



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

4.36.5

JUNE 21, 2021

## EFFECTIVE DATE

(06-21-2021)

## PURPOSE

- (1) This transmits revised IRM 4.36.5, Joint Committee Procedures, Reports.

## MATERIAL CHANGES

- (1) Content in this section was rearranged to conform to the internal control format mandated Servicewide by IRM 1.11.2.2.5, Address Management and Internal Controls. IRM 4.36.5.1, Program Scope and Objectives, contains internal control information.
- (2) Added new subsection 4.36.5.2.1.1 regarding Short Form Reports.
- (3) Changes were made to the following subsections:

IRM Subsection	Title	Description of change
4.36.5.4.4	Joint Committee Spreadsheets	Added reference to tax computation specialist (TCS)
4.36.5.6	Discovery of Unreported Refunds by the Joint Committee Specialist	Added instructions for Chief Counsel coordination
4.36.5.7.2	Cases with Unagreed Issues-Minimum Refund	Clarified instructions
4.36.5.8	Large Deficiency Case Reports	Added C corporations to the list of cases
4.36.5.9	Instructions for Submitting JC Reports to JCT	Updated instructions

- (4) The hyperlinks to the Joint Committee Review website and the Acronyms Database were updated.
- (5) Various editorial changes were made throughout this IRM section.

## EFFECT ON OTHER DOCUMENTS

This section supersedes IRM 4.36.5, Reports, dated September 23, 2015.

**AUDIENCE**

LB&I, SB/SE, TE/GE

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4.36.5  
Reports

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4.36.5.1  
(06-21-2021)  
**Program Scope and Objectives**

- (1) The Joint Committee Review (JCR) program of the Internal Revenue Service oversees the preparation of Joint Committee reports Servicewide for all agreed, partially agreed, no-change and surveyed cases for IRC 6405 refunds of income, estate and gift taxes, and certain excise taxes in excess of current statutory threshold of \$2 million (\$5 million for C corporations) regardless of the business operating division. JCR is part of the Large Business and International business operating division.
- (2) **Purpose:** This IRM section describes the various types of Joint Committee reports and provides guidance on their preparation.
- (3) **Audience:** Examination personnel in LB&I, SB/SE and TE/GE business operating divisions who work on Joint Committee cases.
- (4) **Policy Owner:** LB&I Policy under the Strategy, Policy and Governance office in the Assistant Deputy Commissioner Compliance Integration organization.
- (5) **Program Owner:** Joint Committee Review program within the Northeastern Compliance Practice Area
- (6) **Primary Stakeholders:** Stakeholders include examiners, taxpayers and the Joint Committee on Taxation.

4.36.5.1.1  
(06-21-2021)  
**Background**

- (1) See IRM 4.36.1.1.1, Background.

4.36.5.1.2  
(06-21-2021)  
**Authority**

- (1) IRC 6405 requires review of certain cases by the Joint Committee on Taxation. See IRM 4.36.1.1.2, Authority, for more information.

4.36.5.1.3  
(06-21-2021)  
**Responsibilities or Roles and Responsibilities**

- (1) See IRM 4.36.1.1.3, Roles and Responsibilities.

4.36.5.1.4  
(06-21-2021)  
**Terms/Definitions/ Acronyms**

- (1) See IRM Exhibit 4.36.1-1 , Acronyms Used Throughout IRM 4.36, for a list of commonly used acronyms.

4.36.5.1.5  
(06-21-2021)  
**Related Resources**

- (1) Joint Committee topics may be found on the IRS Knowledge Management website at: *Joint Committee Virtual Library*. This site contains a wealth of information about all the various aspects of a Joint Committee case, including frequently asked questions, job aids, contact information, and JC forms. It is a place to visit for valuable tools and resources.

4.36.5.2  
(06-21-2021)  
**Types of Reports**

- (1) The preparation of Joint Committee (JC) reports is a function of the JCR program. The JC reports are prepared by the Joint Committee Specialists and are included in the JCR package that is sent to the Joint Committee of Taxation (JCT) for authority to release the JC refunds.

- (2) The following are the various types of reports that are submitted to the JCT on refund cases:
  - a. Regular Joint Committee report, including Short Form report
  - b. Expedite Refund report
  - c. Minimum Refund report
  - d. Modified Expedite report
  - e. Supplemental report
  - f. Foreign Sales Corporation (FSC) report
- (3) According to IRC 8023(a), the Service reports on a number of deficiency cases to the JCT. See IRM 4.36.5.7 for details.

4.36.5.2.1  
(09-23-2015)  
**Regular Report**

- (1) A sample of the regular report is shown in Exhibit 4.36.5-2.
- (2) This report will be prepared by the JCR program after the review of a survey after assignment or examined case; and if the case does not fall under other report types, such as modified expedite, supplemental, or minimum refund.

4.36.5.2.1.1  
(06-21-2021)  
**Short Form Report**

- (1) The Short Form Report is an abbreviated version of the regular JC report. JCT will accept a short form report on cases where all years in the JC case submission are surveyed after assignment or no-changed.
- (2) The criteria for tax years to qualify for the Short Form Survey process are:
  - a. Tax years that have been previously surveyed or no-changed
  - b. Tax years previously audited if they have cleared JCT
  - c. Tax years previously audited but did not cleared JCT and are six or more years prior to the current tax year.

**Example:** The current tax year is 2011. The current JC package includes 2004, 2005, 2006 and 2009. Both 2004 and 2005 were previously audited with no JCT clearance. 2006 was not previously examined. All years are now being surveyed. This case would qualify for the Short Form Survey process.
- (3) The report should include:
  - a. Taxpayer name
  - b. Tax Identification Number (TIN/EIN)
  - c. Tax year(s)
  - d. Refund amounts and type (A or B) of refund
  - e. Cause for loss resulting in the refund request
  - f. A comment that the case has been fully surveyed and/or no-changed
  - g. A comment if there is a Power of Attorney on file
  - h. A comment if there was a prior JCT clearance
  - i. A comment if there are any statute issues
- (4) The report should not include:
  - a. Any attachments to the JCT report, including JC Spreadsheets
  - b. Comments on SRLY or CERT issues

4.36.5.2.2  
(09-23-2015)

**Expedite Refund Report**

- (1) An example of the expedite refund report is shown in Exhibit 4.36.5-3. The report should be clearly marked "EXPEDITE REFUND".
- (2) The expedite refund report is similar to the regular report except that an extra copy of page one of the report is included in the package. The JCT will stamp the first page of the report and fax it back to the JC Review program. The stamped date starts the thirty-day period that must elapse before an IRC 6405(a) refund can be issued.
- (3) The expedite refund report will be prepared after the case is surveyed or at the beginning of the examination and when there is a net unpaid IRM 6405(a) refund in excess of \$2 million (\$5 million for C corporations).
- (4) All years reportable under the expedite refund procedure must have "live" statutes which are open by their original statute date or by extension. If there are years included in the case which are open only by reason of a carryback, the entire case will not be reported under the expedite refund procedure.

