs to be set up on the obligated spouse before the case is sent to Technical Services for 90-day letter procedures.
- (6) Procedures for creating an MFT 31 account:

- a. Request the creation of the MFT 31 account for the obligated spouse by preparing Form 3177, Notice of Action for Entry on Master File. The top section of Form 3177 will be completed, using the primary SSN.
 - b. In the "Other" section, put TC 971 as the transaction code in the empty box, and on the line state "Action Code 103." Also include the obligated (agreeing) spouse's SSN as "XREF SSN: XXX-XX-XXXX."
 - c. On the "Other" line, MFT Code column reflect 30 and ensure the taxable period is listed in the correct column (a separate Form 3177 is needed for each year). The TC 971- Miscellaneous Transaction and appropriate action code on the MFT 30 account will create an MFT 31 account for the XREF SSN listed.
- (7) Eefax the Form 3177 to CCP and request a partial assessment be made on the obligated spouse:
- a. Form 3198, Form 5344 and the agreed report are needed in addition to the Form 3177.
 - b. Note on Form 3198 "input TC 971 per attached Form 3177". Include your name and fax number so CCP can fax a copy of Form 5344 to you after the partial assessment has been made.
 - c. Form 5344 must be manually edited and should reflect MFT 30 and the primary SSN. In the top left of the Form 5344 put an "S" in the blank following AMCLS. In Item 56 put either "P" or "S" depending on whether the assessment is being made on the primary or secondary spouse.
 - d. Eefax these forms to CCP while you continue to hold the case.
 - e. See the *CCP* book on the Exam Procedures Knowledge Base for the *CCP Exam Efax Numbers*.
- (8) Continue normal unagreed procedures for the disagreeing/petitioning spouse. Associate an IMFOLT or copy of the Form 5344 received from CCP showing that the partial assessment on the other spouse has been made on MFT 31. Close the case using normal RGS procedures and check the "MFT 31 Assessment" box in the Special Features section on Form 3198.
- (9) Examiners should refer to IRM 21.6.8, Split Spousal Assessments (MFT 31 / MFT 65), for additional information.

4.10.8.12.4
(03-25-2021)
Explanation of Items

- (1) For most Office Examination reports, examiners will use the standard explanations in IRM 4.10.10, Standard Paragraphs and Explanation of Adjustments, and RGS. The explanations include enough information to enable the taxpayer to challenge the issue. As an option, lead sheets may be attached to the report to explain the issue(s) but examiners should follow the format in IRM 4.10.8.12.4(2).
- (2) For Field Examination, a copy of the examiner's lead sheet relating to each issue, including statutory adjustments, will be attached to the report to explain the items. A separate lead sheet must be used for each issue. If the issue is applicable to more than one year, the issue should be shown on one combined lead sheet. The copy of each issue lead sheet used as an attachment to the examination report must be modified to remove extraneous information that does not address the Conclusion, Facts, Law, and Taxpayer's Position (e.g. audit steps and workpaper references should generally be removed, depending on the facts and circumstances). The following format should be used:

- a. Title — Each lead sheet must be numbered and titled to correspond with the adjustment on the audit report. See IRM 4.10.9.7.2, Workpapers: Indexing. Lead sheets for issues with specific adjustment amounts must reflect the amount per return, the amount per audit, and the resulting adjustment.
- b. Conclusion — Briefly state a conclusion of the Service's position.
- c. Facts — Each lead sheet must include a statement of the facts upon which the adjustment is based. The statement should be in narrative form. The facts must be relevant to the issue and should be stated accurately and objectively. Facts favorable to both the Service's and taxpayer's position must be included.
- d. Law — The applicable authority must be correctly cited and explained (if necessary). Rulings, opinions, and decisions relied upon must be clearly stated and identified in the explanation. Citations are not required when the adjustment is predicated entirely on facts (e.g. identity theft issues). However, reports should be informative for the taxpayer. If the adjustment is supported by multiple code sections of tax law, they all must be reflected. For example, to support a disallowance of business expenses, IRC 162(a), ordinary and necessary business expenses, and IRC 6001, lack of substantiation, should be incorporated into the narrative. Include the argument to support the Service's position, by relating the facts, as previously stated, to the cited authority. See IRM 4.10.8.12.9.3 for information regarding preparing rebuttals in response to a protest.
- e. Taxpayer's Position — The taxpayer's position should be stated (in narrative form) if known. The legal authority, if any, that the taxpayer is using as the basis of their argument should also be cited. If the taxpayer has provided a written position statement, include the entire statement in this section or summarize the statement and include the entire document in the report as an exhibit.

Exception: LB&I examiners refer to IRM 4.46.6.10, Explanation of Items: Form 886-A, for guidance on the format for explanations.

4.10.8.12.5 (04-10-2023)

Alternative Positions

- (1) An alternative position is a secondary position the Service may ultimately rely on if the primary position is not upheld. The primary and alternative positions will usually address a different set of law and arguments. As a result, the tax computation for the alternative positions may be different from the primary position. The primary position should be the one resulting in the larger liability when two positions are considered. All alternative positions must be addressed or Appeals will not raise them in the event they do not sustain the primary position. Therefore, the examiner must thoroughly document the facts, law, taxpayer's position and conclusion for all alternative positions that may be applicable if the primary position is not sustained.
- (2) Alternative positions must be discussed with the taxpayer, or their authorized representative prior to issuing the examination report.
- (3) An alternative position is not required for an adjustment that is supported by multiple code sections of tax law for one position.
- (4) An alternative position must be used for tax law that supports two totally separate positions. For example:

- a. When an adjustment is proposed to disallow a loss due to IRC 183, activities not engaged in for profit; any IRC 162 adjustments to business expenses should be included as an alternative position to IRC 183.
- b. When an adjustment is proposed in an income tax examination to disallow unsubstantiated expenses for services paid to individuals (in excess of \$600), backup withholding is a strong alternative position when a payor did not file required Forms 1099 (and did not receive TINs from the payees); or filed Forms 1099 that did not include a valid TIN; or did not solicit and receive TINs from the payees.

Note: For cases that are closed unagreed from the group, establish a separate backup withholding case for Form 945 on AIMS/ERCS, ensuring a TC 150 - Return Filed & Tax Liability Assessed (or SFR TC 150) has posted to the IDRS module, and close with the key case.

- c. When the fraud penalty is asserted, the negligence/substantial understatement portion of the accuracy-related penalty should be addressed as an alternative position.
- d. When the fraudulent failure to file penalty (FFTF) is asserted, the failure to file penalty (FTF) should be addressed as an alternative position.
- e. When the accuracy-related penalty attributable to a substantial understatement of income tax is not asserted due to the assertion of negligence or disregard of the rules or regulations, include the substantial understatement penalty as an alternative position.
- f. When the substantial understatement penalty is asserted, the negligence or disregard of the rules or regulations portion of the accuracy-related penalty should be addressed as the alternative position in the event tax is decreased resulting in the substantial understatement penalty no longer being applicable.

Reminder: Written supervisory approval of penalties proposed subject to IRC 6751(b), including alternative positions, must be obtained timely or the related penalties cannot be asserted. See IRM 20.1.1.2.3, Approval Prerequisite to Penalty Assessments, for additional information on approval of penalties.

(5) References for alternative positions in unagreed cases:

- IRM 4.10.6.4, Finalizing Penalty Determinations
- IRM 4.10.13, Certain Technical Issues
- IRM 4.23.10.16.3, Alternative and Whipsaw Positions in Unagreed Cases
- IRM 20.1.5.3.2, Common Features of Accuracy-Related and Civil Fraud Penalties
- IRM 25.1.4.4.10, Preparation of the Pre-Prosecution Report

4.10.8.12.5.1
(03-25-2021)

**Reports for Cases with
Alternative Positions**

- (1) Include in the "Other Information" section of the examination report, "This report includes alternative position(s) for which the tax computation has not been computed. Refer to the attachments labeled "Alternative Position" for the facts, law, taxpayer's position, and conclusion related to the alternative position(s)."

Note: If the taxpayer requests a report reflecting the tax computation resulting from the alternative position(s), the examiner may generate a report (e.g., Form

4549-A) and provide it to the taxpayer. The report should be clearly labeled "Alternative Position" at the top of the report.

- (2) The facts, law, taxpayer's position, and conclusion for the alternative position on an issue will be presented on a separate lead sheet from the primary position. The top of each lead sheet for the alternative position will be marked "Alternative Position."
- (3) In the unagreed report, the lead sheets for the alternative position(s) should be grouped together and placed behind the lead sheets for the primary position(s).

4.10.8.12.6
(03-25-2021)

Form 4665, Report Transmittal

- (1) Form 4665 can be used to transmit a case file to Appeals, but examiners must ensure the Form 4665 or any similar document does not contain statements or comments intended to influence Appeals' decision-making process. This includes recommendations concerning what Appeals should consider and how Appeals should resolve the case. It is permissible to include a neutral list of unagreed issues, without discussion, and indicate which ones, if any, are coordinated issues. Information related to the managerial conference should be documented on Form 9984, not on Form 4665.
- (2) If Form 4665, or other similar document, includes statements or comments that may be construed as prohibited ex parte communications, or includes prohibited communications, regardless of whether such content is included as part of a document that is either placed on top of the case file as a transmittal or inserted into the case file in conjunction with preparing the case for transmission to Appeals, the Form 4665 or document must be shared by the examiner with the taxpayer and representative at the time the case file is sent to Appeals.

Note: An "ex parte communication" is an oral or written communication that takes place between any Appeals employee and employees of other IRS functions, without the taxpayer/representative being given an opportunity to participate in the communication. See Rev. Proc. 2012-18, 2012-10 I.R.B. 455.

- (3) See IRM 4.2.7, Ex Parte Communication Procedures, and the *Ex Parte Communications* website for additional information and guidance.
- (4) Items that need safeguarding from unauthorized or inadvertent disclosure with Form TDF 15-05.11, Sensitive But Unclassified (SBU) Cover Sheet, should not be included or referenced on Form 4665. Examples include fraud referrals and identification of informants.

4.10.8.12.7
(03-25-2021)

Issuing 30-Day Letters

- (1) Generally, 30-day letters should be issued to the taxpayer and representative in person. However, if circumstances necessitate mailing the 30-day letter, the examiner should follow the procedures in this section.
- (2) 30-day letters will be sent by ordinary mail unless it is considered necessary to document the mailing and delivery. In such cases, certified or registered mail should be used and a return receipt requested.
- (3) In the case of a joint return, follow the procedures in IRM 4.10.1.2.2.1, Separate Notice Requirements, to mail the 30-day letter.
- (4) A copy of the 30-day letter should be sent to the taxpayer's representative.

See IRM 4.10.8.2.3 for additional guidance regarding sending correspondence to the taxpayer's representative.

- (5) A copy of the 30-day letter and report must be maintained in the case file. See IRM 4.10.9.9, Case File Assembly for Closing.
- (6) **Field Examination:** After issuing the 30-day letter, the case must be updated to status code 13 (for monitoring).
- (7) **Office Examination:** Examiners should update the case for 15 days using ERCS action code 04 (even if a subsequent IDR is issued).

4.10.8.12.8
(03-25-2021)
Extension of Time to Respond

- (1) In general, Statement of Procedural Rules 601.105(d)(1) does not provide for an extension of time to reply to a 30-day letter. However, as a matter of practice, extensions may be granted under reasonable circumstances.
- (2) Reasonable circumstances include but are not limited to the following:
 - a. The taxpayer retains a representative and demonstrates a need for more time to prepare a meaningful protest.
 - b. The taxpayer retains a new representative.
 - c. Sickness or injury of the taxpayer or representative.
 - d. Issues are complex and require extensive research.
- (3) Requests for extensions should be in writing and should state the reason(s) why additional time is needed. Since many requests are made by telephone, the extension may be granted verbally and confirmed in writing upon receipt of the written request.
- (4) Extensions should not be granted if the statute of limitations will expire within 240 days and the granting of an extension will not leave sufficient time to process the case. Under such circumstances an extension to respond to a 30-day letter will be contingent upon securing an extension of the statute of limitations.
- (5) Extensions are granted by the group manager or a designated management official. The taxpayer should be notified in writing of the extension and the specific extended response date. Letter 686, Extension of Time for Certain Actions, signed by the group manager, will be used for this purpose. Extensions are normally granted for no more than 30 days unless a specific reason supports additional time.
- (6) If the taxpayer lives outside of the United States, the 30-day letter should be modified to allow for a reasonable period of time to respond.

4.10.8.12.9
(03-25-2021)
Response to 30-Day Letter

- (1) The taxpayer may respond to the 30-day letter in a variety of ways. This section provides instructions depending on the type of response.

4.10.8.12.9.1
(04-10-2023)
Additional Information Received

- (1) If additional information is available after a 30-day letter is issued, the examiner should evaluate the information, then follow the applicable procedures in the table below.

Note: If the examination report changes as a result of the additional information, follow the corrected report procedures in IRM 4.10.8.13.

Reminder: For cases requiring additional development, revenue agents must update ERCS to status code 12; TCOs must update to the appropriate action code. See IRM Exhibit 4.7.5-6, Action Codes, for additional information.

If	Then
<ul style="list-style-type: none"> The corrected report results in no-change (no adjustments) 	Follow IRM 4.10.8.3.1 and corrected report procedures in IRM 4.10.8.13(3).
<ul style="list-style-type: none"> The taxpayer provides additional information that does not change the examination report, or The corrected report reduces the previous report and no new issues are raised 	<p>Solicit an agreement. The following letters may be used, as applicable:</p> <ul style="list-style-type: none"> a. Letter 692, Request for Consideration of Additional Findings, or b. Letter 692-A, Request for Consideration of Additional Findings (Claim), or c. Letter 692-B, Request for Consideration of Additional Findings (No-Change with Adjustments). d. Letter 692-K, Request for Consideration of Additional Findings (Bankruptcy) <p>Allow the taxpayer 15 days to respond. A new 30-day letter is not needed.</p> <p>Office examiners will update the case using ERCS action code 07.</p>
<ul style="list-style-type: none"> The corrected report raises new issue(s), or The proposed deficiency is increased 	A new 30-day letter must be issued if sufficient time remains on the statute of limitations. If sufficient time does not remain on the statute of limitations, follow the instructions in IRM 4.10.8.12.1(4).

