



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.19.16

NOVEMBER 1, 2021

EFFECTIVE DATE

(11-01-2021)

PURPOSE

- (1) This transmits revised IRM 4.19.16, Examining Process, Liability Determination, Claims.

MATERIAL CHANGES

- (1) IRM 4.19.16.1.1(1) - Added explanation of which claims are handled in Examination.
- (2) IRM 4.19.16.1.3 - Added paragraph (3) for Taxpayer Bill of Rights.
- (3) IRM 4.19.16.1.6 - Updated paragraph (1) to include additional acronyms in the table.
- (4) IRM 4.19.16.2 - Updated paragraph (3) to clarify type of claims handled in Examination.
- (5) IRM 4.19.16.2.2 - Updated paragraph (6) to reflect correct category for Taxpayer Advocate Service (TAS) referrals. Updated paragraph (8) to correct titles of who is authorized to specify issues referred.
- (6) IRM 4.19.16.2.3 - Deleted item (c) in paragraph (3) because project code is obsolete.
- (7) IRM 4.19.16.2.4 - Split Disposal Code Table in paragraph (4) to group by no additional tax owed and additional tax owed.
- (8) IRM 4.19.16.5.4.3 - Updated paragraph (1) that Accounts Management will not assess tax increase or credit decrease on amended returns prior to forwarding to Examination.
- (9) IRM 4.19.16.2.5 - Added note for Tax Cuts Job Act (TCJA).
- (10) IRM 4.19.16.2.5.1 - Updated per diem website link and amounts throughout section.
- (11) IRM 4.19.16.2.5.2 - Deleted section because it is obsolete.
- (12) IRM 4.19.16.5.5.3 - Deleted section because it is obsolete.
- (13) IRM 4.19.16.2.5.4 - Deleted section because it is obsolete.
- (14) Editorial changes were made throughout the IRM, as needed, during the update process.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 4.19.16 dated February 20, 2018.

AUDIENCE

This IRM is intended for the use of the SB/SE and W&I Campus Examination Operations.

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Small Business/Self-Employed

4.19.16
Claims

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4.19.16.1
(02-20-2018)
Program Scope and Objectives

- (1) **Purpose:** This IRM provides guidance when processing claims received in Examination.
- (2) **Audience:** The primary users of this IRM are Campus Examination employees in Small Business/Self-Employed (SB/SE) and The Wage and Investment (W&I) Business Operating Divisions (BODs).
- (3) **Policy Owner:** The Policy owner of this IRM is the SB/SE Director, Examination Field and Campus Policy.
- (4) **Program Owner:** The Program owner of this IRM is SB/SE Campus Examination and Field Support.

4.19.16.1.1
(11-01-2021)
Background

- (1) This section provides general instructions for the claims received in Examination. Claims may relate to any item of income, loss, exclusion, deduction, or credit involving a refund of tax.
- (2) Examination handles claims for refund that challenge the IRS's liability determination.

4.19.16.1.2
(02-20-2018)
Authority

- (1) Refer to IRM 1.2.1.5, Policy Statements for the Examining Process, for more information.

4.19.16.1.3
(11-01-2021)
Responsibilities

- (1) The Director, Examination - Field and Campus Policy, reports to the Director, Headquarters Examination, and is responsible for the delivery of policy and guidance that impacts the field and campus examination process. See IRM 1.1.16.3.5.1, Field and Campus Policy, for additional information.
- (2) Campus Exam and Field Support, which is under the Director, Examination - Field and Campus Policy, is the group responsible for providing Servicewide policy guidance on compliance processes that relate to campus examination operations and support Field Exam and Specialty Programs in SB/SE and Large Business & International (LB&I). See IRM 1.1.16.3.5.1.5, Campus Exam and Field Support, for additional information.
- (3) The Taxpayer Bill of Rights (TBOR) describes ten fundamental rights that all taxpayers have when dealing with the IRS. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see <https://www.irs.gov/taxpayer-bill-of-rights>