4.36.5.2.3  
(09-23-2015)

**Minimum Refund Report**

- (1) An example of the minimum refund report is shown in Exhibit 4.36.5-4. The report should be clearly marked "MINIMUM REFUND".
- (2) The minimum refund report may be prepared by the JCR program before the examiner sends the case to Appeals only if:
  - a. The taxpayer is entitled to an IRC 6405(a) refund, and the taxpayer would receive the net minimum refund amount regardless of the outcome of the unagreed issues.
  - b. The unagreed issues require a substantial period of time to resolve (one year or more for Coordinated Industry Cases (CIC) or Large Corporate Compliance (LCC) cases, six months or more for all other cases), and the delay would deprive the taxpayer of a timely refund to which it is clearly entitled, in spite of the resolution of the unagreed issues.
  - c. The taxpayer must sign Form 870, Waiver of Restriction on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment, indicating agreement with the minimum refund.
- (3) Processing is the same as for Expedite Refund Reports. Refer to IRM 4.36.5.8 for instructions to submit report to JCT.

4.36.5.2.4  
(09-23-2015)

**Modified Expedite Refund Report**

- (1) An example of the Modified Expedite Refund Report is shown in Exhibit 4.36.5-6. The report should be clearly marked "MODIFIED EXPEDITE REFUND"
- (2) The Modified Expedite Refund Report will be prepared by the JCR program only for those cases where the taxpayer has requested payment of the refunds prior to the completion of the examination or survey; and where the taxpayer has furnished collateral for the amount of the requested refund and, if applicable, interest. See IRM 4.36.3.7.3.
- (3) Refer to IRM 4.36.5.8 for instructions to submit report to JCT.

4.36.5.2.5  
(09-23-2015)

**Supplemental Report**

- (1) An example of the supplemental report is shown in Exhibit 4.36.5-5. The supplemental report is similar to a regular JC report with the following exceptions:
  - a. It should be clearly marked "SUPPLEMENTAL REPORT."
  - b. The body of the report should refer to the prior report, including the date of the previous report, and if applicable, the date the case was released by the JCT.
- (2) This report should be prepared by the JCR program when:
  - a. A minimum refund was previously reported and the unagreed issues have been resolved.
  - b. A tentative refund from unexamined source years was shown as a tabulation in a prior report. (Refer to IRM 4.36.5.6.1)
  - c. A modified expedite refund report per IRM 4.36.5.2.4 was previously submitted to the JCT and the examination or survey of the claim has now been completed.
- (3) A supplemental report is required even if the final examination results in a refund below the jurisdictional amount except in the case of a tentative refund from unexamined source years. In that situation a supplemental report would not be required if the refund falls below the jurisdictional amount. (Refer to IRM 4.36.4.6) If the issues are unagreed, a supplemental report may be prepared by Appeals. In either event, the JCT will be notified of the final results of examination or Appeals.

4.36.5.2.6  
(09-23-2015)

**Foreign Sales Corporation (FSC) Report**

- (1) An example of the FSC report is shown in Exhibit 4.36.5-7. The report should be clearly marked "FSC EXPEDITE REPORT". The report should contain a brief explanation of the correlative adjustment(s) omitting lengthy background information. No enclosures are required.

4.36.5.3  
(09-23-2015)

**Items Common to All Reports**

- (1) The following requirements apply to all JC reports:
  - a. Form 4081, Transmittal Memorandum - Joint Committee Case
  - b. Statement of years covered in report
  - c. Power of Attorney
  - d. JC spreadsheets

4.36.5.3.1  
(05-04-2010)

**Form 4081**

- (1) Form 4081, Transmittal Memorandum - Joint Committee Case, is used as a cover sheet for reports going to the JCT.
- (2) Form 4081 must contain the following information (one copy only):
  - a. Transmittal date
  - b. Taxpayer's name and TIN
  - c. Years covered in the report
  - d. Mailing address of office submitting report
  - e. Report writer's name, phone and fax number
  - f. Any additional information deemed necessary



4.36.5.3.2  
(05-04-2010)  
**Statement of Years  
Covered in Report**

- (1) The report should specify jurisdictional years covered (determined in accordance with IRM 4.36.2.4) and other years affecting the refund or credit.

4.36.5.3.3  
(05-04-2010)  
**Power of Attorney**

- (1) A copy of the Power of Attorney, Form 2848 (or equivalent), should be included in the package sent to the JCT.

4.36.5.3.4  
(06-21-2021)  
**Joint Committee  
Spreadsheets**

- (1) Spreadsheets for JC regular tax and alternative minimum tax must be included with each report, unless it is a **one-year case with no carryback**. If the JC spreadsheets submitted by the examiner are inadequate, the JCS will contact the examiner and request corrected JC spreadsheets be prepared by the tax computation specialist (TCS). These spreadsheets can be found at: *Joint Committee Spreadsheet*.
- (2) Additional spreadsheets should be prepared if the taxpayer has credits carried from numerous years. Separate JC spreadsheets should also be prepared for foreign tax credits involving different categories or baskets.

4.36.5.4  
(09-23-2015)  
**JC Report Package Sent  
to the JCT**

- (1) Refer to Figure 4.36.5-1 below for assembly of the JC report package that is sent to JCT.