4.10.8.12.9.2
(03-25-2021)

**Full or Partial
Agreement or
Remittance**

- (1) If the taxpayer agrees or remits full or partial payment in response to the 30-day letter, examiners should follow the applicable procedures in the table below:

If	Then
The taxpayer indicates agreement to part of the report	<p>Solicit a partial agreement (if not previously done). If a partial agreement is received, process according to the procedures in IRM 4.10.8.6 and issue a new 30-day letter for the remaining issues if sufficient time remains on the statute of limitations. If sufficient time does not remain on the statute of limitations, follow the instructions in IRM 4.10.8.12.1(4).</p>

If	Then
A signed agreement form (or full payment not designated as a "6603 deposit") is received	Close the case within 10 days from the date the agreement or full payment is received using agreed case closing procedures.
<p>An agreement form is not signed, but a partial remittance is received (not specifically designated as a deposit in the nature of a "6603 deposit")</p> <p>Note: If the taxpayer has not signed an agreement form but has submitted a payment without specifically addressing how to apply the payment, the examiner must still process the payment within 24 hours. See IRM 4.20.1.3.2, Process Payment Received. If necessary, the Designated Payment Code (DPC) can be changed at a later date by completing Form 2424, Account Adjustment Voucher, and faxing it to CCP. See IRM 5.1.15.15(6), Credit Transfers. For the application of partial payments, see Rev. Proc. 2002-26.</p>	<p>Do not treat the payment as a partial payment of tax unless the taxpayer designates it as such.</p> <p>a. Contact the taxpayer by phone to ask whether the payment was intended to be a payment of tax or a "6603 deposit." Document the conversation in the case file. If the taxpayer cannot be reached, draft a follow-up letter. The letter will inform the taxpayer that:</p> <ul style="list-style-type: none"> — We received the remittance. — We did not receive a protest or a signed agreement agreeing to adjustments. — We need to know whether they intended the remittance to be a payment of the tax deficiency or a "6603 deposit." — We need to receive a response within 15 days from the date of the letter or the case will be routed for issuance of a notice of deficiency. <p>b. If the taxpayer is contacted and agrees with all adjustments but cannot pay the entire liability and intended the remittance to be a partial payment, have the taxpayer sign the agreement and determine if the taxpayer is eligible for an installment agreement. Process the payment as a partial payment. Do not hold the payment until the agreement is received.</p> <p>c. If the payment was intended to be a "6603 deposit," advise the taxpayer that if we don't receive a protest or signed waiver, a notice of deficiency will be issued.</p>

4.10.8.12.9.3
(04-10-2023)
**Request for Appeals
Conference**

- (1) If the taxpayer responds to the 30-day letter by requesting an Appeals conference, examiners must follow the applicable procedures in this subsection. LB&I examiners must also follow IRM 4.46.5.7.3, 30-Day Letter Follow-up, for additional guidance regarding protests and rebuttals.

Reminder: Unless specifically excluded from Appeals consideration, all cases are eligible for an Appeals conference if the taxpayer submits an adequate formal written protest (when required), or small case request.

- (2) To be considered "adequate," a formal written protest and a small case request must contain all information required by Pub 5 (with exceptions noted in (3)(d))

below). Adequacy of a protest is generally not determined based on its substantive content, such as whether the protest contains sufficient factual or legal support.

Example: A taxpayer submits a formal written protest and cites Internal Revenue Code §162, but does not provide reasons for their disagreement and any factual information to support their position as required by Pub 5. Therefore, the protest is inadequate; the examiner must return the protest to the taxpayer and grant additional time for the taxpayer to perfect it. See (3)(d) below.

Example: A taxpayer submits a small case request and indicates disagreement based solely on the inability to pay. The protest is inadequate; the examiner must return the protest to the taxpayer and grant additional time for the taxpayer to perfect it. See (3)(d) below.

Example: A taxpayer submits a formal written protest with the information required by Pub 5, addressing the issues raised in the 30-day letter, reasons for disagreement, and factual information to support their position on the issues. The examiner disagrees with the taxpayer's facts and/or does not consider the taxpayer's position sufficiently supported; however, the protest is adequate because it contains all information required by Pub 5. The examiner should determine if a rebuttal is needed prior to forwarding the case for Appeals consideration. See (3)(f) below.

- (3) When a taxpayer requests an Appeals conference, examiners must follow the applicable procedures in the table below:

If	Then
<p>(a) The total amount for any tax period is not more than \$25,000</p> <p>Note: In computing the total amount, include a proposed increase or decrease in tax (including penalties), or claimed refund.</p>	<p>The taxpayer may make a small case request instead of filing a formal written protest. The taxpayer may complete Form 12203, Request for Appeals Review.</p> <p>Note: Pub 5 contains instructions on preparing formal written protests and small case requests in unagreed cases.</p>
<p>(b) The total amount for any tax period is more than \$25,000</p> <p>Note: In computing the total amount, include a proposed increase or decrease in tax (including penalties), or claimed refund.</p>	<p>The taxpayer must submit a formal written protest.</p> <p>Note: Pub 5 contains instructions on preparing formal written protests and small case requests in unagreed cases.</p>

If	Then
(c) The taxpayer submits a formal written protest or small case request	<p>The protest must be reviewed at the group level, as designated by management, within seven days of receipt to determine whether the protest complies with the requirements as outlined in Pub 5. The protest review should include consideration of any new facts, law, or arguments presented to determine if:</p> <ul style="list-style-type: none"> • The case requires further development by the examiner; • The examiner's report should be modified; • The examiner should write a rebuttal to refute arguments in the protest.
(d) The formal written protest or small case request does not comply with the requirements as outlined in Pub 5	<p>The protest should be returned to the taxpayer and additional time should be granted to perfect the protest.</p> <p>The examiner should use one of the following letters for this purpose:</p> <ul style="list-style-type: none"> • Letter 1025, Letter of Protest, or • Letter 1025-A, Letter of Protest (Claims), or • Letter 1025-B, Letter of Protest (No-Change with Adjustments). <p>Note: The signature of only one spouse on a protest regarding a joint return does not make the protest incomplete. Also, if the only item missing from the protest is a copy of the 30-day letter, the case can be closed using the copy in the file, therefore, there is no need to return the protest to the taxpayer for perfection.</p>
(e) The formal written protest or small case request contains information warranting consideration	<p>The case may require additional development because of additional facts raised and/or new information, issues, or legal arguments presented in the formal written protest or small case request. Cases requiring additional development are priority work and should be given expedited consideration. See IRM 4.10.8.12.9.3.1.</p> <p>Reminder: Generally, Appeals does not return cases for further development unless the taxpayer provides new information or evidence to Appeals, or raises a new issue Examination has not considered.</p>

If	Then
(f) The examiner or group manager feels there is something in the formal written protest or small case request that does not change the determination, but requires further comment or explanation	A rebuttal should be prepared and included in the case file before it is sent to Appeals. See (4) below for additional guidance on preparing a rebuttal.
(g) The formal written protest or small case request is complete and the examiner does not prepare a rebuttal	The examiner must prepare Letter 2280, Transfer to Appeals, to notify the taxpayer the case is being closed to Appeals. The letter must be signed by the group manager, and mailed to the taxpayer.
(h) There is not sufficient time remaining on the statute of limitations to send the case to Appeals, and a consent was not previously solicited	The examiner should follow the procedures in IRM 25.6.22, Extension of Assessment Statute of Limitations By Consent, to solicit a consent.
(i) There is not sufficient time remaining on the statute of limitations to send the case to Appeals and a consent was previously solicited	The examiner should issue Letter 1025, Letter 1025-A, or Letter 1025-B, to remind the taxpayer a consent is needed to send the case to Appeals, and give the taxpayer 10 days to respond.
(j) The taxpayer's representative submits the formal written protest or small case request for the taxpayer	The representative must include a substitute for the taxpayer's declaration described in Pub 5. The declaration will state: <ul style="list-style-type: none"> • The representative prepared the protest and accompanying documents; and • Whether the representative knows personally that the facts contained in the protest and accompanying documents are true and correct.
(k) The taxpayer verbally requests a transfer of jurisdiction for the appeal, and the formal written protest or small case request is complete	The case file will be sent promptly to the local Appeals office serving the examiner's area. This procedure applies even if the taxpayer has requested a hearing in an Appeals office other than the one servicing the examiner's area.

- (4) For protested cases closed using paperless electronic closure, examiners must complete and include Appeals' Electronic Case Receipt Check Sheet in the case file. A separate check sheet is required for the key case and each related case closing to Appeals. SB/SE examiners use the *Electronic Case Receipt Check Sheet* that has some information already hard coded (e.g., "See Form 3198"). RGS users include this check sheet in the Case File Documents folder. A Technical Services employee will include the check sheet when they submit the case referral to Appeals using the *Appeals Electronic Case Receipts* SharePoint site.

Note: For certain penalty cases that are closed directly to Appeals by the Exam group (e.g., IRC 6707A, Penalty for Failure to Include Reportable Transaction Information With Return, discussed in IRM 4.32.4.6.2, Sending the Case to Appeals - Pre-Assessment Consideration), the group is responsible for submitting the case referral to Appeals using the *Appeals Electronic Case Receipts* SharePoint site and including the check sheet. See *Closing Civil Penalty Cases on RGS to Appeals* for additional information.

Note: LB&I examiners must refer to IRM 4.46.5.11.2.5, General Procedures for Paperless Case Closings to Appeals, for guidance.

- (5) When a rebuttal is needed, it should be prepared using Form 886-A and address:
- Statements, facts, and arguments that were not previously addressed in the examination report.
 - New arguments or facts raised by the taxpayer.
 - Factual differences between the examination report and the protest.

Note: A copy of the rebuttal must be provided to the taxpayer at the time the case is sent to Appeals. Examiners use Letter 5072, Examiner's Rebuttal, to transmit the rebuttal to the taxpayer. Letter 5072 with the attached rebuttal must be included with the taxpayer's protest in the case file as provided in IRM 4.10.9.9.3(1)(e).

4.10.8.12.9.3.1
(09-13-2019)
**Timely Actions -
Request for Appeals
Conference**

- (1) In order to adhere to the general time frame for closing an unagreed case from the group, all actions (e.g., securing a consent, perfecting or rebutting a protest, holding a group manager conference, etc.) should be completed within 20 days of receipt of a formal written protest or small case request, unless the case requires additional development. See IRM 4.10.8.2.4.4. All actions must be documented in the activity record.
- (2) **Field Examination:** When a taxpayer requests an Appeals conference, revenue agent cases remain in status code 13 (see IRM 4.10.8.12.7(6)), unless additional development is required (see IRM 4.10.8.12.9.3(3)(e) above). If additional development is required, the case must be updated to status code 12.
- (3) **Office Examination:** Upon receipt of a formal written protest or small case request, the case must be updated to ERCS action code 03, Request for Appeals Conference, which defaults to a purge date of 7 days. If additional development is required (see IRM 4.10.8.12.9.3(3)(e) above), the case must be updated to the appropriate ERCS action code depending on the next required action. When the examiner has completed all actions and the case is ready to close, it must be updated to action code 11, Managerial Review and Protests, which defaults to a purge date of "Today," and submitted to the group manager.

Note: Group managers use the ERCS Action Code Report and Overage Purge Report to monitor cases to ensure timely actions, including the transfer of cases to Appeals.

4.10.8.12.10
(04-10-2023)
**No Response to 30-Day
Letter**

- (1) If the taxpayer does not file a small case request or formal written protest within the time allowed, but indicated their intent to do so, examiners should issue:
- a. Letter 923, Letter Extending Time to File Protest, or
 - b. Letter 923-C, Letter Extending Time to File Protest (Claim for Refund), or
 - c. Letter 923-D, Letter Extending Time to File Protest (No-Change with Adjustments).

Note: Letter 923 (or applicable letter) is sent to the taxpayer as a reminder to file a protest. Letter 923 should be issued no later than seven calendar days after expiration of the original 30-day letter.

Reminder: Office examiners will update the case file using ERCS action code 07.

- (2) If the 30-day letter is returned as undeliverable, an attempt must be made to obtain the correct address (see IRM 4.10.2.8.4, Undeliverable Initial Contact Letters).
 - a. If the taxpayer's correct address is determined, the 30-day letter will be mailed to the new address. The period in which the taxpayer may reply starts with the date the letter is mailed to the new address.
 - b. If the taxpayer's correct address cannot be determined and the case results in a deficiency, close the case to Technical Services for issuance of a notice of deficiency. If the case results in an overassessment, close to CCP for processing.
- (3) If the taxpayer has not submitted a small case request or formal written protest in response to the 30-day letter, and the examiner has taken the actions in paragraphs (1) or (2), when applicable, close the case as follows:

Reminder: Cases must be closed from the group within 20 days after the expiration of the time (including extensions) allowed to file a protest.

If	Then
The case is a deficiency case	Close the case to Technical Services for issuance of a notice of deficiency.
The examination of a carryback year (not part of a Joint Committee case) results in an adjustment solely to a tentative carryback (i.e., no general adjustments or penalties)	Notice of deficiency procedures do not apply to assessments arising from tentative refunds filed on Form 1045 or Form 1139. Issue Letter 4516 and close the case to CCP for assessment.
The case is an overassessment case (adjustments that decrease the tax liability exceed the adjustments increasing the tax liability) or a no-change with adjustments	No follow-up action should be taken and the case should be closed to CCP.
The case is a claim disallowance	Close the case to Technical Services for issuance of a statutory notice of claim disallowance. If there is no change to the tax liability (neither a deficiency or overassessment), or the claim is disallowed in part with a resulting overassessment, close the case and check the "Statutory Notice of Claim Disallowance – Letters 905 and 906" box in the "Forward to Technical Services" section on Form 3198.
The case involves restricted interest (see IRM 4.10.8.14.3.4(6))	The tax liability will be adjusted as proposed in the examination report.
The case is an employment tax case	Refer to IRM 4.23.22.8.6, No Response to 30-Day Letter.

4.10.8.12.11
(03-25-2021)

Cases Returned from Appeals

- (1) LB&I examiners follow guidance in IRM 4.46.5.13, Appeals Case Return Procedures instead of the guidance in this section.
- (2) If the taxpayer provides new information or evidence related to the issues in the unagreed report, Appeals will release jurisdiction and return the case to Examination so the examiner can evaluate the new information and make an audit determination. See IRM 8.6.1.7.5, Taxpayer Provides New Information. The examiner must document the issue lead sheet(s) and supporting workpapers to reflect the evaluation of the new information or evidence. In addition, the examiner must follow the table below to determine the appropriate actions required.

Note: The procedures in this subsection are for non-docketed cases. For docketed cases see IRM 4.2.1.8.4, Docketed Case Examination Assistance.