4.19.16.1.4
(02-20-2018)
Program Management and Review

- (1) The Embedded Quality Review System (EQRS) is an on-line database accessed through the IRS intranet used by Campus Compliance and Return Integrity and Compliance Services (RICS). EQRS is used by managers and National Quality Review System (NQRS) is used by national Quality Reviewers to input a Data Collection Instrument (DCI) into the system, capturing results on case reviews performed. The EQ website contains an electronic Master Attribute Job Aid (MAJA) that contains information specific to Examination Paper and Phones. EQRS/NQRS report data is available through the EQRS/NQRS database as well as in the monthly COBR. IRM 21.10.1, Embedded Quality (EQ) Program for Accounts Management, Campus Compliance, Field Assistance, Tax Exempt/Government Entities, Return Integrity and Compliance

Services (RICS), and Electronic Products and Services Support, provides detailed information on the Embedded Quality review system.

- (2) Customer (i.e. taxpayer) satisfaction reports are generated by SB/SE Operation Support Research on a quarterly basis. These reports provide masked taxpayer narratives that are responsive to a pre-defined set of survey questions. The quarterly survey reports are used to identify areas for examination quality improvement.

4.19.16.1.5
(02-20-2018)

Program Controls

- (1) Goals, measures and operating guidelines are listed in the yearly Program Letter. Quality data and guidelines for measurement are referenced in IRM 21.10.1, Embedded Quality (EQ) for Accounts Management, Campus Compliance, Field Assistance, Tax Exempt/Government Entities, Return Integrity and Compliance Services (RICS) and Electronic Products and Services Support.

4.19.16.1.6
(11-01-2021)

Acronyms

- (1) Acronyms used within IRM 4.19.16 are shown in the table below:

Acronym	Definition
AIMS	Audit Information Management System
AMS	Accounts Management System
CAT A	Category A Criteria
CF&S	Centralized Files & Scheduling
CIS	Correspondence Imaging System
DC	Disposal Code
IAT	Integrated Automation Technology
SFR	Substitute for Return

4.19.16.1.7
(02-20-2018)

Related Resources

- (1) The Claim program is required to follow all servicewide examination procedures and those set forth in SB/SE examining process IRMs. However, the following IRM subsections provide additional information relating to the processing, classification and examination of claims:
 - a. IRM 21.5.3, General Claims Procedures
 - b. IRM 25.6.1, Statute of Limitations Processes and Procedures
 - c. IRM 4.19.13, General Case Development & Resolution
 - d. IRM 4.19.14, Refundable Credits Strategy
 - e. IRM 4.19.15, Discretionary Programs.

4.19.16.2
(11-01-2021)

Claims

- (1) Refer to IRM 21.5.3, General Claims Procedures, for additional processing information.
- (2) Refer to IRM 25.6.1.10.2.7, Claims for Credit or Refund — General Time Period for Submitting a Claim, for more information on claims involving statute periods.

- (3) Claims are requests to reduce tax previously assessed and paid, creating a refund or credit. Examination handles claims for refund that challenge a liability determination.
- (4) Claims can be filed on:
 - Form 1040/1040-SR (marked as amended, corrected, revised, etc.) or 1040-X,
 - Form 843, or
 - In a letter or document with enough information to determine the reduction in tax.
- (5) Use Source Code 30 for Claims.
- (6) Claims can no longer be automatically disallowed because the claim was filed later than the time prescribed in IRC 6511(a). The statute is extended for that period if a taxpayer can show they were:
 - a. Physically or mentally impaired AND
 - b. Were unable to handle their financial affairs, AND
 - c. If the physical or mental impairment is expected to result in death OR
 - d. Is expected to last more than 12 months.

EXCEPTION: If a spouse or authorized person could act for the individual, then the period for filing a claim is not extended.