**Assembly of All Joint Committee Reports (Please put in this order)**

Form 4081 *Transmittal Memorandum - Joint Committee Case*

JC Report (DO NOT attach to other forms)

JC Spreadsheets (Regular, AMT and Credits)

Power of Attorney

Prior RARs\* and Appeals reports

Current RAR\* (Form 4665, *Report Transmittal*, should not be mailed to the JCT)

Prior and current closing agreements (Form 906)

Security agreement, letter of credit, etc., signed by taxpayer

Approval for change of accounting method\*\*

Other necessary documentation

\*Includes Forms 886-A or Forms 5701

\*\*Form 3115 and approval memo from Chief Counsel

**Figure 4.36.5-1 Joint Committee Report Assembly**

- 4.36.5.5  
(06-21-2021)  
**Discovery of Unreported Refunds by the Joint Committee Specialist**
- (1) Upon discovering that a refund in excess of \$2 million (\$5 million for C corporations) has been refunded without a report to the JCT, the examiner should contact the JCR program. The JCR program will coordinate with the Office of Chief Counsel, Procedure and Administration, Branch 3 or 4 on the appropriate steps to take on a case-by-case basis.
- 4.36.5.6  
(09-23-2015)  
**Special Situations**
- (1) In the following special situations, a JC report can be written prior to the Service completing an examination for a particular refund year:
- Tentative refunds from unexamined source years
  - Cases with unagreed issues - minimum refund
  - Request refunds - claims for unexamined source or refund years - modified expedite refund
  - Large deficiency case reports
- 4.36.5.6.1  
(05-04-2010)  
**Tentative Refunds from Unexamined Source Years**
- (1) If a report is already being written and the jurisdictional years have additional tentative refunds from unexamined source years, then:
- The report will be submitted.
  - This paragraph will be added:  
“Further, under IRM 4.36, this is to advise you that there are the following tentative allowance carrybacks arising from unexamined source years, whose examination will not be completed for a substantial period of time (estimated to be in excess of one year). Upon completion of such examination, these will be the subject of a supplemental reporting to the Joint Committee on Taxation, provided the refund amounts satisfy the reporting requirements of IRC 6405”, and
  - A tabulation of the tentative allowance carryback amounts will follow the above paragraph.
- 4.36.5.6.2  
(06-21-2021)  
**Cases with Unagreed Issues-Minimum Refund**
- (1) If it is determined that the taxpayer is entitled to an IRC 6405(a) refund, and there is an unagreed issue which will not reduce the 6405(a) refund, then a JC report will be written. (See IRM 4.36.3.7.1)
- (2) The report should contain a brief statement as to the nature of the unagreed issues. Also, the JC report must state that the case is partially agreed and that a supplemental report will be submitted upon resolution of the unagreed issues, even if the resolution of such issues does not cause an additional refund or credit.
- (3) The supplemental report will be made by the office that makes the final determination of the taxpayer’s liability (that includes agreed or unagreed issues) for the year(s) previously reported to the JCT.
- (4) See Exhibit 4.36.5-4 for a sample minimum refund report.
- 4.36.5.6.3  
(05-04-2010)  
**Request for Refunds - Claims for Unexamined Source or Refund Years - Modified Expedite Refund**
- (1) If a decision is made that the taxpayer qualifies for a refund prior to completion of the examination, then a modified expedite refund report will be written. See IRM 4.36.3.7.3.
- (2) The report should contain a brief statement as to the nature of the losses generating the refund and, if possible, the estimated completion date of the examination. (See Exhibit 4.36.5-6)

**4.36.5.7  
(06-21-2021)  
Large Deficiency Case  
Reports**

- (1) Under the provisions of IRC 8023(a), the Service reports to the JCT on sixteen cases with the largest fully agreed deficiencies or defaulted statutory notices of deficiency closed by the examination function.
  - a. The agreed deficiencies are considered without regard to the fact that the taxpayers have filed or may file claims for refund for all or a portion of such deficiencies.
  - b. The deficiency cases should be restricted to the types of taxes reportable as refunds or credits under IRC 6405 (e.g., taxes imposed under Chapter 32 or 45 would not be reported).
  - c. The cases reported should be deficiencies with respect to Form 1040 (Individuals), Form 1041 (Trusts), Form 706 (Estates), Form 709 (Gift Taxes) and Form 1120 (C corporations).
- (2) Note the following items:
  - a. The report is addressed to the Chief of Staff, Attention Refund Counsel of the Joint Committee on Taxation.
  - b. The reporting period (i.e., March or September and the year) is noted along with the taxpayer's name, city, state and EIN/SSN.
  - c. The report is issued pursuant to the authority contained in IRC 8023(a).
  - d. The power of attorney requirements of IRM 4.36.5.3.3 do not apply.
- (3) Exhibit 4.36.5-8 contains an example of the format and language of these reports.

**4.36.5.7.1  
(05-04-2010)  
Reporting Periods and  
Dates - Large Deficiency  
Case Reports**

- (1) JCR submits these deficiency case reports twice a year.
- (2) The six-month periods will be those ending March 31 and September 30 each year. The reports for each period should be submitted on or before June 30 and December 31. For example, the reports for the period ending March 31, should be submitted on or before June 30.

**4.36.5.7.2  
(05-04-2010)  
Exceptions - Large  
Deficiency Case Reports**

- (1) The following types of deficiency cases will **not** be considered for submission as deficiency case reports:
  - a. Cases sent to and considered by Appeals, or docketed in the Tax Court
  - b. Cases where it is known that the deficiency years have been or will be reported to the JCT as part of an overpayment case
  - c. Special Enforcement Program (SEP) cases

**4.36.5.8  
(06-21-2021)  
Instructions for  
Submitting JC Reports  
to JCT**

- (1) All reports should be emailed directly to the JCT via secure email using a password protected zip file.

**4.36.5.9  
(09-23-2015)  
Joint Committee Report  
Examples**

- (1) The format and language for specific reports will be shown in the exhibits to follow:

Exhibit 4.36.5-1	Outline and Format of Joint Committee Reports
Exhibit 4.36.5-2	Regular Joint Committee Report
Exhibit 4.36.5-3	Expedite Refund Report
Exhibit 4.36.5-4	Minimum Refund Report
Exhibit 4.36.5-5	Supplemental Report
Exhibit 4.36.5-6	Modified Expedite Refund Report
Exhibit 4.36.5-7	Foreign Sales Corporation (FSC) Report
Exhibit 4.36.5-8	Large Deficiency Case Report

**Exhibit 4.36.5-1 (09-23-2015)**

**Outline and Format of Joint Committee Reports**

All figures should be rounded off to the nearest dollar and standard abbreviations may be used throughout. The format is subject to change by the Joint Committee on Taxation from time to time as a result of experience, volume of cases, etc.