If	And	Then
The case is agreed	If warranted	<p>The examiner will issue a corrected report and close the case using agreed case procedures.</p> <p>See IRM 4.10.8.4.5 for deficiency and claim cases.</p> <p>See IRM 4.10.8.3.3 for no-change with adjustment cases.</p>
The case remains unagreed	There is a decrease in the tax liability	<p>A corrected report should be issued to the taxpayer and included in the case file when it is sent back to Appeals.</p> <p>The examiner will not issue a new 30-day letter.</p> <p>The taxpayer will not be required to submit another protest.</p>
The case remains unagreed	There is no change to the report	<p>The examiner will not issue a new 30-day letter.</p> <p>The taxpayer will not be required to submit another protest.</p> <p>The examiner will close the case to Appeals.</p>
The case remains unagreed	There is an increase in the tax liability	<p>A new 30-day letter and corrected report should be issued to the taxpayer and included in the case file.</p> <p>The taxpayer will be required to submit a new protest.</p> <p>If the taxpayer submits a new protest, the examiner will close the case to Appeals; otherwise close to Technical Services for issuance of a notice of deficiency.</p>

- (3) If the taxpayer raises a new issue to Appeals, Appeals will release jurisdiction and return the case to Examination so the examiner can evaluate the new issue and make an audit determination. See IRM 8.6.1.7.4, Taxpayer Raises New Issue. The examiner must create an issue lead sheet(s) and supporting workpapers to reflect the evaluation of the new issue. In addition, the examiner must follow the table below to determine the appropriate actions required:

If	And	Then
The case is agreed	If warranted	<p>The examiner will issue a corrected report and close the case using agreed case procedures.</p> <p>See IRM 4.10.8.4.5 for deficiency and claim cases.</p> <p>See IRM 4.10.8.3.3 for no-change with adjustment cases.</p>
The case remains unagreed	The new issue is allowed in full	<p>The examiner will issue a corrected report.</p> <p>The examiner will not issue a new 30-day letter.</p> <p>The taxpayer will not be required to submit another protest.</p> <p>The examiner will close the case to Appeals.</p>
The case remains unagreed	The issue is partially allowed or there is an increase in the tax liability	<p>A new 30-day letter and corrected report must be issued to the taxpayer and included in the case file.</p> <p>The taxpayer will be required to submit another protest.</p> <p>If the taxpayer submits a new protest, the examiner will close the case to Appeals; otherwise:</p> <ul style="list-style-type: none"> • For deficiency cases, close the case to Technical Services for issuance of a notice of deficiency. • For claim cases, close the case to Technical Services for issuance of a notice of claim disallowance. • For no-change with adjustment cases, see IRM 4.10.8.3.3.
The case remains unagreed	There is no change to the report	<p>The examiner will not issue a new 30-day letter. The results of the review of the new issue must be shared with the taxpayer/ representative.</p> <p>The taxpayer will not be required to submit another protest.</p> <p>The examiner will close the case to Appeals.</p>

Reminder: If Appeals previously released jurisdiction of the case and returned it to Examination for additional work, there must be at least 180 days remaining on the statute of limitations when the case is received in Appeals the second time. The group must allow a minimum of 30 days for shipping and processing a case through Technical Services. Therefore, 210 days must be remaining on the statute when the case is closed from the group.

4.10.8.12.12
(03-25-2021)
**Time Reporting for
30-Day Letters for
Revenue Agents**

- (1) Time spent by examiners to prepare the unagreed report and accompanying explanatory lead sheets or standard explanations is charged to the case under Direct Examination Time (DET).
- (2) Time spent by examiners on 30-day letter activities (including protest reviews, and follow-up letter) will be reported using non-examination Activity Code 646. Preparation of the report (including explanatory lead sheets or standard explanations) is not reported under Activity Code 646.

4.10.8.13
(04-10-2023)
Corrected Reports

- (1) This section includes instructions for correcting reports which include errors or otherwise require revision. Reports with revisions are considered “corrected reports” when changes are made after a 30-day letter was issued or the report or waiver was signed by the taxpayer. Reports which are revised due to additional information provided during the examination (before a 30-day letter or agreement) should be retained in the workpapers. If an examination was previously closed, reopening procedures must be followed before proposing changes unfavorable to the taxpayer. See IRM 4.10.8.9, Reports For Cases Reopened By Examination, and IRM 4.2.1.6, Reopening of Closed Cases.
- (2) If an error was made in computing a deficiency, overassessment, or penalty shown on a previously **signed** report or waiver, follow the guidance in the table below for determining whether a corrected report is needed.

If the signed report or waiver has an error	Then
In the taxpayer’s favor,	A corrected report must be prepared and issued to the taxpayer; however, no signature on the new report/waiver is required. Note on the copy of the corrected report, “Refer to the taxpayer’s signature on the report dated (date).”
Unfavorable to the taxpayer - and the appropriate delegated official approves to process the case based on the error tolerance levels of IRM 1.2.65.3.4, SBSE 1-23-15, Error Tolerance Levels,	Process the case for the amount shown on the original executed report/waiver. The group or function discovering the error will prepare a memo to CCP signed by the appropriate delegated official. Place the memo on top of the report in the case file.
Unfavorable to the taxpayer - and the error does not fall under the tolerance levels of IRM 1.2.65.3.4, SBSE 1-23-15, Error Tolerance Levels (or approval to process the case was not received from the delegated official),	Prepare a corrected report and solicit a new report/waiver. If the taxpayer does not agree to the corrected report, follow partially agreed procedures.

- (3) A corrected report should be prepared as follows:

- a. Across the top of the corrected report write "Corrected Report."
- b. In the Other Information or remarks section write, "This report supersedes report dated (date of original report)."
- c. Across the top of the original report write, "This report superseded by report dated (date of corrected report)."

Reminder: Written supervisory approval of penalties proposed subject to IRC 6751(b), including alternative positions, must be obtained timely or the related penalties cannot be asserted. See IRM 20.1.1.2.3, Approval Prerequisite to Penalty Assessments, for additional information on approval of penalties.

- (4) Both the original and corrected reports are included in the case file.
- (5) The letter used to transmit the corrected report is discussed in IRM 4.10.8.12.9.1.
- (6) The taxpayer's signature is only required on the corrected report or waiver if the change is unfavorable to the taxpayer (i.e., more tax or less refund). If the taxpayer disagrees with the corrected report, unagreed procedures are applicable. Consider each year separately with no netting of tax periods. New reports/waivers may need to be solicited even though the net effect of the corrections may be in favor of the taxpayer.

4.10.8.14
(05-14-1999)
Issues Requiring Special Reports and Forms

- (1) This section includes examination issues which require computations on a standard form. When an adjustment is proposed in any of these areas, the applicable form should be completed and attached to the examination report to clarify how the adjustment was determined.

4.10.8.14.1
(08-11-2006)
Depreciation

- (1) Use Form 1914, Computation of Allowable MACRS/ ACRS/ Depreciation Deduction, accessed via RGS (or equivalent schedule), to compute allowable depreciation expenses.

4.10.8.14.2
(06-10-2005)
Passive Activity Loss Limitations

- (1) Worksheets should be provided to the taxpayer in cases in which the passive loss, the allowed loss and the disallowed (suspended, carryover) loss must be allocated among the various passive activities so the activities can be properly reported in subsequent years.

4.10.8.14.3
(08-11-2006)
Adjustments to Net Operating Loss (NOL)

- (1) Any adjustment to a net operating loss deduction should be completely explained in the report. The adjustment on Form 4549 should be identified as a NOL carryback with source year identified or NOL carryforward with source year identified.
- (2) Examiners should refer to IRM 4.11.11, Net Operating Loss Cases, when making adjustments to net operating losses.
- (3) Examiners should be aware that Net Operating Loss deductions may result in Joint Committee jurisdiction. See IRM 4.36.2, Identification of Joint Committee Cases.
- (4) Examiners should also note that Net Operating Loss deductions usually require restricted interest computations. For examination procedures on these cases, see IRM 4.10.8.14.3.4.

4.10.8.14.3.1
(08-11-2006)

Computation of the Net Operating Loss

- (1) A report which proposes an adjustment to a net operating loss deduction should include all computations necessary to fully explain the source year and amount of any net operating losses.
- (2) The computation will include the modifications required by IRC 172(d).
- (3) Form 3621, Net Operating Loss Computation - Individuals and Corporations, and Estates and Trusts, may be used for this computation.
- (4) Corporate NOL and individual NOL worksheets may be found in the *RGS Special Applications for NOLs* page in the *Losses* book in the virtual library.

4.10.8.14.3.2
(08-11-2006)

Computation of the Net Operating Loss Deduction

- (1) The report should include a computation of the amount of the net operating loss allowable in any year.
- (2) The computation will include the loss modifications required by IRC 172(b)(2).
- (3) Form 3621–A, Computation of a Net Operating Loss Deduction for Intervening Years Modifications, may be used for this computation.

4.10.8.14.3.3
(08-11-2006)

Reports After a Tentative Refund or Credit

- (1) IRC 6411 allows the taxpayer to apply for refund or credit using Form 1045 (for individuals) or Form 1139 (for corporations); the adjustment to the tax is not a claim. Examiners should be aware that tentative allowances are special restricted interest cases. The Campus computes and pays restricted interest when the tentative refund is processed. See IRM 4.10.8.14.3.4. The examination report reflecting a tentative allowance of a refund or credit is explained below.
- (2) Adjustment of the net operating loss deduction (NOLD) — The report should show the correct NOLD amount. If the NOLD is allowed in full, the entire NOLD would be shown as an adjustment. If the NOLD is not allowed, the adjustment on the report would be zero.
- (3) Taxable income as shown on the report — The taxable income per return (or as previously adjusted) is the amount prior to the processing of the tentative allowance.
 - a. Taxpayer's examination report prepared per the instructions in this section, and
 - b. An examination report with the following notated in the top margin "For Case Processing Use Only" — Prepare this examination report using RGS (this will ensure that Form 5344 is correct). The taxable income should reflect the taxable income as previously adjusted by incorporating the tentative carryback per the transcript.
- (4) Tax previously adjusted — The tax as previously adjusted should include any tax decrease allowed in processing of the tentative allowance. The report should include a schedule showing the computation of the tax as previously adjusted.
- (5) Examples of a report after a tentative allowance — Facts: Corporation X files its 1992 Form 1120 timely. The taxable income is \$888,888 and the tax is \$302,222. In 1995 there is a net operating loss of \$30,000. On 4/30/96, a Form 1139 is filed and the corporation receives a refund of \$10,200. The 1992 and 1995 returns are examined.

- a. Example 1: The examination results in no-change to 1995. Therefore, the NOLD is allowed in full in 1992. There is no change in tax because the corporation has already received the tentative refund. See Exhibit 4.10.8-6.
- b. Example 2: The examination results in additional income in 1995 of \$17,000. This reduces the NOLD to \$13,000. There is a deficiency in 1992 of \$5,780 because the corporation received a tentative refund based on a NOLD of \$30,000. See Exhibit 4.10.8-7.
- c. Example 3: The examination results in income in 1995 of \$50,000. This eliminates the NOLD. There is a deficiency of \$10,200 because the corporation received the tentative refund of \$10,200. See Exhibit 4.10.8-8.

4.10.8.14.3.4
(08-11-2006)

Restricted Interest

- (1) In general, interest is charged on an underpayment of tax under IRC 6601 for the period of time the taxpayer had use of the government's money, or is paid on an overpayment of tax under IRC 6611 for the time the government has the taxpayer's money. In most instances, the period of time for which interest is charged or paid to the taxpayer begins on the due date of the return.
 - a. Examination changes that follow this rule are called "General Adjustments".
 - b. Examples include adjustments to expenses, changes to income, increases or decreases in a current credit, and adjustments made to losses/credit carried forward from prior years.
- (2) The interest accrual period is shorter, or "restricted" if certain deductions, credits, or items of income are present.
 - a. Examination changes to these items are called "Restricted Adjustments".
 - b. Examples include net operating loss, capital loss, or credit carrybacks from a subsequent year. In these cases, the interest is computed from the due date of the source year of the carryback item. This is also called the effective date of the restricted adjustment.
 - c. See IRM Exhibit 20.2.1-1, Provisions Restricting Interest, which lists the deductions, credits, or items of income and the provisions of the Code which "restrict" interest.
- (3) Cases with restricted interest adjustments are complex and require special handling.
 - a. Unagreed cases are sent to Appeals via Technical Services.
 - b. Agreed cases with certain refunds over \$2 million (\$5 million for C Corporations) are coordinated with Joint Committee Review in LB&I. For more details on Joint Committee criteria, see IRM 4.36, Joint Committee Procedures.
 - c. Agreed cases that do not meet Joint Committee criteria are sent to Technical Services if they require a Form 2285, Concurrent Determinations of Deficiencies, to be prepared.
 - d. After section I of Form 2285 is completed for an LB&I Coordinated Industry Case, the SB/SE Technical Services or LB&I Joint Committee reviewer should send a copy of the form to the team coordinator for its inclusion in the case historical file. If reviewers or CCP personnel have any questions about the computations for any Form 2285, they should contact the examiner who prepared the report for clarification before sending it back to the group.

- e. Form 2285 is required when one or more of the following three criteria are present: both general adjustments and restricted adjustments; carryback adjustments from more than one tax period; or more than one restricted interest computation date.
- f. In these cases requiring Form 2285, the examiner's report should clearly reflect adjustments to carrybacks or recapture of NOLs or credits. The adjustment on the examination report should reflect the source year of the carryback, i.e., "NOL carryback from tax year YYYYMM." CCP will use the completed Form 2285 to compute the interest for the tax year(s) on the examination report.

Note: For more instructions related to suspended interest see IRM 4.10.8.14.13.

- g. In complex cases with multiple restricted adjustments, it is suggested that the examiner prepare a Joint Committee spreadsheet for the applicable period(s). See IRM 4.36.3.6.5, Joint Committee Spreadsheets.
 - h. Agreed cases that do not meet Joint Committee jurisdictional amount and do not require a Form 2285 should be sent to CCP in status code 51.
 - i. To aid CCP in computing the restricted interest adjustment, examiners should reflect the source year of the carryback in the adjustments section of the examination report and identify the tax periods containing the restricted adjustments on Form 3198.
- (4) In applying these rules, examiners should disregard any restricted adjustment that represents a tentative allowance filed on Form 1045 or Form 1139 that has been accepted as filed. This is because when the tax is paid, the campus function automatically generates a restricted interest computation.
- (5) For all cases with restricted interest, Form 4549, or other appropriate form, with all adjustments identified must include in "Other Information" the following or a similar statement; "This report involves restricted interest. In such cases, some or all of the interest is computed from a date other than the due date of the return." Additional language must be added to explain the computation period, for example:
- a. "Interest allocated to your NOL carryback from 2014, is computed from the due date of that return, 4/15/2015."
 - b. "Under IRC 6404(g), interest is suspended from MM/DD/YYYY to MM/DD/YYYY."
 - c. "Your tentative refund filed on Form (1045 or 1139) for YYYYMM has been (fully or partially) disallowed. The interest related to this adjustment is restricted to the due date of the source year return."
- (6) For restricted interest cases that result in no change to tax liability, a statement should be added to the "Other Information" section of the report: "Even though there is no change in your tax liability, there may be interest payable or receivable as a result of this report. This is because one or more of the adjustments is a restricted adjustment. Tax related to this adjustment has an interest computation date different from the return." See IRM 4.10.8.3.3. The examiner should solicit the taxpayer's agreement in such cases.
- (7) Notate Form 3198 with "Restricted Interest applies to yr ____" by checking the applicable box and filling in the blank for the year. If Form 2285 is not required, check the box in the "Special Features" section. If Form 2285 is required, check the box in the "Forward to Technical Services" section.