4.19.16.2.1
(11-04-2011)
**Classification of Claims
and Related Returns**

- (1) Classification Section, Examination Operation, will classify all claims not immediately processed for refund by the Document Perfection or the Accounts Management Operations. See IRM Exhibit 21.5.3-2, Examination Criteria (CAT A) - General, for a complete list of all claims meeting Category A criteria.
- (2) Protective Claims are filed to protect taxpayers from specific contingencies that affect the normal processing of the document or to extend the statute period due to pending court actions.
 - a. If a protective claim cannot be closed due to contingency action, the claim is selected and forwarded to the appropriate area office or Operations Manager, Examination, for suspense.
 - b. See IRM 21.5.3.4.7.3.2, Processing Protective Claims, for additional information.
- (3) Claim issues, previously decided during a prior audit, are reevaluated and accepted or selected based on additional information included with the claim and data included in the administrative file.
- (4) Returns selected for reexamination are based on issue(s) involved rather than the tax change.

4.19.16.2.2
(11-01-2021)
**Claims Processing in
Accounts Management
Branch**

- (1) Claims that are sent to Accounts Management Operation are scanned into the Correspondence Imaging System (CIS), located within the Accounts Management System (AMS). Excluded from being scanned are claims that are too large to scan which are kept as a paper case.
- (2) Accounts Management Operation ensures that pages 1 and 2 of Forms 1040-X and 1120-X are complete and contain the required signatures, including all needed schedules and forms.

- (3) If the classifier determines that additional schedules are necessary, the case file will be returned to Accounts Management to secure the necessary schedule(s), via CIS or local routing procedures if it is a paper case.
- (4) Non-EIC Forms 1040-X are normally worked at the campus received and routed by Accounts Management to their campus Exam function. However, there may be times that these cases may be classified by another Exam Campus to balance inventories among the campuses.
- (5) Take the following action based on the determination reached by Classification:
 - a. For paper cases, claims that are "Accepted" are stamped so that the action and identifying mark of the classifier is readily visible. For CIS cases, select the "Accepted" radio button and include remarks if needed.
 - b. For paper cases, notify Accounts Management of claims that are "Selected" and retained in Examination. For CIS cases, select the "Selected" radio button and include remarks if needed.
 - c. For paper cases, claims that are "Disallowed", "No Consider" or "Not CAT A", need to be returned to Accounts Management with an explanation of the law provided. For CIS cases, select the appropriate radio button and include remarks if needed.
 - d. For paper cases, return claims that require additional information to Accounts Management using the Case Note Section. For CIS cases, select the appropriate radio button and include remarks if needed.
- (6) Operations Assistance Request (OAR) cases will be routed to Exam with OARs as the primary suspense reason on CIS. Refer to IRM 21.5.1.5.1(14), CIS General Guidelines.
- (7) The order for classifying all CAT A claims is by IRS received date.

Note: TAS and Restricted Interest Carryback Claim/Tentative Carryback Refund (RINT/TENT) cases will be worked as first priority.

- (8) Category A Criteria allows for referrals for "Issues specified by the Director, Examination Field & Campus Policy and the Director, Refundable Credits Program Management". All of these issues must be coordinated with and approved by Headquarters.

4.19.16.2.3
(11-01-2021)
**Criminal Investigations
(CI) Referral Non – EITC
1040-X**

- (1) Claim referrals (1040-X) from Criminal Investigation (CI) received in Correspondence Examination are part of a Preparer Scheme and contain similar issues as Return Preparer Program (RPP) referrals.
- (2) Generally, the client 1040-X consists of Schedule A issues, but may contain other issues, such as Education Credit, Child Tax Credit etc. Referrals may contain both preparer signed and unsigned returns.
- (3) Inventory Delivery and AIMS opening:
 - a. This program includes claims where refunds were stopped (unpaid) and released (paid). However, for claims where refunds have been paid (released), returns will be accepted only if there is sufficient time remaining on the statute.
 - b. The Fraud Detection Center (FDC) will ship paper returns or copies of returns to the appropriate W&I campus as directed by Exam Headquarters (HQ).