**Heading**

Right - Symbols of office preparing report  
 Geographic location of office conducting examination  
 Report writer name, phone and fax number  
 Any related Joint Committee cases  
 Date of Report

**First Paragraph**

Reports will contain the identity of the taxpayer to whom the refunds or credits are payable or to whom tentative allowances were paid. In situations in which another entity has succeeded to the interests of the taxpayer by operation of law (e.g. bankruptcy, conservation of an estate, or dissolution), the report will be in the name of the person or entity entitled to the refunds or credits by operation of law with the name of the original taxpayer added to the title. (e.g., XYZ Corporation, Inc. successor in interest to ABC Company) Thus, the parent of a consolidated return group in a taxable year following a separate return year of a corporation in the group would not fall into the category of an entity entitled to a refund for that earlier separate return year by operation of law. Additionally, consolidated return reports are to include "and subsidiary" or "and subsidiaries" as part of the name of the taxpayer even though this terminology was not included as part of the name set forth on the tax return. All reports should also specify the SSN or EIN, city, and state of the taxpayer receiving the refund or credit.

**Tabulation of Examination Results**

Some or all of the following columns may be used:

<u>Year</u>	<u>Deficiencies</u>	<u>Refunds or Credits</u>		
		<u>Proposed Refunds Section 6405(a)</u>	<u>Tentative Allowance Section 6405(b)</u>	<u>Net Refund or Credits</u>

**Total**

Foreign tax credit carrybacks that have been refunded erroneously by the service center on the basis of Form 1139 should be reported as Section 6405(a) refunds. Any other refunds prematurely allowed should also be in the Section 6405(a) column.

**\*\* If more than one year is reported, all columns must be totaled.**

**Note:** The columns titled Section 6405(a) and Section 6405(b) should **not** be used unless the aggregate amount of the proposed refunds exceeds the jurisdictional amount. The column titled "Deficiencies " should only be used if applicable.

**Following Paragraphs**

The following should be noted here:

**Exhibit 4.36.5-1 (Cont. 1) (09-23-2015)****Outline and Format of Joint Committee Reports**

1. Proposed refunds and deficiencies for nonjurisdictional years should be noted here, as shown in the sample report.
2. Unexamined source years. See IRM 4.36.3.7 for specific information.
3. The primary reason(s) for the refunds.
4. Reference to enclosed spreadsheets. See IRM 4.36 3.6.5.
5. Related taxpayers for which reports are being submitted concurrently.
6. Prematurely allowed refunds or credits.

**Taxpayer History Section**

The first paragraph, where appropriate, should include:

1. Date of incorporation.
2. Principal business activities and products.
3. Changes in activities or products if pertinent to understanding the adjustments or causes of the over-assessments.
4. Description of stock ownership (closely held or publicly traded).
5. The names or number of subsidiaries or affiliates.
6. Explanation of structure and any changes in capital structure, mergers, or corporate acquisitions/dispositions.
7. Causes for short taxable years.

The second paragraph briefly states the economic reason for any net operating loss or capital losses.

**Prior Examination History**

Prior examinations and Appeals settlements should be mentioned and complete copies (including all computation sheets and explanations of adjustments) enclosed with the report. If the actions have previously been reported to the JC, no copy is needed, but the report clearance date needs to be stated. If there was no prior examination, there will be a statement to that effect.

Where a year is included in a report solely because of a refund resulting from the carryback of investment, foreign tax, or other credit from another year included in the report and the carryback is less than \$250,000, the examination history of that year need not be set forth in the report.

**Current Examination Activity**

This section should include:

1. Claims filed by the taxpayer, including the amounts and basis for filing. If there are numerous claims, they can be listed in an attachment.
2. Survey action by the examiner.
3. Description of an enclosed examination report. It should be a complete copy, including:
  - a. All computations.
  - b. Forms 886-A or 5701.
  - c. Any Private Letter Ruling, Technical Advice Memorandum, Field Service Advice, Appeals Audit Statement, Appeals Transmittal and Case Memorandum (ACM), report of Court Action, or Counsel Settlement Memorandum.
4. Explanation of a jurisdictional refund that was not previously reported.
5. If the case involves a change in accounting method or period, a copy of the permission to change.
6. A statement that the case is submitted under the unagreed case procedures (IRM 4.36.3.7.1) and that a supplemental report will be submitted if the remaining issues are resolved outside of court and

**Exhibit 4.36.5-1 (Cont. 2) (09-23-2015)****Outline and Format of Joint Committee Reports**

it meets the jurisdictional amount. If the final results indicate an overall refund/credit less than the jurisdictional amount, a written notification is required to be made to the JCT.

7. Whether it is a Large Corporate Compliance or Coordinated Industry case.
8. Whether there is a Power of Attorney on file and enclosed.
9. The statute of limitations dates (regular and special) for each refund year and source year.

**Exhibit 4.36.5-1 (Cont. 3) (09-23-2015)****Outline and Format of Joint Committee Reports**

The Chairman	SE:LB:NEC:SE:TR11:TXXXX
Joint Committee on Taxation	J.C. Specialist:
Attention: (Name of Senior Refund Counsel)	Phone No.:
C;JC:3565/IR	Fax No.:
1111 Constitution Avenue, NW	Related Case: None
Washington, DC 20224	Date:

**[TYPE OF REPORT, I.E. MINIMUM REFUND, ETC]**

Dear Mr. Chairman:

In accordance with the provisions of Section 6405 of the Internal Revenue Code, there are reported the following refunds or credits on income tax in favor of [identification of taxpayer] Taxpayer, Inc. and Subsidiaries (EIN XX-XXXXXX), City, State.

