



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.10.11

SEPTEMBER 29, 2022

EFFECTIVE DATE

(09-29-2022)

PURPOSE

- (1) This transmits a revision of IRM 4.10.11, Examination of Returns – Claims for Refund, Requests for Abatement, and Audit Reconsiderations.

MATERIAL CHANGES

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

IRM Reference	Description of Change
N/A	The title of this IRM has been changed to include, “and Audit Reconsiderations.”
IRM 4.10.11.1 and throughout	Added “audit reconsiderations” in the Purpose paragraph in Program Scope and Objectives, as well as other subsections throughout this IRM when referencing the title.
IRM 4.10.11.1.2	Added content in the Authority subsection.
IRM 4.10.11.1.5	Added 30-day letter, Appeals, audit report, and closing letter to the list in Terms.
IRM 4.10.11.1.6	Added BMF, CRU, IDR, IMF, SFR, and TAS to the list in Acronyms.
IRM 4.10.11.1.7	Added IRM cites and websites to the list in Related Resources.
IRM 4.10.11.2.2.2	Clarified guidance regarding closing letters for paperless electronic closures.
IRM 4.10.11.2.2.3	Clarified guidance regarding IRC 6676 penalty and other editorial changes.
IRM 4.10.11.2.4	Added guidance related to the IRS fax policy, guidance that required filing checks are applicable to claim for refund cases, clarified guidance on income probes, and made other editorial updates.
IRM 4.10.11.2.5	Added an exception for surveying claims with certain computational errors. Clarified guidance regarding closing letters for paperless electronic closures.
IRM 4.10.11.2.6	Clarified guidance and added LB&I reference when making initial contact.
IRM 4.10.11.2.7	Updated title and added guidance regarding withdrawn claim issues.

IRM Reference	Description of Change
IRM 4.10.11.2.8	Clarified guidance regarding closing letters for paperless electronic closures.
IRM 4.10.11.2.14	Added guidance to include narrative in workpapers for adjustments barred by statute.
IRM 4.10.11.2.15	Added guidance for splitting multi-year cases, and including claim hours in time applied to case. Added a note regarding closing letters for paperless electronic closures, and made other editorial updates.
IRM 4.10.11.2.16	Added new paragraph stating the IRC 6532 two-year period for filing refund suit is not extended during a reconsideration or appeal.
IRM 4.10.11.2.16.1	Clarified guidance for claim disallowance reconsideration cases.
IRM 4.10.11.2.16.1.1	Added new subsection with guidance on IRC 6532 two-year limit for filing refund suit, and use of Form 907 to extend that period.
IRM 4.10.11.2.16.2	Clarified guidance for cases involving refund suits.
IRM 4.10.11.3.3	Added guidance that required filing checks are applicable to request for abatement cases, clarified guidance on income probes, and made other editorial updates.
IRM 4.10.11.3.5	Clarified guidance and added LB&I IRM reference when contacting taxpayers.
IRM 4.10.11.3.6	Added guidance regarding withdrawn requests for abatement.
IRM 4.10.11.3.13	Added guidance to include narrative in workpapers for adjustments barred by statute.
IRM 4.10.11.3.14	Added guidance for splitting multi-year cases, and including claim hours in time applied to case. Clarified guidance regarding closing letters for paperless electronic closures, and made other editorial updates.
IRM 4.10.11.4 (and following subsections)	Incorporated and updated guidance previously included in IRM 4.13.4, Audit Reconsideration, Area Office (AO) Examination, as shown in the crosswalk table in (2) below.
IRM 4.10.11.5.2	Renumbered and added guidance for inviting a claim for refund.
IRM 4.10.11.5.2.3	Renumbered and added a note regarding the 2-year period for filing a claim for refund.

IRM Reference	Description of Change
IRM 4.10.11.6.2	Renumbered, updated resources for Joint Committee cases, and removed obsolete guidance.
IRM 4.10.11.6.6	Renumbered and clarified when audit reconsiderations apply to a request for abatement of penalty and/or interest.
IRM 4.10.11.6.6.1	Renumbered and added guidance for interest abatement requests received during the examination.
IRM 4.10.11.6.6.2	Renumbered and added guidance for abating penalties subject to supervisory approval.
Exhibit 4.10.11-1	Added a note regarding closing letters for paperless electronic closures and deleted mailed by CCP with regard to several closing letters.
Exhibit 4.10.11-6	Added guidance clarifying the claim amount on AIMS, and closing claims put on AIMS in error.
Editorial-type changes	Minor editorial changes have been made throughout this IRM. Website addresses, legal references, and IRM references were reviewed and updated as necessary.

- (2) The table below is a crosswalk showing the content previously included in IRM 4.13.4, Audit Reconsideration, Area Office (AO) Examination, and the new location. IRM 4.13.4, will become obsolete upon publishing of this IRM.

IRM 4.13.4 Content	New Location
IRM 4.13.4.1, Routing the Reconsiderations to the Planning and Special Programs Support (PSP)	See IRM 4.1.1.6.3, Audit Reconsideration, for current procedures applicable to PSP.
IRM 4.13.4.2, Screening the Case in PSP	See IRM 4.1.1.6.3, Audit Reconsideration, for current procedures applicable to PSP.
IRM 4.13.4.3, Area Office (AO) Examination Group Procedures	See IRM 4.10.11.4 for case assignment. See IRM 4.10.11.4.1 through IRM 4.10.11.4.5, for an overview and examiner responsibilities from pre-contact through initial contact on an audit reconsideration case.
IRM 4.13.4.4, Examining the Issues	See IRM 4.10.11.4.7 through IRM 4.10.11.2.13, for guidance on examining the issues in an audit reconsideration case.
IRM 4.13.4.5, Full Allowance (Abatement) Case	See IRM 4.10.11.4.7 and IRM 4.10.11.4.8 for closing full allowance cases.
IRM 4.13.4.6, Partial Disallowance - Report Writing	See IRM 4.10.11.4.2.1 for report writing and RGS / CEAS procedures.

IRM 4.13.4 Content	New Location
IRM 4.13.4.7, Taxpayer Rights - Partial Disallowance, Full Disallowance (No Abatement Cases)	See IRM 4.10.11.4.9 through IRM 4.10.11.4.13, for taxpayer rights in disallowance cases.
IRM 4.13.4.8, Appeal Request Received - Partial Disallowance Case	See IRM 4.10.11.4.9 and IRM 4.10.11.4.13, for appeals requests on partially disallowed cases.
IRM 4.13.4.9, Appeal Request Received - Full Disallowance (No Abatement)	See IRM 4.10.11.4.11 through IRM 4.10.11.4.13, for appeals requests on fully disallowed cases.
IRM 4.13.4.10, Area Office Taxpayer Walk-In	N/A - This information is obsolete.
IRM 4.13.4.11, Receipt of Correspondence in the Area Office	See IRM 4.10.11.4 (8) for procedures when the group receives a reconsideration request directly from a taxpayer.

EFFECT ON OTHER DOCUMENTS

IRM 4.10.11, dated September 4, 2020, is superseded. This IRM incorporates applicable content from IRM 4.13.4, Area Office (AO) Examination, which is being obsoleted. This IRM does not incorporate guidance from LBI-04-0122-0001, Interim Guidance on Claims for Refund that Include a Claim for Credit for Increasing Research Activities, but that guidance remains effective for all claims for refund that include a claim for research credit filed on or after January 10, 2022.

AUDIENCE

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

Lori L. Caskey
 Director, Examination Field and Campus Policy
 Small Business/Self-Employed Division
 SE:S:DCE:E:HQ:EFCP

4.10.11

Claims for Refund and Requests for Abatement

Table of Contents

4.10.11.1 Program Scope and Objectives

4.10.11.1.1 Background

4.10.11.1.2 Authority

4.10.11.1.3 Responsibilities

4.10.11.1.4 Program Reports

4.10.11.1.5 Terms

4.10.11.1.6 Acronyms

4.10.11.1.7 Related Resources

4.10.11.2 Claims for Refund

4.10.11.2.1 Claims for Refund - General Requirements

4.10.11.2.1.1 Claims for Refund - Required Form and Content

4.10.11.2.1.2 Claims for Refund - Refund Requested

4.10.11.2.1.3 Claims for Refund - Timeliness

4.10.11.2.2 Claims for Refund - Specific Items

4.10.11.2.2.1 Claims for Refund - Forms

4.10.11.2.2.2 Claims for Refund - Letters

4.10.11.2.2.3 Claims for Refund - IRC 6676 Penalty

4.10.11.2.3 Claims for Refund - Overview of Examiner's Responsibilities

4.10.11.2.4 Claims for Refund - Pre-Contact Analysis and Planning

4.10.11.2.5 Claims for Refund - Survey After Assignment

4.10.11.2.6 Claims for Refund - Initial Contact

4.10.11.2.7 Claims for Refund - Withdrawn Claim Issues

4.10.11.2.8 Claims for Refund - Allowed in Full

4.10.11.2.9 Claims for Refund - Allowed in Full Plus Additional Refund

4.10.11.2.10 Claims for Refund - Allowed in Full With Offsetting Adjustments

4.10.11.2.11 Claims for Refund - Partially Disallowed

4.10.11.2.12 Claims for Refund - Partially Disallowed With Offsetting Adjustments

4.10.11.2.13 Claims for Refund - Disallowed in Full - No Additional Tax Liability

4.10.11.2.14 Claims for Refund - Disallowed in Full - Additional Tax Liability

4.10.11.2.15 Claims for Refund - Closing Instructions

4.10.11.2.16 Claims for Refund - Post Examination Appeal Rights

4.10.11.2.16.1 Reconsideration of Previously Disallowed Claims for Refund

4.10.11.2.16.1.1 IRC 6532 Two-Year Period to File Refund Suit - Consideration and Examiner's Responsibilities

4.10.11.2.16.2 Refund Suits - Disallowed Claims for Refund

4.10.11.3 Requests for Abatement

- 4.10.11.3.1 Requests for Abatement - General Requirements
- 4.10.11.3.2 Requests for Abatement - Overview of Examiner's Responsibilities
- 4.10.11.3.3 Requests for Abatement - Pre-Contact Analysis and Planning
- 4.10.11.3.4 Requests for Abatement - Survey After Assignment
- 4.10.11.3.5 Requests for Abatement - Initial Contact
- 4.10.11.3.6 Requests for Abatement - Withdrawn Requests
- 4.10.11.3.7 Requests for Abatement - Allowed in Full
- 4.10.11.3.8 Requests for Abatement - Allowed in Full Plus Refund
- 4.10.11.3.9 Requests for Abatement - Allowed in Full With Offsetting Adjustments
- 4.10.11.3.10 Requests for Abatement - Partially Disallowed
- 4.10.11.3.11 Requests for Abatement - Partially Disallowed With Offsetting Adjustments
- 4.10.11.3.12 Requests for Abatement - Disallowed in Full - No Additional Tax Liability
- 4.10.11.3.13 Requests for Abatement - Disallowed in Full - Additional Tax Liability
- 4.10.11.3.14 Requests for Abatement - Closing Instructions
- 4.10.11.3.15 Requests for Abatement - Post Examination Reconsideration

4.10.11.4 Audit Reconsiderations

- 4.10.11.4.1 Audit Reconsiderations - General Requirements
- 4.10.11.4.2 Audit Reconsiderations - Overview of Examiner's Responsibilities
 - 4.10.11.4.2.1 Audit Reconsiderations - Report Writing and RGS / CEAS Procedures
- 4.10.11.4.3 Audit Reconsiderations - Pre-Contact Analysis and Planning
- 4.10.11.4.4 Audit Reconsiderations - Allowed in Full Prior to Taxpayer Contact
- 4.10.11.4.5 Audit Reconsiderations - Initial Contact and No Response Procedures
- 4.10.11.4.6 Audit Reconsiderations - Withdrawn Requests
- 4.10.11.4.7 Audit Reconsiderations - Allowed in Full
- 4.10.11.4.8 Audit Reconsiderations - Allowed in Full With Offsetting Adjustments
- 4.10.11.4.9 Audit Reconsiderations - Partially Disallowed
- 4.10.11.4.10 Audit Reconsiderations - Partially Disallowed With Offsetting Adjustments
- 4.10.11.4.11 Audit Reconsiderations - Disallowed in Full - No Additional Tax Liability
- 4.10.11.4.12 Audit Reconsiderations - Disallowed in Full - Additional Tax Liability
- 4.10.11.4.13 Audit Reconsiderations - Closing Instructions

4.10.11.5 Statute of Limitations - Claims for Refund and Requests for Abatement

- 4.10.11.5.1 Assessment Statute Expiration Date (ASED) - Considerations and Examiner's Responsibilities
 - 4.10.11.5.1.1 Assessment Statute Expiration Date (ASED) - Net Overassessments
 - 4.10.11.5.1.2 Assessment Statute Expiration Date (ASED) - NOL Carrybacks
- 4.10.11.5.2 Refund Statute Expiration Date (RSED) - Consideration and Examiner's Responsibilities
 - 4.10.11.5.2.1 Refund Statute Expiration Date (RSED) Exceptions - Statute Extensions
 - 4.10.11.5.2.2 Refund Statute Expiration Date (RSED) Exceptions - Carrybacks
 - 4.10.11.5.2.3 Refund Statute Expiration Date (RSED) Exceptions and Other Special Situations

4.10.11.5.2.4 Barred Refund Procedures

4.10.11.6 Special Situations - Claims for Refund and Requests for Abatement

4.10.11.6.1 Claim for Refund on the Original Return

4.10.11.6.2 Joint Committee Refunds

4.10.11.6.3 Claims for Refund and Requests for Abatement - Issues with Married Filing Joint Returns

4.10.11.6.3.1 Claims for Refund on Married Filing Joint Returns - Signature Requirements

4.10.11.6.3.2 Claims for Refund on Married Filing Joint Returns - Agreement and Waiver Forms

4.10.11.6.3.3 Split Spousal Assessments and MFT 31 Claims for Refund and Requests for Abatement

4.10.11.6.3.4 Claims for Refund and Requests for Abatement with Innocent Spouse Issue

4.10.11.6.3.5 Separate to Joint Claims for Refund and Requests for Abatement

4.10.11.6.4 Claims for Refund and Requests for Abatement - Taxpayers Impacted by Disaster

4.10.11.6.5 Claims for Refund for Deceased Taxpayers

4.10.11.6.6 Claims for Refund and Requests for Abatement of Interest and/or Penalties

4.10.11.6.6.1 Claims for Refund and Requests for Abatement of Interest - IRC 6404(e)(1)

4.10.11.6.6.2 Claims for Refund and Requests for Abatement of Penalties

Exhibits

4.10.11-1 Claims for Refund Summary

4.10.11-2 Determining the Nature of an Amended Return

4.10.11-3 Taxable Amended Returns

4.10.11-4 Claim of Right Cases

4.10.11-5 Source Codes - Claims for Refund and Requests for Abatement

4.10.11-6 Claim Amount

4.10.11-7 Disposal Codes - Claims for Refund, Requests for Abatement, and Audit Reconsiderations

4.10.11.1
(09-29-2022)
Program Scope and Objectives

- (1) **Purpose.** This IRM provides technical and procedural guidance for examinations and report writing specific to claims for refund, requests for abatement, and audit reconsiderations. Specifically, IRM 4.10.11:
 - a. Defines and distinguishes claims for refund, requests for abatement, and audit reconsiderations,
 - b. Provides examination and report writing procedures specific to claims for refund, requests for abatement, and audit reconsiderations,
 - c. Discusses both the assessment statute of limitations and the refund statute of limitations relating to claims for refund, requests for abatement, and audit reconsiderations,
 - d. Provides guidance for a variety of special situations that can occur when examining claims for refund, requests for abatement, and audit reconsiderations.
- (2) **Audience.** These procedures apply to Small Business/Self-Employed (SB/SE) Field Examination, SB/SE Specialty Examination, Large Business and International (LB&I), and Tax Exempt and Government Entities (TE/GE) employees.
- (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 to this IRM section, see IRM 1.11.6.5, Providing Feedback About an IRM Section - Outside of Clearance.

4.10.11.1.1
(09-04-2020)
Background

- (1) A taxpayer may amend a return if they believe mistakes were made or additional information becomes available after the original return was filed. (An original non-frivolous tax return is treated as a claim for refund if the refund is held (i.e., the refund was not paid and not applied to a balance due). See IRM 4.10.11.6.1.) Amendments to a return are typically made on one of the following forms, as applicable:
 - Form 1040X, Amended U.S. Individual Income Tax Return
 - Form 1120X, Amended U.S. Corporation Income Tax Return
 - Form 1065X, Amended Return or Administrative Adjustment Request (AAR)
 - Form 1120S, U.S. Income Tax Return for an S Corporation, checking box H(4) "Amended return" on page 1
 - Form 1041, U.S. Income Tax Return for Estates and Trusts, checking box F "Amended return" on page 1
 - Form 941-X, Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund
 - Form 943-X, Adjusted Employer's Annual Federal Tax Return for Agricultural Employees or Claim for Refund
 - Form 944-X, Adjusted Employer's ANNUAL Federal Tax Return or Claim for Refund
 - Form 945-X, Adjusted ANNUAL Return of Withheld Federal Income Tax or Claim for Refund
 - Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, checking the box for "Amended" on page 1
 - Form 843, Claim for Refund and Request for Abatement

- (2) An amended return is one of the following (see “Terms” in IRM 4.10.11.1.5 for definitions):
 - a. Claim for refund;
 - b. Request for abatement (including audit reconsideration);
 - c. Amended return; no tax effect; or
 - d. Taxable amended return
- (3) An examiner must properly identify the nature of a taxpayer’s amended return (or other written request) to determine the applicable examination procedures. This IRM provides guidance for determining if an amended return (or other written request) fits the criteria of a claim for refund, request for abatement, or audit reconsideration, and provides examination and report writing guidance for each.
- (4) Amended returns with no tax effect (that do not request the refund of any amount) and taxable amended returns (that do not request the refund of any amount) are NOT claims for refund or requests for abatement, but are briefly discussed in the exhibits. See Exhibit 4.10.11-2 and Exhibit 4.10.11-3.

4.10.11.1.2
(09-29-2022)

- (1) The guidance in this IRM is based on the following authorities:

Authority

IRC Section	Topic
26 CFR 301.6401-1, Amounts treated as overpayments	Amounts that are treated as overpayments.
26 CFR 301.6402-1, Authority to make credits or refunds	The Commissioner’s authority to make credits or refunds.
26 CFR 301.6402-2, Claims for credit or refund	Standards for a valid claim.
26 CFR 301.6402-3, Special Rules Applicable to Income Tax	Additional rules for filing income tax claims.
26 CFR 301.6532-1(b), Periods of limitation on suits by taxpayers	Authority for extending the 2-year period to file refund suit.
26 CFR 601.105, Statement of Procedural Rules	Procedures for exercising examination authority.
IRC 6401, Amounts treated as overpayments	Amounts that are treated as overpayments.
IRC 6402, Authority to make credits or refunds	Credit or refund allowed in the case of an overpayment.
IRC 6404, Abatements	Abatements of tax, penalties, and interest.
IRC 6501, Limitations on Assessment and Collection	Time limit for making an assessment.
IRC 6511, Limitations on Credit or Refund	Timeliness of claims and amount limitations.
IRC 6514, Credits or Refunds After Period of Limitation	Time limits when refunds are considered erroneous.
IRC 6532, Periods of limitation on suits	Time limit for filing a suit for refund or recovery of erroneous refund.

IRC Section	Topic
IRC 6676, Penalty for Erroneous Claim for Refund or Credit	Penalty for erroneous claims for refund.
IRC 7422, Civil actions for refund	Requirement for a claim for refund prior to filing suit.
IRC 7602, Examination of books and witnesses	Authority to examine books and witnesses.
IRC 7605, Time and place of examination	Authority to conduct examinations.
IRC 7803, Commissioner of Internal Revenue; other officials	Taxpayer rights.

(2) The following Policy Statements and Delegation Orders are associated with claims for refund and requests for abatement:

- IRM 1.2.1.4.15, Policy Statement 3-15 (Formerly P-2-89), Reconsideration of an Unpaid Assessment.
- IRM 1.2.1.5.21, Policy Statement 4-75; Usual principles applicable in the examination of claims on their merits.
- IRM 1.2.1.5.22, Policy Statement 4-76; Disallowed claims may be reconsidered on the merits.
- IRM 1.2.1.5.23, Policy Statement 4-77; Claims may be allowed without examination.
- IRM 1.2.1.5.31, Policy Statement 4-103; Abatement claims considered only in exceptional circumstances.
- IRM 1.2.65.4.4, SBSE 1-23-13, Authority to Sign Claim Disallowance Notices.
- IRM 1.2.65.3.9, SBSE 1-23-24, Authority to Sign Agreements to Extend the Running of the Period of Time to Bring Suit.

4.10.11.1.3 (09-04-2020) 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 examination process. 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) All examiners must perform their professional responsibilities in a way that supports the *IRS Mission*. This requires examiners to provide top quality service and to consistently apply the law with integrity and fairness to all.
- (5) Examiners and their managers should thoroughly acquaint themselves with the examination procedures and information contained in this IRM, as well as other

resources such as those listed in IRM 4.10.11.1.7 below.

4.10.11.1.4
(09-04-2020)

Program Reports

- (1) The data for management information reports and tables is derived from the AIMS, A-CIS, and ERCS databases. Additional information can be found in IRM 4.4.27, 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.

4.10.11.1.5
(09-29-2022)

Terms

- (1) The following table contains a list of terms used throughout this IRM. For other commonly used terms related to the examination process, see IRM 4.10.1.1.5, Terms.

Term	Definition
30-day letter (also known as a “preliminary letter”)	Letter used to transmit the examination findings 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.
Amended return; no tax effect	An amended return that makes changes to the original return (e.g., changing a net operating loss amount or making an election) but makes no change to tax and/or credits. This includes most amended pass-through entity returns (Form 1065, U.S. Return of Partnership Income, or Form 1120S, U.S. Income Tax Return for an S Corporation) which are non-taxable in nature.
Audit reconsideration	<p>The process the IRS uses to reevaluate the results of a prior audit where additional tax was assessed or a credit was reversed; the amended return or written request asks for a reduction in the assessed liability. When an audit reconsideration also includes a request for refund, certain claim for refund procedures may apply.</p> <p>Reminder: When reviewing a transcript, a TC 300 is an indication of a prior audit; a TC 290 is not an examination assessment.</p>

Term	Definition
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 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>
Claim for refund	An amended return or written request that asks for some amount of money to be refunded, whether or not it also involves an abatement. Refer to IRM 4.10.11.2 for additional discussion on claims for refund.
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.
Formal claim	A claim for refund filed on a standard form (e.g., Form 1040X and those listed in IRM 4.10.11.1.1 above) that complies with all of the claim requirements.
Informal claim	<p>A written request for a refund that is not submitted on a standard form. The request must contain the required claim elements listed in IRM 4.10.11.2.1.1.</p> <p>Note: A request for abatement is not an informal claim.</p>
Offsetting adjustment	An adjustment having an opposite tax effect (e.g., an adjustment increasing tax “offsets” the amount requested in a claim for refund).
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).

Term	Definition
Request for abatement	An amended return or written request that asks for a reduction of the assessed liability. When a request for abatement also includes a request for refund, claim for refund procedures apply. Refer to IRM 4.10.11.3 for additional discussion on requests for abatement.
Taxable amended return	An amended return with an overall increase to tax and/or decrease to credits resulting in an amount owed.
Transcript	A tax account record showing the tax module information. Examiners must research CFOL / IDRS using command code TXMODA as well as IMFOLI/ BMFOLI. Command code IMFOLT/A or BMFOLT/A may be used if TXMODA is not available. Note: Document 6209, IRS Processing Codes and Information, is useful in interpreting a transcript of the taxpayer's tax module.

4.10.11.1.6
(09-29-2022)

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
AMS	Account Management Services
ASED	Assessment Statute Expiration Date
BMF	Business Master File
CC	Command Code
CCP	Centralized Case Processing
CEAS	Correspondence Examination Automation Support
CFOL	Computer Files On Line
CIS	Correspondence Imaging System
CRU	Central Reconsideration Unit
DC	Disposal Code
ERCS	Examination Returns Control System
FAQ	Frequently Asked Questions

Acronym	Definition
IDR	Information Document Request
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IRC	Internal Revenue Code
JC	Joint Committee
JCR	Joint Committee Review
JCT	Joint Committee on Taxation
LB&I	Large Business & International
LUQ	Large, Unusual, or Questionable
MFJ	Married Filing Joint
MFT	Master File Tax
NOL	Net Operating Loss
OIC	Offer In Compromise
P of RB	Protection of Revenue Base
PSP	Planning & Special Programs
RGS	Report Generation Software
RSED	Refund Statute Expiration Date
SB/SE	Small Business / Self-Employed
SC	Source Code
SFR	Substitute For Return
SRS	Specialist Referral System
SSN	Social Security Number
TAS	Taxpayer Advocate Service
TC	Transaction Code
TCS	Tax Computation Specialist

4.10.11.1.7
(09-29-2022)

Related Resources

- (1) IRM 4.10.1, Examination of Returns, Overview of Examiner Responsibilities, provides responsibilities related to taxpayer rights; employee contact information; oral and written communication; and additional examiner responsibilities.
- (2) The following IRMs provide additional information regarding claims for refund, requests for abatement, and audit reconsiderations.