- c. Cases that are opened manually by the campus must be established on AIMS within 5 business days of receipt of referrals, with the appropriate Project Code and Source Code.

Note: Accounts with Z freezes require a Push Code 049.

- d. Any rejected inventory should be coordinated through the appropriate HQ Exam analysts.

(4) Procedures for working the inventory:

- a. Multiple year returns should be worked together, when possible.
- b. See IRM 4.19.15, Discretionary Programs, for working Schedule A issues and credits.
- c. For the initial contact, issue Letter 569-B, Letter of Claim Disallowance, with Form 2297, Waiver of Statutory Notification of Claim Disallowance, and Form 3363, Acceptance of Proposed Disallowance of Claim for Refund or Credit.
- d. If no reply is received to the initial contact or it is determined the claim should be partially or fully disallowed, send the appropriate Letter 105-C, Claim Disallowed, (full disallowance) or Letter 106-C, Claim Partially Disallowed, (partial disallowance) with the appropriate paragraphs that advise the taxpayer of his/her appeal rights in the letter.
- e. The scheme issues found on the return and the reason for disallowance should be notated on the RGS work papers or history sheet.
- f. Follow deficiency procedures to recover refunds which have been released for 1040-X schemes. Refer to IRM 21.4.5, Erroneous Refunds.

4.19.16.2.4
(11-01-2021)
**Claims Processing in
Examination Operation**

- (1) Contact the taxpayer within 30 days of receipt in correspondence unit.
- (2) To determine how to progress with the audit, do the necessary IDRS research to ensure that the amended return has not been previously processed.
- (3) The case will be established on AIMS when selected. If the case must be transferred, AIMS full display must be present before CC AMSOC is input. The RGS record will be created.

Note: When retrieving previous examination records from Archives, retain the previous records and update the record to include information on the new claim.

(4) Use the following disposal codes when processing claims:

- If no additional tax owed:

Disposal Code	Explanation
1	Claims disallowed in full (agreed or not agreed)
3	Claims allowed in full
4	Agreed claims partially allowed
8	Unagreed claims partially allowed

- If additional tax owed:

Disposal Code	Explanation
4	Agreed claims partially allowed (before issuance of Statutory notice)
9	Agreed (after issuance of Statutory notice)
10	Unagreed (after issuance of Statutory notice)

4.19.16.2.4.1
(02-20-2018)
**Claims Contact
Procedures**

- (1) Use Letter 566-D, Initial Contact - Request Additional Information, as the initial contact for the taxpayer.
- (2) Suspend case for 45 days waiting for taxpayer response. Do not create an issue until a response is received from the taxpayer.
- (3) If there is no response in 45 days, or if the response does not completely support the claim, issue Letter 569-B, Letter of Claim Disallowance, as outlined below.
- (4) Take appropriate action (i.e. full allowance, partial allowance, or full disallowance) on all responses received from the taxpayer. Refer to IRM 4.19.16.2.4.2, Claims Contact Responses, for additional guidance.
- (5) Document all work papers (RGS/Paper) with the specific documentation being requested.
- (6) Use Letter 569-B, Letter of Claim Disallowance, to propose a claim disallowance (including partial disallowance) to the taxpayer. Send two copies of Letter 569-B, Letter of Claim Disallowance, to the taxpayer with a detailed explanation of the disallowance. Also send one copy of:
 - Form 3363, Acceptance of Proposed Disallowance of Claim for Refund or Credit, and
 - Form 2297, Waiver of Statutory Notification of Claim Disallowance, and
 - Publication 3498-A.

Note: If the claim will be allowed in part, issue Form 4549, Report of Income Tax Examination Changes, to explain the amounts disallowed.

- (7) If it is determined that in addition to the claim, amounts from the original return are to be questioned, send Letter 569-B, Letter of Claim Disallowance, as outlined in item 6 above. Indicate that the claim is being disallowed and an additional liability is being proposed. Prepare Form 4549, Report of Income Tax Examination Changes, to explain the amounts allowed and not allowed.