- (8) For a step-by-step decision model for handling restricted interest cases, see the Restricted Interest Decision Chart at Exhibit 4.10.8-9.

4.10.8.14.4
(04-10-2023)

Form 2363

- (1) Taxpayer name or address changes require the examiner to complete Form 2363, Master File Entity Change, as soon as clear and concise notification is received. See IRM 4.10.2.11, Taxpayer Change of Address or Name, for additional information on “clear and concise notification” and completing Form 2363. See the *Form 2363 Job Aid - Name Change* and the *Form 2363 Job Aid - Address Change* for examples on completing the form.
- (2) Examiners must also complete Form 2363, when there is an allowable/agreed change to the taxpayer’s filing status.
- (3) The examiner must Eefax the Form 2363 to CCP as soon as possible. See the *CCP* book on the Exam Procedures Knowledge Base for the *CCP Exam Efax Numbers*.
- (4) When closing the case, prepare Form 3198 and check the “Form 2363” box in the “Forms Enclosed” section.

4.10.8.14.5
(03-25-2021)

**Filing Status: Joint
Return Converted to
Separate Returns**

- (1) After filing a joint return for a taxable year, spouses may not subsequently file separate returns for that same year, unless prior to the due date of the return (without regard to any extension of time to file) either spouse subsequently files a separate return. See CFR 1.6013-1(a)(1). The separate return is a superseding return.
- (2) Separate return filed by an executor — Under certain circumstances, a surviving spouse may file a joint return for the year of death if an executor or administrator has not been appointed by certain times. IRC 6013(a)(3), and Treas. Reg. 1.6013-1(d)(3) & (4). An executor or administrator for a deceased person may disaffirm a joint return filed by the surviving spouse by filing a separate return for the deceased within the prescribed time. See IRC 6013(a)(3) and Treas. Reg. 1.6013-1(d)(5).
- (3) “Invalid joint elections”— Sometimes, after a joint return is processed, it is determined that the joint election is not valid even though the return, itself, is valid for purposes of IRC 6011 and IRC 6012. Some reasons a joint election may not be valid include:
 - The taxpayers were not married,
 - The return is not signed by both parties,
 - The return was signed under duress (Treas. Reg. 1.6013-4(d)),
 - One spouse’s signature was forged.

Note: A return that is not signed may be corrected by obtaining a valid signature using Letter 2348, Declaration (2) letter. Also, the return may be treated as signed by establishing both spouses intent to file a joint return. See *Federbush v. Commissioner*, 34 T.C. 740, 757 (1960), *aff’d per curiam*, 325 F.2d 1 (2d Cir. 1963).

4.10.8.14.5.1
(04-10-2023)

**Closing the Return of
the Primary Taxpayer if
the Joint Election is
Invalid**

- (1) When the person whose Social Security number is listed first (the primary taxpayer) on a return with an invalid joint election is required to file a separate return, the following actions must be taken:
 - a. Prepare Form 2363 to correct the name line to reflect the primary taxpayer only and correct the filing status on the account. Check the following Transaction Code boxes on Form 2363: 013, 016, and 017, and input the appropriate filing status code in the FSC box. See Document 6209, IRS Processing Codes and Information, Section 3, for definitions of filing status codes. See IRM 4.10.8.14.4, for additional instructions for submitting the form to CCP.
 - b. Prepare a report using the correct filing status for the primary taxpayer and remove the secondary taxpayer's income/expenses/credits.
 - c. Solicit agreement from the primary taxpayer.
 - d. Follow normal agreed/unagreed procedures.
 - e. Show only the primary taxpayer's name on Form 5344.
 - f. Check the box for "Form 2363" in the "Forms Enclosed" section of Form 3198. In the "Special Features" section, check the box "Change Filing Status to" and enter the appropriate filing status.
- (2) When the primary taxpayer (under which the joint return posted) is not required to file a separate return, the following actions must be taken:
 - a. Prepare Form 2363 to correct the name line to reflect the primary taxpayer only and correct the filing status on the account. Check the following Transaction Code boxes on Form 2363: 013 and 016, and input the appropriate filing status code in the FSC box. See Section 3 of Document 6209, IRS Processing Codes and Information, for definitions of filing status codes. See IRM 4.10.8.14.4, for additional instructions for submitting the form to CCP.
 - b. Prepare a report for the primary taxpayer using the primary TIN, and remove the secondary taxpayer's income/expenses/credits from the invalid joint return.
 - c. Complete Form 5344 with the appropriate transaction codes and amounts in Item 12 to zero out the tax and penalties (if there are penalties) on the primary account. Item 15 on Form 5344 should contain entries to reduce the **unrefunded** prepayment credits by the amount allowed as a credit on the secondary taxpayer's separate account.
 - d. Close the AIMS controls on the primary TIN using Disposal Code 08.
 - e. Check the box for "Form 2363" in the "Forms Enclosed" section of Form 3198. In the "Special Features" section, check the box "Change Filing Status to" and enter the appropriate filing status.
- (3) See IRM 4.10.8.14.5.2 below for guidance on closing the secondary taxpayer whose name was removed from the joint account.

4.10.8.14.5.2
(04-10-2023)

**Closing the Return of
the Secondary Taxpayer
who was Removed from
the Joint Return**

- (1) If the file does not already contain the separate return for the person removed from the joint return (secondary taxpayer), the return should be solicited (if a return is required). That return should be closed together with the return for the primary taxpayer (see IRM 4.10.8.14.5.1 above) with instructions to the CCP function to process the return as an original return.
- (2) If a separate return is required and is not filed, the following actions must be taken:

- a. Generate a substitute for return for the person whose name was removed from the “joint return” (secondary taxpayer).

Note: When taxpayers file a joint return, an account is created for the secondary SSN. This account consists of the secondary SSN’s entity and tax period information; no TC 150 is present on this account. There will be a posting of a TC 594 CC 84 with a cross-reference TIN pointing back to the primary taxpayer’s account. Therefore, it is not necessary to create an account for the secondary SSN using a Form 2363 when changing from married filing joint status to separate/single/head of household filing statuses.

- b. Update the ASED for the secondary taxpayer; the return received date will be the same as that of the invalid joint return filed under the primary TIN. Thus the statute date for the secondary’s return should reflect the same statute as the invalid joint return. The secondary taxpayer will now be a primary taxpayer on their own TIN.
- c. Prepare a report for the secondary taxpayer to include all of the appropriate income/expenses, credits shown on the return/SFR.
- d. Prepare Form 5344 accordingly, showing only one name.
- e. Ensure AIMS controls are full record on the delinquent or substitute for return before closing the case file to either Technical Services or CCP.

4.10.8.14.6
(04-10-2023)

Filing Status: Separate Returns Converted to Amended Joint Return

- (1) Spouses who originally filed returns on a separate basis may find it to their advantage to file a joint return. To change filing status from separate to joint, taxpayers must file a joint return or an amended Form 1040X electing a joint filing status (hereafter referred to as “amended joint return”).
- (2) Generally, the primary taxpayer is the first SSN shown on the joint return; however, if only one spouse filed a separate return prior to an amended joint return, the one who previously filed is the primary taxpayer.
- (3) The following subsections relating to the examination of an amended joint return, preparation of reports, and closing procedures, provide the special steps required when both spouses filed separate returns before the filing of an amended joint return, resulting in two accounts on Master File.

Note: If only one spouse filed a return prior to an amended joint return, the examination will include only one case file (“primary”) and the references in this section to the “secondary file” are not applicable.

4.10.8.14.6.1
(08-11-2006)

Procedures for Delinquent and Substitute for Returns for Joint Return Filing Status

- (1) IRC 6020(a) authorizes the Secretary to prepare a return for a taxpayer who fails to make and file a return if the taxpayer discloses all information necessary for the preparation of the return. If the taxpayer signs the return prepared by the Secretary, the return may be received as the taxpayer’s return.
 - a. If a taxpayer fails to make a return, or makes a false or fraudulent return, IRC 6020(b) authorizes the Secretary to make a return from his own knowledge and from such information as he can obtain through testimony or otherwise.
 - b. IRC 6065 requires that a return “shall contain or be verified by a written declaration that it is made under the penalties of perjury.”

- c. Joint return filing status under IRC 6013(a) is predicated on the spouses making an election and intending to file a joint return. Accordingly, the Service may not elect joint filing status on behalf of taxpayers in a return it prepares and signs under the authority of IRC 6020(b). See *Millsap v. Commissioner*, 91 T.C. 926 (1988), acq. in result, 1991–2 C.B. 1 (filing status used by IRS in preparing return under IRC 6020(b) does not bind taxpayers in later deficiency proceeding).
- d. A Form 870 signed by the spouses is not a return under IRC 6020(a) and it is not an election to file a joint return under IRC 6013. This holding also applies to Form 1902, Report of Individual Income Tax Audit Changes (obsoleted 1988), and Form 4549, Report of Income Tax Examination Changes, and any successor forms to these forms, because these documents do not purport to be returns and do not contain a “jurat” with a penalties of perjury clause.
- e. If married taxpayers fail to execute a joint return, the examiner will have to close the case unagreed using a filing status other than married filing joint. Generally, these taxpayers’ filing status will be married filing separate. Based on facts and circumstances, the examiner will need to determine if a return is needed for one or both taxpayers. See Rev. Rul. 2005-59.

4.10.8.14.6.2
(04-10-2023)
**Statute and Other
Considerations**

- (1) IRC 6013(b)(2)(A) requires that taxpayers make a joint return election within three years of the original due date of the tax return (without regard to an extension).
- (2) IRC 6013(b)(2)(B) requires that taxpayers make a joint return election prior to the mailing of a notice of deficiency for that year to either spouse if the spouse files a timely petition with the Tax Court with respect to that year.
- (3) IRC 6013(b)(2)(C) requires that taxpayers make a joint return election prior to commencing suit in any court for recovery of any part of the tax for such taxable year.
- (4) IRC 6013(b)(2)(D) requires that taxpayers make a joint return election before either spouse has entered into a closing agreement with respect to such taxable year, or before any civil or criminal case arising against either spouse with respect to such taxable year has been compromised.
- (5) The statute of limitations must be verified on both the primary and secondary accounts before converting the tax returns to joint, and the examiner must consider the deemed filing date of the joint return. See IRM 25.6.1.9.4.4, Joint Return After Separate Return, and IRM 4.10.11.6.3.5, Separate to Joint Claims for Refund and Requests for Abatement, for additional information.

4.10.8.14.6.3
(04-10-2023)
**Examination of
Amended Joint Return**

- (1) If an amended return is received during an examination, examiners generally will examine the amended return to determine whether the tax reported is correct. The examination will be made as soon as possible after the return is received and to the extent deemed necessary. An amended return received from a taxpayer during an examination, with or without remittance, will remain with the case file.
- (2) If both spouses filed returns prior to an amended joint return, case files should be set up for each spouse.

- a. The primary file will include the original or copy of the amended joint return. The primary taxpayer's original separate return and a copy of the secondary taxpayer's separate return should be included.
 - b. The secondary file will include the secondary taxpayer's original separate return. A copy of the first page of the amended joint return should be included.
 - c. Instructions for each case will be included on their respective Form 3198, as explained in IRM 4.10.8.14.6.5 below.
- (3) If only one spouse filed a return prior to the amended joint return, only one case file is established.
 - (4) Prepare Form 2363 to add the secondary taxpayer's name to the primary taxpayer's account and correct the filing status. Check the following Transaction Code boxes on Form 2363: 013, 016, and 017, and input the appropriate filing status code in the FSC box. See Section 3 of Document 6209, IRS Processing Codes and Information, for definitions of filing status codes. See IRM 4.10.8.14.4, for additional instructions for submitting the form to CCP.
 - (5) At the conclusion of the examination, if there are issues other than what is shown on the amended joint return, the examiner will solicit an agreement. If an agreement is not secured, see IRM 4.10.8.6, Partially Agreed Cases, to assess the tax shown on the amended joint return; then follow normal unagreed procedures for the unagreed issues.

4.10.8.14.6.4
(04-10-2023)

Preparation of Reports

- (1) Two reports must be prepared when two separate returns are converted to a joint return.

Note: If only one spouse filed a return prior to an amended joint return, only one report is prepared (and the following paragraphs regarding the primary and secondary files do not apply). Starting with the primary return information, add any income/expenses/credits attributable to the spouse that did not file and prepare the report accordingly (with married filing joint status). Consider any appropriate penalties.

- (2) Primary file — prepare a report (based on the amended joint return) starting with the primary account and include all adjustments, including the items appearing on the secondary separate return that need to be moved to the joint account. Include any **unrefunded** prepayment credits (generally estimated tax payments) from the secondary taxpayer's account since they are now being moved to the new joint account. In addition, any tax and/or penalty adjustments as a result of the audit will be included on this joint report.
- (3) Secondary file — prepare a second report (based on the secondary taxpayer's tax return information) to adjust all tax and penalties previously assessed on the secondary taxpayer, to zero out the account.
 - The accuracy penalty may not be assessed on the account being zeroed out.
 - When the secondary account includes earned income tax credit (EITC) and/or additional child tax credit (ACTC), the entire refund must be transferred to the joint account. Transfer any available credit or payments to the primary account. Net out (subtract) any refunds or offset previously issued.

Note: If a refund was previously issued or an offset occurred, and the earned income tax credit, additional child tax credit, or the refundable credit for prior year minimum tax was involved, then those credits must be reversed and the refund/offset must be moved/reversed.

- (4) If delinquency penalties are imposed on the joint return, ensure any delinquency penalties imposed separately on the primary taxpayer are not duplicated in the computation. If a penalty is computed manually, examiners must include a computation of the delinquency penalty in the report. RGS users may refer to *Manually Computed Penalties* for information on inputting manually computed penalties, creating supporting schedules, and Form 5344 and Form 3198 considerations.
- (5) RGS users may refer to the *RGS Procedures for Separate to Joint (MFJ) Returns* article for additional information and example reports.