*[Tabulation of Examination Results]*

Refunds or Credits				
Year	Deficiencies*	Proposed Refunds Section 6405(a)*	Tentative Allow- ances Section 6405 (b)	Net Refunds or Credits
200512			\$2,450,000***	\$2,450,000
200612		\$2,000,500**	1,325,000	3,325,500
200712	\$175,000		1,600,000	1,425,000
Total	\$175,000	\$2,000,500	\$5,375,000	\$7,200,500

*\*Only use the Deficiency column if appropriate. If a refund was prematurely allowed, it should be included in the 6405(a) column. If there are only proposed non-jurisdictional refunds, do not include this column in the tabulations. Instead, add as narrative here.*

*[Proposed refunds and deficiencies for nonjurisdictional years]*

In addition, there is a proposed refund in the amount of \$53,450 for 200412.

*[Primary reason for the refund]*

The refunds resulted primarily from the carryback of a net operating loss and unused credits from the year 200812.

*[Reference to enclosed spreadsheets]*

The taxable income and tax liabilities reported on the returns and as finally determined are shown on the enclosed spreadsheets.



**Exhibit 4.36.5-1 (Cont. 4) (09-23-2015)**

**Outline and Format of Joint Committee Reports**

*[Also, note the following here if applicable:*

- (1) tentative refunds from unexamined source years,*
- (2) related taxpayers for which reports are being submitted concurrently,*
- (3) prematurely allowed refunds or credits,*
- (4) claims from unexamined source years (modified expedite refund report)*
- (5) or a statement that the case is being submitted under the unagreed case procedures per IRM 4.36.3.7.1 and that a supplemental report will be submitted. See sample language for each situation below]*

*[Tentative Refunds from unexamined source years]*

(1) Further, under IRM 4.36.3.7.2, this is to advise you that there is the following tentative allowance carryback arising from the unexamined source year 200912, whose examination will not be completed for a substantial period of time (estimated to be in excess of one year). Upon completion of such examination, the refund will be the subject of a supplemental reporting, provided the refund amount satisfies the reporting requirements of IRC Section 6405.

<u>Carryback Year</u>	<u>Tentative Allowance</u>	<u>Source Year</u>
200712	3,500,000	200912

*[Related Taxpayers]*

(2) In addition, refunds resulted from the carryback of an operations loss and a capital loss from (name of related taxpayer) 200812 tax return.

*[Prematurely allowed refunds]*

(3)\*\*The proposed refund of \$2,000,500 for 200612, included above, was not previously reported as required,

*[Previously Unreported Refunds]*

\*\*\*The tentative refund of \$2,450,000 for 200512, included above was previously examined but not reported as required.

*[Claims from unexamined source years (modified expedite refund report)]*

(4) This report is submitted under the procedures contained in IRM 4.36.3.7.3. The taxpayer has requested that this refund be made since the examination for the 200612, 200712 and 200812 tax years will not be completed within six months. It has been determined that no disadvantage will occur to the Government in paying the refunds. Security will be posted for the amount of the proposed refund and a copy of the Collateral Security Agreement is enclosed for your consideration. A supplemental report will be submitted after the completion of the examination if required by statute.

*[Unagreed issues/Minimum Refund]*

(5) This report is submitted under the procedures contained in IRM 4.36.3.7.1. The unagreed issues will require a substantial period of time to resolve and the delay would deprive the taxpayer of a timely refund. The refunds reported reflect the minimum amount to which the taxpayer is entitled, regardless of the outcome of the unagreed issues. A supplemental report will be submitted after the completion of the examination and/or resolution of the unagreed issues.

**TAXPAYER HISTORY**

**Exhibit 4.36.5-1 (Cont. 5) (09-23-2015)****Outline and Format of Joint Committee Reports**

*[First paragraph]*

The taxpayer was incorporated on *[date of incorporation]* May 4, 1949, *[principal business activities and products]* and is engaged in real estate development. *[Changes in activity or products if pertinent to understanding the adjustments or causes of the overassessments.]* The taxpayer is also active in the family entertainment business and has interests in soft drinks and heavy construction equipment. *[Description of stock ownership]* The company's stock is widely held and traded on the New York Stock Exchange. *[Explanation of structure and any changes in capital structure, mergers, or corporate acquisitions/dispositions]* There were no major acquisitions during the years covered by this report. *[Also include here: names or numbers of subsidiaries or affiliates, causes of short taxable years.]*

*[Second paragraph]*

*[Brief statement of the economic reason for any net operating loss or capital loss]* The primary reason for the loss was due to competition from major rivals. Also, technological improvements caused rapid obsolescence of equipment.

#### **PRIOR EXAMINATION HISTORY**

*[Mention prior examinations and Appeals settlements; enclose copies of prior RARs and Appeals Memorandums]*

Enclosed is the examination report, dated November 14, 2008, for the 200512 year. *[Statement of no prior examination]*

None of the other years in this report were previously examined.

*[State clearance date of previous Joint Committee report, if applicable]*

#### **CURRENT EXAMINATION ACTIVITY**

*[List of claims and applications for tentative allowance filed by the taxpayer, including amounts and basis for filing. If numerous claims filed, list on a separate attachment.]*

On June 30, 2009, the taxpayer filed a timely application for tentative refund on Form 1139 requesting income tax refunds of \$1,325,000 for 200612 and \$1,600,000 for 200712 based on an NOL and unused credits from 200812.

*[Or use the following or similar type format]*

On June 30, 2009, the taxpayer filed a timely application for tentative refund on Form 1139 requesting the income tax refunds listed as follows, based on an NOL and unused credits from 200812.

<u>Year</u>	<u>Refund Requested</u>
200612	\$1,325,000
200712	\$1,600,000

*[Explanation of Premature Refund]*

\*\*On May 3, 2008, the taxpayer filed a Form 1120X to claim additional operating expenses for the year 200612. The refund in the amount of \$2,000,500 was prematurely issued by the Service Center prior to submission of a report to the Joint Committee on Taxation and is now being reported.

*[Statement of survey action if all or some of the years were surveyed]*

In a Form 1900 survey report dated 1/1/2011, the agent recommends acceptance of the reported NOL for 200812 and unused credits, as well as its carryback into 200612 and 200712, resulting in the indicated tentative allowances. Analysis of the returns shows no unusual or controversial items that would warrant examination. The agent contacted the taxpayer to learn the economic reason for the reported NOL.