4.19.16.2.4.2
(11-01-2021)
**Claims Contact
Responses**

- (1) For claims being allowed in full (and no deficiency will be assessed) based upon the taxpayer response to Letter 569-B, Letter of Claim Disallowance, or Letter 566-D, Initial Contact - Request Additional Information, take the following actions:

- a. Close the case with a DC 03.
 - b. Send Letter 570 (SC), Claim Allowed in Full, to the taxpayer.
 - c. Prepare Form 4549, Report of Income Tax Examination Changes, with all issues to match the claim that you are allowing.
- (2) For claims being partially or fully disallowed based upon the information provided from the taxpayer, take the following actions:
- a. Accounts with **NO** additional tax due:

If	And	Then
The claim is to be disallowed in full	The taxpayer does or does not respond	<ol style="list-style-type: none"> 1. If response does not include signed Form 2297, Waiver of Statutory Notification of Claim Disallowance, send Letter 105-C, Claim Disallowed, clearly explaining why the claim is being disallowed. 2. If response includes signed Form 2297, Waiver of Statutory Notification of Claim Disallowance, enter the received date on Form 5344, Examination Closing Record, box 20, Claim Rejection Date. Do not send Letter 105-C, Claim Disallowed. 3. Close Case DC 01.

If	And	Then
The Claim is to be partially allowed	The taxpayer does not respond, or the response is incomplete or invalid, including responses with Form 2297, Waiver of Statutory Notification of Claim Disallowance	<ol style="list-style-type: none"> 1. Prepare Form 4549, Report of Income Tax Examination Changes to explain the amounts allowed and not allowed. 2. If response does not include signed Form 2297, Waiver of Statutory Notification of Claim Disallowance, send Letter 106-C, Claim Partially Disallowed, clearly explaining why the claim is being partially disallowed. 3. If response includes signed Form 2297, Waiver of Statutory Notification of Claim Disallowance, enter the received date on Form 5344, Examination Closing Record, box 20, Claim Rejection Date. Do not send Letter 106-C, Claim Partially Disallowed. 4. Close Case DC 08.
The Claim is to be partially allowed	The taxpayer responds with signed Form 3363, Acceptance of Proposed Disallowance of Claim for Refund or Credit, or Form 4549, Report of Income Tax Examination Changes	<ol style="list-style-type: none"> 1. Prepare Form 4549, Report of Income Tax Examination Changes, to explain the amounts allowed and not allowed. 2. If response does not include signed Form 2297, Waiver of Statutory Notification of Claim Disallowance, send Letter 106-C, Claim Partially Disallowed, clearly explaining why the claim is being partially disallowed. 3. If response includes signed Form 2297, Waiver of Statutory Notification of Claim Disallowance, enter the received date on Form 5344, Examination Closing Record, box 20, Claim Rejection Date. Do not send Letter 106-C, Claim Partially Disallowed . 4. Close Case DC 04.

b. Accounts with additional tax due:

If	And	Then
The claim is to be partially or fully disallowed	The taxpayer does not respond, or the response is incomplete or invalid, including responses with Form 2297, Waiver of Statutory Notification of Claim Disallowance	<ol style="list-style-type: none"> 1. Prepare Form 4549, Report of Income Tax Examination Changes, to explain the amounts allowed and not allowed. 2. Issue Statutory Notice and follow normal statutory procedures for the liability. 3. If response to Statutory Notice does not include signed Form 2297, Waiver of Statutory Notification of Claim Disallowance, send Letter 105-C, Claim Disallowed, or Letter 106-C, Claim Partially Disallowed, clearly explaining why the claim is being partially or fully disallowed. 4. If response includes signed Form 2297, Waiver of Statutory Notification of Claim Disallowance, enter the received date on Form 5344, Examination Closing Record, box 20, Claim Rejection Date. Do not send Letter 105-C, Claim Disallowed, or 106-C, Claim Partially Disallowed. 5. If response to Statutory Notice includes signed Form 4549, Report of Income Tax Examination Changes, close case DC 09. Otherwise, close case DC 10.