4.10.8.14.6.5
(04-10-2023)
Closing Procedures

- (1) The primary (new joint) and secondary files should be closed to CCP together.

Reminder: If only one spouse filed a return prior to an amended joint return, there will only be one (primary) case file and instructions in this subsection for the secondary file are not applicable.

- (2) Prepare a Form 5344 (if there are two case files, one form for each file) and include the name of the secondary taxpayer on the Form 5344 for the primary (joint) file, all tax and/or penalty adjustments as a result of the audit.
- (3) The Form 5344 for the secondary file will contain the secondary entity information as well as the appropriate entries to zero out the account. Item 15 of Form 5344 should contain reference code 999 for zero to indicate that the account has been changed to filed with another SSN.
- (4) Prepare Form 3198 (if there are two case files, one form for each case file), and include the following comments:
 - a. If there are two case files, in the "Special Features" section of each Form 3198, check the box for "Separate to Joint KEEP THESE CASES TOGETHER."
 - b. If there are two case files, in the "Related Taxpayers or Key Cases" section of each Form 3198, cross-reference each taxpayer with the other by annotating the other spouse's name, TIN, MFT, and Tax Period information.
 - c. For the primary (joint) file, in the "Forms Enclosed" section of Form 3198, check the box for "Form 2363"; in the "Special Features" section, check the box "Change Filing Status to:" (enter the appropriate filing status) and in the "Other Instructions" note "Add secondary taxpayer to primary account,"
 - d. For the secondary file, if appropriate, indicate any unrefunded estimated tax payments to be transferred from the secondary account to the primary (joint) account, and if the secondary taxpayer has made a subsequent payment to repay erroneous EITC, ACTC, etc., instruct CCP to transfer that payment to the joint account.

4.10.8.14.7
(06-10-2005)

**Adjustments to the
Investment Credit**

- (1) A report including adjustments to investment credits (including the recapture of investment credit) should include a computation showing the correct investment credit.
- (2) IRC 46 defines the credits which are considered investment credits. Form 3468, Investment Credit, may be used to show the computation of the corrected investment credit.
- (3) IRC 38 limits the amount of general business credits (including investment credit) which may be used in any year. Form 3800, General Business Credit, may be used to show the limitations of the investment credit when the taxpayer is eligible for more than one type of general business credit. The report should clearly show the amount and year of origin of any adjustments to investment credit carrybacks or carryforwards.
- (4) IRC 50(a) requires the recapture of all or part of the investment credit in the case of an early disposition of the property which generated the credit. Form 4255, Recapture of Investment Credit, may be used to show the computation of the tax due to the recapture of the investment credit.

4.10.8.14.8
(06-10-2005)

**Self-Employment Tax
Adjustments**

- (1) When an audit results in an adjustment to self-employment tax, the information is forwarded electronically to the Social Security Administration via the Form 5344. See IRM 4.4.29.2, Self-Employment Income Adjustments.
- (2) Include the following information as applicable on Form 5344: (See IRM 4.4.29.2.1.1, Reference Code Changes to Self-employment Income/Tax):
 - a. Reference number 878: a net increase or decrease to the self-employment income of the primary taxpayer.
 - b. Reference number 879: a net increase or decrease to the self-employment income of the secondary taxpayer.
 - c. For 1990 and subsequent tax years, enter the self-employment income adjustments multiplied by .9235. The net increase or decrease to the self-employment tax reference number is 889. Changes to both primary and secondary self-employment tax should be combined for one adjustment to reference number 889.

Note: The employer must “gross up” the employee’s stated pay by taking into account the IRC 3101 tax rates; e.g., if the Social Security tax rate is 6.2 percent and the Medicare tax rate is 1.45 percent for a total of 7.65 percent, the computation uses .9235 (i.e., $1 - .0765$).

Note: Separate adjustments must be made for the Social Security portion and Medicare portion of the self-employment tax. For the maximum amount of combined wages and self-employment earnings subject to Social Security tax for a period, see Pub 334, Tax Guide for Small Business. There is no limit on wages and self-employment earnings subject to Medicare tax.

4.10.8.14.9
(08-11-2006)

**Adjustment to FICA Tax
on Tip Income Not
Reported to Employer**

- (1) If it is discovered during an examination that tip income has been underreported by the employee to the employer, FICA tax may have to be adjusted. See IRM 4.4.29.3, Group Procedures for Adjustments to Tip Income, and IRM 4.23.10.18, Procedures for Employee Tax Adjustment on Tip Income Not Reported to Employer.

4.10.8.14.10
(09-13-2019)
**Adjustment For
Employee FICA Tax**

- (1) When an examination results in an adjustment to the employees share of FICA tax, examiners must follow IRM 4.23.10.17, General Procedures for Adjusting the Employee Share of FICA/RRTA Taxes including Additional Medicare Tax (AdMT).

4.10.8.14.11
(06-10-2005)
**Adjustment to Schedule
H — Household
Employment Taxes**

- (1) An individual who employs domestic workers reports employment tax payments annually on Schedule H, Household Employment Taxes, which is attached to Form 1040, Form 1040-NR, or Form 1040-SS. If an individual is not required to file an income tax return (for example, because income is below the amount that requires the individual to file) Schedule H may be filed by itself.
- (2) The use of Schedule H to report and collect these taxes does not change the nature of the tax.
 - a. Changes are employment tax changes.
 - b. Changes cannot be included in the income tax report.
 - c. Changes must be made on an employment tax report (see (4) below).
 - d. Changes are not subject to deficiency procedures and should not be included on a notice of deficiency.
 - e. No portion of the employment tax reported on Schedule H is ever available for refund based on changes to a taxpayer's income tax liability.
- (3) For purposes of Schedule H the employer is:
 - a. The taxpayer who applied for the EIN, which is required.
 - b. For joint returns, only one taxpayer can be the employer and this would be the spouse who obtained the EIN.
- (4) Adjustments to Schedule H require the preparation of Form 4667, Examination Changes - Federal Unemployment Tax; Form 4668 Employment Tax Examination Changes Report; and Form 2504, Agreement to Assessment and Collection of Additional Tax and Acceptance of Overassessment. The adjustments on Form 4668 should be made to the fourth quarter.
- (5) When Schedule H adjustments are made, Form 3198 must be attached to the case file.
 - a. The Other Instruction section should contain the following notation: "Schedule H Adjustment — Forms 4667, 4668 and 2504 enclosed for the primary or secondary (whichever applies) taxpayer."
 - b. For joint filers, it is critical that the primary/secondary designation be made to allow for accurate completion of Form 5344.
- (6) As with any other employment tax changes involving wages, corrected or delinquent W-2's should be secured as necessary.
- (7) See IRM 4.23.10.10.5, Household Employment Taxes, for additional information.

4.10.8.14.12
(08-11-2006)
Specialists Report

- (1) Engineer's Memorandum Report, Form 3213 — is used as the report transmittal for the engineer's report on non-LB&I cases. The Issue Management System (IMS) is used to transmit reports on LB&I cases.
 - a. For more detail regarding the content of the engineer's report see IRM 4.48.1, Overview of Engineering Program.

- b. Form 4665 will note that an engineer was involved in the case and whether or not the engineer's findings are accepted. When accepted, the engineer's findings will be included in the examiner's report. Workpapers related to the engineering report on SB/SE cases should be placed in the case file.
- (2) International Examiner's Report, Form 3963 — is used as the report transmittal for the international examiner's report on SB/SE and LB&I cases. Form 3963 provides administrative information, compliance check information, issues considered but not changed, and Form 886-A, etc.
 - a. For more detail regarding the preparation of Form 3963 see IRM 4.46.6.3, International Examiner's Report (IER).
 - b. Form 4665 will be noted International was involved in the case and whether or not the international examiner's findings are accepted. When accepted, the international examiner's explanation of items will be included in the examiner's report. Workpapers related to the International Examiner's report should be placed in the case file.

4.10.8.14.13
(09-13-2019)
**Notice Under IRC
Section 6404(g) –
Suspension of Interest**

- (1) IRC 6404(g) suspends interest if, as a result of an examination, the IRS fails to timely provide individual taxpayers adequate notice of liability and the basis for the liability. The IRS has 36 months (or 18 months in certain cases) from the return due date or return filed date (with regard to extensions), whichever is later, to notify the taxpayer of the additional liability without suspending interest. See IRM 20.2.7.8, IRC 6404(g) Interest Suspension, for additional information on the notification period, interest suspension period, and effect of amended returns.
- (2) A notice provided within the prescribed time period prevents the suspension of interest if the notice adequately states the amount of the liability and the basis for the liability. See IRM 20.2.7.8.5, IRC 6404(g) Notice, for adequate notice requirements and the effect of multiple notices. See IRM 4.31.6.10.6.3, IRC Section 6404(g), Suspension of Interest and Certain Penalties, for notice requirements for individual investors of a pass-through entity.
- (3) The IRC 6404(g) notice date must be noted on a copy of the notice retained in the case file.
- (4) When 6404(g) interest suspension applies, the examiner must include a statement in the "Other Information" section of the examination report using language similar to the following:
 - If there is one IRC 6404(g) notice date, include the following - "IRC 6404(g) applies, and notice was provided on (date)."
 - If there is more than one IRC 6404(g) notice date, as defined by IRM 20.2.7.8.5.1, Multiple IRC 6404(g) Notices, each notice date and the portion of the liability attributable to each notice date will be recorded in the "Other Information" section of the examination report and should contain the following language - "IRC 6404(g) applies and there are XX different notice dates. The first notice was provided on (date) for \$(amount of liability); the second notice was provided on (date), etc."
- (5) On every individual case with a liability adjustment, examiners must indicate on page two of Form 3198, IRC 6404(g) is not applicable **or** enter the notice date(s) and the applicable liability amount.

- (6) If there is more than one IRC 6404(g) notice date, note on Form 3198 that restricted interest applies due to IRC 6404(g), and to see the "Other Information" section of the examination report.
- (7) See IRM 20.2.7, Abatement and Suspension of Debit Interest, for additional information.

4.10.8.14.14
(06-10-2005)
**Individual Retirement
Arrangement (IRA) and
Qualified Retirement
Plan Adjustments**

- (1) There are generally two types of changes that may be made as a result of transactions involving an Individual Retirement Arrangement (IRA) or qualified retirement plan during an examination: adjustments to income, and taxes resulting from not complying with IRA rules.
- (2) Adjustments to income: adjustments to income, such as the taxpayer's deduction for an IRA contribution or inclusion of premature distributions in income, will be reflected on the "adjustments to income" line on Form 4549.
- (3) Taxes Resulting from not Complying with IRA Rules:
 - Taxes, such as IRC 72(t), tax on early distributions and IRC 4973, IRC 4974, and IRC 4979, taxes for excess contributions, accumulations, and distributions, are reflected on the "Plus Other Taxes" line of Form 4549 as an addition to the corrected tax liability.
 - The type of tax will be identified in the "Other Information" section.
 - A lead sheet must be attached to show the computation of the tax. In joint return cases, the spouse to whom the tax pertains must be identified on the lead sheets. If it applies to both spouses, the amount of tax applicable to each spouse will be identified.
 - These taxes are normally reported on Form 5329, Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts.
- (4) IRM 21.6.5.4.2, Individual Retirement Arrangement (IRA) Taxes, lists the taxes that may be assessed on IRAs and qualified retirement plans if the taxpayer does not conform to rules governing IRAs. Attention should be given as to whether the tax is an income or excise tax as this will affect the preparation of the reports and the statute of limitations.

Note: If a consent to extend the statute of limitations is being prepared and an excise tax due to an IRA may be assessed, complete the "kind of tax" line on the consent form, by inserting "Income and Chapter 43 (Excise) Tax." The excise tax statute must also be extended in addition to the income tax statute if there is a possibility that an excise tax may be assessed.

4.10.8.14.14.1
(06-10-2005)
**Posting Advance
Payments**

- (1) Separate Forms 3244-A, Payment Posting Voucher, must be prepared for each type of tax, taxpayer, and tax period. Therefore, separate Forms 3244-A must be completed if an advance payment is received on a deficiency that:
 - a. Includes both income and excise tax, or
 - b. Is attributable to both spouses on a joint return for an IRA/qualified retirement plan adjustment.
- (2) The MFT block will be noted "MFT 29" and the "Remarks" block noted "IRA-MFT 29" if the tax is an excise tax.
- (3) One check may be accepted for payments that relate to both income and excise tax.

4.10.8.14.14.2
(06-10-2005)

**Form 5344 –
Examination Closing
Record**

- (1) Separate Forms 5344 are required for processing:

- a. Each individual's IRA/qualified retirement plan adjustments, and
- b. The income tax adjustments.

Note: If a joint return is under examination and both spouses' IRAs/qualified retirement plans are adjusted in addition to other income tax adjustments, three Forms 5344 will be required - one for the income tax adjustments and one for each spouse's IRA adjustments.

- (2) Entries on Form 5344 for IRA/qualified retirement plan adjustments are generally the same as those for income tax adjustments, except no entries are required in items 18 through 40. Refer to IRM 4.4.12, AIMS Procedures and Processing Instructions, Examined Closings, Surveyed Claims, and Partial Assessments, for instructions in completing the entries on Form 5344.

4.10.8.14.14.3
(06-10-2005)

**Form 3198 – Special
Handling Notice**

- (1) Case files containing IRA/qualified retirement plan adjustments will be identified on Form 3198, by checking the Special Features "Other Instructions" block, followed by "IRA adjustment", the type of tax (i.e., 6 percent, 50 percent, etc.), the amount of tax attributable to each type of tax and identifying the SSN of the account to be adjusted.

4.10.8.14.15
(04-10-2023)

**Adjustments to Qualified
Business Income
Deduction (QBID)**

- (1) When an adjustment is proposed to the Qualified Business Income Deduction (QBID), the examination report must include a lead sheet, worksheet or similar document showing the calculation and how the adjustment was determined. See the *IRC 199A - Qualified Business Income Deduction* book on the Form 1040 Knowledge Base site for more information.

4.10.8.14.16
(04-10-2023)

**Conversion of BMF
Returns**

- (1) Sometimes it is necessary to convert the tax return the taxpayer originally prepared to another form of tax return. This section contains procedures for converting certain filed returns to a different type of tax return.