**Exhibit 4.36.5-1 (Cont. 6) (09-23-2015)**

**Outline and Format of Joint Committee Reports**

Enclosed is the examination report, May 21, 2011, for the years 200412 through 200812.

*[If applicable, (1) explanation of a jurisdictional refund that was not previously reported; change of accounting method comments;]*

\*\*\* On April 30, 2007 the taxpayer filed a timely application for a tentative refund requesting an income tax refund of \$2,450,000 for 200512 based on an NOL from 200612. This year was previously examined. In accordance with IRM 4.36.5.4., this jurisdictional amount was not previously reported to the Committee and is being reported currently.

*[Statement whether it is a Coordinated Industry case]*

This is (not) a Coordinated Industry case.

*[Statement whether there is a Power of Attorney and if it is enclosed]*

There is no power of attorney on file for any of the years covered by this report. ---or--- There is a power of attorney for the years covered by this report, and a copy is enclosed.

*[Statute of Limitations dates (regular and special) for each year]*

**STATUTES OF LIMITATIONS**

<u>Year</u>	<u>Original Statute as Extended*</u>	<u>Special Statute</u>
200512	Expired	6/30/2013
200612	Expired	6/30/2013
200712	12/31/2012*	6/30/2013
200812	12/31/2012*	6/30/2013

*[If applicable, include all source years]*

The above overassessments are approved.

Sincerely,

Team Manager

Enclosures (3)

Spreadsheets

RAR dated 11/14/2008 and Forms 886-A

RAR dated 5/31/2011 and Forms 886-A

**Exhibit 4.36.5-2 (09-23-2015)****Sample Regular Joint Committee Report**

The Chairman  
 Joint Committee on Taxation  
 Attn: (Name of Senior Refund Counsel)  
 C:JC:3565/IR  
 1111 Constitution Ave., NW  
 Washington, DC 20224

SE:LB:NEC:SE:TR11:TXXXX  
 Examination Area -  
 J.C. Specialist:  
 Phone #:  
 Fax #:  
 Related Cases: None  
 Date:

Dear Mr. Chairman:

In accordance with the provision of Section 6405 of the Internal Revenue Code, there are reported the following refunds or credits on income tax in favor of Taxpayer, Inc. and Subsidiaries, (EIN XX-XXXXXXX), City, State:

<u>Year</u>	<u>Refunds or Credits</u>		
	<u>Deficiency</u>	<u>Tentative Allowance Section 6405 (b)</u>	<u>Net Refunds or Credits</u>
201012		\$450,000	\$450,000
201112		325,000	325,000
201212	<u>\$175,000</u>	<u>4,600,000</u>	<u>4,425,000</u>
Totals	\$175,000	\$5,375,000	\$5,200,000

In addition, there is a proposed refund in the amount of \$23,759 for 200912.

The refunds resulted primarily from the carryback of a net operating loss and unused credits from source year 201312. The taxable income and tax liabilities reported on the returns and as finally determined are shown on the enclosed spreadsheets.

#### TAXPAYER HISTORY

The taxpayer was incorporated on May 4, 1949 and is engaged in real estate development. The taxpayer is also active in the family entertainment business and has interests in soft drinks and heavy construction equipment. The company's stock is widely held and traded on the New York Stock Exchange. There were no major acquisitions during the years covered by this report.

The primary reason for the loss was due to competition from major rivals. Also, technological improvements caused rapid obsolescence of equipment.

#### PRIOR EXAMINATION HISTORY

Enclosed is the examination report, dated November 14, 2013, for the 201012 year. None of the other years in this report were previously examined.

**Exhibit 4.36.5-2 (Cont. 1) (09-23-2015)**  
**Sample Regular Joint Committee Report**

CURRENT EXAMINATION ACTIVITY

On June 30, 2014, the taxpayer filed a timely application for tentative refund on Form 1139 requesting income tax refunds of \$450,000 for 201012, \$325,000 for 201112, and \$4,600,000 for 201212 based on an NOL and unused credits from 201312.

Enclosed is the examination report, dated May 21, 2015, for the year 200912 through 201312. This is not a Coordinated Industry case.

There is no power of attorney on file for any of the years covered by this report.

The statutes of limitation are as follows:

<u>Year</u>	<u>Original Statute or as Extended*</u>	<u>Special Statute</u>
200912	Expired	12/31/2016
201012	Expired	12/31/2016
201112	12/31/2016*	
201212	12/31/2016*	
201312	12/31/2016*	

The above overassessments are approved.

Sincerely,

Team Manager

Enclosures:

Spreadsheets  
RAR dated 11/14/2013 and Forms 886-A  
RAR dated 5/21/2015 and Forms 886-A

**Exhibit 4.36.5-3 (09-23-2015)****Sample Expedite Refund Report**

The Chairman  
 Joint Committee on Taxation  
 Attn: (Name of Senior Refund Counsel)  
 C:JC:3565/IR  
 1111 Constitution Ave., NW Washington, DC  
 20224

SE:LB:NEC:SE:TR11:TXXXX  
 Examination Area:  
 J.C. Specialist:  
 Phone#  
 Fax #:  
 Related Cases: None  
 Date:

**EXPEDITE REFUND**

Dear Mr. Chairman:

In accordance with the provision of Section 6405 of the Internal Revenue Code, there are reported the following refunds or credits on income tax in favor of ABC Company, (EIN 12-3456789, Anytown, CA:

<u>Refunds or Credits</u>	
<u>Year</u>	<u>Proposed Refunds Section 6405 (a)</u>
201012	\$5,000,000
201112	\$6,000,000
201212	<u>\$7,000,000</u>
Total	<u>\$18,000,000</u>

The refunds resulted primarily from claims for adjustments to various income and expenses. The taxable income and tax liabilities reported on the returns and as finally determined are shown on the enclosed spreadsheets.

**TAXPAYER HISTORY**

The taxpayer, ABC Company, a holding company, was incorporated in the State of California on January 1, 2010. The headquarters are located in Anytown, California. ABC operates branches throughout the Anytown, CA metro area. The company offers full service banking services designed to meet the needs of retail and commercial customers in the markets in which it operates with a significant focus on the resolution of assets acquired from the FDIC. The bank is subject to the regulations of certain federal and state agencies and is periodically examined by those regulatory agencies.