If	And	Then
The claim is to be partially or fully disallowed	The taxpayer responds with signed Form 3363, Acceptance of Proposed Disallowance of Claim for Refund or Credit or Form 4549, Report of Income Tax Examination Changes, before issuance of Statutory Notice	<ol style="list-style-type: none"> 1. Prepare Form 4549, Report of Income Tax Examination Changes, to explain the amounts allowed and not allowed. 2. If response does not include signed Form 2297, Waiver of Statutory Notification of Claim Disallowance, send Letter 105-C, Claim Disallowed or Letter 106-C, Claim Partially Disallowed, clearly explaining why the claim is being partially or fully disallowed 3. If response includes signed Form 2297, Waiver of Statutory Notification of Claim Disallowance, enter the received date on Form 5344, Examination Closing Record, box 20, Claim Rejection Date. Do not send Letter 105-C, Claim Disallowed, or 106-C, Claim Partially Disallowed. 4. Close case DC 04.

4.19.16.2.4.3
(11-01-2021)

**Classification of
Amended or
Superseding Returns
Showing Increases in
Tax**

- (1) Accounts Management will not assess amended returns with tax increase or credit decrease, except for certain Substitute for Return (SFR) accounts prior to being forwarded to Examination for association with the original return. Refer to IRM 21.5.3-1, Claim Processing with Examination Involvement, for more information.
- (2) If an amended estate tax return is received see IRM 4.25.2, Campus Estate and Gift.
- (3) If the original return is in Centralized Files and Scheduling (CF&S), awaiting examination, the original return should be requested from CF&S, associated with the amended return, and sent to a classifier for review. Do not leave case in CF&S.

Note: If the original return is awaiting classification, the assessed amended return is associated with the original return and becomes a part of the case file.

- (4) If there is an indication that the taxpayer has already been contacted about the examination (AIMS status 10 and above), the examiner assigned to the examination must be contacted before making any assessment.

IF	AND	THEN
The original return is in Centralized Files & Classification	Awaiting Classification	<ol style="list-style-type: none"> 1. Associate the assessed claim with the original return. 2. Both returns will be reviewed by the classifier and appropriate action taken.
The original return is in Centralized Files & Classification	Selected for Examination	<ol style="list-style-type: none"> 1. Secure the original return from CF&S. 2. The case file and amended return are reviewed by Campus Classification.
The original return is in Correspondence Examination	Status 10 or above	<ol style="list-style-type: none"> 1. Associate the amended return with the case file. 2. Forward the amended return to the assigned workgroup to be associated with the case file and reviewed.
The original return is open in the Area Office	Any Status	Forward the amended return to the group based upon the: <ul style="list-style-type: none"> • BOD code, • PBC, • SBC and • EGC.

- (5) Examination will be responsible for coordinating the correction of any Un-postable Examination Transactions caused by amended taxable return(s) with other functions.
- (6) Follow normal claims contact procedures.
- (7) Use the Exam Toll Free Number as the telephone contact information when issuing Letter 105-C, Claim Disallowed, or Letter 106-C, Claim Partially Disallowed.
- (8) Refer to IRM 25.6.1.5, Basic Guide for Processing Cases with Statute of Limitations Issues, for cases with statute involvement. Consult with your statute specialist for further guidance if needed.

4.19.16.2.5
(11-01-2021)
Specialized Claims

- (1) This section outlines the procedures for handling specific specialized claims issues.

Note: Section 11045 of the TCJA amended § 67 to temporarily suspend all miscellaneous itemized deductions. For any taxable year beginning after December 31, 2017 and ending before January 1, 2026, an individual taxpayer is not permitted to claim miscellaneous itemized deductions.