IRM	Title	Guidance on
IRM 4.2.1	General Examining Procedures, General Examination Information	General Appeals Guidelines, Suits for Recovery of Erroneous Refunds, Taxpayer Advocate Program
IRM 4.4.12	AIMS Procedures and Processing Instructions, Examined Closings, Surveyed Claims, and Partial Assessments	Completion of Form 5344, Examination Closing Record
IRM 4.9.1	Examination Technical Time Reporting System, Outline of System	Capturing time spent preventing erroneous release of money (protection of revenue base)
IRM 4.10.5	Examination of Returns, Required Filing Checks	The analysis and pickup of prior, subsequent, and related returns, when warranted
IRM 4.10.6	Examination of Returns, Penalty Considerations	Examiner's responsibilities for penalty determinations
IRM 4.10.8	Examination of Returns, Report Writing	Preparation and issuance of audit reports
IRM 4.11.11	Examining Officer's Guide (EOG), Net Operating Loss Cases	Examining net operating losses (NOLs)
IRM 4.13.1	Audit Reconsideration, Introduction	Overview of audit reconsideration procedures
IRM 4.13.5	Audit Reconsideration, Exam SFR Reconsiderations	Reconsiderations of SFR assessments after a taxpayer files an original return
IRM 4.13.6	Audit Reconsideration, Appeals	Appeal rights for audit reconsiderations
IRM 4.18.1	Exam Offer-In-Compromise, Offers In Compromise Received in Exam	Doubt as to Liability OICs worked by Examination
IRM 4.23.13	Employment Tax, Adjusted Returns, Abatements and Claims	Employment tax claims for refund and requests for abatement
IRM 4.24.8	Excise Tax, Examination Guidance for Excise Claims for Refund or Abatement	Excise tax claims for refund and requests for abatement
IRM 4.25.9	Estate & Gift Tax, Requests for Abatement, Claims for Refund, and Doubt as to Liability Offer in Compromise in Estate and Gift Tax Cases	Estate & gift tax claims for refund, requests for abatement, and offers in compromise

IRM	Title	Guidance on
IRM 4.32.2	Abusive Transactions, The Abusive Transactions (AT) Process	Promoter post-assessment rights and procedures, including claims
IRM 4.36	Joint Committee Procedures	Identifying and working cases subject to Joint Committee review
IRM 4.71.8	Employee Plans Examination of Returns, EP Claims	Employee Plans (EP) claim cases
IRM 4.75.37	Exempt Organizations Examination Procedures, Claims, Requests for Abatement and Examination Reconsiderations	Exempt Organizations claims for refund, requests for abatement and examination reconsiderations
IRM 4.82.2	Tax Exempt Bonds Examination Guidelines, Arbitrage Payment Refund Claim Procedures	Processing claims for recovery of overpayment of arbitrage payments (refund claims)
IRM 20.1.5	Return Related Penalties	Assessing and abating Accuracy, Fraud and Erroneous Claim for Refund or Credit penalties
IRM 20.1.6.23	Claims for Refund-IRC 6694, IRC 6700, and IRC 6701	Claims filed using Form 6118, Claim for Refund of Tax Return Preparer Penalties and Promoter Penalties
IRM 25.2.1	General Operating Division Guidance for Working Whistleblower Claims	Working whistleblower claims for award
IRM 25.6.1	Statute of Limitations Processes and Procedures	Statute of limitations, including ASSED and RSED
IRM 25.6.23	Examination Process-Assessment Statute of Limitations Controls	Assessment statute controls for Examination, including alpha codes

Note: SB/SE Specialty Tax programs have specific claim and request for abatement forms, letters and procedures. Please reference the relevant IRM subsection shown above for those program specific deviations.

(3) Links to helpful information include the following:

- For information and resources relating to processing, working and closing claims, abatements and audit reconsiderations see the *Claim, Abatement and Audit Reconsideration Knowledge Base*.
- For report writing and closing letters see the *Letter Chart* job aid.
- For RGS Special Procedures, including saving folders on Audit Reconsideration Cases see the *Audit Reconsideration Cases and RGS* page.
- For a list of local Technical Services claims coordinators with responsibility for issuing statutory notices of claim disallowance and serving as a resource for field groups, see the *Claims Coordinators in Exam Technical Services* contacts page.

- For a list of PSP claims coordinators with responsibility for building case files, assigning claims to field groups, and serving as a resource for field groups see *Claims Coordinator (PSP) - Area* contacts page.
- For information on Protection of the Revenue Base see the *P of RB Charges in ERCS for Examiners* page in the Claim, Abatement and Audit Reconsideration Knowledge Base.
- For Joint Committee questions research the *Joint Committee Cases* page.
- For information on IRC 6676 including job aids, FAQs, and examples see the *Erroneous Claims* knowledge base.
- For LB&I procedures for preparer penalty cases, see the *LB&I Penalties Preparer Program* on the Penalties Practice Network page.
- For information, guidance, and routing procedures for interest abatement claims see *Interest Abatement* knowledge base.

4.10.11.2
(09-04-2020)
Claims for Refund

- (1) The IRC permits taxpayers to file claims for refund. However, taxpayers must follow specific rules in the IRC and Treasury Regulations in order to obtain a refund. Some claims for refund are subject to a penalty when they are excessive in amount and have no reasonable cause. The IRC also gives the taxpayer the right to file a refund suit in court if a timely filed claim for refund is disallowed in full or part, or if the IRS does not act on a claim for refund within six months after the claim is filed. See the table in IRM 4.10.11.1.2 for the code sections and Treasury Regulations applicable to claims for refund.

Note: The rules and rights specific to claims for refund do not apply to requests for abatement; therefore it is important to make the distinction.

- (2) The following subsections give an overview of the requirements for a valid claim for refund, as well as procedural guidance for examiners working claim for refund cases.

4.10.11.2.1
(09-04-2020)
**Claims for Refund -
General Requirements**

- (1) Claims for refund must involve overpayments. A claim for refund may relate to any item of income, loss, exclusion, deduction, or credit involving a specific amount of tax and/or penalties. To request a refund or credit of an overpayment, a taxpayer must file a valid claim for refund prior to the expiration of the applicable statutory period of limitation known as the Refund Statute Expiration Date (RSED).
- (2) To be a formal claim, a claim for refund must:
 - a. Be submitted in the required format (form and content) (see IRM 4.10.11.2.1.1),
 - b. Request a refund of an overpayment (see IRM 4.10.11.2.1.2),
 - c. Be timely filed (see IRM 4.10.11.2.1.3), and
 - d. Meet all applicable filing requirements (e.g., signed under penalties of perjury, sent to the correct office as instructed, etc.).
- (3) The standards for a valid claim for refund found in the IRC, Treasury Regulations, and court cases are briefly summarized in the following subsections.

4.10.11.2.1.1
(09-04-2020)
**Claims for Refund -
Required Form and
Content**

- (1) IRM 25.6.1.10.2.6, Claims for Credit or Refund - Form and Content, discusses the requirements for claims. Generally, the courts agree a valid claim for refund must:
 - a. Set forth in detail each ground upon which a credit or refund is claimed and facts sufficient to apprise the IRS of the exact basis for the claim (26 CFR 301.6402-2 (b)(1)),
 - b. Specify the amount of the refund requested, and
 - c. Reflect the tax type and tax period(s) for which the refund is claimed.
- (2) A claim for refund is a “formal claim” if it is made on a standard form such as an original tax return or, if a return has already been filed, an amended return such as Form 1040X, or Form 1120X, and if it otherwise complies with all of the formal requirements (see IRM 4.10.11.2.1).
- (3) A claim for refund may be an “informal claim” if it meets all claim requirements in IRM 4.10.11.2.1, but otherwise fails to satisfy some formality (e.g., if the claim for refund is not submitted on a standard form). Examiners must follow claim for refund procedures for informal claims unless IRS published guidance specifically requires a formal claim be filed for an issue, for example Notice 2008-39 (for Form 1120-X research credit claims).

Exception: LB&I will generally accept informal claims (unless IRS published guidance specifically requires a formal claim be filed for an issue) that are provided to the examination team within 30 calendar days of the opening conference. Except for limited circumstances, after the 30-day window, claims for refund for issues not identified for examination must be filed using Form 1040X, Form 1120X, or Form 843 as required by Treasury Regulations. See IRM 4.46.3.7.1.1, The 30-day Window Expectation, for more details.

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 may consider the issue (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.

- (4) Examiners may contact their local *Claims Coordinators in Exam Technical Services* to determine if a written request is an informal claim and to coordinate Counsel advice if needed. Examples of informal claims are below.

Example: A taxpayer’s signed letter stating taxes for 2017 were overpaid due to omission of a dependency exemption supported by attached copies of documentation, and requesting a specific amount to be refunded.

Example: A signed waiver (Form 870, Waiver of Restrictions on Assessment & Collection of Deficiency in Tax & Acceptance of Overassessment) for an overassessment.

4.10.11.2.1.2
(09-04-2020)

**Claims for Refund -
Refund Requested**

- (1) A claim for refund must specify an amount of refund requested.
- (2) No refund or credit may be made unless it has first been determined there is an overpayment. Generally, an overpayment exists when a taxpayer makes tax payments and/or has refundable credits that exceed the correct amount of total tax for the taxable period. See IRM 20.2.4.2, Definition of Overpayment, for additional information.

Reminder: The IRS may reduce (offset) the amount of the refund if it is determined there are adjustments increasing tax for that same tax period. This is true even if it otherwise would be too late to assess additional tax.

- (3) There are forms and letters specific to claims for refund, as discussed in IRM 4.10.11.2.2. Statutory notices of claim disallowance advise taxpayers of their right to file refund suit.
- (4) The determination of whether an amended return or written request that decreases tax and/or penalty (or increases a credit) is a claim for refund **or** a request for abatement, is based on whether the amended return or written request asked for a refund **at the time it was filed**. If the taxpayer requests any amount of overpayment, then it is a claim for refund. Otherwise, a request for a reduction to the liability (not resulting in a credit or refund of any amount) is a request for abatement. Examples are shown in paragraph (5) below.

Caution: If a request for abatement is filed and the module balance becomes partially or fully paid at a later date, continue to treat it as a request for abatement unless a new, timely claim for refund is filed. A request for abatement cannot be retroactively converted to a claim for refund.

- (5) Examples distinguishing claims for refund versus requests for abatement are shown below (requirements for form and timeliness are met):

Example: An amended return is filed requesting a decrease in tax (or increase to a credit) and \$6,000 refund. The module balance was fully paid (\$0.00) at the time the amended return was filed. The amended return is a claim for refund.

Example: An amended return is filed requesting a \$6,000 decrease in tax (or increase to a credit). At the time the amended return was filed, the module had a balance due of \$8,500. If allowed in full, the taxpayer would receive a reduction of the module balance. The amended return is a request for abatement, even if the module balance is reduced by subsequent payments before the IRS acts on the request.

Example: An amended return is filed requesting a \$6,000 decrease in tax (or increase to a credit). At the time the amended return is filed, the module had a balance due of \$4,500, and the amended return requested a refund of \$1,500. If allowed in full, the taxpayer would receive a refund. This is a claim for refund.

4.10.11.2.1.3
(09-04-2020)

**Claims for Refund -
Timeliness**

- (1) IRC 6402, permits the IRS to make a refund within the applicable period of limitations. IRC 6511 governs the time period for filing a claim as well as the amount that may be recovered.

- (2) In general, a claim is filed on the date it is received at the place designated for filing by the IRS. See IRM 25.6.1.6.15, When a Document Is Treated As Filed Under the IRC, for the rules that may create a different filing date (e.g., Saturday, Sunday, and Legal Holiday rule). The hand-delivery of an amended return to an examiner who is examining the taxpayer's returns may constitute the filing of a claim. See IRM 25.6.1.10.2.7.1.3, End of the Filing Period, for additional information.
- (3) IRC 6511(a) provides the general rule that a claim for credit or refund must be filed within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever is later. IRC 6511(b) limits the amount of the credit or refund to the amount paid within the 3 year (2 year) period before the date of a claim. See IRM 4.10.11.5.2, for further discussion on the timeliness requirements for claims for refund.
- (4) In some instances, a claim may be filed by the taxpayer in anticipation of an expected change in the tax law, other legislation, regulations, case law, or other contingency. A "protective claim" is a claim for credit or refund filed by the taxpayer to preserve the right to pursue a refund based on the resolution of an issue contingent on future events that may not be determinable until after the refund statute has expired. Taxpayers file protective claims to ensure they meet the timeliness requirement. With regard to the requirements of form and content, a protective claim must be in writing, include the taxpayer's name, address, TIN and signature, identify the contingency affecting the claim, be sufficiently clear and definite to alert the IRS as to the essential nature of the claim, and identify the specific year(s) for which the refund is sought. The exact amount of refund requested may not be known at the time the claim is filed. See IRM 25.6.1.10.2.6.5, Protective Claims, for additional information.

Note: Protective claims filed with the campus are generally forwarded to Technical Services (through PSP) for suspense. The Technical Services Protective Claims Coordinator suspends the case until the contingency is resolved. At that point, if additional information is needed, the case is sent to a group (through PSP) for examination of the claim for refund. Other than noting the timeliness requirement was met by the filing of the protective claim prior to the RSED, there are no differences in how the examiner works the claim for refund. In the event a protective claim is initially filed with the examiner, the examiner should contact their local *Technical Services Protective Claims Coordinator* for guidance.

4.10.11.2.2 (09-04-2020) Claims for Refund - Specific Items

- (1) The following subsections describe the forms, letters, and IRC 6676 penalty specific to the examination of claims for refund.

Note: Certain forms and letters noted below (e.g., Form 4549, Report of Income Tax Examination Changes) are not generally used by SB/SE Specialty Examination employees. Claim forms and letters used by Specialty Examination can be found in the IRM sections cited above for each Specialty Tax area under "Related Resources" in IRM 4.10.11.1.7(2).

4.10.11.2.2.1 (09-04-2020) Claims for Refund - Forms

- (1) Two forms are specific to claims for refund that are disallowed:

- a. Form 3363, Acceptance of Proposed Disallowance of Claim for Refund or Credit—This form must be used to secure an agreement to a claim for refund that is disallowed in full with no other adjustments to the tax liability.

Note: In cases where the claim for refund is disallowed in part or with additional adjustments affecting the tax liability, Form 4549 must be used to reflect the changes to tax and/or penalties and solicit an agreement.

- b. Form 2297, Waiver of Statutory Notification of Claim Disallowance— A taxpayer's signature on this form waives the requirement for the IRS to issue a certified notice of claim disallowance (see IRC 6532(a)(3)). The effect of signing Form 2297 is to start the two year limitation period for filing a refund suit on the date the waiver is filed. Additionally, there is a prohibition on filing a refund suit during the six month period beginning at the time the claim for refund was filed unless the IRS renders a decision on the claim. While Form 2297 initiates the expiration of the two year period to file suit, it does not constitute a "decision of the IRS" that would trigger the taxpayer's ability to sue for refund before the six month period elapses. Only a rendered "decision of the IRS" will lift the prohibition on a refund suit during this six month period, including a statutory notice of claim disallowance (e.g., Letter 905 and Letter 906 discussed below).

Reminder: If a claim for refund is not allowed in full, a taxpayer can file a refund suit in court (see IRC 6532(a)).

Note: Since Form 2297 only waives the need for the issuance of a statutory notice of claim disallowance, a Form 870, Form 4549, or Form 3363 is solicited in addition to Form 2297 to secure an agreement to the claim disallowance or changes to the tax liability.

- (2) Form 3363 and Form 2297 are not required if the claim for refund is surveyed or allowed in full.

Reminder: Form 2297 must not be secured in cases that require review by the Joint Committee. See IRM 4.36.3.2.9, Claim Disallowance in Agreed Cases, for additional information on the use of Form 2297 and Form 3363 in Joint Committee cases.

4.10.11.2.2.2
(09-29-2022)

Claims for Refund - Letters

- (1) Preliminary and final/closing letters are used in claim for refund cases as described in the following sections and include:
 - a. Letter 5810, Examination Report Transmittal-Claim Fully Allowed— issued and signed by the examiner to transmit a preliminary report for a claim for refund allowed in full.
 - b. Letter 570, Claim Allowed in Full— used when the taxpayer's claim for refund is allowed in full. This closing letter notifies the taxpayer of the final findings of the examination. Therefore, the examination is officially closed. Letter 570 (undated) is prepared by the examiner, and signed by the group manager on behalf of the appropriate Director based on their Operating Division. 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.

- c. Letter 569, Full/Partial Preliminary Claim Disallowance – issued by the examiner to transmit a preliminary full or partial claim disallowance for a tax period. This is a 30-day letter offering taxpayers the opportunity to appeal the findings of the examination. Letter 569 is prepared by the examiner, signed by the group manager, and should include an explanation for the preliminary claim disallowance on the last page or refer to the report for more information regarding the disallowance.
- d. Letter 987, Agreed Income Tax Change – notifies the taxpayer the income tax audit report has been reviewed and accepted by the appropriate Director for the respective Operating Division. Therefore, the examination is officially closed. On agreed cases, the examiner will prepare the Letter 987 to be retained undated in the case file, by inserting the group manager/team manager or examiner's information in the contact section. The group/team manager will sign the letter on behalf of the appropriate Director based on their Operating Division. 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.
- e. Letter 5153-A, Examination Report Transmittal - Statute less than 240 Days (Claim) – signed and issued by field and office examiners to transmit the examination report when a claim for refund results in a proposed deficiency and the time remaining on the assessment statute is fewer than 240 days. This letter reminds taxpayers in order for the IRS Independent Office of Appeals (Appeals) to have enough time to consider their case, they must agree to extend the period for assessment.
- f. Letter 905, Final Partial Claim Disallowance, and Letter 906, Final Full Claim Disallowance– notify the taxpayer of the decision of the IRS that the claim for refund has been partially or fully disallowed, and the examination is closed. SB/SE Technical Services will date and mail the appropriate statutory notice of claim disallowance (by certified or registered mail) to the taxpayer with a copy to the representative, if applicable.

Note: Technical Services will prepare, sign, date and mail Letter 905 or Letter 906 for SB/SE. LB&I will prepare Letter 905 or Letter 906 and secure the appropriate signature in accordance with the current LB&I division delegation order in force, complete the contact portion of the letter, complete the reasons for disallowance on page two of the letter, and enclose the undated letter in the case file prior to forwarding the case to SB/SE Technical Services for issuance of the letter. However, according to IRM 1.2.2.2.20, Delegation Order 1-23 (formerly DO-193, Rev.6) Authorization to Perform Functions of the Commissioner, Technical Services Reviewers have the authority to sign claim disallowance notices for all cases under their responsibility.

4.10.11.2.2.3
(09-29-2022)

Claims for Refund - IRC 6676 Penalty

- (1) IRC 6676, Penalty for Erroneous Claim for Refund or Credit, is a penalty enacted May 25, 2007, by the Small Business and Work Opportunity Act of 2007. The IRC 6676 penalty applies when a taxpayer submits a claim for refund or credit of income tax for an "excessive amount" that has no reasonable cause (for claims filed before December 18, 2015 a "reasonable basis" standard applies). The penalty is 20 percent of the "excessive amount." IRC

6676(b) defines the **excessive amount** as the amount of the claim for refund or credit that exceeds the amount allowable for any taxable year (i.e., the disallowed amount of the claim).

Note: The penalty does not apply to requests for abatement.

- (2) Examiners must consider the applicability of the IRC 6676 penalty when a claim for refund is disallowed in full or part (including withdrawn claim issues discussed in IRM 4.10.11.2.7). The *Lead Sheet Issue Reference Guide* contains information and audit steps that will assist SB/SE income tax examiners in determining whether the penalty applies. See IRM 20.1.5.18, IRC 6676, Erroneous Claim for Refund or Credit Penalty, for additional information.
- (3) When a claim for refund is disallowed in full or part, examiners must document the workpapers for the reason(s) for assertion or non-assertion of the IRC 6676 penalty. The examiner must secure supervisory approval to assert this penalty. Supervisory approval of the assertion of the penalty is documented on the Civil Penalty Approval Form (Tab 2 within Lead Sheet 300) for SB/SE Field Examination, or using another method which complies with IRM 20.1.5.2.3.1, Documenting Supervisory Approval of Penalties. See IRM 20.1.5, Return-Related Penalties, and IRM 20.1.1, Introduction and Penalty Relief, for additional information on the manner and timing of this approval.
- (4) The IRC 6676 penalty is generally not subject to deficiency procedures and therefore is not reflected on Form 4549; a separate penalty case file is created which will generally remain with the claim case.

Exception: The IRC 6676 penalty is subject to deficiency procedures when an excessive amount of a refund claim is dependent on the determination of a deficiency (e.g., “frozen refund” situations).

- (5) See the *Erroneous Claims* knowledge base site for more information on the IRC 6676 penalty, including FAQs and job aids.
- (6) Examiners must follow the detailed procedures in IRM 20.1.5.18, IRC 6676, Erroneous Claim for Refund or Credit Penalty, when considering and asserting this penalty. See IRM 20.1.5.18.2, Statute Consideration, for information on the ASER for the erroneous claims penalty, and the use of Form 872-EC to extend the statute.

4.10.11.2.3 (09-04-2020) **Claims for Refund - Overview of Examiner’s Responsibilities**

- (1) An examiner may be assigned a claim for refund case or may receive a claim for refund for a tax period already under examination. Because claims for refund have certain requirements, limitations, and court rights, it is important examiners follow the procedures in this section to properly process claim cases and advise taxpayers of their rights. Examiners must be familiar with the particular aspects of claims for refund found in IRM 4.10.11.2.2.
- (2) Examiners should start the pre-contact analysis on claim for refund cases within 30 days of receipt. If the IRS does not act on a claim for refund within six months from the filing date of the claim, the taxpayer is permitted to file a refund suit. Therefore, claims are considered priority work.
- (3) For all claims, whether assigned or received during an audit, see IRM 4.10.11.2.4 for guidance in determining the validity and nature of the claim. Examiners assigned a claim for refund case must also follow the initial contact

procedures in IRM 4.10.11.2.6.

- (4) Once a determination is made regarding the claim for refund, examiners follow the procedures found in this section and Exhibit 4.10.11-1.
- (5) In all cases where a claim for refund is disallowed (in full or part), IRC 6402(l) requires an explanation of the reason for the refund disallowance. Examiners must provide this explanation in the preliminary claim disallowance letter (e.g., Letter 569) by including in the "Reason for Disallowance" section either the explanation of why the claim amount was not allowed, or a reference to an attachment containing the explanation (e.g., "See enclosed report.").

Example: When a claim for refund is disallowed because the taxpayer failed to appear for an interview or failed to respond to a request to provide substantiation, include the following explanation: "We are disallowing your claim in full because we did not receive a response to our request for supporting information."

- (6) In addition to the mandatory administrative lead sheets, an issue lead sheet is required for all examined issues, including claim issues. See IRM 4.10.9.6.2, Issue Lead Sheets.
- (7) In general, the taxpayer will be offered an opportunity to participate in Fast Track Settlement or request a conference with Appeals when a claim for refund is disallowed (in full or part). SB/SE examiners see IRM 4.10.7.5.5, SB/SE Fast Track Settlement, and LB&I examiners see IRM 4.51.4, LB&I/Appeals Fast Track Settlement (FTS) Program, for additional information.
- (8) When closing a claim for refund case, examiners must follow the procedures found in IRM 4.10.11.2.15 in addition to normal case closing procedures.

4.10.11.2.4 (09-29-2022) Claims for Refund - Pre-Contact Analysis and Planning

- (1) Examiners are responsible for determining if an amended return or written request meets the criteria for a claim for refund as described in IRM 4.10.11.2.1. Examiners may contact their local *Technical Services Claims Coordinator by State* for assistance, if needed.
- (2) When copies of amended returns or correspondence relating to campus adjustments are not in the file or not provided by the taxpayer, additional information may be available on the Correspondence Imaging System (CIS). CIS is used to manage scanned images of amended IMF returns, documents, and electronic case files. The CIS View Image function on AMS allows users to view and print images of correspondence and returns. Examiners who do not have access to AMS may request CIS images through the local AIMS/ERCS Analyst.
- (3) In addition to reviewing the amended return or written request, the examiner must secure and review a current transcript to identify all actions taken by the IRS, and determine the nature of the request by answering the following questions:
 - a. Is the taxpayer requesting a refund?
 - b. Are the criteria met for form and content as stated in the Treasury Regulations and summarized in IRM 4.10.11.2.1? See IRM 21.5.3.4.4, Signature Requirements for Claims, for criteria relating to signatures.

Note: See IRM 4.10.1.3.7, Policy for Use of Fax in Taxpayer Submission, for information on accepting original and amended tax returns by fax.

- c. Was the claim for refund timely filed? For example, is the filing date (indicated by the TC 977 date, post mark, or date stamp) prior to the RSED? See IRM 4.10.11.2.1 and IRM 4.10.11.5.2 for a discussion of the RSED and timely filing requirements, as well as IRM 25.6.1.6.15, When a Document Is Treated As Filed Under the IRC. If a claim for refund is otherwise valid, but was filed after the RSED (i.e., all or part of the refund is barred by the RSED), follow procedures in IRM 4.10.11.2 and IRM 4.10.11.5.2.4 to disallow the claim, and provide the taxpayer an opportunity to appeal.

Caution: The claim date shown on AIMS represents the date the claim amount was entered on AIMS, not the filing date of the claim. See IRM Exhibit 4.4.1-1, Reference Guide.

- d. Has the campus already allowed or disallowed the claim? Are there indications on the transcript the claim has been acted on? For IMF cases, TC 290 (Additional Tax Assessment) or TC 291 (Abatement Prior Tax Assessment) with reason codes (RC) 80-82 indicate the claim was acted on. RC 80 represents "Claim Disallowed In Full;" RC 81 represents "Claim Disallowed In Part;" and RC 82 represents "Claim Allowed In Full." For example, a TC 291 with a dollar amount matching the refund and a RC 82 indicates the claim was allowed in full. A TC 290 with \$0 and a RC 80 indicates the claim was disallowed. Review TXMODA and ENMOD for references to "105C" or "106C" with dates corresponding to the claim. Letter 105C and Letter 106C are Correspondex letters sent by the campus for disallowed claims for refund.

Note: If the adjustments to tax or credits shown on a claim for refund have been posted to Master File (whether the taxpayer received the refund or it was applied to another balance), the procedures in this IRM do not apply as it is no longer a claim for refund. If an examination is warranted, follow normal examination procedures. The statute of limitations for assessment must be protected and the use of "AA" as discussed in IRM 4.10.11.5.1 is not appropriate.

- e. Has the liability for the tax period in question been closed with finality (e.g., a closing agreement or an Offer in Compromise)? If so, a claim for refund is not permitted.

- (4) The procedures in IRM 4.10.11.2 apply to valid claims for refund. If the amended return or written request does not meet the criteria for a claim for refund, refer to the following table for guidance.

If	And	Then
An amended return or written request is asking for a reduction in the amount owed	A refund is not requested	Follow procedures in IRM 4.10.11.3 for requests for abatement.

If	And	Then
An amended return or written request is otherwise valid, but no refund or abatement is requested	The amended return or written request has no change to tax and/or credits (e.g., amended pass through entity return with no tax due or overpayment)	See Exhibit 4.10.11-2 for guidance.
An amended return or written request is otherwise valid, but no refund or abatement is requested	The amended return is a taxable amended return (i.e., it reports an overall increase to tax and/or decrease to credits resulting in an amount owed)	See Exhibit 4.10.11-3 for guidance.
The return or written request has already been acted on	The tax and/or penalties have been abated	Request is no longer a claim; follow normal examination procedures.
An assigned claim is not valid (i.e., deficient)	PSP assigned the claim to the group, and the examination has not been started	Consult with group manager for concurrence on the validity of the claim. Contact local PSP claims coordinator to discuss determination of an invalid claim. If agreed the claim is not valid, and an examination is not warranted, the group updates case to Status 41 and sends to PSP for disposition.

- (5) Before determining whether to survey or examine an assigned claim for refund, examiners are responsible for evaluating the audit potential of the entire return. Examiners must follow the procedures outlined in IRM 4.10.2.3, In-Depth Pre-Contact Analysis, which include a thorough review of the return and case file to identify large, unusual, or questionable items (LUQs). The examination need not be limited to the issues raised in the claim for refund if there are other issues that warrant examination or further consideration.