4.10.8.14.16.1
(04-10-2023)

**Procedures for
Converting Form 1120-S
to Form 1120**

- (1) It is not necessary to prepare Form 1120.
- (2) Complete Form 2363 with a check mark next to TC 091 and enter "01", in the Filing Requirement 1120 box. Form 2363 should be e-faxed to CCP as soon as possible and prior to closing the case.
- (3) Prepare a Form 4549 showing:
 - a. An adjustment for the net income or loss per return as originally filed plus any additional adjustments to income and deductions where a non-taxable Form 1120-S is converted to Form 1120 and,
 - b. Any additional items of income and deductions in instances where a taxable Form 1120-S is converted to Form 1120.
- (4) Prepare Form 5344 to agree with the Form 4549.
- (5) Prepare Form 5349, Examination Correction Request, to change the Form 1120-S activity code to the appropriate activity code for Form 1120. The group will input this change.

- (6) Form 3198 should be attached to the case file indicating, "Form 1120-S converted to Form 1120" and note the Form 1120 activity code in the "Special Features" section of the form. Also include the effective date of the termination and a brief explanation.

4.10.8.14.16.2
(04-10-2023)

**Procedures for Other
BMF Conversion Cases**

- (1) Follow the procedures below for agreed conversion cases.
- (2) **Form 1041 converted to Form 1120:** On the top margin of the Form 1120 and on Form 3198, enter "Form 1041 converted to Form 1120 by Examination." On Form 3198 in the "Special Features" section, check the box "Tax Return Conversion" and add the activity code of the new Form 1120 in the "Other Instructions" section of the Form 3198. See steps (5) through (8) below for additional instructions.
- (3) **Form 1065 converted to Form 1120 or Form 1041:** On the top margin of the Form 1120 (or Form 1041) and on the Form 3198, enter "Form 1065 Converted to Form 1120 (or Form 1041) by Examination." On Form 3198 in the "Special Features" section, check the box "Tax Return Conversion" and add the activity code of the new Form 1120 (or Form 1041) in the "Other Instructions" section of the Form 3198. See steps (5) through (8) below for additional instructions.
- (4) **Form 1120 DISC/IC DISC converted to Form 1120:** On the top margin of the Form 1120 and on Form 3198, enter "Form 1120 DISC/IC-DISC converted to Form 1120 by Examination." On Form 3198 in the "Special Features" section, check the box "Tax Return Conversion" and add the activity code of the new Form 1120 in the "Other Instructions" section of the Form 3198. See steps (5) through (8) below for additional instructions.
- (5) In all of the above tax return conversions, complete Form 2363 with a check mark next to TC 016 and enter "01" for Form 1120 or "1" for Form 1041, in the appropriate Filing Requirement box. Form 2363 should be e-faxed to CCP as soon as possible before the case is closed.
- (6) When converting the above tax returns, forward the converted tax return to the appropriate Campus in accordance with instructions in IRM 4.4.9.5.13. Do not send the converted tax returns to CCP. On the new return, write the correct received date of the new return based upon the received date of the converted return. Retain a copy of the converted return in the case file to be used when the case is ready to be closed.
- (7) After the new converted return has posted to Master File, input Form 5345-D, Examination Request-ERCS, to establish AIMS controls. After AIMS becomes full record and the examination is complete, prepare Form 4549, Form 5344, and Form 3198 accordingly. The Form 4549 must include any tax credits from the old tax return account that need to be moved to the new tax return account. If credits need to be moved, prepare Form 3870, Request for Adjustment, and indicate on Form 3198 in the "Other Instructions" section "Form 3870 included". Forward the case to CCP for closing.
- (8) AIMS controls need to be closed on the old tax return that was converted using Form 10904 with Disposal Code 33. Form 10904 is forwarded to your local AIMS/ERCS staff for input.

Note: Forms 10904 are not updated to status 51 and are not forwarded to CCP for processing.

(9) Follow the procedures below for unagreed conversion cases:

- If the taxpayer does not agree to converting the Form 1041 to a Form 1120, a substitute for return for Form 1120 will be prepared. However, do not forward the substitute for return to CCP for processing or establishing on AIMS. The SFR will be left in the case file of the Form 1041 case.
- Prepare Form 5344 for the Form 1041 in the normal manner as a closing to Appeals. The case will be closed to Technical Services and updated to status 21 for forwarding to Appeals.
- Do not change the filing requirements of the Form 1041. If necessary, Appeals will take action to process the Form 1120 to Master File, establish the case on AIMS and request a change to the filing requirements.

4.10.8.15
(05-14-1999)
Examiner Case Closing Requirements

(1) In addition to preparing all necessary reports to document audit findings and organizing the contents of the case file, examiners have other critical case closing requirements.

4.10.8.15.1
(06-10-2005)
Completion of Form 5344, Examination Closing Record

- (1) Completion of Form 5344 is required prior to the closing of a case.
- (2) Use of Form 5344 in RGS is required.
- (3) Required entries for examiners are outlined in IRM 4.4.12, Examined Closings, Surveyed Claims, and Partial Assessments.

Note: Since grading of cases is the responsibility of the group manager (but an entry in this field is required for an agent to forward a case), examiners should enter their own grade unless instructed to enter another grade by their group manager. Group managers are also required to review this entry on Form 5344 prior to case closing to ensure accuracy.

4.10.8.15.2
(06-10-2005)
Examination Operational Automation Database (EOAD)

- (1) EOAD was designed to provide data that would allow the tracking of examination adjustments by issue. This data will be used to enhance the ability to identify specific areas of noncompliance based on examination results and track the effectiveness of the examination classification process.
- (2) Capture of EOAD data is mandatory for all examinations of Individual, Corporate, S Corporation, and Partnership returns.
- (3) EOAD data must be entered for all issues examined, both adjusted and non-adjusted items.
- (4) Data capture for EOAD should be done just prior to closing the case (after completion of the examination report and automated 5344). See IRM 4.10.16, Examination Operational Automation Database (EOAD), for detailed instructions.

4.10.8.15.3
(08-11-2006)
Case Folder Color

- (1) Effective March 1, 2006, CCP established uniform guidelines for file folder color. Examination groups must use the following file folder colors when closing paper cases to Case Processing:
- Red – Case with a statute date expiring within 180 days.

- Yellow – Headquarter approved usage only. Purpose of use will change periodically as interim guidance is issued and posted to the *Interim Guidance* website
- Orange – IRS Employee audit
- Lavender – NRP Form 1040
- Plum – NRP Form 1120S
- Light Blue – Claims (this includes innocent spouse; injured spouse; and any other type of claim). The type of claim should be notated on Form 3198.

4.10.8.15.4
(04-10-2023)
**Application of Revenue
Ruling 99-40**

- (1) Pursuant to IRC 6601(a), the IRS is authorized to assess interest on any tax that is not paid on or before the last date prescribed for payment. The courts have interpreted this to mean that interest on an underpayment can only be charged when the tax is both due and unpaid, reasoning that interest is charged only for the loss of the use of money. See IRM 20.2.5.7, Revenue Ruling 99-40, Use of Money.
- (2) There are certain periods of time when the Government retains the taxpayer's money without paying for its use. For example:
 - a. IRC 6611(e)(1) prohibits the payment of interest on overpayments of tax to the taxpayer if an overpayment is refunded within 45 days of the receipt of an original return or a carryback claim (180 days on any overpayment resulting from tax deducted and withheld under Chapters 3 or 4 of the Internal Revenue Code). See IRM 20.2.4.7.5, 45-Day Rule, and IRM 20.2.4.7.6, 180-Day Rule.
 - b. In regard to delinquent returns, IRC 6611(b)(3) provides that no overpayment interest shall be allowed or paid for any day before the date on which the return is filed. See IRM 20.2.4.4, Delinquent Returns.
 - c. Treas. Reg. 301.6402-3(a)(5) provides that the allowance of interest is prohibited when an overpayment reported on a return or amended return is applied as a credit elect to estimated tax for the succeeding year.
- (3) Examiners should ensure proper calculation of interest when an original return had an overpayment and the taxpayer chose to elect to apply all or part of the overpayment shown on its return to its estimated tax for the succeeding tax year instead of taking a refund. Rev. Rul. 99-40, 1999-2 C.B. 441 held if an overpayment claimed on a return is credited to the succeeding year's estimated tax, interest will be assessed on that portion of a subsequently determined deficiency for the overpayment return year that is less than or equal to the overpayments as of the date on which overpayment is applied to the succeeding year's estimated taxes. Any remaining portion of the deficiency will be assessed from the original due date of the tax for the overpayment return year. Potential Rev. Rul. 99-40 cases are those with a TC 830 -Overpayment Credit Elect (Transferred) to Next Periods Tax or TC 836 - Overpayment Credit Elect Transferred to Next Periods Tax on the module. When an overpayment is applied as a credit elect, TC 830 or TC 836 identifies the amount debited on the overpayment year module and TC 710 - Overpayment Credit Applied from Prior Tax Period or TC 716 - Generated Overpayment Credit Applied from Prior Tax Period identifies the amount credited to the succeeding year module. CCP generally will not apply the provisions of Rev. Rul. 99-40 unless advised.
- (4) When Rev. Rul. 99-40 is applicable, examiners check the box "Rev. Rul. 99-40 applicable due to credit elect" under the "Special / Restricted Interest Features" on page two of Form 3198 to ensure proper calculation of interest. Examiners

must include Form 2220, Underpayment of Estimated Tax by Corporations, or Form 2210, Underpayment of Estimated Tax by Individuals, Estates and Trusts, (subsequent year) in the case file which provides a schedule of the required estimated tax payments for the succeeding tax year and the related transcripts.

- (5) When Rev. Rul. 99-40 is not applicable, examiners check the box on Form 3198 "Rev. Rul. 99-40 NOT applicable due to credit elect". If Rev. Rul. 99-40 has been considered, even if it is determined it does not apply, TC 971 with action code 653 is required to be input on IDRS by CCP. For additional information, see IRM 20.2.5.7.2, Revenue Ruling 99-40 and Credit Elects (May/Sequa), and the *Revenue Ruling 99-40 Job Aid*.

4.10.8.16
(03-25-2021)
**Whistleblower Claims
for Award**

- (1) IRM 25.2.2, Whistleblower Awards, and IRM 25.2.1, General Operating Division Guidance for Working Whistleblower Claims, provide guidance regarding receiving, evaluating, and processing whistleblower claims for awards. These IRMs should be consulted for correct processing of whistleblower claims.

4.10.8.17
(08-11-2006)
Deceased Taxpayers

- (1) This section provides procedures for deceased taxpayers. Deceased taxpayer procedures should be followed when a taxpayer has died, whether the death occurred before or after the filing of the return.
- (2) References for deceased taxpayers:
- IRM 4.4.3.7, Refunds to Other Taxpayers,
 - IRM 4.10.9.8, Special Situations Requiring Documentary Evidence,
 - Pub 3920, Tax Relief for Victims of Terrorist Attacks.
- (3) If a fiduciary relationship exists, the case file must generally include letters testamentary and Form 56, Notice Concerning Fiduciary Relationship, which are to be attached to the return. See IRM 25.6.22.6.1.4(4), Decedents, for additional guidance.

4.10.8.17.1
(08-11-2006)
Names and Addresses

- (1) In the case of a decedent, if a fiduciary relationship exists, reports and correspondence should include the name of the current administrator or other proper representative. The correspondence and reports will also be mailed to the fiduciary's address. Once legal evidence of death is obtained, correspondence and examination reports should be addressed as indicated below.
- (2) For Joint Returns:

If	Then address as:
One spouse has died and a fiduciary relationship can be determined	Estate of Simon Fir (Deceased) H. Bank, Executor, and Mary Fir, Surviving Spouse
One spouse has died and a fiduciary relationship cannot be determined	Estate of Simon Fir (Deceased) Mary Fir, Surviving Spouse

- (3) For Single/Separate Returns:

If	Then address as:
A fiduciary relationship can be determined	Estate of John Doe (Deceased) H. Bank, Executor
A fiduciary relationship cannot be determined	John Doe (Deceased)

4.10.8.17.2
(08-11-2006)
Signatures

- (1) Joint Return Agreements - Must be signed by the surviving spouse and executor or administrator of the deceased taxpayer's estate. If no executor has been appointed, the surviving spouse signs for self and for the decedent (e.g., "John Doe, Deceased, by Mary Doe, Surviving Spouse.") If both taxpayers are deceased, the executor for each estate must sign the agreement.
- (2) If the surviving spouse does not receive all of the decedent's assets or sufficient assets to cover the tax liability, he/she cannot sign as the surviving spouse and correspondence should be sent to the decedent's last known address and to the surviving spouse at his/her current address.
- (3) If the surviving spouse received all of the decedent's assets and the estate is closed, Form 2045, Transferee Agreement, and Form 870 with special language, will need to be solicited. See IRM 4.11.52, Transferee Liability Cases.

4.10.8.17.3
(08-11-2006)
Consents

- (1) Refer to IRM 25.6.22.6.1.4, Decedents, when preparing a consent for a decedent.
- (2) If a decedent dies intestate and no executor or administrator is appointed, generally no one may sign a consent for the decedent or the estate extending the period of assessment for income tax. See IRM 25.6.22.6.1.4(4), Decedents, for limited circumstances where the Service may accept a consent signed by the decedent's surviving spouse. Similarly, a consent cannot be executed after the executor or administrator has been discharged. See Rev. Rul. 83-41, 1983-1 C.B. 349, clarified and amplified by Rev. Rul. 84-165, 1984-2 C.B. 305.

Note: An heir liable under IRC 6901 as a transferee may sign a consent for his or her own liability.
- (3) A surviving spouse generally has no authority to sign a consent on behalf of the deceased spouse. See IRM 25.6.22.6.1.4(4), Decedents, for limited circumstances where the Service may accept a consent signed by the decedent's surviving spouse. Estates are generally considered successors in interest to the decedent under state law and as the decedent's successor in interest, the executor or administrator of the estate is the proper party to execute a consent.
- (4) If necessary, a statutory notice of deficiency should be issued.

4.10.8.17.4
(08-11-2006)
Refunds

- (1) When a refund is to be issued to someone other than the taxpayer in whose name the tax was paid, documentary evidence must be provided to permit refunds to be made. This includes (but is not limited to) deceased taxpayers, trustees, estates, guardians, minors, dissolved corporations, reorganizations, and bankruptcy cases. See IRM 4.4.3.7, Refunds to Other Taxpayers, and its subsequent sections for guidance in determining what evidence is necessary.
- (2) In addition, Form 1310, Statement of Person Claiming Refund Due to a Deceased Taxpayer, should be secured if an overassessment is recommended on a joint return and one of the taxpayers has died since the return was filed.

4.10.8.17.5
(08-11-2006)
**Relief for Victims of
Terrorist Attacks and
with Respect to
Astronauts**

- (1) IRC 692(d) provides relief for federal income tax liabilities of decedents who died as a result of certain terrorist attacks. IRC 692(d) applies to victims of:
 - Oklahoma City Attack - For 1994 and later up to and including the year of death.
 - September 11th Attack - For 2000 and later.
 - Anthrax Attacks - For 2000 and later.
 - Any astronaut whose death occurs in the line of duty after 12/31/02.