4.19.16.2.5.1
(11-04-2011)
Maritime Claims

- (1) Claims have been received from Maritime Personnel related to:
- Expenses associated with traveling to and from union halls to seek employment (job search).
 - Refund claims for deduction of Meal and Incidental Expense (M&IE).

4.19.16.2.5.1.1
(11-01-2021)
Issue 1: Per Diem Incidental Expenses

- (1) Merchant mariners who file claims for incidental expenses while temporarily traveling away from home, (meals and lodging furnished by their employers) will be allowed at the daily amount equal to the "Incidental Expense" portion of the Federal M&IE per diem rates in the Federal Travel Regulations.
- (2) Rates for localities in the Continental United States (CONUS) are \$5 per day. Rates for localities outside the Continental United States (OCONUS) and non-foreign localities are published in the Per Diem Supplement to the Standardized Regulations (Government Civilians, Foreign Areas) are updated on a monthly basis and are available at, <https://www.defensetravel.dod.mil/site/perdiem.cfm>. These areas include:
- Alaska,
 - Hawaii,
 - Puerto Rico and
 - The possessions of the United States.
- (3) Customer Account Services (CAS) will disallow claims without a breakdown of how the deduction was computed (days & rate). They will:
- a. Send a Letter 105-C, Claim Disallowed, requesting the breakdown and advise the taxpayer of the \$5.00 per day incidental reimbursement provided for in the Revenue Rulings.
 - b. Send any perfected claim or any claim for expenses associated with traveling to and from union halls to seek employment to Exam as CAT A.
- (4) Exam correspondence will work the CAT A referrals using the following guidelines:
- Claims received for incidental expenses using the CONUS rate of \$5.00 a day (when in route), and
 - The OCONUS rate (if docked in a foreign or non-foreign port, see web site in (2) above) will be allowed.
- Note:** Only address the "foreign" rate if taxpayer initiates and has a copy of the ship's log or a contemporaneous record of the ship's movement.

- (5) The claims may cite the following:

- Revenue Procedures: 2011-47 for 10/1/2011 thru 11/25/2019; Rev. Proc. 2019-48 for travel after 11/25/2019 or
- Court Cases: *Johnson v. Commissioner* or *Westling v. Commissioner*.

4.19.16.2.5.1.2
(11-04-2011)

**Issue 2: Travel
Expenses to Union Halls**

- (1) In order to be deductible, travel expenses to a union hall must be both
 - a. Away from home and
 - b. Pursuant to the taxpayer's trade or business.

Note: Travel to the local union hall is not deductible.

- (2) In working claims where the taxpayer claims meals and lodging expenses for travel to a union hall, a number of issues must be addressed:
 - a. Were the expenses incurred while the taxpayer was searching for new employment in the same trade or business?
 - b. The reasonableness of the need to obtain rest or sleep while traveling to the union hall.
 - c. The taxpayer's home or regular place of business.
 - d. Were the trips to the union hall business or personal?
- (3) These claims are of fact-intensive character and will need to be worked following sequential tests.

4.19.16.2.5.1.3
(11-01-2021)

CONUS Claims

- (1) For CONUS claims that seek reimbursement of the full Federal Per Diem Rate (M&IE), and include a breakdown of the days and rate of reimbursement:
 - a. Allow only \$5.00 per day for incidental expenses.
 - b. Send Letter 106-C, Claim Partially Disallowed, to disallow the inappropriate portion of the claim. Include the following wording in an open paragraph:
"Claims for reimbursement of incidental expenses incurred by mariners temporarily away from home (when meals and lodging have been furnished by the employer), are limited to the Federal Per Diem Rate of \$5.00 per day as specified in the Federal Travel Regulations for CONUS (Continental United States) travel. Expenses in excess of the incidental per diem rate must be supported by documentation."

4.19.16.2.5.1.4
(11-01-2021)

OCONUS Claims

- (1) For OCONUS claims that seek reimbursement of the full Federal Per Diem Rate (M&IE) and include a breakdown of the days and rate of reimbursement, the taxpayer must:
 - a. Present a copy of the ship's log, or
 - b. A reasonably contemporaneous record of ship's movement.
- (2) After verifying that the OCONUS rate is correct, allow the applicable OCONUS incidental rate in effect for that locality.