Note: The amount of the allowable claim for refund can be offset in part or in full by other adjustments without consideration of the statute of limitations for assessment. However, there must be an open assessment statute if a deficiency is proposed (i.e., other adjustments more than offset the allowable amount of the claim for refund).

- (6) Before limiting the scope of an audit, the probes in IRM 4.10.2.3.2, Pre-Contact Minimum Income Probes, must be completed; for an individual business return, this includes preparing a preliminary financial status analysis (T-Account) based on the amended tax return and available data. If the pre-contact minimum income probes indicate a likelihood of underreported income, then further development is required and the remaining minimum income probes must be completed. If there are no other issues meriting further consideration, the examination can be limited to the claim for refund issue(s).
- (7) The analysis and pickup of prior, subsequent, and related returns, when warranted, is a primary responsibility of examiners in every audit, including claims for refund. See IRM 4.10.5, Required Filing Checks, for more information.

- (8) Examiners must determine if the assigned claim for refund constitutes a request for a retroactive change in accounting method as outlined in IRM 4.11.6.7.5, IRC 446(e) - Taxpayer Files Amended Return or Claim (Formal or Informal) to Make Retroactive Change in Accounting Method, and if so, whether the claim should be allowed.
- (9) Claims for refund that are excluded from paperless electronic closure are placed in blue file folders in accordance with IRM 4.10.8.15.3, Case Folder Color.
- (10) To ensure the accuracy of the AIMS database, examiners must verify the source code and claim amount are properly reflected on claim for refund cases. For information on the source code, see Exhibit 4.10.11-5. For information on the claim amount, see Exhibit 4.10.11-6.

4.10.11.2.5
(09-29-2022)

**Claims for Refund -
Survey After Assignment**

- (1) After evaluating the audit potential as instructed in IRM 4.10.11.2.4 (5), a claim for refund of income, estate, or gift taxes may be surveyed after assignment if it is determined the claim issue is clearly allowable and the return does not otherwise warrant examination. Follow the procedures in IRM 4.10.2.5.3, Surveying Claims.

Reminder: Surveys of claims for refund meeting Joint Committee criteria must follow IRM 4.36, Joint Committee Procedures. See IRM 4.10.11.6.2 below.

- (2) A surveyed claim is considered an “examined closure” for AIMS purposes and requires a Form 5344, Examination Closing Record, with a Disposal Code 34. A Survey Reason Code is not required.
- (3) Examiners must complete a Form 1900 to explain why the claim is being surveyed.
- (4) SB/SE income tax examiners should use RGS for generating a tax computation and Form 5344, in accordance with IRM 4.10.15.10.1, Examined Closures (Form 1040, Form 1120, Form 1120S, Form 1065, and Form 1040NR).
- (5) Examiners must ensure the IRS’ calculation of the overassessment agrees with the amount shown on the claim for refund. If the IRS’ calculation is less than the amount shown on the claim, survey procedures are generally not applicable. If the computation of the overassessment is not shown on the claim, the examiner will include a tax computation schedule with Form 1900, Income Tax Survey After Assignment.

Exception: If the IRS’ calculation of the overassessment is less than the amount shown on the claim (because the claim has a computational error), the examiner may still survey the claim and allow the larger (incorrect) amount shown on the claim, if properly authorized according to the business unit’s delegation order for error tolerance levels. SB/SE examiners, see IRM 1.2.65.3.4, SBSE 1-23-15, Error Tolerance Levels, for additional information.

- (6) If the taxpayer was informed by the campus that their claim for refund was transferred to an area office for review (e.g., the campus issued Letter 86C or Letter 96C), the taxpayer should receive a response from the area. Therefore, if the claim for refund is allowed in full without examination (i.e., surveyed),

examiners must prepare Letter 570 undated and have it signed by the group manager on behalf of the appropriate Director based on their Operating Division. 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.

- (7) If a delinquency penalty was asserted on the original return, the Delinquent Return Indicator is set on AIMS (page 1, line 16 of the AMDISA) and examiners must consider how the allowance of the claim affects the delinquency penalty. If needed, examiners adjust the delinquency penalty in Item 12 on Form 5344. Enter a TC 160 for zero if the delinquency penalty should not be adjusted when allowing the claim.
- (8) See the closing procedures in IRM 4.10.11.2.15 for preparation of Form 5344 and Form 3198, Special Handling Notice for Examination Case Processing, then close the case to CCP.

4.10.11.2.6 (09-29-2022) Claims for Refund - Initial Contact

- (1) Once the decision has been made to examine the claim for refund, SB/SE Field examiners must follow the initial contact procedures in IRM 4.10.2.8, Initial Contact: Overview, and related sections. LB&I examiners, see IRM 4.46.3.2.7, Contacting the Taxpayer, for guidance.
- (2) An examination may have been initiated for reasons other than the claim for refund. However, if a claim for refund is filed for a year open for examination and that request has not been previously acted on, examiners must generally expand the scope to consider the claim for refund issues. An amended return received from a taxpayer under examination must remain with the case file.

Reminder: A –A freeze code on the transcript for the tax period under examination indicates a duplicate/amended return has been filed which must be considered. See IRM 21.5.6.4.2, –A Freeze, for additional information.

4.10.11.2.7 (09-29-2022) Claims for Refund - Withdrawn Claim Issues

- (1) If a taxpayer asks to withdraw their claim for refund, the examiner must document the request in the activity record.
- (2) Claims that are withdrawn are still considered filed; the taxpayer is withdrawing their argument or position stated in the claim (i.e., the claim issues).
- (3) The examination can be discontinued **unless** the ASED is open and other issues with audit potential were identified during the required pre-contact analysis (see IRM 4.10.11.2.4(5)), or the examination.
- (4) If the examination is discontinued (or continued but no additional tax is proposed), examiners follow the procedures for Claims for Refund - Disallowed in Full - No Additional Tax Liability in IRM 4.10.11.2.13. Letter 569 must include the following language as the reason for the disallowance: "On (date) you filed a claim using Form (843, 1040X, 1120X) for a refund of \$(amount) for (year). On (date) you requested the IRS no longer consider your claim, therefore we are disallowing your claim in full."
- (5) If the examination is continued and other issues result in an additional tax liability, follow the procedures for Claims for Refund - Disallowed in Full - Additional Tax Liability in IRM 4.10.11.2.14.

4.10.11.2.8
(09-29-2022)

**Claims for Refund -
Allowed in Full**

- (6) Examiners must consider the applicability of IRC 6676, Penalty for Erroneous Claim for Refund or Credit. See IRM 4.10.11.2.2.3 for additional information.
- (1) A claim is considered allowed in full when the overassessment shown on the examiner's report equals the claim amount. If the claim issues are allowed in full, but the overassessment does not equal the claim amount, follow the applicable procedures below (partially allowed, allowed in full plus additional refund, etc.).
- (2) When a claim for refund is allowed in full, examiners must prepare and issue:
 - a. Form 4549-A, Report of Income Tax Examination Changes, reflecting the reduction of tax and/or penalties. (RGS users may need to run the tax computation as "unagreed" to get this report option).

Note: Include the following statement in the Form 4549-A "Other Information" section: "On (date) you filed a claim using Form (843, 1040X, 1120X) for a refund of \$(amount) for (year). As a result of our examination, your claim was allowed in full, as shown in this report."
 - b. Letter 5810, to notify the taxpayer of the findings and transmit the report.
- (3) Examiners must also prepare closing Letter 570, undated and have it signed by the group manager on behalf of the appropriate Director based on their Operating Division. 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.
- (4) Close the case to CCP; it is not necessary to secure a signature on the examination report.
- (5) See IRM 4.10.11.2.15 for Form 5344 and Form 3198 closing procedures.

4.10.11.2.9
(09-04-2020)

**Claims for Refund -
Allowed in Full Plus
Additional Refund**

- (1) When additional information is provided that substantiates an increase in the refund amount in excess of the original claim for refund, examiners must determine if the information supplements the original claim or raises new facts or legal positions. New claim issues must be requested timely according to the RSED requirements described in IRM 4.10.11.5.2. For a discussion on the difference between supplementing a pending claim versus submitting a new claim, see IRM 25.6.1.10.2.6.4, Supplemental Claims.
- (2) When the claim issues are allowed in full, and the examination results in an allowable additional refund, examiners must follow the procedures in IRM 4.10.11.2.8 with the exception of the wording in the "Other Information" section of Form 4549-A, which must be similar to the following: "On (date) you filed a claim using Form (843, 1040X, 1120X) for a refund of \$(amount) for (year). As a result of our examination, your claim was allowed in full. However, the total amount of the refund has been increased as the result of other adjustments shown in this report."
- (3) When the claim issues are allowed in full, and the examination results in an additional refund that is barred, examiners must follow the procedures in IRM 4.10.11.5.2.4.

4.10.11.2.10
(09-04-2020)
**Claims for Refund -
Allowed in Full With
Offsetting Adjustments**

- (1) When the claim issues are allowed in full, but other adjustments are proposed that reduce the amount of the refund (or the calculated overassessment is less than the claim amount), the claim is treated as a partially or fully disallowed claim.

Note: With the exception of the wording in the “Other Information” section of Form 4549 below, examiners follow the procedures applicable to the results of the examination (e.g., partially disallowed, disallowed in full, or disallowed in full with additional tax liability).

- (2) Examiners must prepare and issue Form 4549 showing the adjustments to the tax and/or penalties, and complete the “Other Information” section as follows: “On (date) you filed a claim using Form (843, 1040X, 1120X) for a refund of \$ (amount) for (year). As a result of our examination, your claim was allowed in full. However, the total amount of the refund was decreased by other adjustments shown in this report.”

4.10.11.2.11
(09-04-2020)
**Claims for Refund -
Partially Disallowed**

- (1) When a claim for refund is partially disallowed, examiners must prepare and issue:

- a. Form 4549 reflecting the adjustments to the tax and/or penalties.

Note: Include the following statement in the “Other Information” section: “On (date) you filed a claim using Form (843, 1040X, 1120X) for a refund of \$(amount) for (year). As a result of our examination, we partially allowed your claim, as shown in this report.”

Reminder: Examiners must consider the applicability of IRC 6676, Penalty for Erroneous Claim for Refund or Credit, when a claim for refund is disallowed in full or part.

- b. Form 2297 - to solicit a waiver of the right to receive a statutory notice of claim disallowance that must otherwise be issued by Technical Services.
- c. Letter 569 - to notify the taxpayer of the findings and offer the opportunity to appeal.

- (2) If the taxpayer agrees with the partial claim disallowance and signs Form 2297 and Form 4549, see IRM 4.10.8.4.5, Closing Letters for Agreed Cases, for instructions on preparing Letter 987. See IRM 4.10.11.2.15 for Form 5344 and Form 3198 closing procedures and close the case to CCP.

Note: If the taxpayer signs Form 4549 but a signature is not secured on Form 2297, close the case to Technical Services for preparation and issuance of Letter 905. (LB&I will prepare Letter 905, undated, and secure the appropriate signatures prior to sending to Technical Services.) See IRM 4.10.11.2.15 for guidance on preparing Form 5344 and Form 3198 for closing the case to Technical Services.

- (3) If an agreement is not secured, follow the procedures below based on the response to Letter 569:
 - a. If the taxpayer provides additional information after Letter 569 has been issued, the examiner must evaluate the information, then follow the procedures in IRM 4.10.8.12.9.1, Additional Information Received, and issue Letter 692-A, Request for Consideration of Additional Findings (claim).

Exception: If the additional information raises new issues that result in a deficiency, see IRM 4.10.11.2.14.

- b. If the taxpayer requests Appeals' consideration, follow the procedures in IRM 4.10.8.12.9.3, Request for Appeals Conference. For cases transferred to Appeals, see IRM 4.10.11.2.15 for Form 5344 and Form 3198 closing procedures, then close the case to Technical Services.
- c. If no reply is received from the taxpayer within 30 days, and they indicated their intent to reply, see IRM 4.10.8.12.10, No Response to 30-Day Letter, for guidance on extending the time to file a protest and undeliverable letters, if applicable. Otherwise, if a signed Form 2297 is not secured, close the case to Technical Services for preparation and issuance of Letter 905. (LB&I will prepare Letter 905, undated, and secure the appropriate signatures prior to sending to Technical Services.) See IRM 4.10.11.2.15 for guidance on preparing Form 5344 and Form 3198 for closing the case.

4.10.11.2.12
(09-04-2020)

**Claims for Refund -
Partially Disallowed With
Offsetting Adjustments**

- (1) When the claim issues are partially disallowed, but other adjustments are proposed that further reduce the amount of the refund, the claim is treated as a partially or fully disallowed claim. For example, if no refund is allowed, the claim is fully disallowed, even if the claim issues are partially allowed.

Note: With the exception of the wording in the "Other Information" section of Form 4549 below, examiners follow the procedures applicable to the results of the examination (e.g., partially disallowed, disallowed in full, or disallowed in full with additional tax liability).

- (2) Examiners must prepare and issue Form 4549 showing the adjustments to the tax and/or penalties, and complete the "Other Information" section as follows: "On (date) you filed a claim using Form (843, 1040X, 1120X), for refund of \$(amount) for (year). As a result of our examination, your claim was allowed in part. However, the total amount of the refund was decreased by other adjustments shown in this report."

4.10.11.2.13
(09-04-2020)

**Claims for Refund -
Disallowed in Full - No
Additional Tax Liability**

- (1) When a claim for refund is disallowed in full and no additional tax liability is proposed, examiners must prepare and issue:
 - a. Form 3363 - to secure an agreement to the claim disallowance. Form 3363 presents the amount of the claim disallowance in a more straightforward manner than Form 4549, which would reflect a no-change in this scenario. Therefore, Form 3363 is used instead of Form 4549 when there are no adjustments.

Exception: If the claim is disallowed in full because other adjustments offset the claim, or a balance due prevents a refund of a partially allowed request, a Form 4549 is used to secure an agreement to the claim disallowance instead of Form 3363. See IRM 4.10.11.2.10 or IRM 4.10.11.2.12 for the applicable wording for the "Other Information" section of Form 4549.

- b. Form 2297 - to solicit a waiver of the requirement to receive a statutory notice of claim disallowance that must otherwise be issued by Technical Services.
- c. Letter 569 - to notify the taxpayer of the findings and offer the opportunity to appeal. Include the following explanation for the disallowance of the

claim on the last page: “On (date) you filed a claim using Form (843, 1040X, 1120X) for a refund of \$(amount) for (year). As a result of our examination, we disallowed your claim (follow with a detail explanation for the disallowance).” The explanation and reason for disallowance must include enough information to enable the taxpayer to challenge the determination.

Reminder: Examiners must consider the applicability of IRC 6676, Penalty for Erroneous Claim for Refund or Credit, when a claim for refund is disallowed in full or part.

- (2) If the taxpayer agrees with the full claim disallowance and signs Form 2297 and Form 3363 (or Form 4549), see IRM 4.10.8.4.5, Closing Letters for Agreed Cases, for instructions on preparing Letter 987. See IRM 4.10.11.2.15 for Form 5344 and Form 3198 closing procedures, then close the case to CCP.

Note: If the taxpayer signs Form 3363 or Form 4549, but a signature is not secured on Form 2297, close the case to Technical Services for preparation and issuance of Letter 906. (LB&I will prepare Letter 906, undated, and secure the appropriate signatures prior to sending to Technical Services.) See IRM 4.10.11.2.15 for guidance on preparing Form 5344 and Form 3198 for closing the case to Technical Services.

- (3) If an agreement is not secured, follow the procedures below based on the response to Letter 569:
 - a. If the taxpayer provides additional information after Letter 569 has been issued, the examiner must evaluate the information, then follow the procedures in IRM 4.10.8.12.9.1, Additional Information Received, and issue Letter 692-A.

Exception: If the additional information raises new issues that result in a deficiency, see IRM 4.10.11.2.14.
 - b. If the taxpayer requests Appeals’ consideration, follow the procedures in IRM 4.10.8.12.9.3, Request for Appeals Conference. For cases transferred to Appeals, see IRM 4.10.11.2.15 for Form 5344 and Form 3198 closing procedures, then close the case to Technical Services.
 - c. If no reply is received from the taxpayer within 30 days, but they had indicated their intent to reply, see IRM 4.10.8.12.10, No Response to 30-Day Letter, for guidance on extending the time to file a protest and undeliverable letters, if applicable. Otherwise, if a signed Form 2297 is not secured, close the case to Technical Services for preparation and issuance of Letter 906. (LB&I will prepare Letter 906, undated, and secure the appropriate signatures prior to sending to Technical Services.) See IRM 4.10.11.2.15 for guidance on preparing Form 5344 and Form 3198 for closing the case.

4.10.11.2.14
(09-29-2022)
**Claims for Refund -
Disallowed in Full -
Additional Tax Liability**

- (1) The ASER must be considered and protected if other issues are present which could result in a deficiency. For example, if adjustments increasing tax (or reducing credits) more than offset the allowable amount (if any) of the claim for refund, a deficiency exists. The ASER must be open to make an assessment of a deficiency (e.g., tax increase or credit reversal). If the ASER is not open, an additional assessment cannot be proposed; follow the procedures in IRM 4.10.11.2.13 for claims disallowed in full. Include a narrative in the workpapers

explaining any offsetting adjustments the examiner noted but could not be proposed because the ASED was barred.

Caution: If the ASED was open when the claim was established on AIMS, but allowed to expire, barred statute procedures in IRM 25.6.1.13, Barred Assessments/Barred Statute Cases, must be considered when an additional deficiency exists.

- (2) When the ASED is open for a claim for refund and the examination results in a proposed deficiency, examiners must prepare and issue:

- a. Form 4549 to reflect the adjustments to the tax and/or penalties.

Note: Include the following statement in the Form 4549 "Other Information" section: "On (date) you filed a claim using Form (843, 1040X, 1120X) for a refund of \$(amount) for (year). As a result of our examination, we disallowed your claim and made other adjustments, as shown in this report."

Reminder: Examiners must consider the applicability of IRC 6676, Penalty for Erroneous Claim for Refund or Credit, when a claim for refund is disallowed in full or part. For the additional deficiency, examiners must consider the applicability of delinquency and return-related penalties.

- b. Form 2297 - to solicit a waiver of the right to receive a statutory notice of claim disallowance that must otherwise be issued by Technical Services.
c. Letter 569 or Letter 5153-A - to notify the taxpayer of the findings and offer the opportunity to appeal. The letter used to transmit the findings will depend on the time remaining on the ASED, as explained in the next paragraph.

- (3) If fewer than 240 days remain on the ASED, examiners must issue Letter 5153-A, Examination Report Transmittal - Statute < 240 Days (Claim), and follow the procedures in IRM 4.10.8.12.1, 30-Day Letters. If 240 or more days remain on the ASED, examiners must issue Letter 569, and follow the procedures in IRM 4.10.8.12.9, Response to 30-Day Letter.

- (4) If the taxpayer agrees with the adjustments and signs Form 2297 and Form 4549, see IRM 4.10.8.4.5, Closing Letters for Agreed Cases, for instructions on preparing Letter 987. See IRM 4.10.11.2.15 for Form 5344 and Form 3198 closing procedures, then close the case to CCP.

Note: If the taxpayer signs Form 4549 but a signature is not secured on Form 2297, close the case to Technical Services for preparation and issuance of Letter 906. (LB&I will prepare Letter 906, undated, and secure the appropriate signatures prior to sending to Technical Services.) See IRM 4.10.11.2.15 for guidance on preparing Form 5344 and Form 3198 for closing the case to Technical Services.

- (5) If the taxpayer requests Appeals' consideration, follow the procedures in IRM 4.10.8.12.9.3, Request for Appeals Conference. For cases transferred to Appeals, see IRM 4.10.11.2.15 for Form 5344 and Form 3198 closing procedures, then close the case to Technical Services.

- (6) In certain circumstances, a partial agreement might be appropriate. For example, the taxpayer wishes to protest the disallowance of the claim issue(s), but there are other adjustments which result in a deficiency to which the taxpayer agrees. In this scenario, examiners:
 - a. Secure agreement on Form 4549 and assess the agreed deficiency to limit the number of issues for Appeals' consideration. See the instructions in IRM 4.10.8.6, Partially Agreed Cases, for preparing reports and making assessments on partially agreed cases.
 - b. See (5) above for procedures if the taxpayer requests Appeals' consideration for the claim issues. If the assessment statute no longer needs protection because the additional deficiency has been assessed, the statute may be updated to "AA", as explained in IRM 4.10.11.5.1.
- (7) If a signed Form 4549 is not secured, or no reply is received from the taxpayer within the time allowed and they had indicated their intent to reply, see IRM 4.10.8.12.10, No Response to 30-Day Letter, for guidance on extending the time to file a protest and undeliverable letters, if applicable. Otherwise, close the case to Technical Services for preparation and issuance of a statutory notice of deficiency and claim disallowance. (LB&I will prepare Letter 906, undated, and secure appropriate signatures prior to sending to Technical Services.) See IRM 4.10.11.2.15 for guidance on preparing Form 5344 and Form 3198 for closing the case to Technical Services.

4.10.11.2.15
(09-29-2022)
**Claims for Refund -
Closing Instructions**

- (1) Form 3198 and a Form 5344 (for each tax period) must be included in the case file. This section provides reminders and references regarding the features of Form 3198 and Form 5344 that examiners must consider when preparing these forms on claim for refund cases.
 - (2) See IRM 4.10.8.7, Splitting Multi-Year Examination Cases, when closing a multi-year case when at least one of the tax years requires different processing. Do not split a multi-year case when issues raised in an unagreed year(s) are related to or dependent on issues raised in agreed or no-change year(s).
- Note:** For an overassessment involving a whipsaw situation, 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.
- (3) For all cases with an amended return or –A freeze on IDRS, examiners must check the "Amended Return or AAR in the File and Considered" box in the Special Features section of Form 3198. See IRM 21.5.6.4.2, –A Freeze, for additional information.
 - (4) For cases with overassessments of \$100,000 or more, examiners must flag Form 3198 in the **Expedite Processing** section by checking the "Over \$100,000 Agreed and Unpaid" box. See IRM 4.10.8.2.4.3, Large Dollar Cases, for additional information.
 - (5) For barred refunds, see IRM 4.10.11.5.2.4 for additional instructions for completing Form 3198 and Form 5344.
 - (6) Exhibit 4.10.11-7 contains a table with disposal codes for claims for refund, requests for abatement, and audit reconsiderations to assist the examiner in completing Item 13 of Form 5344 when a deficiency is not proposed.

- (7) IRM 4.4.12, Examined Closings, Surveyed Claims, and Partial Assessments, contains procedures for completing Form 5344. Closing instructions and IRM references specific to claims for refund are shown in the table below.

Findings	Form 5344	Form 3198
Survey After Assignment	Refer to the instructions in: <ul style="list-style-type: none"> • IRM 4.4.12.3, Surveyed Claims, Disposal Code 34 • IRM 4.4.12.5.18.3.7, Surveyed Claims • IRM 4.4.12.5.22.9, Surveyed Claims • IRM 4.4.12.5.38.3, Surveyed Claims • IRM 4.4.12.5.39.1, Claims 	Check the following boxes: <ul style="list-style-type: none"> • Amended Return or AAR in the File and Considered • Surveyed Claim • Forward to CCP • If applicable, Letter Instructions for CCP: Claim Letters: Fully Allowed - L570
Allowed in Full	Refer to the instructions in: <ul style="list-style-type: none"> • IRM 4.4.12.5.18.3.6, Item 08: Agreement Date • IRM 4.4.12.5.33 through IRM 4.4.12.5.37 regarding Amount Claimed, Revenue Base Protection (RBP), Dollars Protected, RBP Hours, and Claim Type • IRM 4.4.12.5.38, Item 28: Examiner's Time 	Check the following boxes: <ul style="list-style-type: none"> • Amended Return or AAR in the File and Considered • Forward to CCP • If applicable, Letter Instructions for CCP: Claim Letters: Fully Allowed - L570
Partially Disallowed - Agreed (Form 2297 signed)	Refer to the instructions in: <ul style="list-style-type: none"> • IRM 4.4.12.5.18.3.6, Item 08: Agreement Date • IRM 4.4.12.5.32, Item 20: Claim Rejection date • IRM 4.4.12.5.33 through IRM 4.4.12.5.37 regarding Amount Claimed, Revenue Base Protection (RBP), Dollars Protected, RBP Hours, and Claim Type • IRM 4.4.12.5.38, Item 28: Examiner's Time 	Check the following boxes: <ul style="list-style-type: none"> • Amended Return or AAR in the File and Considered • Forward to CCP • If applicable, Letter Instructions for CCP: Agreed - Letter 987

Findings	Form 5344	Form 3198
Partially Disallowed - Appealed	Refer to the instructions in: <ul style="list-style-type: none"> IRM 4.4.12.5.30.6, Claim for Refund Appealed IRM 4.4.12.5.33 through IRM 4.4.12.5.37 regarding Amount Claimed, Revenue Base Protection (RBP), Dollars Protected, RBP Hours, and Claim Type IRM 4.4.12.5.38, Item 28: Examiner's Time 	Check the following boxes: <ul style="list-style-type: none"> Amended Return or AAR in the File and Considered Unagreed to Appeals Forward to Technical Services
Partially Disallowed - Unagreed but not Protested	Refer to the instructions in: <ul style="list-style-type: none"> IRM 4.4.12.5.18, Item 08: Agreement Date IRM 4.4.12.5.33 through IRM 4.4.12.5.37 regarding Amount Claimed, Revenue Base Protection (RBP), Dollars Protected, RBP Hours, and Claim Type IRM 4.4.12.5.38, Item 28: Examiner's Time 	Check the following boxes: <ul style="list-style-type: none"> Amended Return or AAR in the File and Considered Statutory Notice of Claim Disallowance - Letters 905 and 906 Forward to Technical Services
Disallowed in Full - Agreed (Form 2297 signed)	Refer to the instructions in: <ul style="list-style-type: none"> IRM 4.4.12.5.18.3.6, Item 08: Agreement Date IRM 4.4.12.5.32, Item 20: Claim Rejection date IRM 4.4.12.5.33 through IRM 4.4.12.5.37 regarding Amount Claimed, Revenue Base Protection (RBP), Dollars Protected, RBP Hours, and Claim Type IRM 4.4.12.5.38, Item 28: Examiner's Time 	Check the following boxes: <ul style="list-style-type: none"> Amended Return or AAR in the File and Considered Forward to CCP If applicable, Letter Instructions for CCP: Agreed - Letter 987
Disallowed in Full - Appealed	Refer to the instructions in: <ul style="list-style-type: none"> IRM 4.4.12.5.30.6, Claim for Refund Appealed IRM 4.4.12.5.33 through IRM 4.4.12.5.37 regarding Amount Claimed, Revenue Base Protection (RBP), Dollars Protected, RBP Hours, and Claim Type IRM 4.4.12.5.38, Item 28: Examiner's Time 	Check the following boxes: <ul style="list-style-type: none"> Amended Return or AAR in the File and Considered Unagreed to Appeals Forward to Technical Services

Findings	Form 5344	Form 3198
Disallowed in Full – Unagreed but Not Protested	Refer to the instructions in: <ul style="list-style-type: none"> • IRM 4.4.12.5.33 through IRM 4.4.12.5.37 regarding Amount Claimed, Revenue Base Protection (RBP), Dollars Protected, RBP Hours, and Claim Type • IRM 4.4.12.5.38, Item 28: Examiner's Time 	Check the following boxes: <ul style="list-style-type: none"> • Amended Return or AAR in the File and Considered • Statutory Notice of Claim Disallowance - Letters 905 and 906 • Forward to Technical Services
Disallowed in Full with Additional Tax Liability – Agreed (Form 2297 and Form 4549 signed)	Refer to the instructions in: <ul style="list-style-type: none"> • IRM 4.4.12.5.18, Item 08: Agreement Date • IRM 4.4.12.5.22, Item 13: Disposal Code • IRM 4.4.12.5.32, Item 20: Claim Rejection date • IRM 4.4.12.5.33 through IRM 4.4.12.5.37 regarding Amount Claimed, Revenue Base Protection (RBP), Dollars Protected, RBP Hours, and Claim Type • IRM 4.4.12.5.38, Item 28: Examiner's Time 	Check the following boxes: <ul style="list-style-type: none"> • Amended Return or AAR in the File and Considered • Forward to CCP • If applicable, Letter Instructions for CCP: Agreed - Letter 987
Disallowed in Full with Additional Tax Liability - Appealed	Refer to the instructions in: <ul style="list-style-type: none"> • IRM 4.4.12.5.22, Item 13: Disposal Code • IRM 4.4.12.5.30, Item 18: Unagreed Amount Appealed/Petitioned • IRM 4.4.12.5.33 through IRM 4.4.12.5.37 regarding Amount Claimed, Revenue Base Protection (RBP), Dollars Protected, RBP Hours, and Claim Type • IRM 4.4.12.5.38, Item 28: Examiner's Time 	Check the following boxes: <ul style="list-style-type: none"> • Amended Return or AAR in the File and Considered • Unagreed to Appeals • Forward to Technical Services

Findings	Form 5344	Form 3198
Disallowed in Full with Additional Tax Liability – Unagreed but Not Protested	Refer to the instructions in: <ul style="list-style-type: none"> IRM 4.4.12.5.22, Item 13: Disposal Code IRM 4.4.12.5.33 through IRM 4.4.12.5.37 regarding Amount Claimed, Revenue Base Protection (RBP), Dollars Protected, RBP Hours, and Claim Type IRM 4.4.12.5.38, Item 28: Examiner's Time 	Check the following boxes: <ul style="list-style-type: none"> Amended Return or AAR in the File and Considered Unagreed for Statutory Notice Statutory Notice of Claim Disallowance - Letters 905 and 906 Forward to Technical Services

Reminder: For paperless electronic closures, groups should follow their business unit's policy for mailing closing letters.