See IRM 21.7.4.4.1.13, Victims of Terrorism Tax Relief Act of 2001 - Tax Forgiveness, for additional information.

4.10.8.17.5.1
(08-11-2006)
**Minimum Amount of
Relief for Victims**

- (1) The minimum amount of relief is \$10,000 per IRC 692(d)(2). The 2003 Act did not modify the minimum benefit.
- (2) If the total tax forgiven for all eligible years is less than the minimum the difference is treated as a tax paid for the decedent's last tax year and will be refunded the same as if the amount had actually been paid.
- (3) IRC 692(d)(3) stipulates what income is not subject to the terrorist relief provisions. For example, deferred compensation that would have been payable if the death had occurred because of an event other than the attacks.
- (4) For more information see Rev. Proc. 2004-26, 2004-19 I.R.B. 890.

4.10.8.17.5.2
(08-11-2006)
Necessary Documents

- (1) Proof of Death - Death certificate or Form 1300, Report of Casualty, issued by the Department of Defense.
- (2) Form 1310 unless either of the following applies:
 - a. Surviving spouse is filing an original or amended return with the decedent, or
 - b. The personal representative filing an original Form 1040 or Form 1040NR for the decedent and a court certificate showing the appointment is attached to the return.

4.10.8.17.6
(08-11-2006)
**Form 3198 for Deceased
Taxpayers**

- (1) Note on Form 3198 that the case involves a decedent and any name or address change.

Exhibit 4.10.8-1 (04-10-2023)**Preparation of Form 4549 / Form 4549-A**

Instructions for preparing Form 4549 and Form 4549-A are outlined below. Sections of the form not discussed are self-explanatory.

Name and Address — enter the correct name and address of the taxpayer. When the case involves a deceased taxpayer, please ensure you have properly entered the name (see IRM 4.10.8.17.1).

Taxpayer Identification Number — use Social Security Number (SSN) even if the individual also has an Employer Identification Number (EIN). On joint returns, check Master File to determine which SSN was used as the primary number for the year(s) examined.

Note: A TIN is not legally required for the report to be valid.

Person with Whom Examination Changes Were Discussed — enter the name of the individual with whom changes were discussed. If the individual was a power of attorney or corporate officer, also enter that individual's title.

Tax Period — enter the taxable year for which the column applies. For calendar, fiscal, and 52–53 week year, show the year ending date (mm/dd/yyyy). For a short period, show the beginning and ending date.

Adjustments to Income — list adjustments. The amounts and titles must match the lead sheets / workpapers. Place a bracket around the dollar amount if an adjustment is in the taxpayer's favor. If there are more than sixteen adjustments write, "See page ____" on line 1(a) and use Form 4549–B, Report of Income Tax Examination Changes, for listing the adjustments.

Taxable Income Per Return or as Previously Adjusted — enter the final figure computed by the taxpayer on the last processed return or as computed on a prior processed examiner's report if applicable, and reflected on the transcript.

- a. If a math error is discovered at the time of processing and corrected at the campus, then the corrected figure should be input here. Cross-out or add words as needed to identify the figure which you are using.

If	Then
More than one return is filed prior to the due date	Last return filed constitutes the original return.
An amended return is filed after the due date and reduces the tax liability but has not been processed	The amended return is considered a claim for refund (or abatement request) and the original return figures should be used.
An amended return filed after the due date which increases or decreases the tax liability and the return has been processed and additional tax assessed or a refund issued	The amount shown on the amended return should be used.
Tentative carryback forms (Form 1045 or Form 1139) have been filed and refunds issued	The amount shown on original return, not the tentative carryback form, should be used.

Corrected Tax Liability — identify how the tax was computed (tax table, tax rate schedule, etc.), the taxpayer's filing status (complete for individual returns only) and the amount of tax. If additional tax such as Parent's Election to Report Child's Interest and Dividends, Tax on Accumulation Distribution of Trusts, Tax on Lump-Sum

Exhibit 4.10.8-1 (Cont. 1) (04-10-2023)
Preparation of Form 4549 / Form 4549-A

Distributions, maximum tax, etc., applies, indicate on this line and attach schedule showing the computation of corrected tax figure. Likewise, if the alternative minimum tax (AMT) applies, attach a schedule showing the computation of the AMT.

Less Credits — this line should include only non-refundable credits. Do not include credits such as earned income credits or withholding tax and excess FICA credits.

Other Taxes — include recapture taxes, self-employment tax, personal holding company tax, etc. Attach the appropriate forms detailing the computations. Do not include alternative minimum tax on this line.

Total Tax Shown on Return or as Previously Adjusted — include tax per return plus any additional tax assessed/abated as reflected on a transcript.

Adjustments — any changes to special fuel or prepayment credits should be reflected on this line. The calculation of any changes should be attached to the report.

Adjustments to prepayment credits — do not enter payments already posted to a taxpayer's account; only adjustments to prepayment credits.

Penalties — IRC 6751(a) requires that each penalty notice (e.g., report) include the name of the penalty, the IRC section under which the penalty is imposed, and a computation of the penalty. Standard explanations contained in RGS are required to be used by all SB/SE examiners. See IRM Exhibit 4.10.10-1, Index to Standard Explanations, and IRM Exhibit 4.10.10-2, Standard Explanations, for a listing of standard explanations. If the penalty cannot be currently computed, place an asterisk in the line amount field and describe the process of the calculation in the "Other Information Section" of Form 4549.

Note: IRC 6751(b) requires written approval by the immediate supervisor of the individual making the initial determination of the assessment of most penalties. Refer to IRM 20.1.1, Introduction and Penalty Relief, for additional information on approval of penalties.

Interest — IRC 7522 states that notices (including the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the IRS Office of Appeals and statutory notices of deficiency) shall describe the basis for, and identify the amounts (if any) of, the tax due, interest, additional amounts, additions to the tax, and assessable penalties included in such notice. If an examiner is unable to compute interest, such as in the case of restricted interest, they must provide a comment in the "Other Information" section of the Form 4549. See IRM 4.10.8.14.3.4 for examples of comments for restricted interest cases.

Note: In general, IRC 7522 is satisfied if the notice or report includes the following statement: "Interest, as provided by law, will be charged on the unpaid amount until it is paid in full."

Other Information Section — See IRM 4.10.8.2.2.1 for additional situations when comments in the "Other Information" section are applicable.

Examiner's Signature — an electronic or digital signature is acceptable. For digitally signed forms issued to the taxpayer and/or representative, follow the procedures in IRM 4.10.1.4.4, Digital Signatures. Forms should contain a graphical image of the signer's handwritten signature instead of the signer's SEID.

Exhibit 4.10.8-2 (04-10-2023)
Preparation of Form 870

The Form 870 series is used in excepted agreed cases and unagreed cases requiring a Preliminary (30-day) letter, to indicate the taxpayer is waiving the statutory restriction upon assessment and collection of the deficiency of tax. Signing the waiver stops the running of interest 30 days from the date of receipt if the assessment and notice for payment are not made within the 30-day period. Signing the waiver does not preclude assertion of a further deficiency by the Commissioner or a request for further consideration of the issues by the taxpayer.

Instructions for completing forms in the 870 series:

- a. Date Received — enter the date received.
- b. Name and Address — enter the correct name and address of the taxpayer.
- c. Social Security or Employer Identification Number — use SSN if individual also has an EIN. On joint returns, show the number which corresponds to the first person listed on the return (primary taxpayer).

Note: A TIN is not legally required for the waiver to be valid.

- d. Tax Year Ended (enter each on a separate line): Calendar Year — show ending date, Fiscal Year — show ending date, Short Period — show beginning and ending dates, and 52–53 Week Period — show last day of the period.
- e. Tax — enter the amount of additional tax, as agreed, on separate line by years. When prepayment credits are adjusted, the waiver will show the amount of the deficiency before the proposed change in prepayment credits. This is because changes to prepayment credits can be assessed without deficiency procedures. For clarity, an explanation or Form 4549–A should accompany the Form 870.
- f. Penalties — enter separately by year and by Code section the penalty or penalties as agreed.
- g. “Other” text field - see below for situations requiring inclusion of special language on (or attached to) Form 870.
- h. Signature of Taxpayer — see the instructions on the form.

Special situations

In some cases, restrictions or special language is included on (or attached to) forms in the 870 series. Examples include:

- Transferee liability cases (see IRM 4.11.52.5.3, Forms, and IRM 4.8.9.17.5.5, Transferee and Fiduciary Waivers on Assessment and Collection).
- Personal holding company cases (see IRM 4.10.8.11 and IRM 4.10.13.10.2, Form 870).
- TEFRA cases requiring Munro language (see IRM Exhibit 8.19.6-6, Munro Language for Forms 870 or 870-AD for Agreed Non-Docketed Cases).
- Joint committee cases with a qualified waiver that takes effect when the Joint Committee on Taxation completes its review and releases jurisdiction (see IRM 4.36 Joint Committee Procedures, and IRM 8.7.9.6.5, Agreements (other than Closing Agreements) on JC Cases).

Exhibit 4.10.8-3 (06-10-2005)

Sample Form 4605-A — Change in Accounting Method

Form 4605-A		Department of the Treasury - Internal Revenue Service Examination Changes - Partnerships, Fiduciaries, Small Business Corporations, and Domestic International Sales Corporations		
Name and Address of Taxpayer Pine Partnership		Employer Identification Number (TIN) 00-0000000		Form Number: 1065
		Person Examination Changes Were Discussed With	Name and Title	
1. Adjustments to ordinary, distributable net, or taxable income	Tax Period: 12/31/2000	Tax Period:	Tax Period:	
a. IRC Section 481(a) Adjustment	120,000.00			
b. IRC Section 446 Current Yr Adj.	10,000.00			
c. Miscellaneous expenses	10,000.00			
d.				
e.				
f.				
g.				
2. Total adjustment to ordinary, distributable net, or taxable income	140,000.00			
3. Ordinary, distributable net, or taxable income as reported	130,000.00			
4. Corrected, ordinary, distributable net, or taxable income	270,000.00			
5. Other adjustments				
a. Net earnings (loss) from self-employment				
(1) Adjustment	140,000.00			
(2) As reported	130,000.00			
(3) Corrected	270,000.00			
b. Sec. 481(a) Adjustment for purposes of Sec. 481(b) Tax Comp. ->>				
(1) Adjustment	120,000.00			
(2) As reported	0.00			
(3) Corrected	120,000.00			
Remarks				
Examiner's Signature:		Employee ID:	Office:	Date:
RGS Version: 5.20.00		Form 4605-A-CG		

Exhibit 4.10.8-3 (Cont. 1) (06-10-2005)

Sample Form 4605-A — Change in Accounting Method

Page 2 of 3					
Computer Generated Form 886-S	Department of the Treasury - Internal Revenue Service Partners' Share of Income, Deductions, and Credits			Schedule Number: 1065	
TIN and Name of Partnership: 00-0000000 Pine Partnership				Taxable Year Ended: 12/31/2000	
Name and TIN of Each Partner: (1)	Ordinary income (loss) from trade or business (2)	Net earnings (loss) from self-employment (3)	Sec. 481(a) Adjustment for purposes of Sec. 481(b) Tax Comp. (4)	(5)	
a. Pine, Pegasus Status: General	54,000.00	54,000.00	24,000.00		
b. Pine, Patty Status: General	54,000.00	54,000.00	24,000.00		
c. Pine, Peter Status: General	81,000.00	81,000.00	36,000.00		
d. Pine, Ponderosa Status: General	27,000.00	27,000.00	12,000.00		
e. Pine, Porcupine Status: General	54,000.00	54,000.00	24,000.00		
Totals	270,000.00	270,000.00	120,000.00		
Continuation					
Partner TIN (6)	(7)	(8)	(9)	(10)	(11)
Totals					
RGS Version 5.20.00		Date Tax Computation Last Generated		Form 886-S-CG	

Exhibit 4.10.8-3 (Cont. 2) (06-10-2005)**Sample Form 4605-A — Change in Accounting Method**

		Page 3 of 3
Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	
Name of taxpayer	Tax Identification Number	Schedule number or exhibit
Pine Partnership	00-0000000	12/31/2000

Form 4605-A-CG

Line 5b. Sec. 481(a) Adjustment for purposes of Section 481(b) Tax Computation.

In the case of a change in method of accounting by a partnership, the adjustments required by IRC Section 481 shall be made with respect to the taxable income of the partnership but the limitations on tax shall apply to the individual partners. Each partner shall take into account his distributive share of the partnership items, as so adjusted, for the taxable year of the change. This applies to a partner whose taxable income is so increased by more than \$3,000 as a result of such adjustments to the partnership taxable income. It is not necessary for the partner to have been a member of the partnership for the two taxable years immediately preceding the taxable year of the change of the partnership's accounting method in order to have the limitation apply [Reg. 1.481-2(c)(5)(i)].

Note to Examiner Regarding RGS Input:

The IRC Section 481(a) Adjustment must be added twice as an issue:

1. Ordinary income adjustment subject to self-employment tax.
2. Separately stated item:
 - a) In F1065 RGS return setup under "Other" tab add "Sec. 481(a) Adjustment for purposes of Sec. 481(b) Tax Comp.
 - b) Under Issue, Adjustments, Categorization: select "Sch. K-Other Items", "Amounts to be reported separately", then "Sec. 481(a) Adjustment for purposes of Sec. 481(b) Tax Comp.