ABC is privately held with the majority of the company owned by private equity companies. The DE, LP holds the largest share of ownership at 45%.

There were no acquisitions or dispositions of subsidiaries and no SRLY or CERT issues.

The primary reason for the proposed refunds is the overstatement of income and the omission of deductions from the returns as originally filed.

**Exhibit 4.36.5-3 (Cont. 1) (09-23-2015)**  
**Sample Expedite Refund Report**

PRIOR EXAMINATION HISTORY

None of the years included in this submission have been previously examined.

CURRENT EXAMINATION ACTIVITY

On June 30, 2012, the taxpayer filed three timely amended returns (Forms 1120X) for tax years 201012 through 201212 requesting the refunds listed below. The returns reflected a number of changes to income and expenses for the reason discussed above. The returns were not processed by the Service Center but allowed in full in this audit report.

<u>Year</u>	<u>Amount Claimed</u>
201012	\$5,000,000
201112	\$6,000,000
201212	\$7,000,000

Enclosed is an undated examination report for the years 201012, 201112, and 201212.

This is not a Coordinated Industry Program case and there is a power of attorney on file for all the years covered by this report. (Copy enclosed.)

STATUTES OF LIMITATION

<u>Year</u>	<u>Original Statute or as Extended*</u>
201012	12/31/2016*
201112	12/31/2016*
201212	12/31/2016*

The above overassessments are approved.

Sincerely,

Team Manager

Enclosures:  
 Copy of RAR dated April 15, 2013  
 Spreadsheets  
 Power of Attorney

**Exhibit 4.36.5-4 (09-23-2015)****Sample Minimum Refund Report**

The Chairman  
 Joint Committee on Taxation  
 Attn: (Name of Senior Refund  
 Counsel  
 C:JC:3565/IR  
 1111 Constitution Ave., NW  
 Washington, D C 20224

SE:LB:NEC:SE:TR11:TXXXX Ex-  
 amination Area:  
 J.C. Specialist:  
 Phone #  
 Fax #:  
 Related Cases: None  
 Date:

**MINIMUM REFUND REPORT**

Dear Mr. Chairman,

In accordance with the provisions of Section 6405 of the Internal Revenue Code, there is reported the following refund or credit of income tax in favor of Taxpayer Name, (EIN XX-XXXXXXX), City, State:

<u>Year</u>	<u>Refund or Credit Proposed Refund Section 6405(a)</u>
201312	\$28,000,000

This report is submitted under the procedures contained in IRM 4.36.3.7.1. The unagreed issues will require a substantial period of time to resolve and the delay would deprive the taxpayer of a timely refund. The refunds reported reflect the minimum amount to which the taxpayer is entitled, regardless of the outcome of the unagreed issues. A supplemental report will be submitted after the completion of the examination and/or resolution of the unagreed issues.

The refund resulted primarily from the carryback of net operating losses. The taxable income and tax liabilities reported on the returns are shown on the enclosed spreadsheets.

**TAXPAYER HISTORY**

The taxpayer was incorporated on January 1, 1950 and is engaged in the business of operating a steel mill.

The net operating losses were due primarily to high interest expense deductions, the write-off of capitalized debt costs subject to amortization due to refinancing required by the merger, and charges related to the restructuring of the mill system-closings of duplicate location facilities, abandonments, severance costs and litigation settlements.

**PRIOR EXAMINATION HISTORY**

There was no prior examination.

**CURRENT EXAMINATION ACTIVITY**

In a partial agreement report dated April 16, 2014, it was determined that the taxpayer was entitled to a minimum refund of \$28,000,000 for the 201312 year. An amount was determined to be currently deductible rather than capitalized as shown on the return as filed.



**Exhibit 4.36.5-4 (Cont. 1) (09-23-2015)**  
**Sample Minimum Refund Report**

<u>STATUTES OF LIMITATION</u>	
<u>Year</u>	<u>Original Statute or as Extended*</u>
201312	09/30/2017
<p>The above refund is approved subject to the subsequent consideration by Appeals of the unagreed issues for the tax year 201012.</p>	
<p>Sincerely,</p>	
<p>Team Manager</p>	
<p>Enclosures:            Copy of RAR dated April 16, 2014            Spreadsheets</p>	

**Exhibit 4.36.5-5 (09-23-2015)**  
**Sample Supplemental Report**

Supplemental reports may have different formats. This is one example.

The Chairman	SE:LB:NEC:SE:TR11:TXXXX
Joint Committee on Taxation	Examination Area:
Attn: (Name of Senior Refund Counsel )	J.C. Specialist:
C:JC:3565/IR	Phone #
1111 Constitution Ave.,NW	Fax #
Washington, DC 20224	Related Cases: None
	Date:

**SUPPLEMENTAL REPORT**

Dear Mr. Chairman:

In accordance with the provisions of Section 6405 of the Internal Revenue Code, there are reported the following refunds or credits on income tax in favor of Taxpayer, Inc and Subsidiaries, (EIN XX-XXXXXXX), City, State. This case was previously submitted to the Joint Committee on Taxation on February 10, 2009.

	<u>Refunds or Credits</u>
<u>Year Ended</u>	<u>Tentative Allowance</u> <u>Section 6405(b)</u>
201112	\$1,400,000
201212	<u>1,600,000</u>
Total	\$3,000,000

The refunds resulted primarily from the carryback of a net operating loss from tax year 201312. The taxable income and tax liabilities reported on the returns and as finally determined are shown on the enclosed spreadsheets.

This report is being submitted as a supplemental report pursuant to the provisions of the Internal Revenue Manual 4.36.3.7.2 dealing with tentative allowances for unexamined source years.

**TAXPAYER HISTORY**

The taxpayer was incorporated in the state of Delaware on October 23, 1969 and has 47 subsidiaries. The taxpayer is wholly owned by a foreign company. The primary business of the taxpayer during the examination years was property and casualty insurance. Effective with the 201012 tax year the taxpayer's life insurance companies were included in the consolidated return. The company's other subsidiaries include insurance agencies, investment, annuity and risk management companies, and leasing companies.

The taxpayer carried back an alternative minimum tax net operating loss from the 201312 year to 201112 and 201212.