(8) See *Protection of Revenue Base* for additional instructions on capturing time.

4.10.11.2.16
(09-29-2022)

Claims for Refund - Post Examination Appeal Rights

- (1) When the examiner's preliminary findings result in a disallowance of a claim for refund (in full or part), the taxpayer is generally afforded an opportunity to request a conference with Appeals. A statutory notice of claim disallowance, explaining the taxpayer's right to file a refund suit, is issued when an agreement is not reached during the examination or the Appeals process (if protested).
- (2) IRC 6532 imposes a general two-year time limit on the taxpayer to file a refund suit from the date of mailing of the statutory notice of claim disallowance (or the receipt of a signed Form 2297). See IRM Exhibit 8.7.7-1, IRS Claim Disallowance Letters that Begin the 2-Year Period for Filing a Refund Suit, for some of the letters IRS issues to meet this statutory requirement, and IRM 4.10.11.2.2.1 for a discussion of Form 2297 and the two-year time limit.
- (3) After the IRS has issued a statutory notice of claim disallowance, the taxpayer may file a refund suit in court or request a reconsideration, as long as the claim was not previously closed with finality (e.g., a closing agreement under IRC 7121, Form 870-AD, or a court order).
- (4) The IRC 6532 two-year period in which a taxpayer may file a refund suit is not suspended during any period in which the IRS considers or reconsiders the claim or when the taxpayer requests or receives a conference with Appeals.

4.10.11.2.16.1
(09-29-2022)

Reconsideration of Previously Disallowed Claims for Refund

- (1) After a statutory notice of claim disallowance is mailed (e.g., Letter 905 or Letter 906) and the case is closed, taxpayers may ask for Appeals or Examination to reconsider a disallowed claim. Appeals reconsiders claims disallowed by Compliance (Field or Campus Examination) if they were not previously considered by Appeals. See IRM 8.7.7.15, Claims Disallowed by Compliance Based on Timeliness Determinations; and IRM 8.7.7.16, Reconsideration of Claims for Liabilities Previously Considered by Appeals, for additional information.

- (2) IRM 1.2.1.5.22, Policy Statement 4-76, Disallowed claims may be reconsidered on the merits, states that merits of claims previously disallowed by Examination may be reconsidered in appropriate cases upon application of the claimant, unless insufficient time remains within the statutory period for filing suit to permit reconsideration. A reconsideration must be completed within the two-year period for bringing suit (including extensions). See IRM 4.10.11.2.16.1.1 below for additional information on the IRC 6532 two-year period to file refund suit.
- (3) If an examiner receives a request to reconsider a previously disallowed claim, use the **Contact an Expert** feature of the *Claim, Abatement and Audit Reconsideration Knowledge Base* to request procedural advice.
- (4) Examiners may refer to the following IRMs for additional information on reconsiderations of previously disallowed claims for refund:
 - IRM 25.6.1.10.2.5.4, Reconsideration After the RSED Where Notice of Claim Disallowance Not Sent.
 - IRM 25.6.1.10.2.5.5, Reconsideration of a Disallowed Claim.
 - IRM 8.7.7.2, Receipt of Newly Assigned Case.

4.10.11.2.16.1.1
(09-29-2022)

**IRC 6532 Two-Year
Period to File Refund
Suit - Consideration and
Examiner's
Responsibilities**

- (1) IRC 6532 imposes a general two-year time limit for taxpayers to file a refund suit for the recovery of any internal revenue tax, penalty, or other sum. This two-year time limit starts on the date the statutory notice of claim disallowance was mailed (or the date a signed Form 2297 was filed).
- (2) IRM 1.2.1.5.22, Policy Statement 4-76, Disallowed claims may be reconsidered on the merits, states that merits of claims previously disallowed by Examination may be reconsidered in appropriate cases upon application of the claimant, unless insufficient time remains within the statutory period for filing suit to permit reconsideration.
- (3) A reconsideration of a claim disallowance must be completed within the IRC 6532 two-year period for bringing suit (including extensions). IRC 6514(a) states that a refund of any portion of any internal revenue tax (or any interest, additional amount, addition to the tax, or assessable penalty) shall be considered erroneous and a credit of any such portion shall be considered void if the refund or credit was made after the time for filing suit has expired (unless the taxpayer has timely filed suit).
- (4) The statutory period under IRC 6532 must be manually monitored (e.g., using Form 895, Notice of Statute Expiration). IRM 25.6.23.3, Returns Subject to Statute Control, includes returns with open requests for reconsideration of claims and the statutory period for filing suit for refund may expire within 180 days.
- (5) Under IRC 6532(a)(2), the period of limitations for filing suit on a disallowed claim may be extended if both the taxpayer and IRS agree. Form 907, Agreement to Extend the Time to Bring Suit, is used to extend this statute and must be executed before the two-year period for bringing suit (including extensions) expires. The need to extend the time for filing suit must be carefully considered. The following are examples of satisfactory reasons for extending the time for filing suit under IRC 6532(a)(2):
 - a. If the disposition of a request for reconsideration of a disallowed claim is contingent on a pending court decision.

- b. The IRS had under consideration a change in position requiring the suspension of action in all similar cases.
- c. When an extension will prevent possible inequities to taxpayers (e.g., the taxpayer is entitled to a refund but additional processing time is needed to issue it prior to the IRC 6532 statute expiring).

Note: The above list is not exclusive. The facts and circumstances in each case must be evaluated to determine if an extension to the period of limitations for filing suit on a disallowed claim is appropriate.

- (6) Form 907 must be signed by the taxpayer or by an attorney, agent, trustee, or other fiduciary acting on the taxpayer's behalf pursuant to Form 2848, Power of Attorney and Declaration of Representative. Rev. Rul. 76-60 requires the inclusion of special language on Form 2848 for authorizing an individual to sign Form 907 on the taxpayer's behalf.
- (7) Directors are authorized to execute Form 907 to extend the time for filing suit; see 26 CFR 301.6532-1(b), Periods of limitation on suits by taxpayers. Division Commissioners and other delegated officials are authorized to execute a Form 907 per Delegation Order 1-23, Authorization to Perform Functions of the Commissioner, located in IRM 1.2.2.2.20. In SB/SE, the authority to execute a Form 907 has been redelegated in IRM 1.2.65.3.9, SBSE 1-23-24, Authority to Sign Agreements to Extend the Running of the Period of Time to Bring Suit. For cases open in Field Examination, SB/SE group managers should contact their servicing Technical Services for assistance in the execution of the Form 907.
- (8) If TAS is assisting a taxpayer with an imminent IRC 6532 statute, they use Form 12412, Operations Assistance Request (OAR), to request assistance from IRS operating divisions or functions. See IRM 13.1.19, Operations Assistance Request (OAR) Process, and *Service Level Agreements* for additional information.

Note: For SB/SE, the Service Level Agreement SBSE Addendum contains points of contact for OARs.

Reminder: A request from TAS to extend the IRC 6532 statute is subject to the same considerations outlined in (5) above.

4.10.11.2.16.2 (09-29-2022) Refund Suits - Disallowed Claims for Refund

- (1) A taxpayer is entitled to file a refund suit no earlier than six months after the filing of the refund claim (if no action is taken by the IRS), and no later than two years from the date a statutory notice of claim disallowance letter is mailed (or the date a signed Form 2297 is received).
- (2) Typically a refund suit is filed by the taxpayer after the claim for refund audit is closed. However, if an examiner is notified a refund suit has been filed for a claim currently under examination, the audit must be suspended, and the examiner must contact Counsel for advice (SB/SE examiners follow IRM 4.8.8.12.1.2, Advice From Area Counsel). Examiners must complete the workpapers to reflect the facts gathered, audit steps taken, and conclusions reached up to that point in the examination; however no reports or claim letters are issued to the taxpayer unless instructed by Technical Services or Counsel.

- (3) If IRS Counsel or another agency (e.g., the Department of Justice (DOJ)) requests the administrative case file, the examiner must close the case on AIMS, and have the case file recharged to the requesting office. This is accomplished by:
 - a. Completing Form 5344 using disposal code 12 (Item 13) and \$1 in Manual Assessment Amount (Item 35).
 - b. Completing Form 2275, Records Request, Charge and Recharge, with the complete address of the requesting office.
 - c. Attaching a copy of the face of the return and Form 2275 to the Form 5344 .
 - d. Completing Form 3198 "Special Features" section, noting in the Other Instructions "Refund Litigation - claim case" and instructing CCP to forward Form 2275 to the campus files function to "recharge" the administrative file and return to the requesting agency.

Note: Claim for refund cases are excluded from paperless electronic closure if the taxpayer has filed refund suit and another agency (e.g., DOJ) has requested the administrative file.

4.10.11.3 (09-04-2020)

Requests for Abatement

- (1) Taxpayers who have an unpaid module balance, but believe their assessed liability exceeds the correct amount, can file an amended return or request for abatement. A request for abatement results in an accounting decrease in an assessed tax and/or penalty liability that remains unpaid.
- (2) IRC 6404(b) provides that taxpayers have no right to file a claim for abatement of income, estate, or gift tax (taxes imposed under subtitle A or B). A taxpayer may, however, request an abatement of an assessment of employment tax which is excessive or was illegally or erroneously assessed. See IRM 25.6.1.10.1, Requests for Abatement, for additional discussion on abatement authority.
- (3) While there is no provision in the IRC for filing a claim for abatement of income, estate, or gift tax, IRC 6404(a) authorizes the IRS to abate the unpaid portion of the assessment of any tax or any liability in respect thereof, which is
 - Excessive in amount, or
 - Assessed after the expiration of the period of limitation properly applicable thereto, or
 - Erroneously or illegally assessed.
- (4) A request for an abatement related to an unpaid examination assessment (TC 300, Additional Tax Assessment by Examination or Appeals) is an "audit reconsideration".

Note: Examiners must follow the procedures in IRM 4.10.11.4, Audit Reconsiderations, when working audit reconsideration cases.

- (5) The following sections give an overview of the requirements for requests for abatements, as well as procedural guidance for examiners working requests for abatement.

4.10.11.3.1
(09-04-2020)
**Requests for Abatement
- General Requirements**

- (1) Requests for abatement are considered as a courtesy rather than as a right afforded by law. As such, they do not have the same requirements as claims for refund with regard to form, content, and timeliness discussed in IRM 4.10.11.2.1.
- (2) Abatements can be requested at any time. If, however, the abatement results in part abatement/part refund, then examiners must consider the provisions of IRC 6511 as they pertain to the refund portion. See IRM 4.10.11.5.2 for additional discussion regarding the RSED and an example of how it applies to the refund portion.
- (3) A request for abatement (which does not also include a request for a refund) does not constitute a claim for refund within the meaning of IRC 6511. Taxpayers have no court rights for disallowed requests for abatement (except for judicial review of interest abatement requests as described in IRC 6404(h)).
- (4) The determination of whether an amended return or written request that decreases tax and/or penalty (or increases a credit) is a claim for refund **or** a request for abatement, is based on whether the amended return or written request asked for a refund **at the time it was filed**. If the taxpayer requests any amount of overpayment, then it is a claim for refund. Otherwise, a request for a reduction to the liability (not resulting in a credit or refund of any amount) is a request for abatement. Examples are given in IRM 4.10.11.2.1.2(5), and will assist examiners in determining if a written request is a claim for refund or request for abatement.

Caution: If a request for abatement is filed and the module balance becomes partially or fully paid at a later date, continue to treat it as a request for abatement unless a new, timely claim for refund is filed. A request for abatement cannot be retroactively converted to a claim for refund.

4.10.11.3.2
(09-04-2020)
**Requests for Abatement
- Overview of
Examiner's
Responsibilities**

- (1) An examiner may be assigned a request for abatement case or may receive a request for abatement for a tax period already under examination. Because requests for abatement and claims for refund differ regarding requirements, limitations, and appeal rights, it is important examiners make the proper determination of the nature of the request to properly process the case and advise taxpayers of their rights.

Reminder: A request for abatement refers to a request for a reduction in the assessed liability (module balance), where no refund is requested.

- (2) For all requests for abatement, whether assigned or received during an audit, see IRM 4.10.11.3.3 for guidance in determining the nature of the request. Examiners assigned a request for abatement case must also follow the initial contact procedures in IRM 4.10.11.3.5.
- (3) Since a request for abatement is not a claim for refund, claim forms and letters (e.g., Form 3363, Form 2297 and Letter 569) are not used because the appeal and court rights referenced in those forms and letters are not applicable to requests for abatement. Advise taxpayers that disallowed requests for abatement have no appeal rights beyond the group level without paying the tax and/or disputed penalties, and filing a claim for refund.

Exception: The opportunity to appeal is offered on audit reconsideration abatement cases as well as requests for abatement that result in the proposal of additional tax liability and/or penalties.

- (4) Examiners sign and issue Letter 693, Reply to Request for Reconsideration of Assessment, to transmit the report as explained below. Allow the taxpayer 15 calendar days to request a group manager conference before closing the case.

Exception: The case can be closed immediately if the abatement is allowed in full, the request has been withdrawn, or a group manager conference has already been held with or refused by the taxpayer.

- (5) Because reports for requests for abatement reduce tax and/or penalties which have been assessed but not paid, examiners must explain to the taxpayer the overassessment shown on the examination report will not necessarily be refunded; instead the existing balance due will be reduced or eliminated.
- (6) In all cases where a request for abatement is disallowed (in full or part), examiners must provide a detailed explanation to the taxpayer of why the abatement was not allowed. Examiners must note the explanation in the "Other Information" section of Form 4549-A, or included in a lead sheet, workpaper, or Form 886-A.

Note: When a request for abatement is disallowed because the taxpayer failed to appear for an interview or to provide substantiation, include the following explanation: "We are disallowing your request for abatement in full because we did not receive a response to our request for supporting information."

- (7) In addition to the mandatory administrative lead sheets, an issue lead sheet is required for all examined issues, including abatement issues. See IRM 4.10.9.6.2, Issue Lead Sheets.
- (8) When closing a request for abatement case, examiners must follow the procedures found in IRM 4.10.11.3.14 in addition to normal case closing procedures.

4.10.11.3.3
(09-29-2022)
**Requests for Abatement
- Pre-Contact Analysis
and Planning**

- (1) Examiners are responsible for determining if an amended return or written request is a request for abatement rather than a claim for refund. Examiners may contact their local *Technical Services Claims Coordinator* for assistance, if needed.
- (2) When copies of amended returns or correspondence relating to campus adjustments are not in the file or provided by the taxpayer, additional information may be available on the Correspondence Imaging System (CIS). CIS is used to manage scanned images of amended IMF returns, documents, and electronic case files. The CIS View Image function on AMS allows users to view and print images of correspondence and returns. Examiners who do not have access to AMS may request CIS images through the local AIMS/ERCS Analyst.
- (3) In addition to reviewing the amended return or written request, examiners must secure and review a current transcript to identify all actions taken by the IRS and determine the nature of the request by answering the following questions:

- a. Is the taxpayer requesting an abatement of an existing liability? For example, previous assessments of tax and/or disputed penalties were not paid and the module had a balance due at the time the written request was filed and no refund was requested; therefore the request is for an abatement rather than a refund.

Note: Claim for refund procedures must be followed if a written request asks for some amount of money to be refunded, whether or not it also involves an abatement.

- b. Has the campus already allowed the request for abatement? For example, a TC 291 with a dollar amount matching the requested abatement indicates the request was allowed.

Note: If the adjustments to tax or credits shown on a request for abatement have been allowed and posted to Master File, the procedures in this IRM do not apply. If an examination is warranted, follow normal examination procedures. The statute of limitations for assessment must be protected and the use of "AA" as discussed in IRM 4.10.11.5.1 is not appropriate.

- c. Is the request for abatement related to a prior audit? For example, a TC 300 examination assessment posted on the module for the tax period is indicative of a prior audit. If the request for abatement includes new information that was not previously considered, the examiner must follow the audit reconsideration procedures in IRM 4.10.11.4, Audit Reconsiderations.

Reminder: A TC 290 is not a prior audit assessment.

- d. Has the liability for the tax period in question been closed with finality (e.g., a closing agreement or an Offer in Compromise)? If so, a request for abatement is not permitted.

- (4) The procedures in IRM 4.10.11.3 apply to requests for abatement that are not audit reconsiderations. If the amended return or written request does not meet the criteria for a request for abatement, refer to the following table for guidance.

If	And	Then
An amended return or written request is asking for an abatement	Is also requesting a refund	Follow procedures in IRM 4.10.11.2.
An amended return or written request is otherwise valid, but no refund or abatement is requested	The amended return or written request has no change to tax and/or credits (e.g., amended pass through entity return with no tax due or overpayment)	See Exhibit 4.10.11-2 for guidance.
An amended return or written request is otherwise valid, but no refund or abatement is requested	The amended return is a taxable amended return (i.e., it reports an overall increase to tax and/or decrease to credits resulting in an amount owed)	See Exhibit 4.10.11-3 for guidance.

If	And	Then
The amended return or written request has already been acted on	The tax and/or penalties have already been abated	Request for abatement procedures do not apply; follow normal examination procedures.
A valid request for abatement does not exist (e.g., request already acted on) and ASED is expired	PSP assigned the request to the group, and the examination has not been started	Consult with your group manager for concurrence that the request is not valid. Contact local PSP claims coordinator to discuss determination of an invalid request. If agreed the request is not valid, and an examination is not warranted, the group updates to Status 41 and sends to PSP.

- (5) Before determining whether to survey or examine an assigned request for abatement, examiners are responsible for evaluating the audit potential of the entire return. Examiners must follow the procedures outlined in IRM 4.10.2.3, In-Depth Pre-Contact Analysis, which include a thorough review of the case file to identify large, unusual, or questionable items (LUQs). The examination need not be limited to the issues raised in the request for abatement if there are other issues that warrant examination or further consideration.

Note: The amount of the allowable abatement can be offset in part or in full by other adjustments without consideration of the statute of limitations for assessment. However, there must be an open assessment statute if a deficiency is proposed (i.e., other adjustments more than offset the allowable amount of the abatement).

- (6) Before limiting the scope of an audit, the probes in IRM 4.10.2.3.2, Pre-Contact Minimum Income Probes, must be completed; for an individual business return, this includes a preliminary financial status analysis (T-Account) based on the amended tax return and available data. If the pre-contact minimum income probes indicate a likelihood of underreported income, then further development is required and the remaining minimum income probes must be completed. If there are no other issues meriting further consideration, the examination can be limited to the abatement issue(s).
- (7) The analysis and pickup of prior, subsequent, and related returns, when warranted, is a primary responsibility of examiners in every audit, including requests for abatement. See IRM 4.10.5, Required Filing Checks, for more information.
- (8) Requests for abatement that are excluded from paperless electronic closure are placed in light blue file folders in accordance with IRM 4.10.8.15.3, Case Folder Color.
- (9) To ensure the accuracy of the AIMS database, examiners must verify the source code and claim amount are properly reflected on request for abatement cases. For information on the source code, see Exhibit 4.10.11-5. Even though a request for abatement is not a claim for refund, a "claim amount" is required on AIMS. For information on the claim amount, see Exhibit 4.10.11-6.

4.10.11.3.4
(09-04-2020)

Requests for Abatement - Survey After Assignment

- (1) After evaluating the audit potential as instructed in IRM 4.10.11.3.3(5), a request for abatement may be surveyed after assignment if it is determined the abatement issue is clearly allowable in full and the return does not otherwise warrant examination. Follow the procedures in IRM 4.10.2.5.3, Surveying Claims.
- (2) A surveyed request for abatement is considered an “examined closure” for AIMS purposes and requires a Form 5344, with a Disposal Code 34. The net of tax and penalties in Item 12 and/or 15 must be negative (or a positive credit amount). A Survey Reason Code is not required.
- (3) Examiners must complete a Form 1900 to explain why the request for abatement is being surveyed.
- (4) SB/SE income tax examiners should use RGS for generating a tax computation and Form 5344, in accordance with IRM 4.10.15.10.1, Examined Closures (Form 1040, Form 1120, Form 1120S, Form 1065, and Form 1040NR).
- (5) Examiners must ensure the IRS’ calculation of the overassessment agrees with the amount shown on the request for abatement. If the IRS’ calculation is less than the amount shown on the amended return or written request, survey procedures are not applicable. If the computation of the overassessment is not shown on the amended return or written request, the examiner must include a tax computation schedule with Form 1900, Income Tax Survey After Assignment.
- (6) If a delinquency penalty was asserted on the original return, the Delinquent Return Indicator is set on AIMS (page 1, line 16 of the AMDISA) and examiners must address the delinquency penalty in Item 12 on Form 5344. Enter a TC 160 for zero if the delinquency penalty should not be adjusted when allowing the request for abatement.
- (7) See IRM 4.10.11.3.14 for Form 5344 and Form 3198 closing procedures, then close the case to CCP.

4.10.11.3.5
(09-29-2022)

Requests for Abatement - Initial Contact

- (1) Once the decision has been made to examine the request for abatement, SB/SE Field examiners must follow the initial contact procedures in IRM 4.10.2.8, Initial Contact: Overview, and related sections. LB&I examiners, see IRM 4.46.3.2.7, Contacting the Taxpayer, for guidance.
- (2) An examination may have been initiated for reasons other than the request for abatement. However, if a request for abatement is made for a year open for examination and that request has not been acted on, examiners must generally expand the scope to consider the abatement issues along with the other issues identified in the examination. An amended return received from a taxpayer under examination must remain with the case file.

Reminder: A –A freeze code on the transcript for the tax period under examination indicates a duplicate/amended return has been filed which must be considered. See IRM 21.5.6.4.2, –A Freeze, for additional information.

4.10.11.3.6
(09-29-2022)

**Requests for Abatement
- Withdrawn Requests**

- (1) If a taxpayer asks to withdraw their request for abatement (i.e., withdraw the argument or position stated in the request), document the request for withdrawal in the activity record.
- (2) The examination can be discontinued **unless** the ASER is open and other issues with audit potential were identified during the required pre-contact analysis (see IRM 4.10.11.3.3(5)), or the examination.
- (3) If the examination is discontinued (or continued but no additional tax liability is proposed), examiners follow the procedures for Requests for Abatement - Disallowed in Full - No Additional Tax Liability in IRM 4.10.11.3.12. The following statement must be included in the "Other Information" section of the Form 4549 as the reason for the disallowance: "On (date) you filed a Form (843, 1040X, 1120X) requesting an abatement of \$(amount) for (year). On (date) you stated you did not want the IRS to give your request further consideration, therefore we are fully disallowing your abatement request."
- (4) If the examination is continued and other issues result in an additional tax liability, follow the procedures for Requests for Abatement - Disallowed in Full - Additional Tax Liability in IRM 4.10.11.3.13.

4.10.11.3.7
(09-04-2020)

**Requests for Abatement
- Allowed in Full**

- (1) A request for abatement is considered allowed in full when the overassessment shown on the examiner's report equals the requested abatement amount. If the abatement issues are allowed in full, but the overassessment does not equal the requested abatement amount, follow the applicable procedures below (partially allowed, allowed in full plus additional refund, etc.).
- (2) When a request for abatement is allowed in full, examiners must prepare and issue:
 - a. Form 4549-A, reflecting the reduction of tax and/or penalties. (RGS users may need to run the tax computation as "unagreed" to get this report option).

Note: Include the following statement in the Form 4549-A "Other Information" section: "On (date) you filed (a Form 843, 1040X, 1120X) requesting an abatement of \$(amount) for (year). As a result of our examination, your request was allowed in full, as shown in this report."
 - b. Letter 693, with the applicable box checked, to notify the taxpayer of the findings and transmit the report.
- (3) It is not necessary to secure a signature on the examination report; therefore, close the case to CCP.
- (4) See IRM 4.10.11.3.14 for Form 5344 and Form 3198 closing procedures.