Exhibit 4.10.8-4 (06-10-2005)

Sample Form 4549-A — Personal Holding Company - Page 1

Form 4549A		Department of the Treasury - Internal Revenue Service		Page 1 of 1	
Income Tax Examination Changes		SS or EI Number		Return Form No:	
Name and Address of Taxpayer		00-9876543		1120	
Pine Rental Company		Person with whom examination changes were discussed:		Name and Title:	
1. Adjustments to Income		Period End 12/31/2002	Period End	Period End	
a.					
b.					
c.					
d.					
e.					
f.					
g.					
h.					
i.					
j.					
k.					
l.					
m.					
n.					
o.					
p.					
2. Total Adjustments		0.00			
3. Taxable Income Per Return or as Previously Adjusted		53,395.00			
4. Corrected Taxable Income		53,395.00			
Tax Method					
Filing Status					
5. Tax		8,349.00			
6. Additional Taxes / Alternative Minimum Tax		0.00			
7. Corrected Tax Liability		8,349.00			
8. Less		0.00			
a. Total credits					
Credits					
b.					
c.					
d.					
9. Balance (Line 7 less total of lines 8a through 8d)		8,349.00			
10. Plus		17,388.00			
a. See attached schedule					
Other					
Taxes					
b.					
c.					
d.					
11. Total Corrected Tax Liability (line 9 plus line 10a - 10d)		25,737.00			
12. Total Tax Shown on Return or as Previously Adjusted		8,349.00			
13. Adjustments to: a. Special Fuels Credit					
b. PHC Deficiency Dividends deduction		(17,388.00)			
c.					
14. Deficiency-Increase in Tax or (Overassessment Decrease in Tax) (Line 11 less 12 adjusted by 13)		0.00			
15. Adjustments to Prepayment Credits		0.00			
16. Balance Due or (Overpayment) (Line 14 adjusted by Line 15) (Excluding interest and penalties)		0.00			

The Internal Revenue Service has agreements with State tax agencies under which information about Federal tax, including increases or decreases, is exchanged with the States. If this change affects the amount of your State income tax, you should file the State form.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income and do not pay the required tax. The IRS may order backup withholding at 31 percent after four notices have been issued to you over a 120-day period and the tax has been assessed and remains unpaid.

RGS Version Form CG-4549A

Exhibit 4.10.8-4 (Cont. 1) (06-10-2005)

Sample Form 4549-A — Personal Holding Company - Page 1

Department of the Treasury - Internal Revenue Service		Page of	
Form 4549A		Income Tax Examination Changes	
Name and Address of Taxpayer		SS or EI Number	Return Form No:
Pine Rental Company		00-9876543	1120
17. Penalties		Period End 12/31/2002	Period End
a.			
b.			
c.			
d.			
e.			
f.			
g.			
h.			
i.			
j.			
k.			
l.			
m.			
n.			
18. Total Penalties		0.00	
Underpayment attributable to negligence: (1981-1987) A tax addition of 50 percent of the interest due on underpayment will accrue until paid or assessed			
Underpayment attributable to fraud: (1981-1987) A tax addition of 50 percent of the interest due on underpayment will accrue until paid or assessed			
Underpayment attributable Tax Motivated Transactions TMT interest will accrue and be assessed at 120% of underpayment rate in accordance with IRC 6621(c)			
19. Summary of Taxes, Penalties and Interest:			
a. Balance due or Overpayment Taxes - Line 16, Page 1		0.00	
b. Penalties (Line 18, Page2)-computed to		0.00	
c. Interest (IRC§ 6601)-computed to			
d. TMT Interest - computed on TMT underpayment			
e. Amount due or refund (sum of lines a, b, c and d)		0.00	
Other Information:			
The dividends declared and paid with the claim filed on Form 976 have been allowed in full.			
Examiner's Signature:		Employee ID:	Date:
RGS Version		Form CG-4549A	

Exhibit 4.10.8-5 (06-10-2005)

Sample Form 3189 — Deficiency Dividend Deduction Case Transmittal

Deficiency Dividend Deduction Case Transmittal		DATE
<i>(Prepare in duplicate)</i>		
TO: <i>(Service Center)</i>	FROM: <i>(District)</i>	
NAME AND ADDRESS OF PERSONAL HOLDING COMPANY Pine Rental Company 111 ABC Plaza Anytown, SomeState NNNNN-NNNN	E.I. OR S.S. NUMBER 00-9876543	TAXABLE YEAR ENDED 12/31/2002
Transmitted herewith for assessment action with respect to the net amount disclosed in the computation shown below is the administrative file of the above-named personal holding company. The file contains a timely filed Form 976 claiming a deficiency dividend, which was paid during taxable year ended <u>December 31, 2004</u>		
COMPUTATION		
DEFICIENCY BEFORE DEDUCTION \$17,388.00	AMOUNT ATTRIBUTABLE TO ALLOWANCE OF DEDUCTION \$17,388.00	NET AMOUNT TO BE ASSESSED \$.00
REMARKS Interest should be computed from 03/15/2003 to 07/31/2004 on \$17,388. Note: 03/15/2003 is the due date of the return. Note: 07/31/2004 is the date Form 976 was received by Technical Services		
SIGNATURE		DATE

Form **3189** (Rev. 7-1981)

Cat. No. 19352N

Department of the Treasury - Internal Revenue Service

Exhibit 4.10.8-6 (06-10-2005)

Sample Form 4549-A - Full Allowance of Tentative NOLD

Form 4549-A		Department of the Treasury - Internal Revenue Service		Return Form No.	
Income Tax Examination Changes				1120	
Name and Address of Taxpayer		SS or EI Number		Filing Status	
Pine Corporation		00-0000000			
		Person With Whom Examination Changes Were Discussed		Name and Title	
1. Adjustments to Income		Year: 12/31/1998	Year: 12/31/2000	Year:	
a. Net operating loss deduction (NOLD) from 2000		(30,000.00)			
b.					
c.					
d.					
e.					
f.					
g.					
2. Total Adjustments		(30,000.00)	0.00		
3. Adjusted Gross or Taxable Income Shown on Return or as Previously Adjusted		888,888.00	(30,000.00)		
4. Corrected Adjusted Gross or Taxable Income		858,888.00	(30,000.00)		
5. Tax		292,022.00	0.00		
6. Alternative Tax, If Applicable		0.00	0.00		
7. Corrected Tax Liability (Lesser of Line 5 or 6)		292,022.00	0.00		
8. Less a.					
Credits b. Total Credits (See attached schedule)		0.00	0.00		
Specify) c.					
9. Balance (Line 7 less total of lines 8a through 8c)		292,022.00	0.00		
10. a.					
b. Other Taxes (See attached schedule)		0.00	0.00		
Plus c.					
11. Total Corrected Income Tax Liability (Line 9 plus total of lines 10a through 10c)		292,022.00	0.00		
12. Total Tax Shown on Return or as Previously Adjusted		292,022.00	0.00		
13. Adjustments to:					
a.					
b.					
14. Deficiency-Increase in Tax or (Overassessment- Decrease in Tax) (Line 11 adjusted by Line 12)		0.00	0.00		
15. Adjustments to Prepayment Credits		0.00	0.00		
16. Balance Due or (Overpayment) (Line 13 adjusted by Line 14) Not Including Interest		0.00	0.00		
17. Penalties, If Any (See explanation)					
Other Information:					
SEE ATTACHMENT FOR NOTICES AND OTHER INFORMATION					
Line 12: Total Tax Shown on Return or as Previously Adjusted					
Tax per original return \$302,222					
Less refund per Form 1139 filed 5/30/01 10,200					
1998 Tax - Form 4549 - Line 12 292,022					
Examiner:		Employee ID:	Office:	Date:	

RGS Version 5.20.00 Form CG-4549-A

Exhibit 4.10.8-7 (06-10-2005)

Sample Form 4549-A - Partial Allowance of Tentative NOLD

Form 4549-A		Department of the Treasury - Internal Revenue Service		Return Form No.	
Income Tax Examination Changes				1120	
Name and Address of Taxpayer		SS or EI Number		Filing Status	
Pine Corporation		00-0000000			
		Person With Whom Examination Changes Were Discussed		Name and Title	
1. Adjustments to Income		Year: 12/31/1998	Year: 12/31/2000	Year:	
a. Net operating loss deduction (NOLD) from 2000		(13,000.00)			
b. Income			17,000.00		
c.					
d.					
e.					
f.					
g.					
2. Total Adjustments		(13,000.00)	17,000.00		
3. Adjusted Gross or Taxable Income Shown on Return or as Previously Adjusted		888,888.00	(30,000.00)		
4. Corrected Adjusted Gross or Taxable Income		875,888.00	(13,000.00)		
5. Tax		297,802.00			
6. Alternative Tax, If Applicable		0.00	0.00		
7. Corrected Tax Liability (Lesser of Line 5 or 6)		297,802.00	0.00		
8. Less a.					
Credits b. Total Credits (See attached schedule)		0.00	0.00		
Specify) c.					
9. Balance (Line 7 less total of lines 8a through 8c)		297,802.00	0.00		
10. a.					
b. Other Taxes (See attached schedule)		0.00	0.00		
Plus c.					
11. Total Corrected Income Tax Liability (Line 9 plus total of lines 10a through 10c)		297,802.00	0.00		
12. Total Tax Shown on Return or as Previously Adjusted		292,022.00	0.00		
13. Adjustments to:					
a.					
b.					
14. Deficiency-Increase in Tax or (Overassessment- Decrease in Tax) (Line 11 adjusted by Line 12)		5,780.00	0.00		
15. Adjustments to Prepayment Credits		0.00	0.00		
16. Balance Due or (Overpayment) (Line 13 adjusted by Line 14) Not Including Interest		5,780.00	0.00		
17. Penalties, If Any (See explanation)					
Other Information:					
SEE ATTACHMENT FOR NOTICES AND OTHER INFORMATION					
Line 12: Total Tax Shown on Return or as Previously Adjusted					
Tax per original return \$302,222					
Less refund per Form 1139 filed 5/30/01 10,200					
1998 Tax - Form 4549 - Line 12 292,022					
Examiner:		Employee ID:	Office:	Date:	

RGS Version: 5.20.00 Form CG-4549-A

Exhibit 4.10.8-8 (06-10-2005)

Sample Form 4549-A - Full Disallowance of Tentative NOLD

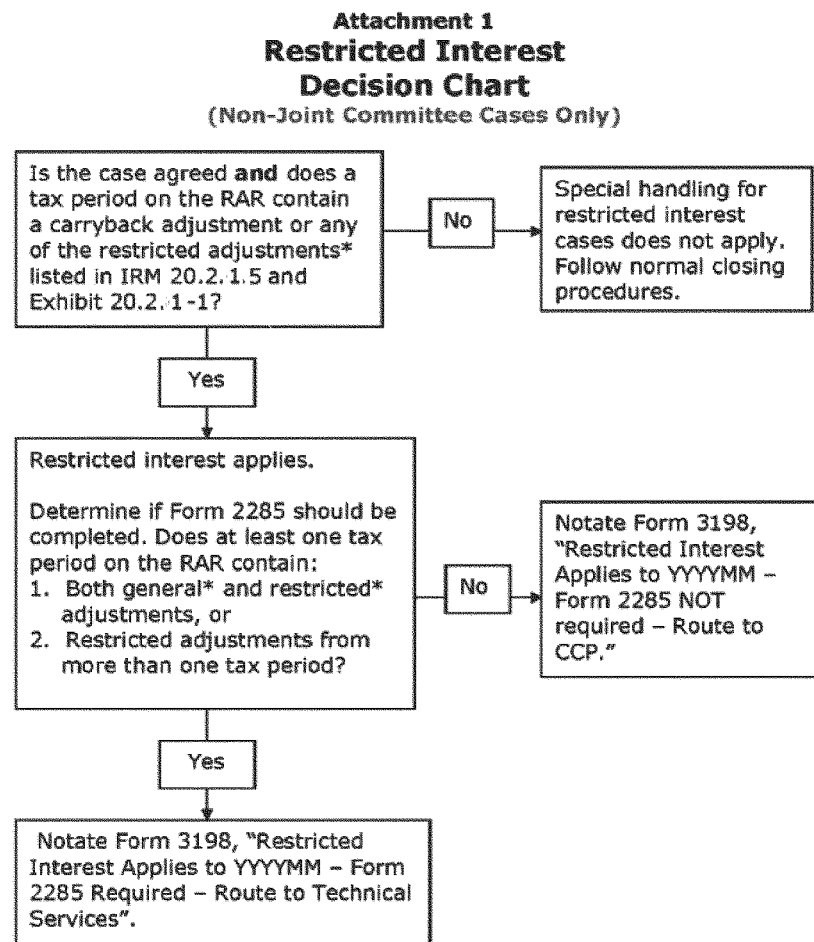
Form 4549-A	Department of the Treasury - Internal Revenue Service		Return Form No.
Income Tax Examination Changes		1120	
Name and Address of Taxpayer		SS or EI Number	Filing Status
Pine Corporation		00-0000000	
		Person With Whom Examination Changes Were Discussed	Name and Title
1. Adjustments to Income	Year: 12/31/1998	Year: 12/31/2000	Year:
a. Net operating loss deduction (NOLD) from 2000	0.00		
b. Income		50,000.00	
c.			
d.			
e.			
f.			
g.			
2. Total Adjustments	0.00	50,000.00	
3. Adjusted Gross or Taxable Income Shown on Return or as Previously Adjusted	888,888.00	(30,000.00)	
4. Corrected Adjusted Gross or Taxable Income	888,888.00	20,000.00	
5. Tax	302,222.00	3,000.00	
6. Alternative Tax, If Applicable	0.00	0.00	
7. Corrected Tax Liability (Lesser of Line 5 or 6)	302,222.00	3,000.00	
8. Less			
a.			
Credits b. Total Credits (See attached schedule)	0.00	0.00	
Specify) c.			
9. Balance (Line 7 less total of lines 8a through 8c)	302,222.00	3,000.00	
10.			
a.			
b. Other Taxes (See attached schedule)	0.00	0.00	
Plus c.			
11. Total Corrected Income Tax Liability (Line 9 plus total of lines 10a through 10c)	302,222.00	3,000.00	
12. Total Tax Shown on Return or as Previously Adjusted	292,022.00	0.00	
13. Adjustments to:			
a.			
b.			
14. Deficiency-Increase in Tax or (Overassessment- Decrease in Tax) (Line 11 adjusted by Line 12)	10,200.00	3,000.00	
15. Adjustments to Prepayment Credits	0.00	0.00	
16. Balance Due or (Overpayment) (Line 13 adjusted by Line 14) Not Including Interest	10,200.00	3,000.00	
17. Penalties, If Any (See explanation)			
Other Information:			
SEE ATTACHMENT FOR NOTICES AND OTHER INFORMATION			
Line 12: Total Tax Shown on Return or as Previously Adjusted			
Tax per original return \$302,222			
Less refund per Form 1139 filed 5/30/01 10,200			
1998 Tax - Form 4549 - Line 12 292,022			
Examiner:	Employee ID:	Office:	Date:

RGS Version 5.20.00

Form CG-4549-A

Exhibit 4.10.8-9 (08-11-2006)

Restricted Interest Decision Chart (Non-Joint Committee Cases Only)



* **General Adjustments** – Current year adjustments for which interest is computed from the due date/filing date of the return to the date the account is paid in full or refunded (includes transfers to other periods or liabilities), i.e. disallowance of an expense, unreported income, etc. Adjustments made to losses/credits carried **forward** from prior years claimed on the return as filed, or allowed in an examination, are also general adjustments.

* **Restricted Adjustments** – Carryback adjustments and adjustments listed in **IRM** Exhibit 20.2.1-1.