**PRIOR EXAMINATION HISTORY**

Examination results of the returns for the 201112 and 201212 were shown in the revenue agents report dated December 15, 2013, which cleared the Joint Committee on Taxation on April 18, 2014.

**Exhibit 4.36.5-5 (Cont. 1) (09-23-2015)**  
**Sample Supplemental Report**

CURRENT EXAMINATION ACTIVITY

The enclosed RAR, dated 4/2/2015, covers a concurrent examination of the returns for 201112, 201212, and 201312, Explanations of the recommended agreed adjustments are included in the enclosed Forms 5701.

This taxpayer is part of the Coordinated Industry Program.

There is no power of attorney on file for any of the years covered by this report.

STATUTES OF LIMITATION

<u>Year</u>	<u>Original Statute or as Extended*</u>
201112	12/31/2016*
201212	12/31/2016*
201312	12/31/2016*

The above overassessments are approved.

Sincerely yours,

Team Manager

Enclosures:

Form 4549A dated 4/2/2015  
Forms  
Spreadsheets

**Exhibit 4.36.5-6 (09-23-2015)****Sample Modified Expedite Refund Report**

The Chairman  
 Joint Committee on Taxation  
 Attn: (Name of the Senior Refund Counsel)  
 C:JC:3565/IIR  
 1111 Constitution Ave., NW  
 Washington, DC 20224

SE:LB:NEC:SE:TR11:TXXXX Ex-  
 amination Area:  
 J.C. Specialist:  
 Phone #:  
 Fax #:  
 Related Cases: None  
 Date:

**MODIFIED EXPEDITE REFUND REPORT**

Dear Mr. Chairman,

In accordance with the provisions of Section 6405 of the Internal Revenue Code, there is reported the following refund or credit of income tax in favor of Taxpayer Name, (EIN XX-XXXXXXX), City, State:

<u>Year</u>	<u>Refund or Credit Proposed Minimum Refund Section 6405(a)</u>
201112	\$28,000,000

This report is submitted under the procedures contained in IRM 4.36.3.7.3. The taxpayer has requested that this refund be made since the examination for the 201012, 201112, 201212 and 201312 tax years will not be completed within six months. It has been determined that no disadvantage will occur to the Government in paying the refund. Security will be posted for the amount of the proposed refund and a copy of the Collateral Security Agreement is enclosed for your consideration. A supplemental report will be submitted after the completion of the examination if required by statute.

The refunds resulted primarily from the carryback of net operating losses. The taxable income and tax liabilities reported on the returns and as finally determined are shown on the enclosed spreadsheets.

**TAXPAYER HISTORY**

The taxpayer was incorporated on January 1, 1950 and is engaged in the business of operating a steel mill.

The net operating losses were due primarily to high interest expense deductions, the write-off of capitalized debt costs subject to amortization due to refinancing required by the merger, and charges related to the restructuring of the mill system-closings of duplicate location facilities, abandonments, severance costs and litigation settlements.

**PRIOR EXAMINATION HISTORY**

None of the years was previously examined.

**STATUTES OF LIMITATION**

<u>Year</u>	<u>Original Statute or as Extended</u>
201112	09/30/2015

---

**Exhibit 4.36.5-6 (Cont. 1) (09-23-2015)**  
**Sample Modified Expedite Refund Report**

The above refund will be processed subject to the subsequent consideration of the 201012 through 201312 returns and review by your Committee of a supplemental report to be submitted upon completion of such action.

Sincerely,

Team Manager

Enclosures:

Collateral Agreement  
Spreadsheets

**Exhibit 4.36.5-7 (05-04-2010)****Sample Foreign Sales Corporation (FSC) Report**

The Chairman  
 Joint Committee on Taxation  
 Attn: (Name of Senior Refund Counsel)  
 C:JC:3565/IR  
 1111 Constitution Ave., NW  
 Washington, D C 20224

SE:LB:NEC:SE:TR11:TXXXX  
 Examination Area:  
 J.C. Specialist:  
 Phone#  
 Fax #:  
 Related Cases: None  
 Date:

**FSC REFUND**

Dear Mr. Chairman,

In accordance with the provisions of Section 6405 of the Internal Revenue Code, there are reported the following refunds or credits of income tax in favor of Taxpayer FSC, Inc., (EIN XX-XXXXXXX), City, State:

<u>Year</u>	<u>Refunds or Credits Proposed Refunds Section 6405(a)</u>
201112	\$1,400,000
201212	<u>1,600,000</u>
Total	\$3,000,000

This report is submitted under the procedures contained in IRM 4.36.5.2.6. The refunds resulted from the adjustment of allocated and apportioned operating expenses. Corresponding adjustments have been made to the returns of the domestic parent, Taxpayer, Inc.

The above overassessments are approved.

Sincerely,

Team Manager

**Exhibit 4.36.5-8 (05-04-2010)**

**Sample Large Deficiency Case Report**

Chief of Staff  
Joint Committee on Taxation  
Attn: (Name of Senior Refund Counsel)  
C:JC:3565/IIR  
1111 Constitution Ave., NW  
Washington, DC 20224

SE:LB:NEC:SE:TR11:TXXXX  
Examination Area:  
J.C. Specialist:  
Phone #  
Fax #  
Related Cases: None  
Date:

**LARGE DEFICIENCY CASE**

Attn: Refund Counsel:

As requested under the authority contained in section 8023(a) of the Internal Revenue Code, the following deficiencies in income tax are reported for John Doe Trust, (EIN XX-XXXXXXX), City, State, for the six-month period ended March 31, 2006:

<u>Year</u>	<u>Deficiencies</u>
200812	\$950,000
200912	1,575,000
201012	2,590,000
201112	<u>14,000,000</u>
Total	\$19,115,000

The trust is set up for three beneficiaries, Mary Doe, Frank Doe and Ann Doe.

**CURRENT EXAMINATION ACTIVITY**

The enclosed RAR, dated 12/19/2013, covers a concurrent examination of the returns for 200812 through 201112. Explanations of the recommended agreed adjustments are included in the enclosed Forms 5701. This was not a Coordinated Industry case.

The periods of limitation for the subject years have expired.

This large deficiency report is submitted for your review.

Sincerely,

Team Manager

Enclosures:  
Current RAR dated 12/19/2013