4.10.11.3.8
(09-04-2020)

**Requests for Abatement
- Allowed in Full Plus
Refund**

- (1) When additional information is provided that substantiates not only the abatement of tax and/or penalties, but a potential refund to the taxpayer, examiners must consider the RSED as discussed in IRM 4.10.11.5.2 to determine if the refund is allowable or barred.
- (2) When the examination results in the allowance of abatement issues, plus a refund, examiners must follow the procedures in IRM 4.10.11.3.7 with the exception of the wording in the "Other Information" section of Form 4549-A;

instead use wording similar to the following: “On (date) you filed a (Form 843, 1040X, 1120X) requesting an abatement of \$(amount) for (year). Your request was allowed. In addition to the abatement, a refund has been allowed as the result of the adjustments shown in this report.”

- (3) When the examination results in the allowance of abatement issues, plus a refund that is barred, examiners must follow the procedures for Requests for Abatement - Allowed in Full in IRM 4.10.11.3.7 with the exception of the wording in the “Other Information” section of Form 4549-A; instead use wording similar to the following: “On (date) you filed a (Form 843, 1040X, 1120X) requesting an abatement of \$(amount) for (year). Your request was allowed. In addition to the abatement, a refund has been computed as the result of the adjustments shown in this report. However, this amount is barred from refunding by IRC 6511, Limitations on Credit or Refund”.

Reminder: Since this was a request for abatement, claim disallowance procedures are not applicable to the barred refund portion.

4.10.11.3.9 (09-04-2020) Requests for Abatement - Allowed in Full With Offsetting Adjustments

- (1) When the abatement issues are allowed in full, but other adjustments are proposed that reduce the amount of the abatement (or the calculated overassessment is less than the requested amount), the request is treated as partially or fully disallowed.

Note: With the exception of the wording in the “Other Information” section of Form 4549-A below, examiners follow the procedures applicable to the results of the examination (e.g., partially disallowed, disallowed in full, or disallowed in full with additional tax liability).

- (2) Examiners must prepare and issue Form 4549-A showing the adjustments to tax and/or penalties, and complete the “Other Information” section as follows: “On (date) you filed a Form (843, 1040X, 1120X) requesting an abatement of \$(amount) for (year). As a result of our examination, your request was allowed in full. However, the total amount of the abatement was decreased by other adjustments shown in this report.”

4.10.11.3.10 (09-04-2020) Requests for Abatement - Partially Disallowed

- (1) If the examination of the request for abatement results in a partial disallowance of the amount requested, examiners must prepare and issue:

- a. Form 4549-A. (RGS users may need to run the tax computation as “unagreed” to get this report option). The report will reflect an overassessment due to the abatement of tax and/or penalties.

Note: The following statement must be included in the “Other Information” section of the report: “On (date) you filed a Form (843, 1040X, 1120X) requesting an abatement of \$(amount) for (year). As a result of our examination, your request was allowed in part, as shown in this report.”

- b. Letter 693, with the applicable box checked, to notify the taxpayer of the examination findings. Allow the taxpayer 15 calendar days to request a group manager conference before closing the case.

- (2) See IRM 4.10.11.3.14 for Form 5344 and Form 3198 closing procedures, then close the case to CCP.

4.10.11.3.11
(09-04-2020)

**Requests for Abatement
- Partially Disallowed
With Offsetting
Adjustments**

- (1) When the abatement issues are partially allowed, but other adjustments are proposed that reduce the amount of the abatement, the request is treated as partially or fully disallowed.

Note: With the exception of the wording in the “Other Information” section of Form 4549-A below, examiners follow the procedures applicable to the results of the examination (e.g., partially disallowed, disallowed in full, or disallowed in full with additional tax liability).

- (2) Examiners must prepare and issue Form 4549-A showing the adjustments to tax and/or penalties, and complete the “Other Information” section as follows: “On (date) you filed a Form (843, 1040X, 1120X) requesting an abatement of \$ (amount) for (year). As a result of our examination, your request was allowed in part. However, the total amount of the abatement was decreased by other adjustments shown in this report.”

4.10.11.3.12
(09-04-2020)

**Requests for Abatement
- Disallowed in Full - No
Additional Tax Liability**

- (1) If the examination of the request for abatement results in no decrease in the previously assessed tax and/or penalties, and no additional liability is proposed, examiners must prepare and issue:

- a. Form 4549-A. (RGS users may need to run the tax computation as “unagreed” to get this report option). Although no adjustments are made, the following statement must be included in the “Other Information” section of the report: “On (date) you filed a Form (843, 1040X, 1120X) requesting an abatement of \$(amount) for (year). As a result of our examination, your request was disallowed in full, as shown in this report.”
- b. Letter 693, with the applicable box checked, to notify the taxpayer of the examination findings. Allow the taxpayer 15 calendar days to request a group manager conference before closing the case.

- (2) See IRM 4.10.11.3.14 for Form 5344 and Form 3198 closing procedures, then close the case to CCP.

4.10.11.3.13
(09-29-2022)

**Requests for Abatement
- Disallowed in Full -
Additional Tax Liability**

- (1) The ASED must be considered and protected if other issues are present which could result in a deficiency. For example, if adjustments increasing tax more than offset the allowable amount (if any) of the abatement, a deficiency exists. The ASED must be open to make an assessment of a deficiency (e.g., tax increase or credit reversal). If the ASED is not open, an additional assessment cannot be proposed; follow the procedures in IRM 4.10.11.3.12 for requests for abatement disallowed in full. Include a narrative in the workpapers explaining any offsetting adjustments the examiner noted but could not be proposed because the ASED was barred.

Caution: If the ASED was open when the request for abatement was established on AIMS, but allowed to expire, barred statute procedures in IRM 25.6.1.13, Barred Assessments/Barred Statute Cases, must be considered when an additional deficiency exists.

- (2) When the ASED is open for a request for abatement and the examination results in a proposed deficiency, examiners must prepare Form 4549 to reflect the adjustments to the tax and/or penalties.

Note: Include the following statement in the Form 4549 “Other Information” section: “On (date) you filed a Form (843, 1040X, 1120X) requesting an abatement of

\$(amount) for (year). As a result of our examination, we disallowed your request and made other adjustments as shown in this report.”

- (3) The examiner must prepare and issue the applicable transmittal letter to notify the taxpayer of the findings and explain their appeal rights. While requests for abatement generally have no appeal rights beyond the group level, the taxpayer will be offered the opportunity to appeal a proposed deficiency. The letter used to transmit the findings will depend on the time remaining on the ASER, as explained below:
 - If fewer than 240 days remain on the ASER, examiners must issue Letter 5153, Examination Report Transmittal - Statute <240 Days (Straight Deficiency), and follow the procedures in IRM 4.10.8.12.1, 30-Day Letters.
 - If 240 or more days remain on the ASER, examiners will issue the applicable 30-day letter (e.g., Letter 915 or Letter 950) and follow the procedures in IRM 4.10.8.12.9, Response to 30-Day Letter.
- (4) If the taxpayer agrees with the adjustments and signs Form 4549, see IRM 4.10.8.4.5, Closing Letters for Agreed Cases, for instructions on preparing Letter 987. See IRM 4.10.11.3.14 for Form 5344 and Form 3198 closing procedures, then close the case to CCP.
- (5) If the taxpayer requests Appeals consideration, follow the procedures in IRM 4.10.8.12.9.3, Request for Appeals Conference. For cases transferred to Appeals, see IRM 4.10.11.3.14 for Form 5344 and Form 3198 closing procedures, then close the case to Technical Services.
- (6) If a signed Form 4549 is not secured, or no reply is received from the taxpayer within the time allowed, and they indicated their intent to reply, see IRM 4.10.8.12.10, No Response to 30-Day Letter, for guidance on extending the time to file a protest and undeliverable letters, if applicable. Otherwise, close the case to Technical Services for preparation and issuance of a statutory notice of deficiency. See IRM 4.10.11.3.14 for guidance on preparing Form 5344 and Form 3198 for closing the case to Technical Services.

4.10.11.3.14
(09-29-2022)

Requests for Abatement - Closing Instructions

- (1) Form 3198 and a Form 5344 (for each tax period) must be included in the case file. This section provides reminders and references regarding the features of Form 3198 and Form 5344 that examiners must consider when preparing these forms on request for abatement cases.
 - (2) See IRM 4.10.8.7, Splitting Multi-Year Examination Cases, when closing a multi-year case when at least one of the tax years requires different processing. Do not split a multi-year case when issues raised in an unagreed year(s) are related to or dependent on issues raised in agreed or no-change year(s).
- Note:** For an overassessment involving a whipsaw situation, 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.
- (3) For all cases with an amended return or –A freeze on IDRS, examiners must check the “Amended Return or AAR in the File and Considered” box in the Special Features section of Form 3198. See IRM 21.5.6.4.2, –A Freeze, for additional information.

- (4) For cases with overassessments of \$100,000 or more, examiners must flag Form 3198 in the **Expedite Processing** section by checking the **Over \$100,000 Agreed and Unpaid** box. See IRM 4.10.8.2.4.3, Large Dollar Cases, for additional information.
- (5) For barred refunds, see IRM 4.10.11.5.2.4 for additional instructions for completing Form 3198.
- (6) Exhibit 4.10.11-7 contains a table with disposal codes for claims for refund, abatements and audit reconsiderations to assist the examiner in completing Item 13 of Form 5344 when a deficiency is not proposed.
- (7) IRM 4.4.12, Examined Closings, Surveyed Claims, and Partial Assessments, contains procedures for completing Form 5344. Closing instructions and IRM references specific to requests for abatement are shown in the table below.

Findings	Form 5344	Form 3198
Survey After Assignment	Refer to the instructions in: <ul style="list-style-type: none"> IRM 4.4.12.3, Surveyed Claims, Disposal Code 34 IRM 4.4.12.5.18.3.7, Surveyed Claims IRM 4.4.12.5.22.9, Surveyed Claims IRM 4.4.12.5.38.3, Surveyed Claims IRM 4.4.12.5.39.1, Claims 	Check the following boxes: <ul style="list-style-type: none"> Amended Return or AAR in the File and Considered Surveyed Claim Forward to CCP
Allowed in Full	Refer to the instructions in: <ul style="list-style-type: none"> IRM 4.4.12.5.18.3.6, Item 08: Agreement Date IRM 4.4.12.5.33 through IRM 4.4.12.5.37 regarding Amount Claimed, Revenue Base Protection-(RBP), Dollars Protected, RBP Hours, and Claim Type (IF applicable) IRM 4.4.12.5.38, Item 28: Examiner's Time 	Check the following boxes: <ul style="list-style-type: none"> Amended Return or AAR in the File and Considered Forward to CCP No letter required to be sent by CCP
Partially Disallowed	Refer to the instructions in: <ul style="list-style-type: none"> IRM 4.4.12.5.18.3.6, Item 08: Agreement Date IRM 4.4.12.5.33 through IRM 4.4.12.5.37 regarding Amount Claimed, Revenue Base Protection (RBP), Dollars Protected, RBP Hours, and Claim Type (IF applicable) IRM 4.4.12.5.38, Item 28: Examiner's Time 	Check the following boxes: <ul style="list-style-type: none"> Amended Return or AAR in the File and Considered Forward to CCP No letter required to be sent by CCP

Findings	Form 5344	Form 3198
Disallowed in Full	Refer to the instructions in: <ul style="list-style-type: none"> IRM 4.4.12.5.18.3.6, Item 08: Agreement Date IRM 4.4.12.5.33 through IRM 4.4.12.5.37 regarding Amount Claimed, Revenue Base Protection (RBP), Dollars Protected, RBP Hours, and Claim Type (IF applicable) IRM 4.4.12.5.38, Item 28: Examiner's Time 	Check the following boxes: <ul style="list-style-type: none"> Amended Return or AAR in the File and Considered Forward to CCP No letter required to be sent by CCP
Disallowed in Full with Additional Tax Liability – Agreed (Form 4549 signed)	Refer to the instructions in: <ul style="list-style-type: none"> IRM 4.4.12.5.18, Item 08: Agreement Date IRM 4.4.12.5.22, Item 13: Disposal Code IRM 4.4.12.5.33 through IRM 4.4.12.5.37 regarding Amount Claimed, Revenue Base Protection (RBP), Dollars Protected, RBP Hours, and Claim Type (IF applicable) IRM 4.4.12.5.38, Item 28: Examiner's Time 	Check the following boxes: <ul style="list-style-type: none"> Amended Return or AAR in the File and Considered Forward to CCP (if applicable) Letter Instructions for CCP: Agreed - Letter 987
Disallowed in Full with Additional Tax Liability - Appealed	Refer to the instructions in: <ul style="list-style-type: none"> IRM 4.4.12.5.22, Item 13: Disposal Code IRM 4.4.12.5.30, Item 18: Unagreed Amount Appealed/Petitioned IRM 4.4.12.5.33 through IRM 4.4.12.5.37 regarding Amount Claimed, Revenue Base Protection (RBP), Dollars Protected, RBP Hours, and Claim Type (IF applicable) IRM 4.4.12.5.38, Item 28: Examiner's Time 	Check the following boxes: <ul style="list-style-type: none"> Amended Return or AAR in the File and Considered Unagreed to Appeals Forward to Technical Services

Findings	Form 5344	Form 3198
Disallowed in Full with Additional Tax Liability – Unagreed but Not Protested	Refer to the instructions in: <ul style="list-style-type: none"> IRM 4.4.12.5.22, Item 13: Disposal Code IRM 4.4.12.5.33 through IRM 4.4.12.5.37 regarding Amount Claimed, Revenue Base Protection (RBP), Dollars Protected, RBP Hours, and Claim Type (IF applicable) IRM 4.4.12.5.38, Item 28: Examiner's Time 	Check the following boxes: <ul style="list-style-type: none"> Amended Return or AAR in the File and Considered Unagreed for Statutory Notice Forward to Technical Services

Note: For paperless electronic closures, groups should follow their business unit's policy for mailing closing letters.

- (8) See *Protection of Revenue Base* for additional instructions on capturing time for cases involving a potential refund.

Note: If a request for abatement is filed and the module balance becomes partially or fully paid at a later date (see IRM 4.10.11.3.1(4)), the Revenue Base Protection section of Form 5344 (Items 21-24) must be completed; therefore references are included in the table above.

4.10.11.3.15
(09-04-2020)
**Requests for Abatement
- Post Examination
Reconsideration**

- (1) After the IRS has disallowed a request for abatement (that is not an audit reconsideration), the taxpayer's only recourse is to pay part or all of the tax and/or penalties and timely file a new amended return or written request that is a claim for refund.
- (2) Disallowed requests for abatement are not subject to reconsideration, nor do they have court rights (other than interest abatement requests, for which IRC 6404(h) provides for Tax Court review).

Exception: If an additional tax liability was assessed as a result of the examination of a request for abatement, the taxpayer may request audit reconsideration procedures as applicable.

4.10.11.4
(09-29-2022)
Audit Reconsiderations

- (1) An audit reconsideration is the process the IRS uses to reevaluate the results of a prior audit where additional tax was assessed (or a credit was reversed) by Examination. See IRM 4.10.11.1.5, Terms; IRM 4.13.1.2, Definition of an Audit Reconsideration; and IRM 1.2.1.4.15, Policy Statement 3-15 (Formerly P-2-89), Reconsideration of an Unpaid Assessment.
- (2) Audit reconsiderations are an administrative procedure provided to the taxpayer by the IRS in order to provide better customer service. The IRS does not require the taxpayer to pay the assessment and file a claim for refund if they have additional information to be considered.
- (3) Taxpayers can request reconsideration of audits that were previously closed as agreed, unagreed, and "no show" as explained below.

- **Agreed** - An examination closed agreed can be reconsidered if the case was not closed with “finality” (e.g., a closing agreement using Form 906, an OIC, or a final TEFRA proceeding). See IRM 4.13.1.8, Non-Acceptance of Request, for additional information.
 - **Unagreed and appealed** - An examination closed unagreed and appealed can be reconsidered if it was not closed with “finality” in Appeals (e.g., closed with a Form 870-AD). See IRM 4.13.3.1.3, Cases Closed in Appeals, and IRM Exhibit 4.13.7-13, Audit Reconsideration of Assessments Made by Appeals Processing Unit, for case routing criteria. For additional information see IRM 8.7.7.17, Audit Reconsideration Cases.
 - **Unagreed with a notice of deficiency** - An unagreed examination resulting in the issuance of a notice of deficiency can be reconsidered if the taxpayer did not petition Tax Court (defaulted); or petitioned, but the case was dismissed for lack of jurisdiction (i.e., no Tax Court decision or other Court judgment was entered). See IRM 4.13.1.8, Non-Acceptance of Request, and IRM Exhibit 4.13.7-13, Audit Reconsideration of Assessments Made by Appeals Processing Unit, for additional information. If the ASED was updated for the 150-day tack-on period, the statute prior to the tack-on period should be used when determining if the ASED is open and when updating to Alpha Code AA. See IRM Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS, for additional guidance for statute controls, and IRM 4.8.9.20.1, Updating the Assessment Statute Expiration Date, for information on the tack-on period.
 - **Court Judgment** - audit reconsideration is not available if a court rendered a judgment on the merits that became final.
- (4) If an examiner receives correspondence directly from a taxpayer requesting reconsideration of a closed examination, forward the request to PSP for review and case building.
 - (5) When the group receives an audit reconsideration case from PSP, the group manager should review the case and assign it to an examiner within 15 days.
 - (6) A taxpayer may file an Offer in Compromise - Doubt as to Liability (OIC-DATL) when the amount of the correct tax liability is disputed. Though similar to an audit reconsideration, examiners must follow IRM 4.18.1, Offers in Compromise Received in Exam, when working an OIC-DATL case.
 - (7) TAS helps taxpayers resolve problems with the IRS and accepts cases based on the specific TAS criteria outlined in IRM 13.1.7.3, TAS Case Criteria. Examiners should refer to IRM 4.13.1.5, Taxpayer Advocate Cases (TAS), and IRM 4.2.1.22, Taxpayer Advocate Program, for additional guidance.

4.10.11.4.1 (09-29-2022)

Audit Reconsiderations - General Requirements

- (1) A taxpayer can request an audit reconsideration by submitting an amended return, a delinquent return, or a written request asking for a reconsideration of an examination assessment.
Reminder: When reviewing a transcript, a TC 300 is an indication of a prior audit; a TC 290 is generally not an examination assessment.
- (2) Audit reconsideration procedures apply when the taxpayer disagrees with a prior audit that resulted in a deficiency. The procedures in this subsection generally do not apply to a reconsideration of a prior examination of a claim for refund or request for abatement. Instead, see IRM 4.10.11.2.16.1, Reconsid-

eration of Previously Disallowed Claims for Refund, or IRM 4.10.11.3.15, Requests for Abatement - Post Examination Reconsideration.

- (3) Generally, a taxpayer's written request for audit reconsideration will be considered if the taxpayer provides **new** information, which would result in a change to the assessment. See IRM 4.13.1.3, Reasons for a Request; IRM 4.13.1.4, Criteria for Reconsideration; and IRM 4.13.1.7, Acceptance of Request, for additional information.
- (4) A request for audit reconsideration of an unpaid assessment will not be accepted if the taxpayer has already been afforded an audit reconsideration and did not provide any new information with the current request that would change the audit results. See IRM 4.13.1.8, Non-Acceptance of Request, for additional reasons a request will not be considered.

Note: A case can be reconsidered more than once, if the taxpayer provides new information with a request that is otherwise eligible. See IRM 4.13.1.4, Criteria for Reconsideration.

- (5) **Generally, audit reconsiderations are requests for abatement. When an audit reconsideration also includes a request for refund, the examiner must determine if the request is a timely, valid claim for refund.** See IRM 4.10.11.2.1, for claim for refund requirements (e.g., refund requested, timeliness, and required form and content).

Example: A timely audit reconsideration requests a refund, but is submitted in the form of correspondence. The examiner must determine if the request meets the requirements of an "informal claim" (see IRM 4.10.11.2.1.1).

- (6) The determination of whether an amended return or written request for reconsideration is a claim for refund **or** a request for abatement, is based on whether the amended return or written request asked for a refund **at the time it was filed**. If the taxpayer requests any amount of overpayment, then it is a claim for refund. Otherwise, a request for a reduction to the liability (not resulting in a credit or refund of any amount) is a request for abatement. Examples are given in IRM 4.10.11.2.1.2(5), and will assist examiners in determining if a written request is a claim for refund or request for abatement.

Caution: If a request for abatement is filed and the module balance becomes partially or fully paid at a later date, continue to treat it as a request for abatement unless a new, timely claim for refund is filed. A request for abatement cannot be retroactively converted to a claim for refund.

- (7) When an audit reconsideration requesting a reduction in the assessed liability also includes a request for refund, examiners generally follow the audit reconsideration procedures in the following subsections (e.g., RGS / CEAS procedures, scope of examination, initial contact letter issued, etc.); however, examiners must also consider additional factors and/or exceptions as noted in the following subsections and summarized in the table below.

If	Then
The audit reconsideration includes a refund request, which is a valid claim for refund	Follow the audit reconsideration procedures in this section, noting the “Exceptions” for requests disallowed in full or part, which require certain claim for refund procedures.
The audit reconsideration includes a refund request which is not a valid claim for refund	Follow the audit reconsideration procedures in this section; claim for refund procedures do not apply. Note: If the RSED is open and imminent, 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.

Note: If a refund is barred by the RSED follow the procedures in IRM 4.10.11.5.2.4, Barred Refund Procedures, for completing Form 4549, Form 5344, and Form 3198.

4.10.11.4.2
(09-29-2022)

Audit Reconsiderations - Overview of Examiner’s Responsibilities

- (1) Because audit reconsiderations have unique aspects, it is important examiners follow the procedures in this section to ensure the correct amount of tax, penalty, and interest is assessed; taxpayers are advised of the findings of the reconsideration and their appeal rights; and the current and prior workpapers are properly maintained.
- (2) The purpose of the audit reconsideration process is to examine information that was not previously considered.
 - If the taxpayer presents new information not previously considered, evaluate that information and determine if a change to the assessment is warranted.
 - If the taxpayer cannot or does not present new information in support of their position, do not abate any tax.
- (3) An audit reconsideration should be worked expeditiously. The examiner should survey the audit reconsideration (allow in full) or make initial contact within 15 days of receipt.
- (4) Audit reconsiderations are opened at the taxpayer’s request, therefore are not subject to “reopening” procedures found in IRM 4.2.1.6, Reopening of Closed Cases, even if the reconsideration results in an additional deficiency.
- (5) After receipt and evaluation of the taxpayer’s information, examiners follow the procedures in this subsection depending on the results of the reconsideration:
 - Allowed in full.
 - Disallowed in part (including allowed with offsetting adjustments).
 - Disallowed in full (with or without additional tax liability).
- (6) In all cases where an audit reconsideration is disallowed (in full or part), examiners must provide a detailed explanation to the taxpayer of why the

request was not allowed. Examiners must note the explanation in the "Other Information" section of Form 4549, or included in a lead sheet, workpaper, or Form 886-A.

- (7) When the examiner's preliminary findings result in a full or partial disallowance of an audit reconsideration request, the taxpayer is generally given a 30-day letter offering the opportunity to request a meeting with the group manager and/or a conference with Appeals.

Exception: An opportunity for an Appeals conference will not be offered if an audit reconsideration of an unpaid assessment (abatement request) is disallowed because the taxpayer does not provide new information, does not respond to the appointment letter, or does not keep a scheduled appointment. If the taxpayer missed the appointment due to unavoidable circumstances such as severe weather conditions, or a medical emergency, the appointment should be rescheduled.

- (8) Examiners must consider both the statute of limitations for assessment (ASED) and refund (RSED) as explained in IRM 4.10.11.5.

4.10.11.4.2.1 (09-29-2022)

Audit Reconsiderations - Report Writing and RGS / CEAS Procedures

- (1) The starting point of the audit reconsideration report is the tax as previously adjusted, not the original return as filed. The examiner must review the transcript for the account.
- a. The Per Return or As Previously Adjusted amounts for both taxable income and tax are the amounts as reflected on a current transcript of the account.
 - b. It is not necessary to repeat adjustment(s) previously made. Enter only the adjustment(s) determined allowable after reviewing the additional information.
- (2) Group managers or administrative support with clerk permissions must retrieve the original RGS case file from Archives and assign it to the examiner. See IRM 4.10.15.5.1, Retrieving Closed Cases, for additional information.
- (3) Examiners must preserve the lead sheets and supporting workpapers completed during the prior examination by moving them to subfolders under the Case File Documents folder and Office Documents folder. Examiners must not delete or use these files. New lead sheets must be created for the reconsidered issues; examiners may copy and paste from the original lead sheets and workpapers.
- (4) If the prior examination was closed with a paper administrative file, the CRU will attempt to secure the original administrative file. For cases closed using paperless electronic closure procedures, CEAS contains the complete administrative file.

Note: If the paper administrative file from the original examination was included with the audit reconsideration case, the reconsideration must be worked in accordance with electronic case file procedures, but is excluded from paperless electronic closure.

- (5) RGS users should refer to the article, *Audit Reconsideration Cases and RGS* for useful information on report writing and saving the original workpapers.

4.10.11.4.3
(09-29-2022)

Audit Reconsiderations - Pre-Contact Analysis and Planning

- (1) The examiner must review the taxpayer's request to confirm it meets audit reconsideration criteria found in IRM 4.10.11.4.1. If the examiner determines it does not meet the criteria:
 - The examiner must consult with their group manager for concurrence that the request does not meet audit reconsideration criteria.
 - The group manager will contact the local PSP audit reconsideration coordinator to discuss the determination.
 - If PSP agrees the request does not meet audit reconsideration criteria, the case should be updated to status 41 and returned to PSP for disposition.
- (2) The examiner must document their review of the audit reconsideration request and the pre-contact analysis performed. As part of the review and analysis, the examiner must:
 - Review IDRS to ensure the requested abatement has not already been made by the campus.

Reminder: For joint returns, the tax liability may have been moved to separate MFT 31 accounts. See IRM 4.10.11.6.3.3 for additional information.
 - Review the prior audit lead sheets and workpapers to determine the scope of the original examination and issues adjusted.
 - Determine if the taxpayer provided new information with the request (or indicated additional information is available).
 - Determine if the request should be allowed in full prior to taxpayer contact or examined.
 - Determine the ASED and RSED.