Note: If the foreign locality is any other locality than those listed, we will use the rate of \$5 per day for incidentals.

- (3) Send Letter 105-C, Claim Disallowed, if taxpayer has not provided the above mentioned documentation. Include the following wording in an open paragraph:
"Claims for reimbursement of incidental expenses incurred by mariners tempo-

rarily away from home (when meals and lodging have been furnished by the employer), for OCONUS travel must include a copy of the ship's log or reasonably contemporaneous record of ship's movement, and a breakdown of the days and applicable rate in effect for that locality. Reimbursement is limited to the rate set by the Department of the State for incidental expenses only."

- (4) If the taxpayer has requested full reimbursement of M&IE and provided documentation, send Letter 106-C, Claim Partially Disallowed, to disallow the inappropriate portion of the claim. Include in your letter the following:
 - a. Explain in an open paragraph that reimbursement is limited to the rate set by the Department of the State.
 - b. Reference the allowable rate in effect for the localities that the taxpayer has indicated on his claim.

4.19.16.2.5.1.5
(11-04-2011)

Actual Expense Claims

- (1) Claims received for actual incidental expenses exceeding the daily per diem rate, must be accompanied by adequate documentary evidence. This documentation can include:
 - account books,
 - daily diary,
 - ship's log,
 - statement of expense,
 - trip sheet or
 - similar record.
- (2) Claims received without documentary evidence will be disallowed in full.
 - a. Send Letter 105-C, Claim Disallowed.
 - b. Use the following wording in an open paragraph:
"Claims for actual reimbursement of incidental expenses incurred by mariners temporarily away from home are subject to the full substantiation requirements of Treasury Regulation 1.274-5. This may be an account book, diary, ship's log, statement of expense, trip sheet or other similar documentation."

4.19.16.2.5.2
(11-01-2021)

Veteran's Disability Compensation for Veterans Separated due to Medical/Disability

- (1) Veterans who are separated from military service due to medical or disability reasons generally receive a severance pay. These veterans are not military retired. Once the veteran receives a determination letter from the Department of Veterans Affairs (VA) awarding a retroactive disability rating, the disability severance payment (DSP) received upon discharge becomes non-taxable. Generally, the disability pay is based on a percentage that relates to the degree of impairment.
- (2) Refer to IRM 21.6.6.4.20.2, The Combat-Injured Veterans Tax Fairness Act of 2016 - Veteran's Disability Compensation for Veterans Separated due to Medical/Disability, for more guidance on these claims.

4.19.16.2.6
(11-04-2011)

Classification of Tentative Carryback Allowance Returns

- (1) Allowances with related returns (carryback or carry over years) currently open in the Area Office will be forwarded to the Area Office. The tentative allowance cases will be classified with the loss year return only if the tentative allowance is based on net operating loss or a capital loss carryback.

- (2) Tentative allowance cases will be classified with the year of the unused investment credit only if the tentative allowance is based on investment credit carryback.
- (3) For selected returns, all affected carryback returns are associated prior to shipping to the area offices.
- (4) Joint Committee Tentative Carryback Allowances to the same taxpayer must be selected and referred for examination.
- (5) For bankruptcy cases:
 - A copy of the refund application and a copy of the loss year return should be sent to Examination Classification within 10 work days of receipt and before making the refund allowance.
 - The refund application, the loss year return, and any additional returns necessary should be classified.
 - The concerned Area Office may be contacted to determine the applicable classification Area Office.
 - Loss applications selected for examination are forwarded immediately to the appropriate Area Office in a folder marked, "Bankruptcy-Tentative Carryback Case".
 - All Examination action must be completed and notification given to the Accounts Management Branch at the Campus within 90 days from the date the application was received by the IRS.