Reminder: The ASED must be considered and protected if issues are present which could result in a deficiency. An audit reconsideration requesting an abatement can be filed at any time and the RSED is generally not an issue. If, however, the allowable abatement results in a refund, examiners must consider the provisions of IRC 6511 as they pertain to the refund portion. See IRM 4.10.11.5.2 for additional discussion regarding the RSED. If the refund is barred, follow the procedures in IRM 4.10.11.5.2.4 for completing Form 4549, Form 5344, and Form 3198.
- (3) If it is determined the request should be examined, the examiner must plan the scope of the audit reconsideration. Generally, the scope is limited to the disputed issues unless circumstances warrant expanding the scope (e.g., new information becomes available, or required audit steps (e.g., required filing checks, minimum income probes, etc.) were not fully completed during the prior audit because the taxpayer failed to respond or show for the audit).

Note: If required filing checks, minimum income probes, and other required case activities were completed in the original examination, it is not necessary to repeat those audit steps unless new information indicates additional examination procedures are warranted. Generally, examiners only need to create lead sheets and workpapers to document the current case activity and the facts, law, audit steps, taxpayer's position and conclusion for the issues considered during the reconsideration. See IRM 4.10.11.4.2.1 for RGS procedures and additional information regarding workpapers.

- (4) If there is an indication of a change of address, see IRM 4.10.2.11, Taxpayer Change of Address or Name, for procedures on updating the Master File when “clear and concise notification” is provided.
- (5) To ensure the accuracy of the AIMS database, examiners must verify the source code and aging reason code are properly reflected on audit reconsideration cases. For information on the source code, see Exhibit 4.10.11-5.

Note: Aging reason code 53 is not used for other tax periods picked up (e.g., related return, subsequent year, etc.).

4.10.11.4.4 (09-29-2022)

Audit Reconsiderations - Allowed in Full Prior to Taxpayer Contact

- (1) After completion of the pre-contact analysis and prior to initial contact with the taxpayer, the examiner may determine the disputed issue(s) are clearly allowable and the requested abatement is warranted.

Example: A computational error was made assessing tax from the original examination.

Example: The reconsideration request contains enough information to determine the abatement is warranted.

Example: A second reconsideration is requested because the examiner failed to abate penalties when tax was abated on the initial reconsideration.

Exception: If the allowable abatement results in a refund, the examiner must determine if the refund was timely requested within the RSED. See IRM 4.10.11.5.2 for information regarding the RSED. If the refund is barred, the audit reconsideration cannot be allowed in full. The examiner must make contact with the taxpayer, and follow the procedures in IRM 4.10.11.5.2.4 for barred refunds, and the procedures below for audit reconsiderations partially or fully disallowed (as appropriate).

- (2) Because audit reconsiderations do not have claim features on AIMS, the procedures to “survey” a claim for refund or request for abatement do not apply. Instead, if it is determined the reconsideration request is fully allowable (prior to contacting the taxpayer), the procedures in IRM 4.10.11.4.7 are followed to allow the reconsideration in full. Initial contact procedures in IRM 4.10.11.4.5 are not required.

4.10.11.4.5 (09-29-2022)

Audit Reconsiderations - Initial Contact and No Response Procedures

- (1) When a decision is made to examine the audit reconsideration request, the examiner must mail an initial contact letter to inform the taxpayer their case was received in Examination, and request additional information when necessary.

Reminder: If required filing checks, minimum income probes, and other required case activities were performed during the original audit, it is not necessary to request information to repeat those audit steps (unless new information indicates additional examination is warranted).

- (2) Examiners should use regular initial contact letters (see IRM 4.10.2.8, Initial Contact: Overview), if an appointment with the taxpayer is needed. Otherwise,

send Letter 3399(DO) , Audit Reconsideration - Request for Further Documentation, to make contact and request additional information.

Note: The TIN is not required on Letter 3399(DO); therefore leave the Taxpayer Identification Number field blank.

- (3) Prior to issuing the initial contact letter, examiners must check IMFOLT/ BMFOLT or TXMODA to determine if a valid power of attorney is on file for the year(s) under examination. If a TC 960 is posted, the examiner must research CC CFINK and retain a copy of the CFINK display in the file. If CC CFINK indicates a valid power of attorney is on file for the years under examination, the examiner must make initial contact with the taxpayer and representative. See IRM 4.10.2.8.1(3), Making Initial Contact, and IRM 4.11.55, Power of Attorney Rights and Responsibilities, for additional information.
- (4) For audit reconsiderations involving a joint tax return, initial contact letters are sent separately to both parties at the appropriate address. See IRM 4.10.1.2.2.1, Separate Notice Requirements, for additional information.
- (5) If the initial contact letter is returned as **undeliverable**, attempt to locate a more current address:
 - Check IDRS or other internal data (e.g., INOLES, IMFOLE, ENMOD, FINDS, TRDBV, IRPTRO, Accurant, etc.) for the last known address using both the primary and secondary SSNs.
 - Perform an internet search using the taxpayer's name, business name, or phone number.
 - If there is a POA on file for the tax year(s) being reconsidered, contact the representative for an updated address.
 - Attempt to contact the taxpayer by telephone if the taxpayer provided a number in their reconsideration request.

Note: If a more current address for the taxpayer is identified, reissue the initial contact letter.

- (6) When the initial contact letter is returned **undeliverable**, and a more current address is not identified:
 - If there is a POA on file, conduct the reconsideration with the POA; see (7) below if the POA does not respond.
 - If there is not a POA on file, the examiner must make a determination of the correct tax liability based on the information provided in the reconsideration request. Prepare a report and follow the applicable instructions in this section for requests allowed in full, disallowed in part, or disallowed in full. Examiners are not required to issue an audit reconsideration report and transmittal letter to the undeliverable address; close the case to CCP.
- (7) **No Response:** If the taxpayer has a **deliverable** address and fails to respond to the initial contact letter within 30 calendar days (or if the taxpayer has a POA on file, and neither the taxpayer or POA respond to the initial contact letter within 30 calendar days), the examiner must make a determination of the correct tax liability based on the information provided in the reconsideration request. Prepare and issue a report and follow the applicable instructions in this section for requests: allowed in full, disallowed in part, or disallowed in full.

4.10.11.4.6
(09-29-2022)

**Audit Reconsiderations -
Withdrawn Requests**

- (1) If a taxpayer asks to withdraw their request for audit reconsideration, document the request for withdrawal in the activity record.
- (2) The examination can be discontinued **unless** the ASER is open and other issues with audit potential were identified during the required pre-contact analysis.
- (3) If the examination is discontinued (or continued but no additional tax is proposed), examiners follow the procedures for Audit Reconsiderations - Disallowed in Full - No Additional Tax Liability in IRM 4.10.11.4.11. Letter 693 will include the following language as the reason for the disallowance: "On (date) you requested an audit reconsideration for (tax year). On (date) you stated you did not want the IRS to give your request further consideration, therefore we are disallowing your request in full." See the closing procedures in IRM 4.10.11.4.13 for preparation of Form 5344 and Form 3198, then close the case to CCP.
- (4) If the examination is continued and other issues result in an additional tax liability, follow the procedures for Audit Reconsiderations - Disallowed in Full - Additional Tax Liability in IRM 4.10.11.4.12.

4.10.11.4.7
(09-29-2022)

**Audit Reconsiderations -
Allowed in Full**

- (1) The following procedures apply when all of the disputed issues are allowed as requested by the taxpayer, and the examination results in an abatement of tax and/or penalties, that may or may not result in a refund.

Note: If a refund is involved, the examiner must determine if the refund is allowable or barred by the RSED. See IRM 4.10.11.5.2 for information regarding the RSED.

- (2) When abating tax from a prior audit assessment, examiners must also consider abating related penalties. Most penalties assessed by Examination are not automatically adjusted when the tax abatement / credit allowance is posted. See IRM 4.10.11.6.6.2 for additional information on penalty abatements. SB/SE examiners should also refer to the *Penalty Abatement Job Aid* for important information regarding RGS procedures and the completion of Form 5344.
- (3) When an audit reconsideration is allowed in full resulting in an abatement and/or an **allowable** refund, examiners must prepare and issue:
 - a. Form 4549-A, reflecting the reduction of tax and/or penalties. (RGS users may need to run the tax computation as "unagreed" to get this report option). Include the following statement in the Form 4549-A "Other Information" section: "On (date) you requested an audit reconsideration of disputed issues for (tax year). As a result of our review of the information provided, the issues were allowed in full as shown in this report."
 - b. Letter 2738, Audit Reconsideration-Allowed in Full, and a report to notify the taxpayer of the findings and transmit the report.

Note: A final closing letter is not necessary. There is no requirement to secure a signature on the examination report; close the case to CCP.

- (4) When the audit reconsideration issues are allowed in full, but all or part of a refund is **barred**, follow the procedures in IRM 4.10.11.5.2.4 for barred refunds, and the procedures below for audit reconsiderations partially or fully disallowed (as applicable).

- (5) See IRM 4.10.11.4.13 for closing procedures, including completion of Form 5344 and Form 3198.

4.10.11.4.8
(09-29-2022)

Audit Reconsiderations - Allowed in Full With Offsetting Adjustments

- (1) The following procedures apply when all of the disputed issues are allowed as requested by the taxpayer, but other adjustments are proposed that reduce the amount of the requested abatement of tax and/or penalties.

Exception: Examiners must determine if the audit reconsideration request was an abatement request or a claim for refund (or if a claim for refund was subsequently filed). See IRM 4.10.11.4.1 for additional information and guidance on making the determination. If a claim for refund was filed, follow IRM 4.10.11.2.10, Claims for Refund - Allowed in Full with Offsetting Adjustments, instead of the following paragraphs.

- (2) When the audit reconsideration issues are allowed in full, but other adjustments offset the allowable amount of the requested abatement, the audit reconsideration is treated as partially or fully disallowed.

Note: With the exception of the wording in the “Other Information” section of Form 4549 (shown in the next paragraph), examiners follow the procedures applicable to the results of the audit reconsideration (e.g., partially disallowed, disallowed in full, or disallowed in full with additional tax liability).

- (3) Examiners must prepare and issue Form 4549 showing the adjustments to the tax and/or penalties, and complete the “Other Information” section as follows: “On (date) you requested an audit reconsideration of disputed issues for (tax year). As a result of our review of the information provided, the issues were allowed in full. However, the total amount of the abatement was decreased by other adjustments shown in this report.”

4.10.11.4.9
(09-29-2022)

Audit Reconsiderations - Partially Disallowed

- (1) The following procedures apply when the disputed issues and request for abatement of tax and/or penalties are partially disallowed.

Exception: Examiners must determine if the audit reconsideration request was an abatement request or a claim for refund (or if a claim for refund was subsequently filed). See IRM 4.10.11.4.1 for additional information and guidance on making the determination. If a claim for refund was filed, follow IRM 4.10.11.2.11, Claims for Refund - Partially Disallowed, instead of the following paragraphs.

- (2) When abating tax from a prior audit assessment, examiners must also consider abating related penalties. Most penalties assessed by Examination are not automatically adjusted when the tax abatement / credit allowance is posted. See IRM 4.10.11.6.6.2 for additional information on penalty abatements. SB/SE examiners should also refer to the *Penalty Abatement Job Aid* for important information regarding RGS procedures and the completion of Form 5344.
- (3) If the allowable abatement results in a refund, the examiner must determine if the refund is allowable within the RSED. See IRM 4.10.11.5.2 for information regarding the RSED. If the refund is barred, follow the procedures in IRM 4.10.11.5.2.4 for completing Form 4549, Form 5344, and Form 3198.

- (4) When an audit reconsideration is partially disallowed, examiners must prepare and issue Form 4549, reflecting the adjustments to the tax and/or penalties. Include the following statement in the Form 4549 "Other Information" section: "On (date) you requested an audit reconsideration of disputed issues for (tax year). As a result of our review of the information provided, the issues were allowed in part as shown in this report."
- (5) The taxpayer may request a conference with the examiner's manager if there is a disagreement with the examiner's findings. Additionally, the taxpayer is generally given a 30-day letter offering the opportunity to request a conference with Appeals. However, an opportunity for an Appeals conference will not be offered if an audit reconsideration of an unpaid assessment (abatement request) is disallowed because the taxpayer does not provide new information, does not respond to the appointment letter, or does not keep a scheduled appointment. If the taxpayer missed the appointment due to unavoidable circumstances such as severe weather conditions, or a medical emergency, the appointment should be rescheduled. Based on the appeal rights available, examiners prepare and issue one of the following letters to notify the taxpayer of the partial abatement:
 - Letter 2737, Audit Reconsideration - Partial Abatement. Allow the taxpayer 30 days to request an appeals conference.
 - Letter 693, Reply to Request for Abatement of Assessment. Allow the taxpayer 15 days to request a group manager conference; no appeal rights.
- (6) If the taxpayer agrees with the partial disallowance and signs Form 4549, see IRM 4.10.11.4.13 for closing procedures, including completion of Form 5344 and Form 3198, and close the case to CCP.
- (7) If appeal rights were offered and the taxpayer requests Appeals consideration, follow the procedures in IRM 4.10.8.12.9.3, Request for Appeals Conference. For cases transferred to Appeals, see IRM 4.10.11.4.13 for closing procedures, including completion of Form 5344 and Form 3198, and close the case to Technical Services.
- (8) If no response is received by the response date, see IRM 4.10.11.4.13 for closing procedures, including completion of Form 5344 and Form 3198, and close the case to CCP.

4.10.11.4.10
(09-29-2022)

**Audit Reconsiderations -
Partially Disallowed With
Offsetting Adjustments**

- (1) The following procedures apply when the disputed issues and request for abatement of tax and/or penalties are partially disallowed, but other adjustments are proposed that further reduce the amount of the requested abatement of tax and/or penalties.

Exception: Examiners must determine if the audit reconsideration request was an abatement request or a claim for refund (or if a claim for refund was subsequently filed). See IRM 4.10.11.4.1 for additional information and guidance on making the determination. If a claim for refund was filed, follow IRM 4.10.11.2.12, Claims for Refund - Partially Disallowed With Offsetting Adjustments, instead of the following paragraphs.

- (2) When the audit reconsideration issues are allowed in part, but other adjustments offset the allowable amount of the requested abatement, the audit reconsideration is treated as partially or fully disallowed.

Note: With the exception of the wording in the “Other Information” section of Form 4549 (shown in the next paragraph), examiners follow the procedures applicable to the results of the audit reconsideration (e.g., partially disallowed, disallowed in full, or disallowed in full with additional tax liability).

- (3) Examiners must prepare and issue Form 4549 showing the adjustments to the tax and/or penalties, and complete the “Other Information” section as follows: “On (date) you requested an audit reconsideration of disputed issues for (tax year). As a result of our review of the information provided, the issues were allowed in part. However, the total amount of the abatement was decreased by other adjustments shown in this report.”

4.10.11.4.11
(09-29-2022)

Audit Reconsiderations - Disallowed in Full - No Additional Tax Liability

- (1) The following procedures apply when the disputed issues and request for abatement of tax and/or penalties are fully disallowed, and no additional tax liability is proposed.

Exception: Examiners must determine if the audit reconsideration request was an abatement request or a claim for refund (or if a claim for refund was subsequently filed). See IRM 4.10.11.4.1 for additional information and guidance on making the determination. If a claim for refund was filed, follow IRM 4.10.11.2.13 Claims for Refund - Disallowed in Full - No Additional Tax Liability, instead of the following paragraphs.

- (2) When an audit reconsideration is disallowed in full, examiners must prepare and issue Form 4549, and include the following statement in the Form 4549 “Other Information” section: “On (date) you requested an audit reconsideration of disputed issues for (tax year). As a result of our review of the information provided, we did not allow the disputed issues and did not change the previous examination assessment.”
- (3) The taxpayer may request a conference with the examiner’s manager if there is a disagreement with the examiner’s findings. Additionally, the taxpayer is generally given a 30-day letter offering the opportunity to request a conference with Appeals. However, an opportunity for an Appeals conference will not be offered if an audit reconsideration of an unpaid assessment (abatement request) is disallowed because the taxpayer does not provide new information, does not respond to the appointment letter, or does not keep a scheduled appointment. If the taxpayer missed the appointment due to unavoidable circumstances such as severe weather conditions, or a medical emergency, the appointment should be rescheduled. Based on the appeal rights available, examiners prepare and issue one of the following letters to notify the taxpayer of the disallowance:
 - Letter 2726, Audit Reconsideration - No Change to the Assessment. Allow the taxpayer 30 days to request an appeals conference.
 - Letter 693, Reply to Request for Abatement of Assessment. Allow the taxpayer 15 days to request a group manager conference; no appeal rights.
- (4) If the taxpayer agrees with the disallowance and signs Form 4549, see IRM 4.10.11.4.13 for closing procedures, including completion of Form 5344 and Form 3198, and close the case to CCP.
- (5) If appeal rights were offered and the taxpayer requests an appeals conference, follow the procedures in IRM 4.10.8.12.9.3, Request for Appeals Conference.

For cases transferred to Appeals, see IRM 4.10.11.4.13 for closing procedures, including completion of Form 5344 and Form 3198, and close the case to Technical Services.

- (6) If no response is received by the response date, see IRM 4.10.11.4.13 for closing procedures, including completion of Form 5344 and Form 3198, and close the case to CCP.

4.10.11.4.12
(09-29-2022)

**Audit Reconsiderations -
Disallowed in Full -
Additional Tax Liability**

- (1) The following procedures apply when the disputed issues and request for abatement of tax and/or penalties are fully disallowed, and an additional tax liability is proposed.

Exception: Examiners must determine if the audit reconsideration request was an abatement request or a claim for refund (or if a claim for refund was subsequently filed). See IRM 4.10.11.4.1 for additional information and guidance on making the determination. If a claim for refund was filed, follow IRM 4.10.11.2.14, Claims for Refund - Disallowed in Full - Additional Tax Liability, instead of the following paragraphs.

- (2) The ASED must be considered and protected if other issues are present which could result in a deficiency. For example, if adjustments increasing tax more than offset the allowable amount (if any) of the abatement, a deficiency exists. The ASED must be open to make an assessment of a deficiency (e.g., tax increase or credit reversal). If the ASED is not open, an additional assessment cannot be proposed; follow the procedures in IRM 4.10.11.4.11. In addition, include a narrative in the workpapers explaining the full amount of the barred adjustments.

Caution: If the ASED was open when the audit reconsideration was established on AIMS, but allowed to expire, barred statute procedures in IRM 25.6.1.13, Barred Assessments/Barred Statute Cases, must be considered when an additional deficiency exists.

- (3) When the ASED is open for an audit reconsideration and the examination results in a proposed deficiency, examiners must prepare Form 4549 to reflect the adjustments to the tax and/or penalties.

Note: Include the following statement in the Form 4549 "Other Information" section: "On (date) you requested an audit reconsideration of disputed issues for (tax year). As a result of our examination, we did/did not allow the disputed issues and made other adjustments as shown in this report which increased your tax liability."

- (4) The examiner must prepare and issue the applicable transmittal letter to notify the taxpayer of the findings and explain their appeal rights. The letter used to transmit the findings will depend on the time remaining on the ASED, as explained below:

- If fewer than 240 days remain on the ASED, examiners must issue Letter 5153, Examination Report Transmittal - Statute <240 Days (Straight Deficiency), and follow the procedures in IRM 4.10.8.12.1, 30-Day Letters.

- If 240 or more days remain on the ASER, examiners will issue the applicable 30-day letter (e.g., Letter 915 or Letter 950) and follow the procedures in IRM 4.10.8.12.9, Response to 30-Day Letter.
- (5) If the taxpayer agrees with the adjustments and signs Form 4549, see IRM 4.10.11.4.13 for closing procedures, including completion of Form 5344 and Form 3198, and close the case to CCP.
- (6) If the taxpayer requests Appeals consideration, follow the procedures in IRM 4.10.8.12.9.3, Request for Appeals Conference. For cases transferred to Appeals, see IRM 4.10.11.4.13 for closing procedures, including completion of Form 5344 and Form 3198, then close the case to Technical Services.
- (7) If a signed Form 4549 is not secured, or no reply is received from the taxpayer within the time allowed, and they indicated their intent to reply, see IRM 4.10.8.12.10, No Response to 30-Day Letter, for guidance on extending the time to file a protest and undeliverable letters, if applicable. Otherwise, close the case to Technical Services for preparation and issuance of a statutory notice of deficiency. See IRM 4.10.11.4.13 for closing procedures, including completion of Form 5344 and Form 3198, then close the case to Technical Services.

4.10.11.4.13
(09-29-2022)

Audit Reconsiderations - Closing Instructions

- (1) Form 3198 and a Form 5344 (for each tax period) must be included in the case file. This section provides reminders and references regarding the features of Form 3198 and Form 5344 examiners must consider when preparing these forms on audit reconsideration cases.
 - (2) See IRM 4.10.8.7, Splitting Multi-Year Examination Cases, when closing a multi-year case when at least one of the tax years requires different processing. Do not split a multi-year case 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:** For an overassessment involving a whipsaw situation, 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.
- (3) Generally, there are no closing letters issued on audit reconsideration cases when the case is closed; on page two of Form 3198 check the box “No letter required to be sent by CCP.”
 - (4) For appealed cases, check the “Unagreed to Appeals” box on Form 3198 in the “Forward to Technical Services” section.
 - (5) For all cases with an amended return or –A freeze on IDRS, examiners must check the “Amended Return or AAR in the File and Considered” box in the “Special Features” section of Form 3198. See IRM 21.5.6.4.2, –A Freeze, for additional information.
 - (6) For cases with overassessments of \$100,000 or more, examiners must flag Form 3198 in the **Expedite Processing** section by checking the **Over \$100,000 Agreed and Unpaid** box. See IRM 4.10.8.2.4.3, Large Dollar Cases, for additional information.
 - (7) For barred refunds, see IRM 4.10.11.5.2.4 for additional instructions for completing Form 3198.

- (8) Exhibit 4.10.11-7 contains a table with disposal codes for claims for refund, abatements and audit reconsiderations to assist the examiner in completing Item 13 of Form 5344 when a deficiency is not proposed.

Note: The disposal code for an audit reconsideration depends on the source code as shown in Exhibit 4.10.11-7; new opening (SC 73) or AIMS reopening (Original SC).

- (9) In a penalty only case, the examiner enters an amount of \$1 on Form 5344, Item 35, with a Disposal Code of 12 in Item 13.
- (10) When abating a penalty, the examiner must enter a two-digit penalty reason code on Form 5344, Item 02. For a list of penalty reason codes, see IRM Exhibit 20.1.1-2, Penalty Reason Code Chart.
- (11) For additional information on penalty abatements, including RGS procedures and preparation of Form 5344, SB/SE examiners should refer to the *Penalty Abatement Job Aid*.
- (12) IRM 4.4.12, Examined Closings, Surveyed Claims, and Partial Assessments, contains additional procedures for completing Form 5344.
- (13) See *Protection of Revenue Base* for instructions on capturing time for cases involving a potential refund.

4.10.11.5
(09-04-2020)

**Statute of Limitations -
Claims for Refund and
Requests for Abatement**

- (1) The Internal Revenue Code requires the IRS to assess, collect, credit, and refund taxes within specific time limits. These time limits are known as the "Statutes of Limitations." The IRS must assess additional tax and the taxpayer must file claims for refund within these limitations.
- (2) When examining claims for refund and requests for abatement, it is important for examiners to understand the distinction between the assessment statute expiration date (ASED) and the refund statute expiration date (RSED); the following sections give an overview and IRM references for additional information.
- (3) Examiners must keep in mind that Examination systems (e.g., AIMS and ERCS) monitor the ASED, not the RSED. The RSED must be determined by the examiner as discussed in IRM 4.10.11.5.2.
- (4) See IRM 25.6.1, Statute of Limitations Processes and Procedures, for additional information on statutes. Examiners should contact their local Technical Services office if statute assistance is required.
- (5) Document 7368, Basic Guide for Processing Statute Cases, is also available as a reference when analyzing the statute of limitations. However, because it does not address all situations and exceptions related to claims, examiners should become familiar with the procedures in this IRM to ensure the statutes of limitations (e.g., ASED and RSED) are appropriately addressed.

4.10.11.5.1
(09-04-2020)

**Assessment Statute
Expiration Date (ASED) -
Considerations and
Examiner's
Responsibilities**

- (1) The filing of a claim for refund, request for abatement, or audit reconsideration does **not** extend the period of time for assessing an additional deficiency.
- (2) Examiners must verify the tax period's ASED upon receipt of a claim for refund, request for abatement, or audit reconsideration case.
- (3) If the ASED is open when a claim for refund, request for abatement, or audit reconsideration case is received, the examiner must enter or update the ASED to reflect the live statute expiration date on the statute control records (AIMS/ ERCS), unless an "alpha code" is applicable. Generally, alpha coding the ASED should only be considered after attempting to extend the assessment statute or where there is not sufficient time to attempt to protect the assessment statute when the return is received in the examining group (generally, less than 30 calendar days prior to the return's ASED). See IRM 25.6.23, Examination Process - Assessment Statute of Limitations Controls, for guidance on monitoring statutes and the use of alpha codes.
- (4) If the ASED is imminent, IRM Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS, allows the assessment statute to be updated to alpha code "AA" only if:
 - a. The examiner is certain there is no likelihood of a tax and/or penalty assessment, and
 - b. The examiner ascertains the refund or abatement has not already been made.
- (5) If the ASED is not open when a claim for refund, request for abatement, or audit reconsideration case is received, the statute may be updated to alpha code "AA" if the requirements of IRM Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS, are met.
- (6) Updating the statute to "AA" on AIMS indicates the ASED is expired or will be allowed to expire; it does not hold the assessment statute open. If the ASED was previously updated with an alpha code by another function, the group remains responsible for reviewing the determination upon receipt of the case and updating to a live ASED if necessary.
- (7) An assessment cannot be made unless the ASED is open. If a deficiency is determined and the ASED was open when the claim for refund, request for abatement, or audit reconsideration was established on AIMS, but allowed to expire, barred statute procedures in IRM 25.6.1.13, Barred Assessments/ Barred Statute Cases, must be considered.

Exception: If an additional tax or penalty is determined, but is offset in full by the allowed claim or abatement issues, barred statute procedures do not apply. See IRM 4.10.11.5.1.1 below.

- (8) If the claim for refund, request for abatement, or audit reconsideration case does not involve a proposed deficiency for the tax period, Appeals does not require 365 days remaining on the ASED and will accept a case with alpha code "AA" in the statute. See IRM 8.7.7.2, Receipt of Newly Assigned Case.

4.10.11.5.1.1
(09-04-2020)

**Assessment Statute
Expiration Date (ASED) -
Net Overassessments**

- (1) An examination may result in a combination of a tax increase (or credit reversal) and a tax decrease (or allowed credit) for an overall net refund or abatement. The IRS may net the amount of refund or abatement requested with adjustments for which the ASED has passed, as long as the offsetting adjustments and overassessment involve the same taxpayer and the same tax period. See IRM 25.6.1.10.2.5.7, Offsetting the Amount of a Refund With a Time-barred Adjustment, for additional details.
- (2) If the ASED has expired, these types of net overassessment cases require additional steps by the examiner when completing Form 5344. Without an open ASED, CCP cannot input transaction codes that increase tax or reverse a credit and will return the case to the examiner to address the barred statute, unless the examiner modifies the Form 5344 for the net amount of refund or abatement, as explained below.
- (3) If the examination of a tax period results in a net overassessment and the ASED is open, no modification of Form 5344 is necessary.
- (4) If the examination of a tax period results in a net overassessment and the ASED is expired, modification of Form 5344 is required and the examiner must:
 - a. Prepare Form 4549 normally, showing the net overassessment. Make a notation in the "Other Information" section to inform the taxpayer they may receive a notice from the campus that differs from the examiner's report due to procedural limitations on how the adjustments were input. Refer to the examples below for suggested language.
 - b. RGS users will generate Form 5344 in RGS, but must not save or print the form until the necessary modifications listed below are made.
 - c. Make note of the amounts generated by RGS (or that would typically appear) on Form 5344. Amounts associated with transaction codes that are barred by the ASED (e.g., TC 300 additional tax assessment, TC 765 Earned Income Credit reversal, or TC 767 reversal of refundable credit allowance) must be changed to zero.
 - d. Subtract the barred amounts in (c) above from the amounts associated with transaction codes that reduce tax or increase a credit (e.g., TC 301 abatement of tax, TC 764 Earned Income Credit, or TC 766 refundable credit allowance).
 - e. The net effect of these modifications should result in the same net overassessment as before the modifications.
 - f. Notate Form 3198 by checking the "Other Instructions" box in the "Special Features" section and writing, "Form 5344 modified for time-barred adjustment. See Form 4549 Other Information for explanation."
- (5) The following are examples of modifications made for net overassessments:

Example: A taxpayer timely files a claim for refund, amending their Form 1040 to include a W-2 previously omitted. The additional income results in an increase to tax (TC 300) in the amount of \$700. The omitted W-2 included federal income tax withholding (TC 806) in the amount of \$1,000. The net result is a request for a refund of \$300. If the ASED is expired when the case is closed, CCP cannot input the TC 300 for \$700. The examiner must modify Form 5344 to reflect the net refund by changing Item 12 to show a TC 300 for \$0, and Item 15 to show a TC 806 for \$300. Assuming the claim is allowed in full, include the following explanation on Form 4549 "Other Information" section: "On (date) you

filed a claim for refund on Form 1040X for a refund of \$300 for (year). As a result of our examination, your claim was allowed in full as shown in this report. Because the statute of limitations has passed, we cannot input the \$700 increase in tax that results from your omitted income. We have offset the additional tax against your additional withholding credit of \$1,000. Therefore the notice you receive from the campus will show no increase in tax and an allowance of withholding credits in the amount of \$300.”

Example: A taxpayer files a request for abatement, amending their Form 1040 to include adjustments which decrease tax (TC 301) in the amount of \$1,200 and reduce the earned income credit (TC 765) in the amount of \$800, for a net abatement of \$400. If the ASSED is expired when the case is closed, CCP cannot input the \$800 credit reversal (TC 765). The examiner must modify Form 5344 to reflect the net abatement by changing Item 12 to show a TC 301 for \$400, and Item 15 to show a TC 765 for \$0. Assuming the request is allowed in full, include the following explanation on Form 4549 “Other Information” section: “On (date) you filed a Form 1040X requesting an abatement of \$400 for (year). As a result of our examination, your request was allowed in full as shown in this report. Because the statute of limitations has passed, we cannot input the \$800 reversal of earned income credit that results from the adjustments shown in this report. We have offset the adjustment to the credit against the tax decrease of \$1,200. Therefore the notice you receive from the campus will show no changes to the credit and a tax decrease in the amount of \$400.”

4.10.11.5.1.2
(09-04-2020)

**Assessment Statute
Expiration Date (ASED) -
NOL Carrybacks**

- (1) This section gives an overview of assessment statute considerations when NOL carrybacks are applicable.
- (2) In accordance with IRC 172, Net operating loss deduction, a taxpayer filing a return with a net operating loss (the “loss year” or “source year”) may carry back the loss to prior tax years (the “carryback years”) and request an abatement or refund of tax assessed in those prior years. Taxpayers may request a refund or abatement of prior years’ tax in one of two ways: by filing an application for tentative refund allowance (Form 1045 or Form 1139) or by amending the carryback year(s) with Form 1040X or Form 1120X. See IRM 21.5.9, Carrybacks, and IRM 4.11.11, Net Operating Loss Cases, for general carryback rules and procedures.
- (3) When working an NOL case, the examiner must analyze the transcript for the carryback year(s) to determine if the campus has acted on the carryback request. Tentative refund allowances are shown as a TC 295. Abatements of tax due to a carryback on Form 1040X or Form 1120X are generally shown as a TC 299 or TC 309.
- (4) Statute procedures for the carryback year (including the use of alpha codes “AA” and “BB”) are based on whether or not the carryback request was allowed, as determined in the transcript analysis described above. If the carryback request:
 - a. Has NOT been acted on (i.e., the refund has not been paid, or the tax has not been abated as a result of the NOL carryback), the carryback year is a claim for refund (or request for abatement) and the examiner

must follow the statute procedures in IRM 4.10.11.5.1. This includes the use of alpha code “AA” when the requirements of IRM Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS, are met. The claim for refund or request for abatement can be offset by time-barred adjustments relating to issues other than the carryback loss.

- b. Has been acted on (i.e., the refund has been paid, or the tax has been abated as a result of the NOL carryback), the examiner must determine if the normal ASED for the carryback year is open. If open, the examiner uses the normal carryback year ASED for statute controls. If the normal ASED for the carryback year is imminent or expired, examiners refer to the exceptions in IRC 6501(h) or IRC 6501(k) for NOL and tentative carrybacks. Under these exceptions, the period of time for assessing a deficiency (no greater than the amount of the carryback request) on the carryback year return is determined by the assessment statute date of the loss year return. If the normal ASED for the carryback year is expired or will be allowed to expire based on one of these exceptions, this determination must be documented on Form 895 and the statute for the carryback year updated to alpha code “BB” in accordance with IRM Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS, reflecting the month and year of the live ASED of the loss year.

Reminder: The loss year statute must be open and protected. If the loss year ASED is extended, examiners must update the month and year of the “BB” statute for the carryback year as well.

- (5) See IRM 4.11.11, Net Operating Loss Cases, for additional information on net operating losses and specifically IRM 4.11.11.6, Statute of Limitations for Assessment, for statute guidance and examples.

4.10.11.5.2
(09-29-2022)

**Refund Statute
Expiration Date (RSED) -
Consideration and
Examiner’s
Responsibilities**

- (1) Examiners are responsible for determining if a claim for refund was timely filed within the RSED requirements of IRC 6511.

Note: If the RSED is open when a valid refund is made, the refund is allowable regardless of whether a valid claim for refund was filed. If the RSED is not open, the refund is allowable if a valid claim for refund was filed prior to the expiration of the refund statute.

- (2) The period for filing a claim for refund has two prongs:
 - IRC 6511(a) specifies the **date** by which a claim for refund must be filed with the IRS. In general, a claim for refund must be filed three years from the time the original return was filed (i.e., three-year rule) or two years from the time the tax was paid (the payment could be for tax, penalty, or interest) (i.e., two-year rule), and
 - IRC 6511(b) imposes a limitation on the **amount** that may be refunded or credited which is determined by “looking back” from the filing date of the claim to an earlier payment date.
- (3) See IRM 25.6.1.10.2.7, Claims for Credit or Refund – General Time Period for Submitting a Claim, for details and examples of the three-year and two-year rules, and IRM 25.6.1.7.2, Time When Payments and Credits Are Considered to be Made, to determine if an amount is included in the look-back period. See IRM 4.10.11.5.2.1 and subsequent sections for some of the exceptions to the general RSED rules.

Caution: The RSED field on IDRS populates with a date three years from the due date or extended due date of the return, which is not necessarily indicative of the last date to file a claim for refund under the three-year rule. For example, if an original return has an extension to 10/15/20X0 (RSED field on IDRS is populated with 10/15/20X3) and it is filed on 10/03/20X0, a claim for refund is timely under the three-year rule if filed by 10/03 of the third year (not 10/15).

- (4) While the taxpayer is required to file a claim for refund prior to the RSED, a timely claim may be acted on (allowed/disallowed) by the IRS after the expiration of the RSED.

Reminder: To receive a refund or credit, an overassessment shown on an examination report must be processed prior to the RSED, unless a timely claim for refund (formal or informal) is filed.

- (5) A **request for abatement** can be filed at any time and therefore the RSED is generally not an issue. If, however, the abatement results in part abatement/part refund (because the module balance was partially or fully paid at a later date), then examiners must consider the provisions of IRC 6511 as they pertain to the refund portion.
- (6) If an unagreed case results in a proposed refund where a claim has not been filed, examiners should refer to IRM 4.10.8.10.1, Inviting Claims in Overassessment Cases, for more information.
- (7) Barred refunds cannot be applied to other tax periods. If an examination results in an overassessment that is barred, the barred refund amount is transferred to Excess Collection by CCP. See IRM 4.10.11.5.2.4 for examples and additional barred refund procedures.

4.10.11.5.2.1 (09-04-2020) Refund Statute Expiration Date (RSED) Exceptions - Statute Extensions

- (1) If a taxpayer fails to timely file a claim for refund in accordance with the provisions of IRC 6511(a), the taxpayer may still file a claim for refund if the statute of limitations for assessment is extended by agreement of the IRS and the taxpayer according to IRC 6511(c).
- (2) If a consent to extend the assessment statute of limitations under IRC 6501(c)(4) is executed (e.g., Form 872, Consent to Extend the Time to Assess Tax), the period for filing a claim for credit or refund (or for making a credit or refund if no claim is filed) under IRC 6511(a) and IRC 6511(b)(1) will not expire prior to six months after the expiration of the extension period.
- (3) If a claim for refund is filed after the execution of the consent and within six months after the expiration of the extension period, the amount of credit or refund shall not exceed the portion of the tax paid after the execution of the consent (and before the filing of the claim or making of the credit or refund), PLUS the portion of the tax paid within the period that would be applicable under IRC 6511(b)(2) if a claim had been filed on the date the consent was executed.

Example: A taxpayer filed his 2015 Form 1040 on April 15, 2016, with a tax liability of \$100,000. He paid the \$100,000 when he filed the return. While under examination for 2015, he agreed to an extension of the assessment statute until December 31, 2020, and executed Form 872 prior to April 15, 2019. The consent operates to extend the provisions of IRC

6511(b)(2) and allows the taxpayer to file a claim as late as June 30, 2021. If the taxpayer files a claim during this time or if the examination results in a refund, the refund can include the entire \$100,000 of tax paid on April 15, 2016.

- (4) See IRM 25.6.1.10.2.7.3, Extension of Time by Agreement, for information on restricted consents and the similar restrictions on subsequent claims.

4.10.11.5.2.2
(09-04-2020)

**Refund Statute
Expiration Date (RSED)
Exceptions - Carrybacks**

- (1) A claim for credit or refund based on the carryback of a net operating loss (NOL) or a capital loss may be filed within the three-year period from the due date or extended due date of the loss year (regardless of when the loss year was actually filed). See IRC 6511(d)(2), and IRM 25.6.1.10.2.8.1, Net Operating Loss (NOL) Carryback or Capital Loss Carryback, for specific guidance on the time and amount limitations for filing a carryback claim.
- (2) The taxpayer may file a carryback claim if either the statute under IRC 6511(a) or IRC 6511(d)(2) is open.

4.10.11.5.2.3
(09-29-2022)

**Refund Statute
Expiration Date (RSED)
Exceptions and Other
Special Situations**

- (1) IRC 6511(h) provides that the general period of limitations on claims for credit or refund is suspended during the period that an individual is "financially disabled." See IRM 25.6.1.10.2.9.1, Financial Disability, for definitions and requirements.
- (2) The IRS may postpone a deadline for filing a claim for credit or refund for a period of up to one year for taxpayers (individuals and businesses) who the IRS determines are affected by a Presidentially declared disaster. See IRM 25.6.1.10.2.9.2, Presidentially Declared Disaster Area, for definitions and references.
- (3) Certain taxpayers serving in designated combat zones are entitled to an extended deadline for payment, filing, and other tax matters under IRC 7508(a). The deadlines for certain acts performed by taxpayers and the IRS, including the filing of a claim for credit or refund, are postponed. See IRM 25.6.1.10.2.9.6, Combat Zone, for additional details and references.
- (4) A claim for refund or credit based on a bad debt deduction under IRC 166 or IRC 832(c), or a worthless security loss under IRC 165(g), may be filed within seven years from the due date of the return for the year with respect to which the claim is made (determined without regard to an extension of time to file). See IRM 25.6.1.10.2.8.3, Bad Debts and Worthless Securities, for additional requirements.
- (5) The period of limitations for submitting a claim for credit or refund is not suspended due to identity theft. See IRM 25.6.1.10.2.9.5, Claims for Refund and Identity Theft, for additional information and references.
- (6) The period of limitations for submitting a claim for credit or refund is not suspended due to fraud. If a taxpayer files a fraudulent return, the IRS can assess a tax deficiency at any time according to IRC 6501(c)(1). However, the open-ended period of assessment does not apply to refund claims filed by the taxpayer, who still must file a refund claim within three years of filing the fraudulent return or two years of payment (H.M. Plunkett, 72-2 USTC P 9541).

Note: Although the unlimited ASER does not translate into an unlimited RSED, taxpayers will always have at least 2 years from the date of any payment to

request a refund of such payment. For example, if the IRS properly assesses and collects a \$100,000 tax liability seven years after the original return was filed, because of an unlimited ASER, the taxpayer will have two years after payment of the \$100,000 to argue that the liability is less than \$100,000 and that some amount of refund is due.

- (7) A taxpayer may supplement their claim for refund after the RSED if the IRS has not taken final action on the claim. The supplemental claim cannot be an impermissible variance from the timely-filed claim, meaning it may not raise new issues or positions, but it can, for example, request a larger refund due to a computational error. See IRM 25.6.1.10.2.6.4, Supplemental Claims, for further definitions and examples.

4.10.11.5.2.4 (09-04-2020) Barred Refund Procedures

- (1) Generally, late filed claims for refund are screened and rejected by the campus and not sent to the Field for examination. However, the following are examples of barred refund situations examiners may encounter (not all-inclusive):
 - A claim for refund submitted to the examiner during the examination, after the RSED.
 - A delinquent return filed with the examiner claiming an overpayment, with payments made outside the three-year look back period explained in IRM 25.6.1.10.2.7, Claims for Credit or Refund – General Time Period for Submitting a Claim.
 - A claim for refund where only a portion of the tax can be refunded under the two-year rule and the rest is barred.
 - A request for abatement filed after the RSED, which results in a refund because the module balance was partially or fully paid at a later date.
- (2) If the examiner determines all or part of a refund is barred by the RSED, the examiner must document their consideration and/or non-consideration of the merits of the claim issue(s) in the case file, **follow the applicable disallowance procedures in this IRM**, and:
 - a. Enter an explanation for the barred refund in the “Other Information” section of Form 4549. For example, “Of the \$5,400 overpayment shown on this report, \$3,000 is barred from refunding by IRC 6511, Limitations on Credit or Refund.”
 - b. Enter Hold Code 2 on item 07 on Form 5344 to hold notices and the credit.
 - c. When closing to CCP, 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, “Of the \$5,400 overpayment shown on this report, \$3,000 is barred by IRC 6511. Please move \$3,000 to Excess Collection.”

4.10.11.6 (09-04-2020) Special Situations - Claims for Refund and Requests for Abatement

- (1) The following sections discuss special situations examiners may encounter when working claims for refund or requests for abatement that require additional (or different) procedures.

4.10.11.6.1
(09-04-2020)

Claim for Refund on the Original Return

- (1) An original, non-frivolous return can be a claim for refund. If a refund shown on a processed return is held or frozen (i.e., the refund was not paid and not applied to a balance due) and the module reflects a credit balance, the examiner must follow the procedures below, depending on whether the refund is allowed as a result of the examination:

- a. If no changes are made which reduce the amount of the refund requested, include the following statement in the "Other Information" section of Form 4549: "A portion or all of the refund shown on your original return was withheld pending the outcome of this examination. It will be applied to the corrected tax deficiency and any remaining over-payment will be refunded if no other taxes are owed." Follow normal no-change/agreed procedures.

Exception: If the refund hold was on a delinquent return secured by the examiner and no changes are made, send Letter 2778, Non-filer No change letter--Penalty waived, and follow the procedures in IRM 4.4.9.7.5.1, No Additional Adjustments Required/Prepare RAR and Form 5344, Examination Closing Record, (if a SFR TC150 has posted) or IRM 4.4.9.5.14.1, No Change to Original Return, (if no SFR TC150 has posted).

- b. If changes are made which reduce the amount of the refund requested, the audit report will reflect the additional tax assessment, changes to credits, and / or applicable penalties, and examiners follow the procedures in IRM 4.10.11.2.14. For the applicability of IRC 6676 to frozen refunds, see IRM 20.1.5.18.4, Case Procedures WITH Deficiency Procedures.

4.10.11.6.2
(09-29-2022)

Joint Committee Refunds

- (1) Examiners must be aware that refunds meeting Joint Committee criteria require special processing. Generally, IRC 6405 requires the submission of reports by the IRS to the Joint Committee on Taxation, in cases involving refunds in excess of the jurisdictional amount of \$2 million (\$5 million for C corporations). All refunds from source years open with respect to the statute of limitations need to be considered in determining the jurisdictional amount. For example, if tentative refunds added together exceed \$2 million (\$5 million for C Corporations), both the source years and tentative refund years will be reported. This is true if none, one or all of the separate tentative refunds exceed \$2 million (\$5 million for C Corporations).
- (2) LB&I provides support to SB/SE, TEGE and LB&I for the Joint Committee Review (JCR) program and oversees the preparation of the report sent to the Joint Committee for all agreed, partially agreed, no-changed, and surveyed cases meeting Joint Committee criteria. See IRM 4.36, Joint Committee Procedures, including:
- IRM 4.36.1, Joint Committee Process Overview
 - IRM 4.36.2, Identification of Joint Committee Cases
 - IRM 4.36.3, Examination Team Responsibilities
 - IRM 4.36.4, Joint Committee Review Team Procedures
 - IRM 4.36.5, Reports
- (3) Examiners should also refer to *Joint Committee Cases* on the virtual library for information on identifying and working a Joint Committee case, FAQs, helpful tools, making a referral for a tax computation specialist (TCS) and submitting a referral to JCR.

- (4) Cases meeting Joint Committee criteria must contain Project Code 0077. If not already on AIMS, examiners must prepare Form 5348 to request the project code be input for the Joint Committee tax period(s).

4.10.11.6.3
(09-04-2020)
Claims for Refund and Requests for Abatement - Issues with Married Filing Joint Returns

- (1) Examiners may encounter situations when a claim for refund, request for abatement, or audit reconsideration is subsequently filed for a Married Filing Joint (MFJ) return, or the filing status is changed. This section covers some of those situations.

4.10.11.6.3.1
(09-04-2020)
Claims for Refund on Married Filing Joint Returns - Signature Requirements

- (1) Generally, when the filing status of the original return is MFJ, a subsequent claim for refund must be signed by both spouses. There are exceptions when a taxpayer may sign a claim on behalf of their spouse and include the appropriate statement, notation, or documents. Exceptions include (but are not limited to) claims signed by a spouse on behalf of:
 - A deceased or incapacitated spouse
 - A spouse who is in a Combat Zone, Missing in Action or a Prisoner of War
 - A spouse for whom they have an authorized Power of Attorney to sign the claim
- (2) In some circumstances, including divorce or separation, a claim for refund may be filed and signed by only one spouse. Rev. Rul. 74-611 held each individual had a separate interest in an overpayment on a joint return. In these situations an allocation is necessary to determine the amount of overpayment due each taxpayer. Request an allocation from the taxpayer if it is not provided with the claim, unless the ownership of income and payments can be determined from the return and internal information.

4.10.11.6.3.2
(09-04-2020)
Claims for Refund on Married Filing Joint Returns - Agreement and Waiver Forms

- (1) When a claim for refund is filed by both spouses on a MFJ return, the examiner includes both names and the primary taxpayer's SSN on agreement and waiver forms (e.g., Form 2297, Form 3363, and Form 4549). When spouses live at different addresses, separate forms are prepared reflecting both names, but the different address of each spouse. For separate notice requirements, see IRM 4.10.1.2.2.1.1, Applicability to Field Examination Correspondence/Notices.
- (2) The examiner must take into account the appeal rights for each spouse. If only one spouse agrees to a disallowance and signs Form 2297, the case cannot be closed agreed to CCP. The examiner must follow claim disallowance procedures for the non-signing spouse, then:
 - a. Send the case to Technical Services for transfer to Appeals if a valid protest is received, or
 - b. Send the case to Technical Services for a statutory claim disallowance letter (addressed only to the non-signing spouse) if a valid protest is not received, or
 - c. Send the case to CCP if a signed Form 2297 is subsequently received.

Note: An MFT 31 account is not required to be established when only one spouse agrees to the claim disallowance, nor is the case required to be split into separate agreed/unagreed files.

4.10.11.6.3.3
(09-04-2020)
**Split Spousal
Assessments and MFT
31 Claims for Refund
and Requests for
Abatement**

- (3) The Claim Rejection Date for Form 5344 is the earlier of: (1) the date of the earliest signed Form 2297, or (2) the date of the statutory claim disallowance (if issued).

- (1) Individual joint returns are assessed using MFT 30, but certain situations cause the liability to be moved to separate MFT 31 accounts. Examples of MFT 31 assessments include innocent spouse determinations, bankruptcy, or other situations listed in IRM 21.6.8.4, What is MFT 31/MFT 65. Examiners should research IMFOLI to see a summary of accounts and balances to determine if further IDRS research is needed.

Example: An examiner receives a case with a Form 1040X and assumes it is a claim for refund because the MFT 30 account balance is zero. However, IMFOLI shows an MFT 31 account for the same tax period as the claim. After further IDRS research the examiner determines the tax has been moved from the MFT 30 account to an MFT 31 account which had a balance due when the Form 1040X was filed (and no refund was requested). The case is a request for abatement, not a claim for refund.

- (2) MFT 31 modules are not controlled on AIMS. Adjustments to the MFT 31 module (e.g., assessments, abatements) are made using command code AMCLSS. The AMCLSS is input on the MFT 30 module which sends the adjustment to the MFT 31 module. Therefore, the MFT 30 account will be opened on AIMS/ERCS for a claim for refund or request for abatement of an MFT 31 assessment, regardless of which spouse files the claim. Examiners will charge their time to the MFT 30 account, and follow Protection of Revenue Base procedures, if applicable.
- (3) If the MFT 31 account(s) meet the criteria referenced in IRM 4.10.11.5.1 for an "AA" statute, the MFT 30 AIMS/ERCS account may be updated to "AA." Examiners must make a note to this effect on Form 895, Notice of Statute Expiration. However, in order to enter an "AA" alpha code on AIMS/ERCS, the MFT 30 account needs claim features (e.g., a claim source code and/or claim amount).

Example: An assessment is made on MFT 31 for both spouses. Later, a timely claim is filed by both spouses requesting a refund or abatement of the assessed tax. The assessment statute is the same for both taxpayers and is expired (or imminent and there is no likelihood of an additional tax or penalty assessment). The MFT 30 AIMS/ERCS account can be updated to "AA," even though there is no claim on the MFT 30 account. The examiner will notate the "Remarks" section of Form 895 with language similar to the following: The MFT 31 module meets the criteria for "AA"; there is no likelihood of an additional tax or penalty assessment, and the claimed refund/abatement has not been made.

- (4) Each spouse has their own ASSED, and the MFT 30 account on AIMS/ERCS only reflects the ASSED of the primary taxpayer. In rare circumstances examined claims for refund and requests for abatement may need additional controls established for the secondary taxpayer. This typically occurs only when the spouses' ASSEDs are different, **and** the secondary spouse's statute needs protection (i.e., the statute is open and there is potential for a defi-

ciency). In these instances, having separate statute controls will prevent updates to the secondary taxpayer's ASED from unintentionally updating the primary taxpayer's ASED.

MFT 31 claim for refund or request for abatement filed by:	AIMS/ERCS controls	Are temporary ERCS controls needed for the secondary taxpayer using an ERCS collateral record?
Primary spouse only	MFT 30 account on AIMS/ERCS - reflecting the ASED of the primary spouse	No
Both spouses - and they have the same ASED	MFT 30 account on AIMS/ERCS - reflecting the ASED of the primary spouse	No
Both spouses - and they have different ASEDs, but neither needs protection (i.e., "AA" is applicable)	MFT 30 account on AIMS/ERCS - reflecting the ASED of the primary spouse	No
Both spouses - and they have different ASEDs needing protection (i.e., "AA" is not applicable)	MFT 30 account on AIMS/ERCS - reflecting the ASED of the primary spouse	Yes
Secondary spouse only, and the ASED needs protection (i.e., "AA" is not applicable)	MFT 30 account on AIMS/ERCS - reflecting the ASED of the primary spouse is still used to charge time and process adjustments	Yes

Note: If temporary ERCS controls are needed, see IRM 4.7.5, Group and Territory, which discusses the use of collateral records. If a collateral record was established for temporary controls for the secondary spouse, the group or Technical Services must close this temporary ERCS collateral record before closing the case to CCP or Appeals.

- (5) RGS will reflect both names on the account; therefore, when using RGS generated reports and letters, examiners must be careful to address and send correspondence only to the spouse(s) who filed the claim.
- (6) Form 5344 will reflect MFT 30 with the primary SSN, but examiners must manually make notations to Form 5344 by adding the definer "S" to AMCLS in accordance with IRM 4.4.12.5.4, P 1–6: CC AMCLS, and either "P" for Primary or "S" for Secondary in P- 56, in accordance with IRM 4.4.12.5.4.1, AMCLSS P-56.

Note: If adjustments are required on both MFT 31 accounts, two separate Forms 5344 will be necessary.

- (7) Examiners will notate the Special Features section of Form 3198 by checking the box labeled "MFT 31 Adjustment." Additionally, if two Forms 5344 are enclosed (for each spouse), note this in the "Other Instructions."

4.10.11.6.3.4
(09-04-2020)

Claims for Refund and Requests for Abatement with Innocent Spouse Issue

- (1) If a claim for refund, request for abatement, or audit reconsideration involves an innocent spouse determination, see IRM 25.15.6.15, Claims for Refund with Innocent Spouse Issue, for additional guidance and exceptions to normal processing.

4.10.11.6.3.5
(09-04-2020)

Separate to Joint Claims for Refund and Requests for Abatement

- (1) IRC 6013(b) provides the circumstances that allow taxpayers to file a joint return after one or both spouses file a married filing separate return.
- (2) See IRM 25.6.1.9.4.4, Joint Return After Separate Return, for information regarding the deadline for making a joint election, as well as the “deemed” filing date of the joint return for ASED purposes.
- (3) In order to increase tax or reverse a credit on either spouse’s module, the ASED must be open. The ASED is based on the deemed filing date of the joint return. If the spouses’ statutes do not reflect the ASED of the joint return, the examiner must update AIMS, noting on the Form 895 when the joint return was deemed filed according to IRC 6013(b)(3).

Caution: Do not update the ASED to “AA” if tax must be increased or a credit reversed as a result of making the conversion or other audit issues.

- (4) If an amended return is received requesting a refund or abatement, and the request is not allowable (e.g., the election to file a joint return is not timely), examiners must follow the claim for refund, request for abatement, or audit reconsideration disallowance procedures in this IRM.
- (5) See IRM 4.10.8.14.6, Filing Status: Separate Returns Converted to Amended Joint Return, for information on report writing, and completing the forms required to ensure the accounts are updated properly.

4.10.11.6.4
(09-04-2020)

Claims for Refund and Requests for Abatement - Taxpayers Impacted by Disaster

- (1) IRM 25.16.1, Disaster Assistance and Emergency Relief, Program Guidelines, provides Servicewide guidance when the IRS responds to tax-related issues due to federally declared disasters. Examiners should also refer to IRM 4.2.2, Disaster Assistance Relief, for guidance when working with taxpayers who may be affected by a federally declared disaster.
- (2) When a federal disaster is declared, the IRS has authority to postpone certain tax related deadlines and provide relief from compliance activity. “Affected taxpayers” are generally eligible for temporary relief from compliance activities, unless they choose to opt out of the postponement period.
- (3) If an examiner is assigned a claim for refund, request for abatement, or audit reconsideration for a taxpayer who is eligible for disaster relief, applicable disaster guidance must be followed. For example, an SB/SE examiner working a claim for refund of an affected taxpayer would not issue a Letter 569, Full/ Partial Preliminary Claim Disallowance, during the postponement period unless the taxpayer had “opted out” of the postponement period.

Exception: If an examiner has sufficient documentation or information available to make the determination that a claim for refund or request for abatement will be allowed in full, they should not postpone the closure.

- (4) Taxpayers may file claims for refund or requests for abatement as a result of a disaster, (e.g., claiming a casualty loss), either during or after the postponement period. Once the postponement period has expired (or the taxpayer has opted out), claims for refund and requests for abatement related to a disaster follow the procedures in this IRM.

Reminder: Occasionally, specific laws or procedures will apply as a result of a disaster (e.g., a Revenue Procedure providing a safe harbor method for determining a casualty loss amount). Otherwise, examiners follow the general procedures for working claims for refund or requests for abatement.

4.10.11.6.5
(09-04-2020)
Claims for Refund for Deceased Taxpayers

- (1) If a surviving spouse files a joint claim for refund, a refund may be made to the surviving spouse after researching INOLE to confirm the deceased spouse's date of death.
- (2) Decedent overpayment returns or claims for refund filed by anyone other than the surviving spouse must be filed with Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer, or a certificate showing court appointment. See IRM 21.6.6.2.20.2, Processing Decedent Account Refunds, for evidence required.

4.10.11.6.6
(09-29-2022)
Claims for Refund and Requests for Abatement of Interest and/or Penalties

- (1) Taxpayers may use Form 843 to file a claim for refund or request for abatement of interest, penalties or additions to tax, caused by certain IRS errors or delay, or certain erroneous written advice from the IRS.
Note: Form 843 should not be used for an overpayment of income taxes or an employer's claim for FICA tax, RRTA tax, or income tax withholding (use the appropriate amended tax return).
- (2) After an examination, taxpayers may request the abatement of the assessed tax, penalties, and/or interest.
 - If a request includes an abatement of tax and/or penalty, follow the audit reconsideration procedures in IRM 4.10.11.4.
 - If a request is for penalty abatement only, see IRM 4.10.11.6.6.2 below.
 - If a tax and/or penalty abatement request also includes a request to abate interest, the tax and penalty portion must be addressed first (as noted above). Interest abatement claims are worked in Technical Services as explained in IRM 4.10.11.6.6.1 below.

4.10.11.6.6.1
(09-29-2022)
Claims for Refund and Requests for Abatement of Interest - IRC 6404(e)(1)

- (1) Examiners do not make determinations for interest abatement requests. All interest abatement claims are worked by the Interest Abatement Coordinators in Technical Services.
- (2) If a taxpayer requests interest abatement during an examination, inform the taxpayer interest is statutory and the law for abating interest (IRC 6404(e)(1)) is very narrow. See IRM 21.5.2.4.10.1, Ministerial/Managerial Interest Abatement, and IRM 20.2.7.14, Request for Interest Abatement, for additional information on requests for interest abatement.
- (3) Once all tax and/or penalty issues are addressed, interest abatement claims are referred to the *Interest Abatement Coordinators* for consideration.

Note: Generally, the case will be closed to CCP for assessment or abatement of tax and/or penalties, and then recharged to the Interest Abatement Coordinator using Form 2275, Records Request, Charge and Recharge (when applicable). The case must be in status 90 and AIMS controls are not transferred to Technical Services, as interest abatement cases are non-AIMS collateral records. Examiners should contact the Interest Abatement Coordinator for assistance.

4.10.11.6.6.2
(09-29-2022)

**Claims for Refund and
Requests for Abatement
of Penalties**

- (1) Generally, when a taxpayer disagrees with a proposed determination regarding a penalty, they have the right to an administrative appeal and are typically offered pre-assessment appeal rights in a 30-day letter and/or notice of deficiency ("deficiency procedures").
- (2) Once a penalty has been assessed and the taxpayer requests relief, the procedures and appeal rights vary depending on the nature of the penalty and whether the assessed amount has been paid. See IRM 8.11, Penalties Worked in Appeals, for additional information.
 - a. If a claim for refund is filed for a penalty that has been paid at the time of the request, examiners must follow claim for refund procedures in IRM 4.10.11.2, which include an opportunity to appeal if the claim for refund is disallowed.
 - b. If the taxpayer requests abatement of a penalty that remains unpaid and the request is allowed in full, follow the procedures in IRM 4.10.11.3.7.
 - c. If the taxpayer requests abatement of a penalty that remains unpaid and the request is disallowed, the examiner must refer to the IRM 20.1, Penalty Handbook, section applicable to the disputed penalty for information regarding appeal rights. According to 26 CFR 601.106, post-assessment appeal rights are not applicable to an abatement of a penalty previously subject to deficiency procedures (e.g., accuracy-related or failure to file penalties assessed on a deficiency). For disallowed requests for abatement of only the accuracy-related penalty, examiners follow IRM 4.10.11.3, but send Letter 5440, Denial of Accuracy Related Penalty Abatement Request, instead of Letter 693 to transmit their findings. For other disallowed penalty abatements with no appeal rights, examiners follow IRM 4.10.11.3 and use Letter 693 to transmit their findings.

Exception: If the taxpayer is requesting an abatement of unpaid **tax** and penalty from a prior examination, examiners must follow the audit reconsideration procedures in IRM 4.10.11.4, which give the taxpayer an opportunity to appeal the disallowance.

- (3) If written supervisory approval was required to **assert** a penalty under IRC 6751(b) (see IRM 20.1.1.2.3, Approval Prerequisite to Penalty Assessments), or IRS policy (see IRM 20.1.2.3.7.5.1(8), FFTF Penalty Assessment - Procedural Requirements), written supervisory approval must also be secured to **abate** the penalty, unless the penalty abatement is computational only (e.g., recomputed due to an abatement of the underlying tax, correction of an IRS error, etc.). The written supervisory approval should be obtained prior to issuing a report reflecting the penalty abatement and must be documented on the specific penalty lead sheet or worksheet, or the activity record.

Example: During an audit reconsideration, the examiner abates a portion of the previous tax liability, which was subject to an accuracy-related penalty.

The examiner recalculates the accuracy-related penalty based on the corrected tax, and abates the penalty proportionately. Supervisory approval for the abatement of the penalty is not required.

Example: A taxpayer requests complete abatement of a previously assessed accuracy-related penalty, stating reasonable cause. The examiner considers the taxpayer's request and determines the penalty should be abated. The examiner must obtain supervisory approval to abate the penalty.

- (4) When working claims for refund or requests for abatement of penalties, examiners must consider these additional closing instructions:
 - a. When abating a penalty, the examiner must enter a two-digit penalty reason code on Form 5344, Item 02. For a list of penalty reason codes, see IRM Exhibit 20.1.1-2, Penalty Reason Code Chart.
 - b. In a penalty only case, the examiner enters an amount of \$1 on Form 5344, Item 35, with a Disposal Code of 12 in Item 13.
- (5) For additional information on penalty abatements, including RGS procedures and preparation of Form 5344, examiners should refer to the *Penalty Abatement Job Aid*.

This Page Intentionally Left Blank

Exhibit 4.10.11-1 (09-29-2022)

Claims for Refund Summary

The table below summarizes the procedures for working claims for refund. See IRM 4.10.11.2 above for detailed procedures.

Reminder: This summary is only applicable to claims for refund, not requests for abatement or other amended returns that do not meet the definition of a claim for refund in IRM 4.10.11.2.1.

Claim for Refund	IRM Reference	Forms	Preliminary Letter	Closing Letter
Survey After Assignment	IRM 4.10.11.2.5	Form 1900 Form 5344	N/A	Letter 570
Allowed in Full	IRM 4.10.11.2.8	Form 4549-A Form 5344	Letter 5810	Letter 570
Partially Disallowed	IRM 4.10.11.2.11	Form 4549 Form 2297 Form 5344	Letter 569	Letter 987 - if an agreement is secured, OR Letter 905 - issued by Technical Services if no agreement is secured and no protest is submitted
Disallowed in Full - No Additional Tax Liability	IRM 4.10.11.2.13	Form 3363 or Form 4549 Form 2297 Form 5344	Letter 569	Letter 987 - if an agreement is secured, OR Letter 906 - issued by Technical Services if no agreement is secured and no protest is submitted
Disallowed in Full - Additional Tax Liability	IRM 4.10.11.2.14	Form 4549 Form 2297 Form 5344	Letter 569 if ≥ 240 days on statute of limitations (ASED) OR Letter 5153-A if < 240 days on statute of limitations (ASED)	Letter 987 - if an agreement is secured, OR Notice of Deficiency and Claim Disallowance - issued by Technical Services if no agreement is secured and no protest is submitted

Note: For paperless electronic closures, groups should follow their business unit's policy for mailing closing letters.

Exhibit 4.10.11-2 (09-04-2020)**Determining the Nature of an Amended Return**

(1) When an amended return is selected for examination, or filed for a year under examination, the examiner must determine the nature of the amended return. The procedures in this IRM apply only if the amended return meets the definition of a “claim for refund” or a “request for abatement.” Otherwise, regular examination procedures are followed.

Refer to IRM 4.10.11.2.4 and IRM 4.10.11.3.3 for questions to consider when determining the nature of a request.

Reminder: If the adjustments to tax or credits shown on a claim for refund or request for abatement have been posted to Master File, the procedures in this IRM do not apply as it is no longer a pending claim for refund or request for abatement. If an examination is warranted, follow normal examination procedures. The statute of limitations for assessment must be protected and the use of “AA” as discussed in IRM 4.10.11.5.1 is not applicable.

(2) In addition to claims for refund or requests for abatement that have already been acted on, the following amended returns are **NOT** claims for refund or requests for abatement:

Amended return with no change to tax or credits.

Example: An amended pass-through entity (e.g., a Form 1120S or Form 1065) with no tax liability at the entity level is not a claim. Only in rare situations will an amended pass-through entity request a refund or abatement as these are generally non-taxable entities. However, if as a result of the amended pass-through entity return, investors file amended returns that meet the definition of claims for refund or requests for abatement, they are subject to the procedures of this IRM. See IRM 4.31.5.9, Entity Amended Returns Statutes, for additional guidance on amended ILSC pass-through returns.

Example: A return with a net operating loss (and no tax liability) that is subsequently amended to increase the loss amount with no change to tax or credits is not a claim.

Tentative carryback allowances (Form 1045 or 1139).

Note: These are not claims for refund, by definition. If a tentative carryback is not allowed, a taxpayer does not have appeal rights. See IRM 4.11.11, Net Operating Loss Cases, and IRM 4.10.8.14.3.3, Reports After a Tentative Refund or Credit, for additional guidance.

Example: A taxpayer files Form 1139 to carryback a 2016 loss to 2014 and 2015. If the campus processes the tentative allowance and abates tax on 2014 and 2015 (with TC 295), none of these years are considered claims for refund or abatement. If the campus does not allow the tentative carryback, it is not considered a disallowed claim and the taxpayer does not have appeal rights. The taxpayer may file a claim for each of the carryback years on Form 1120X.

Taxable amended returns. An amended return with changes that increase tax or decrease a credit are not claims for refund or requests for abatement. See Exhibit 4.10.11-3 for a discussion on the handling of taxable amended returns.

Exhibit 4.10.11-3 (09-04-2020)
Taxable Amended Returns

An amended return with changes that increase the previously assessed tax (or decrease a credit) is a taxable amended return and not a claim for refund or request for abatement. Examiners must take into consideration an amended return filed for a year under examination.

Reminder: Amended returns with a combination of a tax increase (or credit reversal) and a tax decrease (or allowed credit) with an overall net refund or abatement are not “taxable amended returns.” See IRM 4.10.11.5.1.1 for additional information on net overassessments.

Examiners must review a current transcript to determine if the taxable amended return has been assessed by the campus. Examination reports must reflect the assessed tax shown on Master File. The following procedures apply, depending on whether the taxable amended return has (or has not) been assessed by the campus.

TAXABLE AMENDED RETURN ASSESSED BY THE CAMPUS

If the campus has processed a taxable amended return for a year under examination (e.g., the additional tax has been assessed with a TC 290) examiners must follow these report writing procedures:

- Enter any changes in the RGS Return Setup (if RGS is used) to match the taxpayer’s account on IDRS. All changes to a return after it was filed must be considered when entering the return data, to generate a correct computation of tax. Amended returns and other adjustments processed by the campus must be entered as per return amounts in RGS. Run a Variance analysis to verify the accuracy of your input.
- Prepare the examination report showing amounts for the “Taxable Income Per Return or as Previously Adjusted” and “Total Tax Shown on Return or as Previously Adjusted” that match the amounts on the transcript.

If the amended return was filed “after” the examination was initiated, examiners must take these additional steps:

- Capture the results of the additional tax shown on the taxable amended return by completing Item 415 of Form 5344. See IRM 4.4.12.5.70, Item 415: Amended Return Amount, for procedures regarding completion of this item.
- Consider applicable return-related penalties. Unless the taxable amended return is a “qualified amended return,” the additional tax shown on the amended return is an underpayment that may be subject to penalty. See 26 CFR 1.6664-2 for additional information. If the penalty is unagreed, examiners follow unagreed case procedures. It may be necessary to input this penalty as a manual penalty in RGS.

Note: A “qualified amended return” is an amended return filed after the due date, but before the receipt of an initial contact letter, or other contact as described in IRM 20.1.5.3.1, Definitions.

TAXABLE AMENDED RETURNS NOT ASSESSED BY THE CAMPUS

If the taxpayer files a taxable amended return for a year under examination and the additional tax liability has not been assessed, examiners must consider making the assessment shown on the amended return (with consideration to all applicable penalties) in order to protect the statute of limitations.

Generally, amended returns do not extend the statute of limitations for assessments.

Exception: IRC 6501(c)(7) states if a taxable amended return is filed within 60 days of the expiration of the assessment statute of limitations, the IRS has 60 days from the day the amended return is received by the IRS to assess the additional tax liability shown on the amended return.

Exhibit 4.10.11-3 (Cont. 1) (09-04-2020)**Taxable Amended Returns**

If there are no other proposed audit adjustments and the amended return is accepted as filed, examiners must:

1. Prepare an agreed report incorporating the changes shown on the taxable amended return.
2. Include the following statement in the "Other Information" section of the report: "Agreed per signature on amended return."
3. Consider and assert applicable penalties. Include all computations and documentation for all penalty adjustments. Since the additional tax liability is reflected on a signed amended return, deficiency procedures do not apply to the tax, and the delinquency penalty (Failure to File) may be assessed, if applicable, without a signature on the report.

Note: A return-related penalty (e.g., the accuracy-related penalty) requires deficiency procedures (i.e., 30-day letter, 90-day letter) if a signature is not secured on Form 4549 reflecting the penalty. Return-related penalties are considered an additional audit adjustment.

4. Prepare Form 5344 using Disposal Code 08, without an agreement date, even though the tax is considered "agreed" based upon the signature on the amended return. See IRM 4.4.12.4, Taxable Amended Return, for instructions on completing Form 5344.
5. Prepare Form 3198, and check the "Amended Return or AAR in the File and Considered" box in the Special Features section. Close the case to CCP.

If additional audit adjustments are proposed to the taxable amended return, the examiner must determine if the taxpayer agrees to the additional adjustments and follow the procedures below:

- If the additional proposed audit adjustments are **agreed**, examiners incorporate both the amended return issues and the proposed audit issues into one report. Follow agreed case procedures in IRM 4.10.8.4, Regular Agreed Cases.
- If the additional proposed audit adjustments are **unagreed**, examiners must generally make a partial assessment for the agreed additional tax liability shown on the taxable amended return, following the procedures below. However, the IRS has discretion in accepting amended returns. In rare instances it is in the best interest of the IRS to determine the deficiency without regard to the amended return (e.g., the amended return contains multiple math errors, or fraud is involved). In those cases a partial assessment is not required.

Partial assessment procedures:

1. Prepare an agreed report incorporating the changes shown on the taxable amended return.
2. Include the following statement in the "Other Information" section of the report: "Agreed per signature on amended return."

Note: Agreed additional audit adjustments may be included on this report, but a signature will be required.

3. Consider and assert applicable penalties. Include all computations and documentation for all penalty adjustments. Deficiency procedures do not apply to the tax liability reflected on a signed amended return, and the delinquency penalty (Failure to File) may be assessed, if applicable, without a signature on the report.

Note: A return-related penalty (e.g., the accuracy-related penalty) requires deficiency procedures (i.e., 30-day letter, 90-day letter) if a signature is not secured on Form 4549 reflecting the penalty. Return-related penalties are considered an additional audit adjustment.

4. Prepare Form 5344 using Disposal Code 08, without an agreement date, when the tax is considered "agreed" based upon the signature on the amended return. See IRM 4.4.12.4, Taxable Amended Return, for instructions on completing Form 5344.
5. Prepare Form 3198, and check the "Amended Return or AAR in the File and Considered" and "Partial Assessment Requested" boxes in the Special Features section.

Exhibit 4.10.11-3 (Cont. 2) (09-04-2020)**Taxable Amended Returns**

6. See IRM 4.10.8.6, Partially Agreed Cases, for preparing and Eefaxing the partial assessment package to CCP.

Once the partial assessment has been processed, prepare an unagreed report for the proposed audit adjustments. Examiners follow the procedures in IRM 4.10.8.12, Unagreed Case Procedures for the unagreed issues.

Exhibit 4.10.11-4 (09-04-2020)**Claim of Right Cases**

A claim of right case occurs when, under the provision of IRC 1341, a taxpayer includes an item in gross income for a prior taxable year (or years), but it is later determined the taxpayer did not have an unrestricted right to that item of income, and the taxpayer is required to refund revenue they previously reported in income. See IRM 21.6.6.2.10, Claim of Right - IRC Section 1341, Repayment of Income Previously Reported, through IRM 21.6.6.2.10.3, Adjusting the Account, for additional guidance.

Group Procedures

- Prepare and include Form 3198 with the case file. Add notation "Claim of Right Case."
- Consult Technical Services when there are questions on these cases.

Exhibit 4.10.11-5 (09-04-2020)**Source Codes - Claims for Refund and Requests for Abatement**

A **Source Code** is a two digit code used to indicate the source of the examination. Generally, the source code will not be changed if a claim for refund or request for abatement is received during the course of an open examination.

See the *Source Code Job Aid* on the *Code Listings* section of the AIMS knowledge base. The following paragraphs provide additional guidance for claims for refund and requests for abatement.

If research shows the original return has never been examined, and the requested refund has not been paid (or requested abatement has not been made) by the campus, then use Source Code 30.

Note: A Transaction Code (TC) 30X present on the transcript indicates the return has been examined. The presence of a TC 29X should not be considered an examination of the return.

If research shows the original return was previously examined and is still on AIMS in status 90, the AIMS record is reopened, retaining the original source code, and Aging Reason Code 53 is added. If research shows the original return was previously examined and the controls are not currently on AIMS, then Source Code 73 and add Aging Reason Code 53 is used.

The module balance has no bearing on which source code to use (i.e., Source Code 30 is used for refunds and abatements).

Source Code 30:

- Requires a claim amount on AIMS and ERCS. See Exhibit 4.10.11-6 for guidance.
- Includes claims for amended taxable pass through returns.
- Does not include audit reconsideration cases or amended nontaxable pass through returns.

Invalid Source Code 30 - Returns that are incorrectly assigned Source Code 30 may be surveyed without scheduling an overassessment by using Command Code AMAXUE to correct the source code and remove the amount claimed from the data base.

Exhibit 4.10.11-6 (09-29-2022)**Claim Amount**

Ensure the amount claimed is placed on AIMS when required. Even though a request for abatement is not a claim for refund, a claim amount is required on AIMS.

Reminder: Nontaxable amended returns should not have a claim amount.

If the correct claim amount is not on the AIMS data base (determined by looking at Form 5546, Examination Return Charge-Out Sheet, or an AMDISA display), then use Form 5348, AIMS/ERCS Update (Examination Update), to update AIMS with the correct amount. The corrected amount can also be entered on Form 5344, Examination Closing Record, when the case is being closed, or Form 5349, Examination Correction Request, after the case has been closed.

Caution: The claim date shown on AIMS represents the date the claim amount was entered on AIMS, not the filing date of the claim. See IRM Exhibit 4.4.1-1, Reference Guide.

If an amount claimed was put on the data base in error, and it has been determined a claim does not exist and the claim will not be examined or surveyed (Disposal Code 34), then delete the claim amount before closing with the appropriate disposal code. If there is a TC 97X –A Freeze, the AIMS cannot be closed DC 33. A -A freeze can be removed by preparing and EEFaxing Form 3870 , Request for Adjustment, to CCP to input a TC 290 for zero.

Computing the Claim Amount

The claim amount is the specific dollar amount of tax decrease and/or credit increase the taxpayer is asking to be refunded (or abated). In most cases this will be stated in the taxpayer's claim. In other cases examiners must determine the claim amount as follows:

If	Then
An amended return shows the computation of the corrected tax liability	The claim amount is the difference (decrease) between the amended amount and the amount as previously assessed.
A taxpayer has more than one outstanding claim for refund or request for abatement for a single tax period	The claims are addressed individually. For AIMS purposes, when several claims are made for different issues the amount of claim entered is the net amount of all the issues. When several claims are filed for the same issues, or if one claim has additional issues, enter the larger amount. Note: Multiple claims involving one employment tax return, Form 941, of the same employer, are treated as one claim and the total amount claimed is entered.
A claim for refund or request for abatement covers longer than one tax period	The claim must be recomputed so an amount for each tax period is entered.
A claim for refund is amended by the taxpayer prior to the RSED and before the IRS has acted on it	The amended claim figures will be used to determine the claim amount.

Exhibit 4.10.11-6 (Cont. 1) (09-29-2022)

Claim Amount

If	Then
A request for abatement is amended by the taxpayer before the IRS has acted on it	The amended figures will be used to determine the claim amount.
The claim for refund or request for abatement is for the “entire amount of tax paid ”	The claim amount is the amount of tax shown on the return (if the module has a \$0 balance); or the amount paid/remitted.
The requested amount is not clearly stated (e.g., “such amount as may be due”) or otherwise missing or incorrect and the taxpayer has not provided a perfected claim	Compute the amount of the claim based upon available facts and use this figure as the claim amount. On forms and letters sent to the taxpayer, include an explanation of how the claim amount was determined. If a computation cannot be made, enter “indeterminable” as the claim amount on forms and letters, and use \$1 for AIMS.
A protective claim is filed for “\$1 or more” (or for any similar but nominal amount) and no details are shown as to the amount of reduction in taxable income / tax	Use \$1 as the claim amount until a claim amount can be computed or a perfected claim is received. The \$1 must be replaced with the correct amount of the claim as soon as the amount becomes evident. The amount must be changed before the case is closed from the group. Reminder: To be a valid protective claim, however, the claim must also explain the contingency that prevents the taxpayer from being able to currently calculate the alleged overpayment. The taxpayer also must explain when the contingency is expected to be resolved, if possible.
The claim for refund or request for abatement is allowed in full and the examiner raises other issues that increase the amount of the refund	The claim amount is the original amount requested by the taxpayer.
The claim for refund or request for abatement is surveyed	The claim amount is the allowable amount.
An original return is filed showing a refund, but the refund is held	The claim amount is the refund shown on the original return.
A disputed penalty is the only claim issue	The claim amount for letters and waivers is the disputed penalty, but for AIMS purposes use \$1.

Note: Applications for Tentative Carrybacks: Form 1045 and Form 1139 are not treated as claims when the amount requested has already been refunded; even though a claim form with the same issue and tax period was filed at the same time. Occasionally, a taxpayer will file a second claim for an additional net operating loss allowance. If the taxpayer’s return is open in Examination, the refund is not made, and the second claim is associated with the return, then enter the amount of the second claim.

Exhibit 4.10.11-7 (09-04-2020)**Disposal Codes - Claims for Refund, Requests for Abatement, and Audit Reconsiderations**

Claims for refund, request for abatements, and audit reconsiderations will use a variety of disposal codes depending on the examination findings and agreement status. Examiners should refer to Document 6209, IRS Processing Codes and Information, Section 12 - Examination, for additional information on AIMS codes and for situations not described below.

The following table will assist examiners in completing Item 13 of Form 5344 when a deficiency is not proposed.

Case Disposition	Claim for Refund	Request for Abatement	Audit Recon - (SC 73)	Audit Recon - (Original SC)
Fully Allowed	03	03	03	03
Partially Disallowed - Agreed	04	04	04	04
Partially Disallowed - Unagreed	08	08	08	08
Fully Disallowed	01	01	12 (\$1 in item 35)	Original DC
Protested to Appeals	07	07	07	07

Note: Form 5344 Item 41 is required with DC 01.